

APPENDICES

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2015

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDICES

Appendix 1: Acknowledgment of Law Firms that Provided Pro Bono Assistance to the Permanent Commission4

Appendix 2: Request for Proposals from Oversight Board for 2015-20166

Appendix 3: Notification of the Issuance of the Request for Proposals34

Appendix 4: Grants Awarded by the Oversight Board to Distribute Judiciary Civil Legal Services Funds in New York for 2015-2016.....37

Appendix 5: Public Notice of the Chief Judge’s Hearings Published on the Unified Court System’s Website.....41

Appendix 6: Witness Lists for the Chief Judge’s Four Hearings43

Appendix 7: Transcript of the First Department Hearing Held on September 29, 2015.....48

Appendix 8: Transcript of the Fourth Department Hearing Held on September 30, 2015 157

Appendix 9: Transcript of the Third Department Hearing Held on October 13, 2015257

Appendix 10: Transcript of the Second Department Hearing Held on October 16, 2015329

Appendix 11: Written Statements Submitted at the First Department Hearing Held on September 29, 2015389

Appendix 12:	Written Statements Submitted at the Fourth Department Hearing Held on September 30, 2015.....	474
Appendix 13:	Written Statements Submitted at the Third Department Hearing Held on October 13, 2015	574
Appendix 14:	Written Statements Submitted at the Second Department Hearing Held on October 16, 2015	644
Appendix 15:	Report of the Permanent Commission’s Working Group on Law School Involvement.....	724
Appendix 16:	Report of the Permanent Commission’s Working Group on Technology	765
Appendix 17:	Statement from the New York State Bar Association in Support of Pro Bono Service by Government Attorneys.....	817

Note: Appendices can be viewed on the Permanent Commission’s website: <http://www.nycourts.gov/accesstojusticecommission>

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 1:

**Acknowledgment of Law Firms that Provided Pro Bono
Assistance to the Permanent Commission**

NOVEMBER 2015

Acknowledgment of Law Firm Pro Bono Assistance to the Permanent Commission

Sullivan & Cromwell LLP

Robert J. Giuffra, Jr. (Partner, Permanent Commission Member)
Jessica Klein (Pro Bono Counsel)
Julie Krosnicki (Associate)
Lara J. Loyd (Associate)
Chiansan Ma (Associate)
Matthew Wright (Associate)
Madeline B. Jenks (Legal Assistant)

Skadden, Arps, Slate, Meagher & Flom LLP

Robert C. Sheehan (Of Counsel, Permanent Commission Member)
Ronald J. Tabak (Special Counsel)
Brittany Dorman (Associate)
Carolyn Stoner (Associate)

Simpson Thacher & Bartlett LLP

Mark G. Cunha (Partner, Permanent Commission Member)
Harlene Katzman (Pro Bono Counsel)
Michael Donnelly (Chief Information Officer)
Carola Beeney (Pro Bono Coordinator)
Whytne Brooks (Former Associate)
David H Holmberg, (Associate)
Drew Harmon (Associate)
Linton Mann, III (Associate)
Matthew Stichinsky (Associate)
Christopher Webb (Associate)

Proskauer Rose LLP

Betsy B. Plevan (Partner, Permanent Commission Member)
David A. Picon (Partner)
Katrina E. McCann (Associate)
Tara Mulrooney (Associate)
Benjamin M. Rattner (Associate)
Allison Candal (Project Assistant)
Tatianna Witter (Project Assitant)

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 2:

Request for Proposals from Oversight Board for 2015-2016

NOVEMBER 2015

Judiciary Civil Legal Services in New York

FISCAL YEAR 2015-2016

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
 - County Responses
- V. Budget (Download form separately)
- VI. Attachments Checklist
 - A. Audited Financial Statement from the Most Recently Ended Fiscal Year
 - B. Most Recent Annual Report
 - C. Mission Statement
 - D. Organizational chart
 - 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
 - Q. Internal Controls Policy

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, close to 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. During fiscal years 2013-14 and 2014-15, \$15 million in additional funds were awarded each year, providing a total of \$55 million to service providers. 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 once again be increased. With the support of the Governor and the Legislature, the 2015-16 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, 2013-14 and 2014-15 will be renewed at the same funding level 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.

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

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 2015-16 fiscal year appropriation of \$70,000,000 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, 2013-14 and 2014-15 fiscal year competitive procurements. 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.

Proposals will be evaluated and points awarded in the following categories:

Organizational Capacity:	15 points maximum
Overall Program Plan	50 points maximum
Reasonableness of Cost (Overall Budget):	15 points maximum
County-Specific Program Plan:	15 points maximum ²
County-Specific Reasonableness of Cost:	5 points maximum ³
TOTAL POSSIBLE POINTS	100

A minimum total 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. Funding will be awarded to each responsible applicant that proposes to provide services in a given county and that receives a score of 85 or more. Responsibility is determined in accordance with the criteria articulated in paragraph I(G) below.

Reviewers will consider the following factors in awarding points in each category:

Organizational Capacity (15 Points Maximum)

1. The extent to which the applicant demonstrates that the organization’s mission aligns with the provision of civil legal services to low income clients and has experience providing civil legal services to low income clients. (5 points). Reviewers will consider the following source(s) of information: Mission Statement; Narrative Proposal, Organizational Capacity, questions 1, 2 and 5.
2. The extent to which the applicant demonstrates that the organization has instituted mechanisms and internal controls likely to result in high quality provision of civil legal services and appropriate management of funds, taking into account significant developments which may have impacted the ability to institute such mechanisms or internal controls. (5 points). Reviewers will

² A separate score will be calculated for each county for which services are proposed.

³ A separate score will be calculated for each county for which services are proposed.

consider the following source(s) of information: Narrative Proposal, Organizational Capacity, questions 3, 4, 6, 7, 8 and 9 and Attachment Q.

3. The extent to which the applicant demonstrates effective or innovative use of technology to enhance access to and quality of civil legal services. (3 points). Reviewers will consider the following source(s) of information: Narrative Proposal, Organizational Capacity, question 10.
4. The ability of the organization to respond to victims of natural disasters (2 Points). Reviewers will consider the following source(s) of information: Narrative Proposal, Organizational Capacity, question 11

Overall Program Plan (50 Points Maximum)

1. The extent to which the application proposes to address essentials of life issues as defined in RFP Section I: Background Information and Instructions (10 points). Reviewers will consider the following source(s) of information: Narrative Proposal, Program Description, question 1.
2. The extent to which the applicant proposes provision of direct legal services. (10 points). Reviewers will consider the following source(s) of information: Narrative Proposal, Program Description, questions 2, 3 and 4.
3. The accessibility of the proposed program (8 points). Reviewers will consider the following source(s) of information: Narrative Proposal, Program Description, questions 5 and 6.
4. The proposed caseload in context of catchment area and funding requested. (14 points). Reviewers will consider the following source(s) of information: Narrative Proposal, Program Description, questions 7 and 8.
5. The collaborative nature of the proposed program (8 points) Reviewers will consider the following source(s) of information: Narrative Proposal, Program Description, questions 9 and 10.

Reasonableness of Cost: Overall Budget (15 Points Maximum)

1. The extent to which the proposed program will effectively use state dollars for the delivery of quality services. (5 points). Reviewers will consider the following source(s) of information: Budget.
2. The extent to which the salaries and fringe benefits for the proposed program are appropriate for the positions listed in the proposal. (4 points). Reviewers will consider the following source(s) of information: Budget.
3. 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 used for the direct delivery of services, and related costs) is comparable to the percentage found in the

budgets of similarly sized agencies. (4 points). Reviewers will consider the following source(s) of information: Budget.

4. The extent to which the non-personnel service costs included in the budget are reasonable for the operation of the proposed program. (2 points). Reviewers will consider the following source(s) of information: Budget.

County Specific Program Plan (15 Points Maximum)

1. The extent to which the proposed program provides accessible, quality services within the county served (10 points). Reviewers will consider the following source(s) of information: Narrative Proposal, County Specific Questions 1, 2, 3, 4, 6.
2. The proposed caseload in context of catchment area and funding requested. (3 points). Reviewers will consider the following source(s) of information: Narrative Proposal, County Specific Question 5.
3. The extent to which the proposed program avoids redundant services (2 points). Reviewers will consider the following source(s) of information: Narrative Proposal, County Specific Question 7.

County Specific Reasonableness of Cost (5 Points Maximum)

1. The extent to which the proposed program will effectively utilize state dollars for the delivery of quality services in the county. (5 points). Reviewers will consider the following source(s) of information: Application Summary Table.

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.
- The estimated number of cases to be handled.
- 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 eligible clients 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. 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 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.

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 2015-2016 state fiscal year (April 1, 2015-March 31, 2016), with an estimated commencement date retroactive to April 1, 2015. New contracts will also have one (1) optional one-year renewal term, 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 2015-16 Question(s)

The deadline to submit questions is Thursday, May 21, 2015, 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 2014-2015
- 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
- Q. Internal Controls Policy⁴

Step Three: Deliver the Application with all Required Attachments via either electronic format or paper format as instructed below:

Submission via electronic format

Prior to submitting electronically, applicants must request and receive a User Name and Password for the UCS SharePoint Web Service. Currently funded Judiciary Civil Legal Services providers will be able to use their existing login credentials (user ID and password) to log into SharePoint but still must request access to the site set up to receive Judiciary Civil Legal Services applications.

Applicants may submit requests for a User Name and Password by email only to:

Amelia Hershberger: ahershbe@nycourts.gov

Please indicate in "Subject" field: Judiciary CLS RFP 2015-16 SharePoint User Name/Password Request

⁴ Internal controls procedures are systematic methods such as reviews, checks and balances instituted by an organization to conduct its business in an orderly and efficient manner; safeguard its assets and resources; deter and detect errors, fraud and theft; ensure accuracy and completeness of accounting data; produce reliable and timely financial and management information; and ensure adherence to agency policies and plans.

The deadline to requests a User Name and Password is Thursday, May 28, 2015, before 1:00 pm.

User Names, Passwords, the SharePoint URL and instructions for uploading files will be provided via an e-mail reply.

Application documents must be uploaded no later than Thursday, June 4, 2015, before 2:00 pm.

Applications must be submitted in portable document format (PDF).

In paper format

Applications must arrive at the address below no later than Thursday, June 4, 2015, 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
Grants and Contracts
2500 Pond View, Suite 104
Castleton-on-Hudson, New York 12033

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 #004 – Due June 4, 2015 before 2pm”

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 combined. Two single-spaced pages for each response 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, 2014 – March 31, 2015 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 or 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 2015-16 fiscal year?
9. Estimate the number of clients to be served by the program during the 2015-16 fiscal year.
10. 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).
11. 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 2015-16.
6. Estimate the number of clients to be served in the county during the 2015-16 fiscal year.
7. 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)
8. 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
<input type="checkbox"/>	Q Internal Controls Policy

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) 462-8882
(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
2500 Pond View, Suite 104
Castleton-on-Hudson, New York 12033

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

<u>County</u>	<u>Maximum Available Funds</u>
Bronx	\$1,802,824.00
New York	\$1,332,680.00
<u>1st Department Total</u>	<u>\$3,135,504.00</u>
Dutchess	\$142,569.00
Kings	\$2,756,647.00
Nassau	\$476,066.00
Orange	\$227,887.00
Putnam	\$38,593.00
Queens	\$1,836,893.00
Richmond	\$271,402.00
Rockland	\$187,486.00
Suffolk	\$607,291.00
Westchester	\$480,426.00
<u>2nd Department Total</u>	<u>\$7,025,260.00</u>
Albany	\$194,385.00
Broome	\$171,251.00
Chemung	\$77,153.00
Chenango	\$46,318.00
Clinton	\$61,321.00
Columbia	\$40,081.00
Cortland	\$38,901.00
Delaware	\$41,356.00
Essex	\$30,595.00
Franklin	\$42,508.00
Fulton	\$52,868.00
Greene	\$37,356.00

<u>County</u>	<u>Maximum Available Funds</u>
Hamilton	\$3,269.00
Madison	\$49,592.00
Montgomery	\$47,152.00
Otsego	\$53,843.00
Rensselaer	\$106,292.00
Saratoga	\$103,613.00
Schenectady	\$102,902.00
Schoharie	\$22,409.00
Schuyler	\$14,474.00
St. Lawrence	\$97,711.00
Sullivan	\$70,991.00
Tioga	\$37,696.00
Tompkins	\$79,126.00
Ulster	\$119,323.00
Warren	\$43,578.00
Washington	\$48,069.00
<u>3rd Department Total</u>	<u>\$1,834,133.00</u>
Allegany	\$45,827.00
Cattaraugus	\$77,901.00
Cayuga	\$60,972.00
Chautauqua	\$128,875.00
Erie	\$711,670.00
Genesee	\$44,339.00
Herkimer	\$59,009.00
Jefferson	\$102,955.00
Lewis	\$25,623.00
Livingston	\$42,762.00
Monroe	\$554,599.00

<u>County</u>	<u>Maximum Available Funds</u>
Niagara	\$164,249.00
Oneida	\$194,469.00
Onondaga	\$347,512.00
Ontario	\$64,902.00
Orleans	\$33,134.00
Oswego	\$107,333.00
Seneca	\$29,299.00
Steuben	\$88,537.00
Wayne	\$68,897.00
Wyoming	\$30,204.00
Yates	\$22,035.00
<u>4th Department Total</u>	<u>\$3,005,103.00</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 2015-16 fiscal year appropriation of \$70,000,000 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, 2013-14 and 2014-15 fiscal year competitive procurements.

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 1 (Print) _____

(Signature) _____

EVALUATOR 2 (Print) _____

(Signature) _____

EVALUATOR 3 (Print) _____

(Signature) _____

DATE ___/___/___

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 3:

Notification of the Issuance of the Request for Proposals

NOVEMBER 2015



The New York State Contract Reporter

This document printed
Monday, 07/27/2015

*NYS' official source of contracting opportunities
Bringing business and government together*

Contracting Opportunity

*** This ad is closed and is in the archives ***

Title: Judiciary Civil Legal Services
Agency: Unified Court System, NYS
Court Administration, NYS Office of
Contract Number: TBD
Contract Term: April 1, 2015 - March 31, 2016 with 1 optional renewal
Date of Issue: 05/08/2015
Due Date/Time: 06/04/2015 2:00 PM
County(ies): All NYS counties
Classification: Legal & Investigative Services - *Consulting & Other Services*
Opportunity Type: Grant or notice of funds availability
Entered By: Amelia Hershberger
Description: The New York State Unified Court System's Office of Court Administration is seeking applications for funding to provide judiciary civil legal services in New York State.

For more information, visit www.nycourts.gov/admin/bids/currentsolicitations.shtml

Contact Information

Primary contact: Unified Court System, NYS
Court Administration, NYS Office of
Office of Grants and Contracts
Amelia Hershberger
Management Analyst
2500 Pond View
Suite 104
Castleton on Hudson, NY 12033
United States
Ph: 518-238-4357
AHERSHBE@courts.state.ny.us

Submit to contact: Unified Court System, NYS
Court Administration, NYS Office of
Office of Grants and Contracts
Amelia Hershberger
Management Analyst
2500 Pond View
Suite 104
Castleton on Hudson, NY 12033
United States
Ph: 518-238-4357
AHERSHBE@courts.state.ny.us

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 4:

**Grants Awarded by the Oversight Board to Distribute
Judiciary Civil Legal Services Funds in New York
for 2015-2016**

NOVEMBER 2015

2015-16 JUDICIARY CIVIL LEGAL SERVICES

Provider Name	Renewals or Amendments of Existing Contracts (if any)	New Awards per 2015-16 RFP	Total Awards 2015-16
Advocates for Children of New York	\$52,400.00	\$6,860.00	\$59,260.00
Albany County Bar Association	\$123,200.00	\$31,500.00	\$154,700.00
Asian American Legal Defense and Education Fund	\$50,120.00	\$0.00	\$50,120.00
Association of the Bar of the City of New York Fund Inc	\$473,475.00	\$179,714.00	\$653,189.00
Bronx Defenders	\$478,128.00	\$80,711.00	\$558,839.00
Brooklyn Bar Association Volunteer Lawyers Project	\$238,076.00	\$72,935.00	\$311,011.00
Brooklyn Defender Services	\$809,978.00	\$300,000.00	\$1,109,978.00
Brooklyn Legal Services Corporation A	\$270,434.00	\$0.00	\$270,434.00
CAMBA	\$1,053,500.00	\$223,468.00	\$1,276,968.00
Capital District Women's Bar Association Legal Project	\$341,427.00	\$111,626.00	\$453,053.00
Catholic Migration Services	\$40,600.00	\$35,705.00	\$76,305.00
Center for Family Representation	\$471,762.00	\$163,161.00	\$634,923.00
Central American Legal Assistance	\$68,620.00	\$3,135.00	\$71,755.00
Central American Refugee Center	\$24,400.00	\$0.00	\$24,400.00
Children's Rights Society	\$107,445.00	\$0.00	\$107,445.00
Day One	\$45,979.00	\$0.00	\$45,979.00
Empire Justice Center	\$1,072,031.00	\$110,632.00	\$1,182,663.00
Erie County Bar Association Volunteer Lawyers Project	\$378,537.00	\$124,041.00	\$502,578.00
Family Center, Inc.	\$15,082.00	\$15,250.00	\$30,332.00
Frank H. Hiscock Legal Aid Society	\$869,633.00	\$195,949.00	\$1,065,582.00
Goddard Riverside Community Center	\$120,200.00	\$0.00	\$120,200.00
Her Justice	\$293,353.00	\$110,588.00	\$403,941.00
Hofstra University	\$98,561.00	\$17,500.00	\$116,061.00
Housing Conservation Coordinators	\$136,950.00	\$58,799.00	\$195,749.00
Jewish Association of Services for the Aged	\$160,200.00	\$93,867.00	\$254,067.00
Journey's End Refugee Services	\$71,502.00	\$61,494.00	\$132,996.00
Latino Justice PRLDEF	\$36,210.00	\$0.00	\$36,210.00
Legal Action Center	\$49,500.00	\$33,675.00	\$83,175.00
Legal Aid Bureau of Buffalo	\$567,517.00	\$221,420.00	\$788,937.00

Legal Aid Society of Mid New York	\$145,000.00	\$0.00	\$145,000.00
Legal Aid Society of Northeastern New York	\$2,822,890.00	\$789,732.00	\$3,612,622.00
Legal Aid Society of Rochester	\$909,038.50	\$275,834.00	\$1,184,872.50
Legal Aid Society of Rockland County	\$274,302.00	\$93,743.00	\$368,045.00
Legal Assistance of Western New York	\$2,897,035.00	\$797,818.00	\$3,694,853.00
Legal Information for Families Today	\$107,500.00	\$0.00	\$107,500.00
Legal Services for the Elderly, Disabled or Disadvantaged of West	\$543,573.00	\$237,631.00	\$781,204.00
Legal Services NYC	\$6,310,544.00	\$1,601,131.00	\$7,911,675.00
Legal Services of Central New York	\$3,219,168.00	\$938,253.00	\$4,157,421.00
Legal Services of the Hudson Valley	\$3,432,940.00	\$955,965.00	\$4,388,905.00
Lenox Hill Neighborhood House	\$192,800.00	\$58,799.00	\$251,599.00
Long Island Advocacy Center	\$0.00	\$67,650.00	\$67,650.00
Make the Road New York	\$397,024.00	\$129,561.00	\$526,585.00
Mental Health Association of Erie County	\$73,178.00	\$41,187.00	\$114,365.00
MFY Legal Services	\$2,118,420.00	\$683,844.00	\$2,802,264.00
My Sister's Place	\$143,647.00	\$59,987.00	\$203,634.00
Nassau / Suffolk Law Services Committee	\$2,486,881.00	\$558,283.00	\$3,045,164.00
Neighborhood Defender Services	\$150,333.00	\$150,000.00	\$300,333.00
Neighborhood Legal Services	\$1,656,170.50	\$272,771.00	\$1,928,941.50
New York Center for Law and Justice	\$15,400.00	\$3,375.00	\$18,775.00
New York City Gay and Lesbian Anti Violence Project	\$60,927.00	\$25,625.00	\$86,552.00
New York Law School	\$26,514.00	\$18,000.00	\$44,514.00
New York Lawyers for the Public Interest	\$133,700.00	\$45,000.00	\$178,700.00
New York Legal Assistance Group	\$3,191,604.00	\$897,475.00	\$4,089,079.00
New York Legal Assistance Group (VLFD)	\$244,479.00	\$87,019.00	\$331,498.00
Northern Manhattan Improvement Corp	\$1,269,000.00	\$0.00	\$1,269,000.00
Pace University	\$204,665.00	\$41,000.00	\$245,665.00
Part of the Solution	\$35,000.00	\$15,380.00	\$50,380.00
Partnership for Children's Rights	\$97,841.00	\$18,450.00	\$116,291.00
Prisoner's Legal Services	\$60,000.00	\$0.00	\$60,000.00
Queens Volunteer Lawyers Project	\$349,900.00	\$85,000.00	\$434,900.00
Richmond County Bar Association Volunteer Lawyers	\$60,000.00	\$0.00	\$60,000.00
Ridgewood Bushwick Senior Citizens Council	\$239,120.00	\$125,000.00	\$364,120.00
Rural Law Center of New York	\$349,408.00	\$110,570.00	\$459,978.00

Safe Horizon	\$441,672.00	\$64,444.00	\$506,116.00
Sanctuary for Families	\$906,624.00	\$333,781.00	\$1,240,405.00
The Door A Center for Alternatives	\$148,050.00	\$7,650.00	\$155,700.00
The Legal Aid Society	\$6,310,544.00	\$1,601,131.00	\$7,911,675.00
The Safe Center LI	\$236,200.00	\$84,491.00	\$320,691.00
Touro College	\$278,600.00	\$54,382.00	\$332,982.00
Urban Justice Center	\$1,785,951.00	\$629,861.00	\$2,415,812.00
Vera Institute of Justice	\$702,700.00	\$297,281.00	\$999,981.00
Volunteer Lawyers Project of Onondaga County	\$214,443.00	\$102,042.00	\$316,485.00
Volunteer Legal Services of Monroe County	\$195,989.00	\$69,000.00	\$264,989.00
Volunteers of Legal Services	\$47,180.00	\$0.00	\$47,180.00
Westchester Hispanic Coalition	\$0.00	\$55,431.00	\$55,431.00
Western New York Law Center	\$472,750.00	\$110,698.00	\$583,448.00
Worker Justice Center of New York	\$522,475.00	\$104,530.00	\$627,005.00
Youth Represent	\$0.00	\$49,165.00	\$49,165.00
Total	\$55,000,000.00	\$15,000,000.00	\$70,000,000.00

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 5:

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

NOVEMBER 2015

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 sixth 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 NYS 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 Permanent Commission on Access to Justice, 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 Lawrence K. Marks, and the President of the New York State Bar Association, David P. Miranda.

THE HEARINGS WILL TAKE PLACE AS FOLLOWS:

FIRST DEPARTMENT

Tuesday, September 29, 2015, from 10 a.m. to 12 p.m.
Appellate Division, 27 Madison Avenue, Manhattan

FOURTH DEPARTMENT

Wednesday, September 30, 2015, from 11 a.m. to 1 p.m.
Syracuse University College of Law, Dineen Hall
950 Irving Avenue, Syracuse

THIRD DEPARTMENT

Tuesday, October 13, 2015, from 10 a.m. to 12 p.m.
Court of Appeals, 20 Eagle Street, Albany

SECOND DEPARTMENT

Friday, October 16, 2015, from 10 a.m. to 12 p.m.
NYS Judicial Institute
84 North Broadway, White Plains

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

- The impact of the investment in Judiciary Civil Legal Services funding on the delivery of civil legal services.
- The current state and scope of the unmet need for civil legal services by low income New Yorkers confronting legal problems involving the "essentials of life," including housing, family stability and personal safety in domestic relations, access to health care or education, or subsistence income and benefits.
- The economic and social consequences of the lack of sufficient civil legal services in communities and for the courts, including the impact on the elderly and on the education of children.
- The costs and benefits, to the courts, communities and the State, 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 need to provide assistance in Family Court on issues related to Immigration.
- The potential for reduction in the unmet need through:
 - Preventive and early intervention services by legal services 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.
- Innovations in law school and law student involvement in serving communities in need through clinical, experiential and fellowship options for students, including the Pro Bono Scholars Program.
- Programs being developed to assist law students in fulfilling the bar admission requirement of 50 hours of pro bono service.
- Programs using volunteers who are not lawyers, such as the new Court Navigator Program.

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 concerning 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; and (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 **Permanent Commission on Access to Justice** at the address below. The Permanent Commission is assisting the Chief Judge in preparing for the hearings and in reporting on its results.

Email: CivilLegalServices@nycourts.gov

Mail: **The Permanent Commission on Access to Justice**
c/o Jessica Klein, Esq.
Sullivan & Cromwell LLP
125 Broad Street, 32nd Floor
NY, NY 10004-2498

For further information please visit the Permanent Commission's website
www.nycourts.gov/ip/access-civil-legal-services

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 6:

Witness Lists for the Chief Judge's Four Hearings

NOVEMBER 2015

The Chief Judge's Hearings on Civil Legal Services

FIRST DEPARTMENT HEARING

Tuesday, September 29, 2015

WITNESS LIST

-
- 1- **Hon. Bill de Blasio** (*Mayor of the City of New York*)

 - 2- **James R. Silkenat, Esq.** (*Past President, American Bar Association; Partner, Sullivan & Worcester LLP*)

 - 3- **John Sexton, Esq.** (*President, New York University; Dean Emeritus, New York University School of Law*)

 - 4- **Martin Lipton, Esq.** (*Executive Committee Member and Former Co-Chair, Partnership for New York City; Founding Partner, Wachtell, Lipton, Rosen & Katz*)

 - 5- **Eric Weingartner** (*Managing Director, Robin Hood Foundation*)

 - 6- **Neil Steinkamp** (*Managing Director, Dispute Advisory & Forensic Services, Stout Risius Ross, Inc.*)

 - 7- **Debra L. Raskin, Esq.** (*President, New York City Bar Association; Partner, Vladeck, Raskin & Clark, P.C.*)

 - 8- **Sara E. Moss, Esq.** (*Executive Vice President & General Counsel, The Estée Lauder Companies*)

 - 9- **CLIENT PANEL**
 - Fatim Kamara** (*Client of The Door — A Center for Alternatives, accompanied by Rebecca Wilson Heller, Esq.*)
 - Stacy Snowden** (*Client of The Legal Aid Society, Harlem Community Law Office, accompanied by Evan Hasbrook, Esq.*)
 - Cassandra Wilson** (*Client of Legal Services NYC, accompanied by Tanya Douglas, Esq.*)

For additional information on the unmet needs for civil legal services, see the Annual Reports of the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice) available at www.nycourts.gov/accesstojusticecommission.

The Chief Judge's Hearings on Civil Legal Services

FOURTH DEPARTMENT HEARING

Wednesday, September 30, 2015

WITNESS LIST

1- LAW SCHOOL INVOLVEMENT TO EXPAND ACCESS TO JUSTICE

Professor Hannah R. Arterian (*Professor of Law, Former Dean [2002-2015], Syracuse University College of Law*)

Jeffrey M. Donigan, Esq. (*2015 Pro Bono Scholar; Harter Secrest & Emery LLP*)

Fulvia Vargas, Esq. (*2015 Pro Bono Scholar; Legal Services of Central New York*)

2- TECHNOLOGY TO IMPROVE DELIVERY OF CIVIL LEGAL SERVICES

Thomas Keily (*Consumer Education and Data Coordinator, AmeriCorps VISTA Volunteer, Western New York Law Center*)

John G. Roman, Jr. (*Director, IT Operations & eDiscovery, Nixon Peabody LLP*)

Timothy C. Hunt (*Principal Law Librarian, Seventh Judicial District*)

Robert F. Nicolais, Esq. (*Pro Bono Attorney, Volunteer Legal Services Project, UCS Help Center, Seventh Judicial District*)

3- ASSESSMENT OF JUDICIARY'S EFFORTS TO ADDRESS UNMET NEEDS FOR CIVIL LEGAL SERVICES IN NEW YORK

Ronald Younkings, Esq. (*Executive Director, NYS Office of Court Administration*)

4- CLIENT PANEL

Colleen McElligott (*Client of Volunteer Legal Services Project, accompanied by Mary Beth Conway, Esq.*)

Liliana Alvarado-Rojo (*Client of Erie County Bar Association Volunteer Lawyers Project, accompanied by Emma Buckthal, Esq.*)

Timothy Shine (*Client of Legal Assistance of Western New York, Inc., accompanied by Louis Prieto, Esq.*)

For additional information on the unmet needs for civil legal services, see the Annual Reports of the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice) available at www.nycourts.gov/accesstojusticecommission.

The Chief Judge's Hearings on Civil Legal Services

THIRD DEPARTMENT HEARING

Tuesday, October 13, 2015

WITNESS LIST

1- ECUMENICAL PANEL

The Most Reverend Edward B. Scharfenberger (*Bishop of Roman Catholic Diocese of Albany*)

Rabbi Scott L. Shpeen (*Congregation Beth Emeth*)

Elder McKinley B. Johnson, Sr. (*Pastor of St. John's Church of God in Christ; District Superintendent of the Tech Valley District, Church of God in Christ*)

2- **Nina E. Olson** (*National Taxpayer Advocate, Internal Revenue Service*)

3- COMMUNITY SERVICES PANEL

Phillip A. Burse (*Director of Operations, In Our Own Voices*)

Professor Sarah Rogerson (*Director, Immigration Law Clinic; Director, Law Clinic & Justice Center, Albany Law School*)

Scott C. Jarzombek (*Executive Director, Albany Public Library*)

4- CLIENT PANEL

Krista Russell (*Client of Rural Law Center, accompanied by Julie Ross, Intake Coordinator*)

Maria Magdalena Ventura Lopez (*Client of Worker Justice Center of New York, accompanied by Jeremy McLean, Esq.*)

Gloria Schaffer (*Client of Empire Justice Center, accompanied by Cathy Roberts, Sr. Health Law Paralegal*)

For additional information on the unmet needs for civil legal services, see the Annual Reports of the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice) available at www.nycourts.gov/accesstojusticecommission.

The Chief Judge's Hearings on Civil Legal Services

SECOND DEPARTMENT HEARING

Friday, October 16, 2015

WITNESS LIST

1- **Hon. Thomas P. Zugibe** (*District Attorney, Rockland County*)

2- **CORPORATE LEADERS PANEL**

Edward J. Sebold, Esq. (*Vice President & Assistant General Counsel, IBM*)

Shawn A. Miles, Esq. (*Executive Vice President & Associate General Counsel, Global Public Policy, MasterCard Worldwide*) (*Testimony presented by Vanessa Watson, Esq., Senior Managing Counsel, MasterCard Worldwide*)

David Yawman, Esq. (*Senior Vice President & General Counsel, PepsiCo North America Beverages & Quaker Foods North America*)

3- **VETERANS' SERVICES PANEL**

Linson Bailey (*Executive Director, HELP USA's Supportive Services for Veterans Families*)

Kiron Dawkins (*Regional Director of Employment, Training & Community Services, WestCOP [Westchester Community Opportunity Program]*)

Rogerlyn Velez, Esq. (*Founder & Chief Executive Officer, Angels for Warriors*)

4- **CLIENT PANEL**

George Harris (*Client of Legal Services of the Hudson Valley, accompanied by Rachel Halperin, Esq.*)

Irma Silva (*Client of Pace Women's Justice Center, accompanied by Bertha Rodriguez, Esq.*)

De Ping Song (*Client of The Legal Aid Society, accompanied by Karen Cacace, Esq.*)

For additional information on the unmet needs for civil legal services, see the Annual Reports of the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice) available at www.nycourts.gov/accesstojusticecommission.

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 7:

**Transcript of the First Department Hearing Held on
September 29, 2015**

NOVEMBER 2015

In The Matter Of:

FIRST DEPARTMENT HEARING - September 29, 2015 v.

Mayor De Blasio, et.al.

September 29, 2015

Supreme Court State of New York - Civil Term

60 Centre Street, Room 420

New York, New York 10007

(646) 386-3012

Harristshams@aol.com

SUPREME COURT OF THE STATE OF NEW YORK

- FIRST DEPARTMENT -

-----X

THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES,

-----X

7 Madison Avenue
New York, New York
September 29, 2015

E F O R E:

HONORABLE JONATHAN LIPPMAN,
Chief Judge

HONORABLE LAWRENCE MARKS,
Chief Administrative Judge

HONORABLE LUIS A. GONZALEZ,
Presiding Judge

DAVID MIRANDA, ESQ.,
President of the State Bar Association

RACHEL C. SIMONE, CSR, RMR, CRR
SHAMEEKA HARRIS, CSR, RPR, CLR
Senior Court Reporters

Rachel C. Simone, CSR, RMR, CRR

2 I T N E S S L I S T:

3 HONORABLE BILL DE BLASIO,
4 Mayor of the City of New York

5 JOHN R. SILKENAT, ESQ.,
6 Past President, American Bar Association;
7 Partner, Sullivan & Worcester LLP

8 JOHN SEXTON, ESQ.,
9 President, New York University; Dean
10 Emeritus, New York University School of Law

11 MARTIN LIPTON, ESQ.,
12 Executive Committee Member and Former
13 Co-Chair, Partnership for New York City;
14 Founding Partner, Wachtell, Lipton, Rosen
15 & Katz

16 ERIC WEINGARTNER,
17 Managing Director, Robin Hood Foundation

18 NEIL STEINKAMP,
19 Managing Director, Dispute Advisory &
20 Forensic Services, Stout Risius Ross, Inc.

21 DEBRA L. RASKIN, ESQ.,
22 President, New York City Bar Association;
23 Partner, Vladeck, Raskin & Clark, P.C.

24 SARA E. MOSS, ESQ.,
25 Executive Vice President & General Counsel,
26 the Estee Lauder Companies

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

20 FATIM KAMARA, Client of The Door, a Center for
21 Alternatives, accompanied by Rebecca Wilson
22 Heller, Esq.

23 STACY SNOWDEN, Client of The Legal Aid Society,
24 Harlem Community Law Office, accompanied by
25 Evan Hasbrook, Esq.

26 CASSANDRA WILSON,
Client of Legal Services NYC, accompanied by
Tanya Douglas, Esq.

Rachel C. Simone, CSR, RMR, CRR

1 Proceedings

2 JUDGE LIPPMAN: Good morning and welcome to the
3 first Legal Services Hearing of this year.

4 As you know, hearings are held in each of the
5 four judicial departments. This is the first hearing in
6 this beautiful courtroom at 25th Street and Madison Avenue,
7 a place that I have been before and remember sitting in
8 this seat. It is, obviously, a beautiful setting for a
9 very serious topic.

10 I want to introduce Presiding Justice Gonzalez
11 from the First Department sitting to my right, State Bar
12 President David Miranda to the far right, and Chief
13 Administrative Judge Lawrence Marks.

14 I want to say, first of all, that this hearing is
15 central to our efforts in New York to close the justice gap
16 between the finite legal resources that are available and
17 the desperate need for legal services by the poor and
18 people of modest means. There is clearly a crisis in
19 access to justice in this city, this state, and this
20 country. People literally threaten to fall off the cliff
21 in difficult economic times when they are battling for the
22 necessities of life, for the roof over their heads, for
23 their physical safety, for the well-being of the families,
24 for their livelihoods and they cannot afford the cost of
25 legal representation.

26 We recognize in judiciary that equal justice is

1 Proceedings

2 central to our constitutional mission, very much at the
3 heart of it. That's why over these years the Judiciary has
4 put money directly in its budget to support legal services
5 for the poor.

6 We are very proud of the fact that this year we
7 have \$85 million that we give out directly to legal service
8 providers, by far the most in the country and yet the tip
9 of the iceberg in terms of the needy.

10 We are very grateful to the Commission, the
11 Permanent Commission on Access to Justice headed by chair
12 Helaine Barnett who is here today.

13 Helaine, where are you? Thank you.

14 Helaine does a terrific job, the former president
15 of the Legal Services Corporation. Many members are here
16 today including Bob Sheehan from Skadden Arps and so many
17 others, so many other members of the Commission.

18 We thank them for their work and for hosting
19 these hearings, for doing a record of the hearings, and
20 then a report in which we determine what monies we need to
21 close the justice gap and what other efforts and new
22 initiatives we will take in the legal services area.

23 As you know, the reports over the years have
24 shown that legal service entities turn away more people
25 than they can accept. We also know from the Commission's
26 Reports that for every dollar invested in legal services

1 Proceedings

2 for the poor, six dollars are returned to the state, to the
3 economy in reduced social services costs, more federal
4 dollars flowing to New York.

5 We recognize that money is not in itself the
6 answer, although it certainly made a difference. And pro
7 bono work on the part of the bar is so important. That's
8 why we have our Attorney Emeritus Program to attract
9 attorneys, baby boomers ending careers to do pro bono work.
10 That's why we allow corporate counsel to practice in the
11 New York courts even when they are not admitted here when
12 they are doing pro bono work. That's why we have a 50-hour
13 rule in which no one is admitted to the bar in the State of
14 New York unless they have done 50 hours of pro bono work
15 with the understanding that if the new lawyers, if our
16 aspiring lawyers do not embrace the core values of our
17 profession, then they will not be lawyers in the State of
18 New York; the idea being that the one thing that
19 distinguishes this noble profession is service to others,
20 helping others. That's what lawyers do, and that's what we
21 expect of lawyers in our state.

22 We are delighted to be here at this hearing. We
23 are attempting to change the landscape for legal services
24 here in New York and around the country to get people to
25 understand that legal services for the poor are as
26 important as everything else we hold dear in our society,

1 Proceedings

2 whether it be housing, hospitals or schools. We don't say
3 that we can't teach our children this year because, Gee,
4 the economy is bad we can't have schools. We don't say
5 that we can't tend to our sick because, Gee, we don't have
6 money this year.

7 We have to make priorities in our society, in our
8 government, in all of our branches of government. And
9 certain legal services for the poor is, again, equally
10 important to every other thing that we fund, that we
11 nurture, that we feel is so vital to the well-being of our
12 society.

13 So we have made great progress, but we have a
14 long way to go. These hearings are, again, critical in
15 moving us forward in terms of a civil Gideon, the idea that
16 everyone who is battling for the essentials of life is
17 entitled to a lawyer if they cannot afford one.

18 You know, on the criminal side of the ledger
19 there is the seminal case of Gideon versus Wainwright that
20 says when your liberty is at stake you are entitled to a
21 lawyer. That case 50 years ago has not been replicated in
22 civil matters where the issues involve the necessities of
23 life. Again, what could be more important than a roof over
24 someone's head? Their safety? Their well-being? Don't
25 they need a lawyer too? That's the point, and that's what
26 we are moving towards. These hearings have about so

1 Proceedings

2 helpful, and I am so delighted that in New York State and
3 in New York City we get it and understand it and are doing
4 everything within our power with our partners in
5 government -- the Judiciary, the legal profession -- to get
6 us to that day when everyone has a lawyer who needs one.

7 So, with that introduction, who could be a more
8 spectacular lead-in than the Mayor of the City of New York,
9 Bill de Blasio, who uniquely understands that everyone
10 regardless of their station in life or the size of their
11 pocketbook is entitled to justice and the essentials that
12 every human being should have. He has been a leader in New
13 York City and in this country in the battle to help the
14 most vulnerable in society, the disadvantaged, those who
15 most need our assistance, and to treat them with dignity
16 and respect.

17 I would mention in particular, and I am so glad
18 to see our friend Steve Banks sitting next to the Mayor,
19 how just terrific could he have been in -- and I know he
20 will be talking about it today -- putting monies,
21 consolidating monies for legal services in HRA under
22 Commissioner Banks' leadership that deal with this
23 particularly difficult issue of housing. Evictions can be
24 such a traumatic event for a family, for a human being, but
25 consequences are so grave. And this Mayor, again, has been
26 just so commendable and so wonderful in understanding this

1 Proceedings

2 problem and dealing with it.

3 I will not embarrass him any more. I will ask
4 him to please provide his testimony. Again, we are so
5 honored you are here with us today.

6 MAYOR DE BLASIO: Thank you, Chief Judge. And
7 good morning to everyone. I want to thank you for the
8 opportunity to appear before you.

9 I must say, Chief Judge, I don't think I ever had
10 the honor of being in this particular chamber before. This
11 is a New York City jewel and it is quite striking. So
12 thank you for exposing me to the beauty of our city.

13 To chief administrative Judge Marks, to First
14 Presiding Judge Gonzalez, and to State Bar President
15 Miranda, thank you to all of you.

16 Thank you for a chance to speak with you today
17 about the role that civil legal services play in providing
18 access to justice and to update you on New York City's
19 commitment to expanding those services.

20 I also would like to acknowledge and thank
21 Helaine Barnett, Chair of the Permanent Commission on
22 Access to Justice and all of the Commission members who are
23 in attendance today and have done certain work.

24 From my team, as you know, Human Resources
25 Administration Commissioner Steven Banks is here and knows
26 a thing or two about the subject matter.

1 Proceedings

2 I want to thank as well here in attendance my
3 counsel, Maya Wiley, Special Counsel Henry Berger, and the
4 Chair of the Mayor's Advisory Commission on the Judiciary,
5 Carmen Ciparick. I thank them all for the great work they
6 do for the people of New York City.

7 Chief Judge, we greatly appreciate your ongoing
8 leadership and dedication giving all New Yorkers fair and
9 equal access to our civil justice system. The Task Force
10 to Expand Access to Civil Legal Services that you
11 established in 2010 and your annual allocation of civil
12 services funding in the Judiciary's budget have supported
13 thousands of New York State residents each year who
14 otherwise navigate the State's legal system without
15 representation, including thousands in civil cases here in
16 New York City.

17 It's difficult to overstate the importance of
18 civil legal services. By providing representation to New
19 Yorkers who would otherwise appear alone in court when
20 other parties like landlords are represented, we give New
21 Yorkers fair and equal access to our civil justice system,
22 and in the process we fight poverty and in-equality which
23 are core goals of this Administration. These services help
24 low-income New Yorkers keep a roof over their heads, helps
25 keep families together, helps keep food in the cupboard,
26 things as essential as that. Legal services help children

1 Proceedings

2 stay in school and continue in education that otherwise
3 could be disrupted by a loss of a home and a need to move
4 out of their own community. In short, we are helping those
5 who need it most gain and maintain the basic building
6 blocks of a life lived with dignity and security.

7 Investing in access to justice is also smart
8 economics. Proof of this can be found in New York Task
9 Force's finding that for every dollar invested providing
10 civil legal services, taxpayers see a return of more than
11 six dollars in federal benefits such as federal disability
12 benefits. These benefits not only improve the living
13 standards of the people who receive them, but lift up local
14 communities as well and put more resources into
15 neighborhood economies.

16 Further, the City sees tremendous savings in
17 averted shelter costs by investing legal services to help
18 prevent evictions, homelessness and domestic violence.
19 Providing legal services also reduces the cost of
20 litigation and increases court efficiency which benefits
21 all litigants regardless of income level.

22 Our commitment to expand civil legal services to
23 more New Yorkers and making those more effective can be
24 seen in the action and investments of my Administration
25 over the past 21 months.

26 One year ago, HRA Commissioner Steve Banks

1 Proceedings

2 testified before you regarding my Administration's
3 consolidation of multiple civil legal assistance programs
4 previously spread out across several agencies into a single
5 streamlined operation at HRA. Bringing all services
6 together in this way has enabled the City to utilize
7 existing HRA mechanisms to claim available state and
8 federal reimbursement for legal services, avoid duplication
9 of effort, maximize resources, better address service gaps,
10 evaluate emerging legal needs, and be responsive as
11 possible when emergencies arise.

12 My first budget as Mayor of the City of New York
13 for July 2014 through June 2015 allocated an unprecedented
14 level of funding for low-income New Yorkers. That year we
15 spent a total of \$18.5 million to protect tenants facing
16 eviction and harassment by unscrupulous landlords, which is
17 a major cause of homelessness.

18 I will take a moment to note at this juncture to
19 say, and I say this always, the vast majority of landlords
20 do follow the law and do their work appropriately. They
21 treat tenants with respect. But there is also,
22 unfortunately, unscrupulous landlords who have a
23 disproportionate negative effect on their tenants. That's
24 why these legal services is so crucial.

25 In fiscal year 2015, we vastly expanded the
26 anti-eviction tenant protection program. We made a

1 Proceedings

2 \$5 million down payment on the creation of our new
3 anti-harassment program for areas that would be rezoned by
4 the City of New York. We focused resources in particular
5 on those areas that would be rezoned. That initiative by
6 fiscal year 2017 will grow to \$36 million a year,
7 specifically focused on areas where there will be land use
8 actions by the City. This program is focused on ensuring
9 that almost 14,000 of our City's low-income residents can
10 stay in the neighborhoods that they built as those areas
11 grow denser and seek considerable investment for the coming
12 years.

13 In my second budget -- the current year's adopted
14 budget, fiscal year now -- I again increased our commitment
15 to fund tenant protection for legal services for low-income
16 New Yorkers, helping to prevent homelessness and disruption
17 in the lives of thousands. This year's budget already
18 includes over \$33 million to help New Yorkers before they
19 are forced to turn to shelter. That is the ramp-up of our
20 efforts to focus on rezoning areas and additional efforts
21 citywide that come with those threatened with eviction.
22 That was the number that we had put in the budget.
23 Yesterday I announced that we are deepening this
24 commitment, we're going further. We're allocating an
25 additional \$12.3 million to the anti-eviction legal
26 services program to be divided among providers already hard

1 Proceedings

2 at work so we can reach more New Yorkers as quickly as
3 possible. This brings the total investment in tenant
4 protection legal services in this year's budget, my second
5 budget, to nearly \$46 million.

6 Next year in my third budget, fiscal 2017, that
7 number will grow to more than \$60 million annually when you
8 combine all these efforts. \$60 million-dollar annually.

9 By way of comparison, that is literally more than
10 ten times the \$6 million that was spent as recently as
11 fiscal year 2013.

12 It is by far the largest initiative of its kind
13 in the nation, enough to give more than 113,000 New Yorkers
14 each year legal services to protect against harassment and
15 unnecessary eviction which also has the benefit of
16 protecting our affordable housing stock, which is a crucial
17 point.

18 Every time we help somebody legally stay in their
19 rent-stabilized, rent-regulated apartment, it also
20 preserves that apartment as part of our affordable housing
21 supply. It is good for the individual and good for the
22 family, but it has a bigger impact on the availability of
23 overall affordable housing in this City.

24 It is important to note that these commitments to
25 provide access to justice for low-income tenants are
26 complemented by other major initiatives to prevent

1 Proceedings

2 homelessness. Among them is HRA's new Homelessness
3 Prevention Administration, which includes an Early
4 Intervention Outreach Team that seeks out families and
5 individuals on the verge of losing their home and who could
6 be helped by legal assistance or emergency rental
7 assistance.

8 Tenant protection is the cornerstone of our
9 initiatives to provide access to justice for low-income
10 New Yorkers, but we are also working on a number of other
11 fronts by investing, for example, \$4.3 million for
12 Executive Action legal assistance programs for immigrants
13 operated by HRA in conjunction with the Mayor's Office and
14 of Immigrant Affairs and CUNY. We are vesting \$3.2 million
15 in comprehensive legal immigration assistance. That will
16 begin to be implement through a new RFP process during this
17 fiscal year. We are investing \$2.1 million for civil legal
18 services for seniors, and \$2.6 million for legal services
19 to secure federal disability benefits for those who are
20 eligible.

21 When all of these programs are fully implemented
22 in fiscal 1917, New York city will be allocating a grand
23 total of \$74 million annually in our baseline budget to
24 provide access to justice for low-income New Yorkers. No
25 other municipality allocates even a small fraction of what
26 New York City is committing to provide for access to

1 Proceedings

2 justice. But given the widespread need, we certainly
3 welcome and support increased Judiciary resources to
4 complement and further leverage our expanding services.
5 This is one of the best investments we can make because it
6 can so clearly change lives for the better and will all be
7 seen across the City.

8 For example, Legal Services in New York City and
9 Legal Aid have already received \$5 million through our
10 anti-harassment program, and working together have
11 supported more than 1,100 households in all five boroughs,
12 a number that will dramatically increase in the coming
13 months when the program is fully implemented.

14 In the Bronx, legal providers went to court on
15 behalf of 121 tenants at 111 Gerard Avenue. The landlord
16 there raised the rents in violation of the Rent
17 Stabilization law while also providing leases and letters
18 to tenants stating that the apartments were no longer
19 subject to rent stabilization. After Legal Services and
20 Legal Aid represented the tenants, the landlord admitted to
21 overcharges, and a settlement is underway which will return
22 tenants to their legal rent and restore their rights.

23 In Brooklyn, Legal Aid is representing residents
24 of 702 Rockaway Avenue where the management company divided
25 18 residential units into 55 units while also pressuring
26 tenants to sign a waiver of their rights under the Rent

Proceedings

1
2 Stabilization law and neglecting the building until it
3 reached nearly unliveable conditions. When the management
4 company stopped paying the landlord, the landlord then
5 attempted to evict all of the tenants. Legal Aid worked is
6 working to stop these evictions, enforce the tenants'
7 rights under Rent Stabilization, and return the building to
8 an acceptable state of repair for approximately 40 people,
9 including ten children who live there.

10 I also want to express my appreciation and
11 acknowledge the deep commitment of City Council Speaker
12 Melissa Mark-Viverito and the entire City Counsel. They
13 are truly committed to expanding access to justice.

14 In fiscal year 2016, the current fiscal year, HRA
15 is overseeing an additional \$19.1 million in discretionary
16 funding added by the City Council during the budget process
17 for a diverse slate of civil legal services, including
18 family reunification immigration defense, assistance for
19 domestic violence survivors and for veterans, and
20 anti-eviction and SRO legal services among those.

21 I also recently signed a legislation passed by
22 City Council establishing the Office of Civil Justice at
23 HRA to further advance our efforts to provide access to
24 justice civil legal matters. Through this office annual
25 reports on the need for civil legal assistance will be
26 issued allowing us to evaluate quantity and quality of the

1 Proceedings

2 services that are currently available and the volume of
3 need we must still meet.

4 We recognize that the challenges low-income and
5 vulnerable New Yorkers are facing are complex and
6 deep-rooted. But we know, too, that we have powerful tools
7 at hand to address those challenges and lift up our
8 neighbors who need it most. Every family or individual who
9 can keep their home with the help of legal assistance is
10 spared the trauma of homelessness including the disruption
11 of education, employment, and medical care. The City is
12 spared the expense of emergency shelter services, and
13 together we become a stronger and more just city.

14 Finally, on a personal note, as your retirement
15 approaches at the end of this year, I want to say what I
16 think a lot of people feel in this city and state. I want
17 to express my tremendous appreciation to you, Chief Judge.
18 You have provided a powerful version of the leadership we
19 need to keep addressing the needs of all New Yorkers. You
20 have been a great voice of conscience. Your commitment to
21 access to justice has been extraordinary as has been your
22 ability to turn that commitment into action. Thousands of
23 our City's low-income families and individuals have you to
24 thank for helping them stay in their home, for helping them
25 to receive unemployment and disability benefits assistance,
26 for helping them escape from domestic violence. On their

1 Proceedings

2 behalf, I offer my deepest thanks for all that you have
3 done.

4 JUDGE LIPPMAN: Thank you, Mr. Mayor. I am
5 touched and honored by the remarks. I truly appreciate
6 them and feel good about our efforts. We have a long way
7 to go. I have a little more trouble to make until the end
8 of the year.

9 MAYOR DE BLASIO: We're counting on that.

10 JUDGE LIPPMAN: Let me say, first of all, the
11 array of funding initiatives that you mentioned in your
12 remarks are staggering, as is that \$74 million that in
13 short order will be put into place to commit access to
14 justice.

15 I want to say that this issue was one that -- and
16 I think your testimony shows it. We have had testimony
17 over the years from the Attorney General, the Controller,
18 Cardinal Dolan, the heads of our biggest banks, the heads
19 of our largest business associations, the landlords, the
20 hospitals, from every conceivable part of our society. And
21 the City Council president last year was here testifying.

22 I want to say that the universal support across
23 all lines that we have had has been so wonderful, and I
24 think your testimony today for the great City of New York
25 and all that is involved in running this city and to come
26 here and to spend your time talking about the things that

1 Proceedings

2 you did today and to back it up with action is so important
3 and so critical. So let me now ask you a couple of
4 questions.

5 First of all, you have done wonderful things. We
6 think and hope and believe that the state court system has
7 done good things with our partners in government at the
8 state level. As you mention, the City Counsel is doing,
9 you know, lots of good things in relation to access. How
10 do we coordinate these efforts? This is such a heavy lift.
11 You know that there is so much that needs to be done. As I
12 said in my opening remarks, with all the things that
13 everyone has done, more people are turned away by legal
14 service providers than they can accept. How do we make
15 sure that we are not going in all kinds of different
16 directions and that what we are doing is coordinated on the
17 same page, on the same track?

18 MAYOR DE BLASIO: I will turn to Commissioner
19 Banks in a moment, but I will simply say that part of why
20 we consolidated so much of this work under one agency was
21 we recognize that given that there are no perfect
22 resources, it was really important to get them to where the
23 need was greatest. And I think this is work we have to
24 keep doing on many fronts. There are still a lot of
25 things, a lot of areas where we can be more streamlined,
26 more effective, more targeted.

1 Proceedings

2 Part of why we made a particular commitment, for
3 example, to fight harassment and eviction is because we saw
4 evidence that that would be an area of sensitivity. We
5 want to get ahead of it. I think that's a particularly
6 efficient use of funding to get to a problem before it
7 begins. So we are striving to make resources go as far as
8 possible to get to where the need is greatest.

9 I will now let the Commissioner talk about some
10 of our efforts to really make sure that the efforts are
11 coordinated.

12 (Continued on next page)

13
14
15
16
17
18
19
20
21
22
23
24
25
26

Proceedings

1
2 JUDGE LIPPMAN: Pleasure to see you, Commissioner
3 Banks.

4 COMMISSIONER BANKS: Pleasure to see you too. I
5 think to pick up on the Mayor's point, the program that we
6 are clearly focused on are very targeted to, for example,
7 community funding. I think the commitment the City has
8 made, the commitment the Judicial System has made, these are
9 opportunities for us to work on and to coordinate in some
10 fashion to ensure that.

11 JUDGE LIPMANN: You view the Commissioner as one
12 pot, that we have to make sure that it goes to the right
13 place where it's needed. Can we get to that point where we
14 are so in this together that we all understand.

15 COMMISSIONER BANKS: We would love to do that.

16 JUDGE LIPMANN: It goes to the need.

17 COMMISSIONER BANKS: We would love to do that. We
18 had made such a tremendous commitment and we're making a
19 commitment as well.

20 MR. LIPPMAN: For an example, the coordination the
21 Commissioner notes so well is the poverty justice solutions
22 where we are taking young lawyers who are given the last
23 turn of their tenure in law school to all do pro bono work
24 and then through the nation and the City of New York we
25 enable them to continue on to legal service providers as
26 they start their legal careers. That's a perfect example of

1 Proceedings

2 how we work together, and I hope that all of the other
3 players in this can sort of parlay it into something that's
4 going to, obviously, serve those needs.

5 COMMISSIONER BANKS: Certainly, the condition of
6 poverty justice, the lawyers to add this muscle assistance
7 to the legal services, and the resources for the Mayor to
8 put it into the budget.

9 JUDGE LIPPMAN: Mr. Mayor, we talk about this big
10 area, this access to justice, the legal services putting
11 money in, how is it actually getting in by vesting money in
12 this particular area? Do we actually effect the fabric of
13 our communities here in New York City?

14 MAYOR DE BLASIO: Absolutely. I had put it through
15 a very human lens here. Just think about a family that is
16 in an affordable apartment, is connected to everything that
17 their neighborhood has to offer, many, many cases, of
18 course, families and friends in the same neighborhood,
19 schools that the child goes to where they have continuity
20 and where they are known and braced. All of that, we all
21 strive for that. We all want that for our families. We
22 want that security and think about what it means for a
23 family to have that suddenly ripped away. It is horrible in
24 any circumstance. It is particularly horrible if it was
25 done illegally. What it means, before you even think about
26 the economic costs, you have to think about the human costs.

1 Proceedings

2 You have to think about a child who has to go to a different
3 school. You have to think about a family that's torn away
4 from their loved ones and all of the services that they
5 know, health care services that they know, and then you have
6 to deal with challenges of being in a shelter setting.

7 This is not, what I think, the greatest city in the
8 world. We should not be comfortable with any of our
9 citizens who could be preserved in the home they're in
10 having it slipped away from them because of our scrupulous
11 actions and illegal actions. We have to fight back. The
12 human cost is obvious. We want, for a lot of folks who are
13 in a situation where they may be threatened with eviction,
14 they have a number of challenges already in many cases. We
15 are trying to address those by improving our schools, by
16 increasing the amount of good jobs, quality jobs, available
17 in our city and a number of other problems.

18 That mission of increasing the quality and
19 opportunities that we all face, think about it. Every
20 family that slips out of a decent affordable housing and
21 into a shelter we are taking a step away from that and
22 getting them on the correct path. The notion that someone
23 has profited illegally in the process makes it so much more
24 troubling. That's the human reality. I also always speak
25 up for the taxpayers to say this is -- all that we put into
26 legal services, legal aid services is a tremendous

Proceedings

1
2 investment on behalf of the taxpayers because some of the
3 statistics we cited earlier it makes the entire judicial
4 system work better for everyone. It leads to better
5 outcomes. It ultimately -- every time someone is kept in
6 their home, it costs the taxpayers a lot less and for much
7 better and more humane outcomes so there is so much to
8 recommend this investment. It's a huge multiplier of fact
9 and we're very proud that we are making a precedent level of
10 investment and we expect it to improve the quality of life
11 in the City.

12 JUDGE LIPMANN: Mr. Mayor, two more quick
13 questions. I know you have a busy day ahead. You talked
14 before about the investment of the City and it's been
15 terrific. You know what we are seeing today is federal
16 money is drying up for access to justice. From the floor,
17 the Legal Services Corporation, Glenn Barnett, the president
18 of The Door, that's gone from \$375 million to \$300 million
19 for the entire country to support legal services for the
20 poor and it seems to me -- and I know you have the same
21 attitude -- that it places so much of a greater burden on
22 the state and the cities around the country to fund legal
23 services. Can we do it at this level? Should we write off
24 the federal government because it's so much gridlock in
25 Washington that you read about in the papers every day.
26 Where is this going? Is this at the local level of that?

1 Proceedings

2 MAYOR DE BLASIO: I appreciate it. That is an
3 essential question. Where is this going? Chief Justice, I
4 would say this, no, we cannot afford to write off the
5 federal government's role. I think there is a difference in
6 being clear about the barriers that exist now and likely
7 will exist for at least several more years versus being
8 willing to say that such an injustice can stand.

9 I think the obligation of all of us, whether it's
10 those of us at the local government or those of you at the
11 judiciary and certainly leaders of the legal profession in
12 general, it is to sound the alarm in Washington and to make
13 clear that we can't have a just country if we don't have
14 federal support for access to representations. There is no
15 way that localities can handle all of the needs on their
16 own. It's just a factual statement.

17 Unfortunately, it parallels a lot of other reality
18 we face. Not so long ago and certainly in the course of
19 both my career and your career it was a common place for the
20 federal government to be deeply involved and expansively
21 involved in affordable housing, in mass transit and funding
22 human education initiatives, research. There is a whole
23 host of areas where there has been a retreat from deep
24 federal role and that is holding back our country. So I
25 would argue it is, in effect, critical to turn that dynamic.
26 I don't think it will happen overnight. I think, as with

1 Proceedings

2 most social change, voices will gather, starting at the
3 local level, and grow and grow and grow and that is how
4 change is made.

5 So we will and, you know, to borrow from the
6 biblical phrase, we will light a single candle rather than
7 curse the darkness. We will do all we can do. We won't
8 stop there and say Washington is not part of the equation.
9 We will work with you and others to keep insisting that
10 Washington re-engage this crucial area.

11 JUDGE LIPPMAN: I agree with you entirely. I think
12 the action is in the states and the cities today but that
13 can't be the exclusion, the role in the federal government,
14 and again the legal services corporation is a perfect
15 example of something that so obviously requires a large
16 amount of funding and yet it is going in the wrong direction
17 rather than expanding the funds that are being cut.

18 One last quick question. This is in terms of -- I
19 know you are an optimist by nature. Do you think we are
20 going to get to the point where every person who's in need
21 of legal representation can have it in this country just as
22 we take it for granted. If you asked a person on the street
23 if your liberty is at stake, do you think someone should
24 have an attorney, they know from watching TV, from Miranda
25 warnings, and all of this that your liberty is at stake.
26 You are entitled to an attorney. As we have discussed so

Proceedings

1
2 many times at these hearings, the affect of not having an
3 attorney in a civil case can be equally serious to the loss
4 of liberty itself, your home, your family, your job. Do you
5 think we can get to that point where in the foreseeable
6 future where everyone gets an attorney if they needed one?

7 MAYOR DE BLASIO: Well, again, I think you're
8 asking where is this country going.

9 JUDGE LIPPMAN: Yes.

10 MAYOR DE BLASIO: My personal analysis, I am an
11 optimist by nature. I do think a lot of change is on the
12 horizon. I don't think it will be the fastest change we've
13 ever seen. I do think a lot of change is on the horizon. I
14 watch with greater appreciation here in the year 2015 as our
15 national debate evolves rapidly. It was a much more honest
16 discussion going on about the economic ramification the
17 people face. I asked the underpaid of the change you're
18 talking about. I think as our country comes to grip, comes
19 to grip with how many people are struggling economically,
20 how many people who cannot afford representation and what
21 the ramifications are of that, I think the door will open to
22 federal investments in appropriate representation. No one
23 should put, in my opinion, a date certain on when that will
24 happen but the trend is, in my view, a very positive one.
25 Something is changing in our national discussion that opens
26 the door for a very different conception of what the federal

1 Proceedings

2 government role should be. It's hard to see it in the first
3 instance and certainly the events over the last few days in
4 Washington could easily provide problems for the economy of
5 world views.

6 My view is that everything is ultimately moved by
7 the public discourse and the dues of the people and I think
8 the people are looking for a more just society and looking
9 for more economic fairness and that will eventually say
10 where a person's representation is more likely welcomed.

11 JUDGE LIPPMAN: Thank you, Mr. Mayor. I think the
12 point you make is such a strong one. The public discourse,
13 the public dialogue does lead to the changes in society and
14 it can lead to changes in the law as you know. We evolve,
15 the legal system evolves, but I just want to say it has been
16 an honor and a privilege to have you here. You graced us by
17 your presence and thank you so much. It's been an absolute
18 delight to have you in this justice system.

19 MAYOR DE BLASIO: Thank you, Chief Justice.

20 JUDGE LIPPMAN: Thank you, Mayor. Thank you,
21 Commissioner Banks. I now have Martin Lipton from the firm
22 of Wachtell and Lipton, the former co-chair of the
23 Partnership of New York City, one of the outstanding lawyers
24 in our city, in our state and in our country. I am
25 delighted to have you here.

26 Mr. Lipton, we welcome your testimony. And, again,

1 Proceedings

2 given your distinguished background in such a lifetime
3 commitment in your profession, it is an honor to have you
4 here.

5 MR. LIPTON: Thank you, Chief Judge. It is an
6 honor to be here. At the very outset, I would like to
7 associate myself with the comments made by Mayor De Blasio
8 with respect to your service as chief judge in the state of
9 New York, it has really been outstanding and I think the
10 reason -- one of the reasons why we're here today is all of
11 the things you have done in order to improve the access to
12 justice for all.

13 JUDGE LIPMANN: Thank you so much.

14 MR. LIPTON: Let me say good morning to the members
15 of the Permanent Commission on Access to Justice. I
16 appreciate this opportunity to provide testimony today on
17 the important topic of ensuring that all New Yorkers have
18 access to justice.

19 As a long time member and former Chair of the
20 Partnership for New York City, I am a firm believer in the
21 importance of ensuring that our city provides fairness and
22 opportunities to all of our residents, no matter what their
23 income.

24 Civil legal services for those who cannot afford
25 them are critical to help low-income New Yorkers secure the
26 essentials of life, shelter, safety, income security, and

1 Proceedings

2 access to education and health care, that those of us with
3 means can take for granted and to provide fairness and
4 opportunity to those who cannot afford it.

5 To create the city that we all want to live in, we
6 need to be helpful to those who are less fortunate. Free
7 civil legal services, and pro bono legal services to low
8 income New Yorkers, are critical not only in their lives but
9 also in the health and vitality of the city itself.

10 The Chief Judge commenced last year's hearings by
11 emphasizing that access to legal services for the poor is an
12 issue that has such great consequences for our society, for
13 our communities, and it is at a tremendous cost that we fail
14 to provide legal representation for all, equal
15 representation, equal justice for all. The Chief Judge is
16 absolutely correct to emphasize that access to legal
17 services for the poor is something that affects not only the
18 poor, but the community at large, and that we all share the
19 cost of a judicial system that fails short of this core
20 mission.

21 The economic vitalities of our state depends on the
22 strength of our court system. If businesses do not believe
23 that New York is a jurisdiction where disputes are resolved
24 efficiently, economically, and, above all, fairly, then they
25 will try to avoid New York. One cannot overstate the
26 importance of a first-class court system to the state's

Proceedings

1
2 economy. The strength of our court system, in turn, depends
3 on all of the members of society having access to the
4 courts, and with real representation. Businesses and
5 individuals, rich and poor, are looking for the same thing,
6 a court system that treats all sides fairly. If the poorest
7 members of society do not believe that they can receive
8 justice from the courts, or if the courts are perceived to
9 close their doors to large portions of the community, then
10 the court system will lose the respect of all members of the
11 community. The court system that does not provide access to
12 everyone is a frail system that has failed in its
13 fundamental duties, and businesses will take note of it.

14 Access for all is not just a matter of providing
15 fairness. The court system is overburdened. Dockets have
16 ballooned and cases have grown more complex, but judicial
17 resources have not kept up with these demands. The
18 increased work force -- the increased workload delays the
19 resolution of all cases. Our judiciary must be properly
20 funded to handle the cases that comes before it. One
21 important tool that can help to increase courtroom
22 efficiency is providing access to counsel. Pro se litigants
23 lack the legal knowledge, and as a result the courts have to
24 spend time helping them to navigate the system. Judges and
25 the court staff are, of course, sensitive to the fact that
26 unrepresented litigants are at a disadvantage and they often

1 Proceedings

2 spend additional time assisting the litigant with courtroom
3 basics, diverting already scarce time and resources away from
4 their crowded dockets.

5 It is also important that potential litigants
6 receive such access to representation and advice early in
7 the process, not when it is too late to make a difference.
8 Access to counsel at an early stage of a dispute can help
9 parties identify mutually agreeable paths to resolution.

10 I commend the Commission for already considering
11 options for legal services that go beyond the traditional
12 courtroom representation at the beginning -- at the fore of
13 most people's mind. The pilot program for an on-line
14 dispute resolution mechanism in consumer credit cases, for
15 example, is an innovative approach that utilizes new
16 technologies to help potential litigants resolve their
17 disputes in on-line chat rooms with the help of mediators.
18 More than 90 percent of business disputes end in settlement,
19 but because the parties do not start exploring settlements
20 early in the process, excessive litigation costs are
21 incurred leading up to the point of settlement. The on-line
22 mediation program that the Commission is exploring is just
23 the sort of innovative, forward-thinking approach that makes
24 the New York court systems one of the most effective in the
25 world, and it sends a message that the New York judiciary is
26 focused on providing services that actually work for

1 Proceedings

2 litigants. I also support the Commission's consideration of
3 other innovations, such as the simplification of court
4 forms, that will make our courts more efficient and more
5 accessible to law.

6 Finally, while I firmly believe that a well-funded
7 court system that provides equal access to all litigants is
8 a fundamental responsibility for all, I also recognize the
9 special role that law firms and lawyers play in ensuring
10 equal access to justice. Our firm is a strong supporter of
11 organizations that provide legal services to the poor and
12 disadvantaged, and many of our lawyers take on a range of
13 cases on a pro bono basis. It is the obligation of lawyers
14 to play an active role in their community and to give back
15 to their community in many different ways. We should be
16 proud that the lawyers in New York take this obligation
17 seriously. The work of the members of this Commission is
18 yet another example of this important tradition.

19 In short, the problems that the Commission has set
20 out to address are of great importance, and not just for
21 those members of our community who are unable to afford
22 counsel. Our state will retain its preeminent standing only
23 if businesses view our justice system as one that is open
24 and available to every member of society. By ensuring
25 access to robust legal representation, and by identifying
26 efficiencies in the litigation process that can help reduce

Proceedings

1
2 the costs of civil litigation, we are not only fulfilling
3 our ethical duties to those who cannot afford counsel.
4 We're also maintaining New York's continuing status as a
5 place where companies and individuals want to do business.

6 Thank you again for inviting me to testify.

7 MR. LIPPMAN: Thank you.

8 (Continued on next page)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Proceedings

1
2 JUDGE LIPPMAN: Thank you. We greatly
3 appreciate, Mr. Lipton, your remarks. You epitomize the
4 legal community.

5 I have a question. What do you think is most
6 important for the legal profession in the business
7 community in terms of helping in this fight to solve the
8 justice gap that we have? Is it funding, is it pro bono
9 work? Is it speaking out? Is it all of the above? How
10 can the legal and business community be most helpful in
11 supporting access to justice in our own city and state and
12 around the country?

13 MR. LIPTON: Clearly it is all three. I think
14 funding is the single most important and it is an
15 obligation to provide it.

16 I think pro bono activity can really be provided
17 in two ways. One is by lawyers devoting time to pro bono
18 work, and the other is by the legal profession and law
19 firms and lawyers supporting the organizations that provide
20 services to the poor so that we are not relying just on
21 lawyers volunteering their services. In fact, lawyers
22 employed by those organizations that provide services will
23 provide service. So it is all three, obviously.

24 Also, I do think that the business community and
25 the legal profession, while doing a good job, could do a
26 better job.

Proceedings

1
2 JUDGE LIPPMAN: We could all do a better job out
3 there.

4 Are there any questions from the panel? Yes,
5 Judge Gonzalez.

6 JUDGE GONZALEZ: Do you think it is realistic or
7 doable that bar associations can get together and lobby the
8 Legislature of the branches of government that deal with
9 the purse strings to see if they can provide funding for
10 this, or you don't see that as a role of the legal
11 profession?

12 MR. LIPTON: Well, I think it is everybody's
13 role.

14 The Legislative process has not been working as
15 well as it should on all levels of government, and the
16 efforts to improve judicial services, improve the courts
17 and so on have not been received the way they should be
18 received by the State Legislature. I do think the City
19 government has done a better job than the State has done
20 with respect to making sure there is access to the courts
21 and to legal services. Clearly, the court is lacking in
22 the kind of support it should receive both in terms of
23 judicial manpower, in terms of assistance to the judges in
24 the courts, and to the facilities themselves. So I would
25 hope we continue to do those efforts.

26 When I was Chair of the Partnership for New York

Proceedings

1
2 City we made a strenuous effort to achieve justice for the
3 justices by getting the Legislature, the Governor, to
4 provide salaries that were consistent with the federal
5 system and also reflected inflation taking place. Years
6 and years went by without our being successful with great
7 effort. So I think yes, if effort is made we will make
8 some progress; but I really think that it is up to both the
9 Governor and Legislature to recognize the importance of
10 what we are talking about.

11 JUDGE LIPPMAN: Anything else?

12 MR. MIRANDA: Mr. Lipton, thank you very much for
13 your testimony here today and for your commitment to Access
14 to Justice.

15 As you know, the legal profession is held to a
16 higher standard than other professions in that we are
17 expected to provide pro bono legal services, and,
18 naturally, that is how it should be.

19 Our bar associations look for ways to help
20 coordinate pro bono efforts so that they are most
21 productive. The Mayor spoke before about tenant and
22 housing matters that so much necessary attention is being
23 provided to. After that, in New York City where do you see
24 the need that is most underserved?

25 MR. LIPTON: Well, I don't know that I have a
26 personal scope of knowledge to see where the need is most.

Proceedings

1
2 I think clearly the housing and healthcare and food are the
3 needs that are most important.

4 JUDGE LIPPMAN: The basics.

5 MR. LIPTON: It is those areas that are most
6 lacking in access to service.

7 I think the bar associations do a very good job,
8 an outstanding job in encouraging lawyers, particularly
9 young lawyers, to provide that service and organizing the
10 effort to make sure it is done in a fairly efficient
11 manner. It is not easy to provide services to the
12 homeless, to people who are in need of healthcare. It is a
13 continuing need that needs to be focused on by the bar
14 association and by the lawyers and law firms, but it is not
15 a need that can be just, sort of, delegated to lawyers and
16 bar associations. It is a need of the community. The
17 funding that Mayor de Blasio talked about is an important
18 aspect. The funding on a national basis that the Chief
19 Judge talked about is a critical element of it.

20 So yes, bar associations can do a great deal to
21 alleviate these issues and problems, but I think it is a
22 community issue, and the community has to rise to the
23 occasion.

24 JUDGE LIPPMAN: Thank you, Mr. Lipton. It has
25 been an honor to have you.

26 MR. LIPTON: It is an honor to be here.

1 Proceedings

2 JUDGE LIPPMAN: I have been remiss. I notice the
3 presence of my colleague Sheila Abdus-Salaam who is a
4 member of the Commission who is sitting there in the
5 corner, Judge Fern Fisher who is the Deputy Chief
6 Administrative Judge of New York City and head of our
7 access to justice efforts, Justice Rolando Acosta, a member
8 of the Appellate Division First Department, along with
9 Dianne Renwick, and John Sweeny sitting right next to her,
10 also Appellate Division Justices. We thank you for being
11 here.

12 Karla Moskowitz? I did not see her. She is
13 hidden, yes, right over there. Karla Moskowitz, Justice of
14 the First Department. And some guy next to her looks very
15 familiar. I think he is related in some way to Justice
16 Moskowitz.

17 So I am now going to ask James Silkenat, the
18 former president of the American Bar Association and a
19 partner in Sullivan & Worster for his testimony. His
20 tenure as ABA president put a real focus on the access to
21 justice issue.

22 Thank you for doing that, and thank you for being
23 here.

24 MR. SILKENAT: Good morning, everyone.

25 I am James Silkenat. I'm a former President of
26 the American Bar Association and currently a partner in the

1 Proceedings

2 New York office of Sullivan & Worcester. I have been in
3 practice in New York for more than 40 years.

4 I applaud the important work of the Commission in
5 exploring and evaluating the access to justice currently
6 afforded to New Yorkers and the significant unmet legal
7 needs that exist here. For our justice system there is
8 really no priority that is more important.

9 Given my national focus over the past several
10 years and because of my role at the ABA, it is clear to me
11 that despite the significant pro bono efforts of private
12 sector lawyers and the innovative approaches adopted by
13 strong state court systems like New York's that we still
14 have a huge gap in our legal system.

15 Within the American Bar Association and within
16 the legal community here in New York, we know that access
17 to justice is more than a catch phrase. It is what our
18 Constitution guarantees and what our current practice does
19 not deliver.

20 While we lawyers as a profession have made much
21 progress in promoting the rule of law, we live in a world
22 with many injustices and many pockets of deep poverty.

23 Growing up in the United States, we all learned
24 and many of us recited on a daily basis one of the
25 fundamental principles upon which America was founded:
26 "Liberty and justice for all," yet our nation is failing to

1 Proceedings

2 fulfill this important, this central promise.

3 Bryan Stevenson, the widely acclaimed public
4 interest lawyer who has dedicated his career to helping the
5 poor and incarcerated, said: "The opposite of poverty is
6 not wealth. In too many places the opposite of poverty is
7 justice."

8 The need for legal services for the poor has
9 never been greater. Nearly one in five Americans now
10 qualifies for legal assistance.

11 Every day across America and right here in New
12 York, victims of domestic violence seek protection,
13 veterans try to avoid homelessness, unaccompanied child
14 migrants seek refuge, and many others are forced to
15 navigate the legal system alone because they can't afford a
16 lawyer. And it's not just the poor. Less than four out of
17 ten moderate income people turn to the legal system to
18 resolve their legal problems. Many give up and do nothing.
19 Too many low- and moderate-income people cannot access
20 legal representation. As a result, they are denied the
21 justice they deserve.

22 The organized bar, and we talked about that
23 already a bit this morning, can help to bridge this justice
24 gap. We serve as representatives of our great profession,
25 and we have the unique ability to call upon lawmakers to
26 improve our justice system and advance the rule of law.

1 Proceedings

2 The New York State bar, especially if you are David
3 Miranda, is quite vigorous in pursuing this goal.

4 For nearly four decades the American Bar
5 Association has visited Capitol Hill in Washington to
6 support funding for the Legal Services Corporation. We
7 call it ABA day, although it now stretches to three days
8 every year.

9 ABA day has been about more than those three
10 days. We go to Washington annually, but we do not stop
11 caring about access to justice the rest of the year.

12 The law is a vehicle for fairness, peace, and
13 justice. Our basic social and civil liberties, civil order
14 relies on the legal system and public respect for it. We
15 cannot abandon the principles of fairness and due process.

16 During my tenure as President of the ABA, one of
17 my first actions was to create the ABA's Legal Access Job
18 Corps to address what I call "an access to justice
19 paradox."

20 While the number of Americans eligible for
21 LSC-funded legal systems continues to be at an all-time
22 high, many recent law school graduates are without good
23 jobs or the practical experience they need to be effective
24 lawyers. It has become increasingly difficult for
25 graduated law students to compete in the job market.
26 Nationwide only 59 percent of law students from the class

1 Proceedings

2 of 2014 were employed full-time nine months after
3 graduation at a job that required passage of the bar exam.

4 The Job Corps committed itself to looking at the
5 dearth of legal jobs and unmet legal needs as one problem
6 rather than two separate ones. The Job Corps has been
7 cataloging the full range of programs in place that help
8 struggling new lawyers meet the legal needs of the under
9 served. These range from rural outreach programs and
10 nonprofit fellowships to modest means programs and
11 incubators.

12 We also launched an ABA Catalyst Grant Program to
13 support innovative programs to enlist recently admitted
14 lawyers in providing legal services to persons of modest
15 means. We have awarded ten grants to bar associations, law
16 schools, and legal groups from coast to coast. I have
17 devoted much of my presidential budget to this over the
18 last several years.

19 Lawyers have an important role to play in
20 maintaining our democracy and ensuring that justice truly
21 is for all. We can all be proud to be part of the
22 profession, the tenets of which include the responsibility
23 to provide services to those who cannot pay.

24 From the ABA, I want to thank the Commission and
25 Chief Judge Lippman for the leadership you continued to
26 show on access to justice issues. There is a great deal of

1 Proceedings

2 important work left to do, and I am proud that New York's
3 legal community is so committed to successfully addressing
4 these issues.

5 Thank you for letting me join here today.

6 JUDGE LIPPMAN: Thank you. Let me now ask a
7 question.

8 Being the President of the ABA and traveling
9 around the country from one end to the other, what is the
10 climate in access to justice today? In New York we put
11 such a focus on it, but do you feel it across the country,
12 particularly within the legal profession, that there is a
13 commitment to this issue? I know you indicated in your
14 remarks such a focus of your presidency, but what is
15 feeling among the profession?

16 MR. SILKENAT: Well, I grew up in Kansas. I went
17 to law school in the midwest. I managed to get to 37
18 states during my tenure.

19 I think the feeling is as strong out there among
20 lawyers, bar associations, among just the communities --
21 whether it is educators or doctors or business people --
22 that this is a priority issue. I think we need to move, as
23 we discussed a little this morning, toward civil Gideon. I
24 think that is a responsibility that government has. We all
25 need to play our role here. Pro bono is an important part
26 of it, but we need to convince legislators that this is a

1 Proceedings

2 greater priority and that this is what our Constitution
3 requires and it is worth paying the money to get it.

4 JUDGE LIPPMAN: Thank you.

5 Panel, any questions?

6 JUDGE MARKS: In your experience with the
7 American Bar Association in dealing with Congress, is your
8 sense that the lack of financial commitment from Congress
9 for the legal services and reductions in money allocated
10 for the legal services corporation; is that just, kind of,
11 another casualty of federal budget cuts or do you feel
12 within the coffers there is -- is there an indifference
13 towards this problem or even hostility about this among
14 some members of the Congress, what is your experience?

15 MR. SILKENAT: Part of it is financial, but I
16 think there is another component to it. Among some members
17 of Congress there is a misreading of their constituents.
18 In going around the country, what I see is a strong popular
19 reaction on this issue, but for political reasons some
20 members of Congress do not see that. ABA leaders are not
21 supposed to take positions on political issues and I still
22 don't do that; but we need support, legislators who support
23 the principles that we hold most important, and civil legal
24 services are among those.

25 JUDGE LIPPMAN: Thank you, President Silkenat.
26 Thank you for your strong leadership in the ABA and your

1 Proceedings

2 commitment to this issue.

3 The next speaker is my President and my Dean from
4 New York University John Sexton who is a giant of academia,
5 giant of the legal profession, someone so committed to the
6 ethical strictures of our legal profession and to that
7 nobility which I talked about before.

8 President Sexton, it is great to have you here
9 with us.

10 MR. SEXTON: Thank you very much, Chief Judge. I
11 trust your reference was not a reference to the few pounds
12 that I put on.

13 JUDGE LIPPMAN: It was not, I assure you.

14 MR. SEXTON: It's a great honor to be here. I'm
15 very pleased to appear before you and to testify in support
16 of expanding legal services and expanding funding for those
17 services.

18 This expansion, which you have been so noble in
19 supporting would help address the unmet need of low-income
20 New Yorkers, but it would also confirm the pledge that we
21 as a society have made and are still striving to honor.

22 I speak to you on this topic from several
23 perspectives. As you mentioned, I am a professor of law
24 who also has had the privilege for fourteen years to serve
25 as the Dean of NYU's Law School; as the President of New
26 York University for the last fourteen years; and as a

Proceedings

1
2 father whose pride knows no bounds as my daughter Katie
3 begins her professional career at the Legal Aid Society.
4 That's what is, perhaps, most emotional for me today
5 because it is in this room that she was sworn in several
6 months ago. She has chosen to spend her life in that which
7 we are talking about today.

8 From each of these perspectives I applaud the
9 work you have done on this over the last decade. Your
10 innovation, your commitment to the increased access of
11 civil legal services, and I urge that that effort be
12 continued.

13 (Continued on next page)
14
15
16
17
18
19
20
21
22
23
24
25
26

1 Proceedings

2 Let me start with NYU, the largest private
3 university in the nation, whose very founding almost
4 185 years ago sprang from a desire to expand opportunity to
5 those who had been excluded to open wide the doors of higher
6 education beyond the tight circle of the elites of the day
7 or the clergies who were being educated in universities of
8 that day to the sons and daughters of the emerging class and
9 to women and blacks and others first among universities in
10 this nation. Indeed, NYU's model, championed by our
11 founder, Albert Gallatin, was unusual not only in whom it
12 included but where it was located. We were founded at a
13 time when this courthouse would be in the pastoral setting,
14 that the northern boundary of Washington Square Park and the
15 red houses that are there were the summer homes of the
16 wealthy who would come to the country from downtown. We are
17 above 14th Street which is the barriers for those who were
18 below had not yet been established. We were founded to be
19 in and of the city in Gallatin's words. That's our
20 commitment. That's our commitment to this day.

21 As a result, the ensuing decades have seen NYU
22 develop an academic profile that addresses head-on broad
23 issues of urban society and issues like equal justice under
24 the law, alleviating poverty, expanding health services, and
25 encouraging public service. So many of our schools, as I
26 indicated in my written testimony, have been dedicated to

1 Proceedings

2 various aspects of the problems that I have just spoken.

3 But I think, perhaps, most of all, our law school is
4 dedicated to the topic we highlight today. I saw firsthand
5 a professor beginning in 1981 and running through my time as
6 dean and now subsequently I observed a more distant
7 approach, the deep dedication of our faculty, our students
8 and, of course, as a result our alumni. Not only through
9 the first and to this day the most robust clinical programs
10 in the nation, but through externships and through community
11 service most of which are dedicated to overcoming the legal
12 hurdles facing New Yorkers who are marginalized by low
13 incomes, the immigration status or lack of educational
14 opportunities. Our students have a commitment and a
15 passion; they provide, while they are students, many
16 thousands of hours of work. I'm talking just about our law
17 students of volunteer assistance to those who need help with
18 housing issues, with immigration issues, with access to
19 voting. It's interesting. They're often hard-pressed,
20 notwithstanding the fact that we have the most generous low
21 payment system in the program, the program, perhaps, I was
22 proud to have founded. They are working hard to continue to
23 serve those populations among graduation because of the lack
24 of opportunities. These go directly to the topics we are
25 talking to.

26 NYU is one of the 15 New York law schools that work

1 Proceedings

2 in collaboration with legal service providers, pro bono
3 coordinators at law firms, the bar associations, and the
4 courts to promote civil legal services and law school
5 efforts to narrow the justice gap.

6 Similarly many of our law graduates, beneficiaries
7 of the Law School's scholarships and loan forgiveness
8 programs for those who enter the public interest sector are
9 drawn to this work and others like Martin Lipton, one of our
10 graduates donated countless hours to pro bono assistance.
11 They all join me -- I'm speaking for the entire NYU
12 community. I'm speaking for our nearly five hundred
13 thousand graduates and alumni, living graduates and alumni
14 when I say they all join me -- in support of the mission
15 that you, Chief Judge, has laid out; providing legal
16 services to those who are in desperate need, especially
17 those who are in danger of losing the essentials of life,
18 including a place to live, access to health care, access to
19 food, access to education.

20 The Chief Judge has gone one step farther. You've
21 put your values in your budget and by one final
22 recommendation it is that the next Chief Judge continues in
23 the spirit that this Chief Judge set to allocate funds from
24 the annual Judiciary budget for civil legal services
25 funding. So it's a wise investment with savings down the
26 line. The findings of the Task Force to Expand Access to

1 Proceedings

2 Civil Legal Services make it clear, and I quote, the
3 provision of civil legal services reduces the costs of
4 litigation, increases court efficiency, saves taxpayers
5 millions of dollars, and has a profound effect on the lives
6 of low-income New Yorkers.

7 On a personal note, my daughter Katherine Sexton,
8 after attending Yale and then graduating from NYU's School
9 of Law had many career choices before her and she carefully
10 considered an array of options. But when she came to me and
11 said she had decided on one job, as the job she most wanted
12 to work for, Legal Aid Society, my heart with filled with
13 joy. She starts this Thursday in Brooklyn. She is eager to
14 join the front lines of some of the issues that you are
15 grappling with.

16 What is notable is that there were nearly 300
17 applicants for that position. That's how many young people
18 out there eager to devote their lives to this. But 299 have
19 been sent in another direction. I close on another personal
20 note. I remember the day, it's now getting close to
21 30 years ago that we've met for the first time. I was
22 struck then by your extraordinary intelligence and your
23 manner. I associate myself with everything that the Mayor
24 said about you and Martin Lipton said about you and I'll
25 add, how can we have reached 70. How could that be? It's
26 better than the alternative, but I think of us as much

Proceedings

1
2 younger.

3 My friend, Chief Judge, you have been a
4 standard-bearer for the cause of providing legal civil
5 services, for encouraging preventive and early intervention
6 efforts. As president of a major university, as you pointed
7 out, your university, which bears the name of this city, as
8 a member of the legal community, as a proud father of
9 somebody who has been here, I applaud what you've done. And
10 I recommend to your successor that this path be paved with
11 even more attention. Thank you for the honor to appear
12 before you.

13 JUDGE LIPPMAN: Thank you, President John Sexton.
14 It is an honor to have you here. I note you quote the Legal
15 Aid Society, Seymour James is here, Adrian Holder, Lillian
16 Molar. There are so many stars, more from the open area,
17 here and they do God's work as do you and thank you for your
18 loved one for having comments about me.

19 Let me ask you a question, two questions that go to
20 your academic role. As a father, we know that you have hit
21 a home run with a daughter who's made the right choice in
22 terms of her first job. But, you know, not all academician
23 share, I think, which is certainly our vision, of the
24 importance of the legal profession, to access the justice
25 issues. I know I've talked with deans of law students from
26 around the country that have gotten into a little bit of a

1 Proceedings

2 back and forth where the dean would say to me, you know, in
3 all due respect, Chief Judge, we are not in the access of
4 the justice system. And I'd say, in all due respect, dean,
5 you are. And if you make them take torts and contracts and
6 property, you have to make them learn about values and what
7 it means to be a lawyer.

8 What do you think of the law school culture? Has
9 it, around the country, recognized each role in this array
10 of a legal service access to justice supporters? Is that
11 the -- do you feel it or do you think places like NYU and so
12 many others really get it? Are we unusual or around the
13 country are law schools across the board starting to get it.

14 MR. SEXTON: With the caveat that when I left legal
15 education in 2001 to take this assignment, I deliberately
16 extended myself since I was in the unusual position of
17 appointing my successor. I felt the need to get out of his
18 way.

19 JUDGE LIPPMAN: And it was a great success.

20 MR. SEXTON: It was a great success but the -- so
21 there's a little bit of danger although I have the kind of
22 pervasive friendships that continue. I don't think the
23 picture is as bad as your encounters. I am kind of startled
24 that deans would respond to you that way. It's professional
25 litigation that concave the value of service, it's essential
26 and is a core element of an American legal education. It's

Proceedings

1
2 one of the things that makes American legal education
3 distinct and salutatory to legal education which was the
4 keynote to the 2,000 aviator convention in England who spoke
5 about the fact that American legal education had to embrace
6 even more deeply the notion of the Jeffersonian Pavilion,
7 the lawyers of the communities, the lawyers' conscience of
8 society.

9 It may well be the dean that you are talking to or
10 reacting to is a very, very dangerous phenomenon that I
11 remember developing for the first time in 1995. I saw a
12 memo, which was supposed to be a confidential memo, to the
13 political candidates. I was the president of the
14 association of the American Law School at the time. I
15 actually wrote the pastor a letter because this memo said
16 the most successful campaign strategies you can have as a
17 candidate is to attack lawyers and you pay no price for
18 this.

19 I remember writing at the time that this was
20 America's sacrilege because this is a society where the
21 words, the rules of law means something divine. It doesn't
22 mean that in all societies. In some societies, you have the
23 fear of the law. It is the rule of hypocrisy. But here,
24 this is what has made our nation the nation that it is. I
25 think that American legal education does capture that at a
26 core and that the people that you have been speaking to are

Proceedings

1
2 the exceptions. I can't think of a law school these days
3 that doesn't give a substantial amount of time to clinical
4 legal education and services for the board.

5 JUDGE LIPMANN: One other quick question, going
6 back to the legal education community, can you separate the
7 teaching of the discipline from the access issues? You go
8 into a conference a few years ago with one of the law school
9 communities, professors from around the country, and there
10 was a whole debate about whether access issues should be
11 incorporated in each of the disciplines when you teach them.
12 Is that possible? What do you think of that?

13 MR. SEXTON: Do you mean is the separation
14 possible?

15 JUDGE LIPPMAN: Exactly.

16 MR. SEXTON: It's mind-boggling to me that someone
17 would think that even the study, for example, of John Walsh
18 or Ronald Morgan or John Mabel may be separated from the
19 underground issues that your commission is discussing.
20 We're a profession, okay. Now, even in a research unit like
21 NYU, okay, where we take great pains not just to teach the
22 "is" of the law but the "or" of the law, the reason we moved
23 from the "is" to the "or" is precisely because of the values
24 that we gain.

25 If you introduce law is nothing other than
26 efficiency, it's not the law we signed up to do. It's not

1 Proceedings

2 the law of the society promised. So I think you got to get
3 to the "or" and in order to get to the "or" it can't just be
4 theocratically "or" it's got to be how this work out in real
5 life with real clients. We are a profession that serves
6 clients first and foremost.

7 JUDGE LIPPMAN: I am with you. I follow the
8 teaching of my president and I agree entirely, and I am
9 delightful to see you here, President Sexton. It's an
10 honor.

11 MR. SEXTON: It's an honor to be here. Your Honor,
12 thank you so much.

13 JUDGE LIPPMAN: Let's go to Eric Weingartner who's
14 the managing director of the Robin Hood Foundation and let
15 me say that we are extremely appreciative of the Robin Hood
16 Foundation's commitment on access to justice and to legal
17 services and I mentioned earlier in our session we were so
18 pleased and delighted by Robert Hicks, who applauded the
19 poverty justice solution where again we are trying to get
20 past this idea that all of these -- all of these young
21 people who come out of law school and can't find jobs and
22 yet there is such a tremendous need to fight poverty with
23 lawyers and how do we make this work together and you play
24 such a significant role in this, the latest innovation that
25 we've had and we are greatly appreciative. Not only that
26 but, obviously, of the good work that Robin Hood does in

Proceedings

1
2 fighting poverty in so many different ways so it's a
3 pleasure to have you with us.

4 MR. WEINGARTNER: That's very gracious of you.
5 Thank you so much. I came in a touch late. I did hear some
6 of the remarks you had back and forth with the Mayor about
7 some of the programs we fund but with you and with this City
8 Hall in particular, Commissioner Banks, thanks very much.

9 JUDGE LIPPMAN: Thank you.

10 MR. WEINGARTNER: Good morning and thank you for
11 inviting me to address you Chief Justice and the
12 distinguished panelists on Access to Civil Legal Services in
13 New York. Again, my name is Eric Weingartner. I am a
14 Managing Director at the Robin Hood Foundation, which makes
15 grants of about \$150 million a year to over 200
16 community-based organizations to fight poverty in New York
17 City. Our programs run the gamut of poverty fighting,
18 pre-kindergarten programs, K-12 programs for students, job
19 training for disconnected young adults, domestic violence
20 shelters for abused women, health initiatives, low-income
21 housing, micro-lending. The one common element to all of
22 these programs is that they work and when we make sure they
23 work.

24 Robin Hood is well-known for its rigorous
25 evaluation and of its grants and we rivet on the outcomes
26 that our grants have on poor New Yorkers, placing full

1 Proceedings

2 emphasis on the impact that services have on earnings and
3 health. In a nut shell, we make grants to raise the
4 economic living standards and quality of health of the poor.
5 And it is for these reasons that we are more aggressive than
6 ever in our support of legal services for poor New Yorkers.
7 In considering the benefit cost associated with access to
8 legal services, we're increasingly convinced that our
9 funding to expand access is smart grant making, effective,
10 cost efficient, and impactful.

11 This calendar year, alone and in partnership with
12 Single Stop USA, Robin Hood will spend over \$10 million a
13 year to help about 20,000 city residents handle civil legal
14 disputes. Most of the cases involve housing disputes,
15 access to government programs and immigration problems. And
16 in the past two years, we have expanded our investment
17 substantially, turning our attention to support
18 unaccompanied minors, immigrants without access to counsel,
19 a ramped up investment in support of women who are the
20 victims of violence, and an intensified investment in
21 support of an already robust portfolio focused on
22 New Yorkers facing eviction, deplorable housing conditions,
23 and homelessness. And with your permission, I'd like to
24 give you a window into how we look at our investment in
25 legal services, in effect following a pattern that is
26 consistent across our grant making. Simply, we identify

1 Proceedings

2 thorny policy problems that adversely impact our neighbors,
3 and then we try to determine what intervention could reverse
4 the condition. In this formula, we are looking to see where
5 new dollars can raise living standards, and in the next few
6 moments, I will mention a few instances where we think we
7 have gotten it right, and where an expansion of legal
8 services was the difference.

9 So with your permission, I'd just like to give you
10 three examples.

11 JUDGE LIPMANN: I would love to hear them.

12 MR. WEINGARTNER: Let's start with housing. You
13 might know something about this one. This year, Robin Hood
14 entered into a unique partnership under Chief Justice
15 Lippman's leadership, in support of the Pro Bono Scholars
16 initiative. In partnership with the New York State Unified
17 Court System, the New York City Human Resources
18 Administration, HRA, and the Center for Court Innovation.
19 By providing qualified yet relatively inexpensive legal
20 support to low-income families that are at risk of eviction,
21 the partnership attempts to address the growing housing
22 crisis in New York City, a record-high 250,000 eviction
23 filings by the end of 2014; a homeless population of nearly
24 60,000 individuals, including 25,000 children, also an
25 all-time high, and one-third of those in homeless shelters
26 entering the system immediately after an eviction. The

Proceedings

1
2 model, similar to those of Teach for America and the
3 Immigrant Justice Corps, which I'll talk about in a little
4 bit, deploys recent law school and college graduates, called
5 Pro Bono Scholars, to non-profits across the city to help
6 low-income New Yorkers who are at risk of becoming homeless
7 stave off eviction.

8 The impact of the program, we believe, as you know,
9 Chief Judge, could be significant. Currently, only
10 5 percent to 10 percent of low-income tenants sued in
11 housing court have legal representation, but more than
12 90 percent of landlords do. The upshot, according to Robin
13 Hood funded legal providers, tenants without representation
14 win only about ten percent of their cases. And our support
15 of this program will help even the playing field. And
16 research indicates that having a qualified attorney can
17 significantly improve a tenant's prospect for a successful
18 legal outcome. Based on a randomized controlled trial
19 conducted by the Boston Bar Association and Harvard Law
20 School, low-income tenants with counsel win their cases 67
21 percent of the time, compared with only 30 percent for those
22 without a lawyer. The impact can be substantial, staving
23 off eviction means that parents keep their jobs and avoid
24 mental health issues. It means that children will not miss
25 school, will not suffer from depression or will not be
26 placed in foster care. It is these metrics that we use to

Proceedings

1 gauge the impact of this initiative.

2
3 Further, as the city runs out of shelter space for
4 homeless New Yorkers, it is increasingly turning to "scatter
5 site" shelters for support, that is, regular apartments
6 where people who would otherwise be in a shelter are placed
7 by the city. Increasingly, landlords are trying to evict
8 all of the tenants in a building, often by asserting
9 fraudulent claims, so that such buildings can be converted
10 to scatter site housing and in effect they can be charged
11 more money. And here again, with no counsel, the families
12 that we aim to help have no recourse without an attorney.

13 And while this program has just begun, the policy
14 case for added counsel is clear and we hope to keep the
15 Court up-to-date on this program as it evolves.

16 Let's take a look at one other -- actually two
17 other examples and think about domestic violence. Across
18 New York City and the country, Domestic Violence continues
19 to plague families in record numbers, and despite epidemic
20 violence, access to legal supports is still critically low.
21 In response, Robin Hood has invested in the City's
22 infrastructure, again turning to lawyers to lead the way.
23 The City's Family Justice Centers streamline assistance for
24 victims of domestic violence by providing wide access to
25 services under one roof. Essentially, the lawyers are in
26 the middle. The centers are located in the Bronx, Brooklyn

1 Proceedings

2 and Queens, assist over 1,500 people every month, and over
3 50 percent of the people who seek services from the centers
4 are immigrants. For victims of domestic violence, their
5 immigration status can be used against them, used to instill
6 fear and prevent victims from leaving their abuser or from
7 seeking help. Gaining legal immigration status is a
8 critical first step to gaining both safety and
9 self-sufficiency for the victims.

10 For context, In New York City, the police respond
11 to over 255,000 domestic violence incidents each year, or
12 about 700 incidents a day. In response, the three existing
13 Family Justice Centers assist about 20,000 people on an
14 annual basis. Because all domestic violence cases in the
15 Bronx, Brooklyn and Queens that involve the police are
16 routed through the centers, the victims with the most
17 violent and horrific cases are served through the centers.
18 Robin Hood tracks outcomes for the programs in three main
19 areas, that might be interesting to the Court, immigration
20 legal services, connections to benefits and connections to
21 education and job training programs. And for the purposes
22 of today's discussion, I suggest how we value the legal
23 intervention in the Robin Hood way.

24 In the first nine months of our contract with the
25 City, the centers provided immigration legal services for
26 1,411 individuals and are on track to handle over

1 Proceedings

2 1,650 cases by the end of the year grant period. Of those
3 cases, about 850 cases will be new cases opened during the
4 2013 grant year. The F.J.C.s will close about 660 cases
5 during the year with a success rate of over 95 percent.

6 After gaining legal status, some participants
7 become eligible for benefits, including Medicaid. The
8 F.J.C.s screen all families for benefits after a change in
9 legal status. They are on track to enroll 83 individuals in
10 Medicaid, 67 individuals in food stamps, 45 individuals in
11 public assistance and 28 individuals in rental assistance.
12 The program is also on track to assist 33 people in
13 obtaining an apartment through NYCHA. Again, none of these
14 supports would have been eligible without a legal change in
15 status. Benefits are accessible or may be possible without
16 a legal intervention and in terms we monitor that and that's
17 how we think about the investment. I will give you one more
18 example and talk about immigrants.

19 In 2014, we developed a program called the
20 Immigrant Justice Corps in partnership with Chief Judge
21 Katzmann. Note some similarities to the Pro Bono Scholars
22 model that I discussed earlier. Immigration status is
23 directly linked to economic well-being. Legal assistance
24 can help undocumented immigrants obtain legal status, which
25 enables them to gain lawful employment, receive financial
26 aid for school, and access health insurance and temporary

Proceedings

1
2 public benefits. Preventative detention and deportation can
3 also keep immigrant families from losing a primary
4 breadwinner and children from being funneled into foster
5 care or suffering educational and other disruptions.
6 However, less than 20 percent of the legal needs of
7 low-income New Yorkers are currently being met. And here,
8 considering these factors, Robin Hood invested. The pattern
9 should be clear at this point, find the gap, insert a
10 solution, and again, quite frequently, lawyers to the
11 rescue.

12 We believe that the I.J.C. will ameliorate this
13 shortage. In part and beginning in the Spring of 2014, the
14 I.J.C. recruited 25 law-school graduates and 15 college
15 graduates from around the country, trained them in
16 immigration law, and placed them in non-profits to serve
17 immigrant New Yorkers. At capacity, the I.J.C. will see
18 14,000 cases each year, directly helping over 20,000
19 individuals, at 20 percent lower cost than existing Robin
20 Hood immigration legal services grantees. As we enter our
21 second year, the team has grown to 15 layers and 30 college
22 graduates. For context, nearly \$4 million people,
23 49 percent of New York City's population, are either
24 immigrants or the children of immigrants. Immigrants and
25 their children also make up nearly half of the New Yorkers
26 living in poverty, with higher rates of poverty among

1 Proceedings

2 non-citizens than for the city overall percentage,
3 29 percent against 21 percent.

4 However, an estimated 40 percent of immigrants
5 nationwide who are eligible for citizenship have not yet
6 naturalized, leaving them vulnerable to detention and
7 deportation. Recent legal data have revealed that
8 undocumented immigrants are often unaware that they are
9 eligible for permanent legal status. Furthermore, between
10 2005 and 2010, the parents of over 7,000 U.S. citizen
11 children in New York City were deported and over 10,000 were
12 detained without bond, causing families to lose breadwinners
13 and children to become vulnerable to foster care placement
14 or educational, health and mental health complications.

15 Only 20 percent of the legal needs of low-income
16 New Yorkers are served each year as I said. The shortage is
17 particularly acute for immigrants threatened with
18 deportation. Sixty percent of detained immigrants facing
19 deportation in New York City lack counsel. As non-citizens,
20 they have no right to representation. And immigrants who do
21 have lawyers receive inadequate or even grossly inadequate
22 representation 47 percent of the time, according to
23 prominent judges.

24 Immigrants, particularly the limited English
25 proficient, often hire fraudulent legal providers, who take
26 thousands of dollars in fees and can mishandle cases with

1 Proceedings

2 diestrous consequences. Having a qualified attorney can
3 dramatically improve an immigrant's prospect for a
4 successful legal outcome. In deportation, immigrants with
5 counsel win their cases 67 percent of the time, compared to
6 only eight percent for those without a lawyer.

7 To give you a sense of the scope of the program,
8 and the year one numbers are just being tallied now, the
9 I.J.C. expects to handle over 6,500 cases. Based on the
10 average time required for adjudication, we expect that half
11 of the less than complex cases and one-third of the more
12 complex cases will close within one year. We also assume
13 that 80 percent of cases will close successfully, a
14 conservative estimate considering that Fellows will be
15 placed in premier legal services providers where success
16 rates averaging above 90 percent. All in all, we expect to
17 report over 2,500 successfully closed cases by the end of
18 year one of the fellowship programs.

19 My objective and in our discussion today I think
20 was simple. I wanted to make clear that in Robin Hood's
21 view, legal services are a cost effective, critical tool in
22 our fight against poverty. And, secondly, though three
23 examples, the Pro Bono Scholars, the Family Justice Centers
24 and the Immigrant Justice Corps, to give the Court a
25 summarized explanation of how the legal interventions that
26 we support fight poverty. I hope that my case has been

Proceedings

1
2 made, this is as close as I will ever get to being a lawyer
3 and I would be happy to take any questions.

4 JUDGE LIPPMAN: On that note, let me ask you one
5 question. Robin Hood's record in fighting poverty in
6 helping us with legal services is just suburb. There are no
7 words to express our appreciation. I am very familiar with
8 Judge Katzmann and I'm good friends of Judge Katzmann's
9 program. It's a great program. Let me ask you a question.
10 Given that Robin Hood in so many different ways fight
11 poverty, you know, we believe in a very focused way that
12 legal services are so much a part of the puzzle of fighting
13 poverty. When you look at the board it expands, are we
14 being very parochial in focusing so much on legal services,
15 what's the piece of the pie, you know, that in fighting
16 poverty. I am sure there are so many things, so many areas
17 where one can invest money and resources and time. How
18 important is legal services to this bigger battle to end
19 poverty to fight poverty here in New York sitting around the
20 country?

21 MR. WEINGARTEN: So we're all in. And I say that
22 after thinking about two sort of colliding tensions. We
23 have a very matter of fact way of looking at the world as it
24 relates to fighting poverty. If you fight poverty, two
25 consequences should happen. There should be a change in
26 purity and a change in health. If the intervention that we

1 Proceedings

2 support doesn't impact one of those two buckets, we are
3 probably not going to fight it.

4 The way I structure the discussion today was to
5 talk about the influence that a lawyer could have in three
6 conditions, housing, domestic violence and immigration and
7 each one of those cases we calculate a number so that if we
8 pay for "X" number of lawyers we believe that we will get
9 "Y" amount of impact for poor New Yorkers. We think the
10 benefit cost to that is somewhere between 8 and 15 to 1.
11 It's very good.

12 Increasingly, we think the lawyers are better met
13 than lots of other things that we fund. But before I was
14 here, I was raising money for Robin Hood spending some time
15 with a guy in the garment district who wrote us a check for
16 \$100,000 and what I explained to him is that Robin Hood is
17 divided in slots. We have programs focused on hunger,
18 immigrants, veterans, etc., but it's consistent. Rarely do
19 you notice people living in poverty where there is only one
20 thing hooked up. It's usually a series of things, but if
21 you can't get status, then you can't get health insurance
22 and you can't get food stamps and so if you attach a lawyer
23 that puts -- that gives some counsel so they can actually
24 become legal to get public benefits.

25 Just as a start, the modernization of what that
26 means for people living in poverty is enormous. Then so

Proceedings

1
2 many of those benefits are recurring year after year. Even
3 if you just think about food stamps, 270 a month over
4 12 months over ten years, that's a big number, medicaid is
5 the same thing. So I don't think your view is parochial at
6 all. We tend to agree with you. And I think that you'll
7 probably see us ramped up even further.

8 JUDGE LIPPMAN: You give us great pleasure. I
9 think that what we feel, and obviously we are on the same
10 wave length about this, a lot of people who think about
11 legal services may think about going into court and
12 representing somebody. A lot of it is interfacing
13 bureaucracy, giving people the benefit that they deserve.
14 There are so many ways a lawyer can contribute to fighting
15 something as overwhelming and difficult and combative as
16 poverty.

17 (Continued on next page)

18
19
20
21
22
23
24
25
26

Proceedings

1
2 MR. WEINGARTNER: One of the examples that was
3 mentioned today sort of in the running was what we did with
4 veterans.

5 We started a veterans fund four years ago. And
6 one of the most successful if not the most successful
7 program that we have done in support was to co-litigate
8 lawyers at VA hospitals to help vets whose benefits were a
9 mess to reinstate their benefits primarily establishing
10 their right to healthcare and housing supports.

11 We are at capacity. We have a waiting list. And
12 when we monetize the impact just on housing and healthcare,
13 it is through the roof. That's partly because -- I think
14 the VA is often too maligned, but if the VA puts you on a
15 path where you can't get access to healthcare or housing
16 and is deserved to you, you frankly need a lawyer to be
17 reinstated. It is super important.

18 JUDGE LIPPMAN: Thank you. Thank you for all of
19 Robin Hood's efforts. You are terrific. Thank you so
20 much.

21 MR. WEINGARTNER: Thank you for having me.

22 JUDGE LIPPMAN: Judge Gonzalez is, actually,
23 going to leave to hear some cases, so we are going to let
24 him go to the Bronx to hear oral argument.

25 I also want to mention other members of the
26 commission, Christopher O'Malley is here and Marcia Levy is

1 Proceedings

2 here, and we have a strong stalwart group on the
3 Commission.

4 Let me now call our next witness, Neil Steinkamp,
5 Managing Director of Dispute Advisory & Forensic Services
6 at Stout Risius Ross.

7 Mr. Steinkamp, great to see you, sir. Thank you
8 for all your efforts. Thank you for being here today.

9 MR. STEINKAMP: Thank you, Chief Judge, for the
10 opportunity. It is an honor and privilege to be before you
11 today. I am very much humbled to be here and to talk about
12 numbers.

13 As you said, my name is Neil Steinkamp, I am a
14 managing director at a firm that commonly goes by SRR. We
15 are a valuation firm, investment bank, dispute advisory
16 firm; but more important and pertinent for today, I lead
17 SRR's pro bono practice where I oversee all of our efforts
18 to take the skills that we have and the talents that my
19 colleagues have and apply that in the context of helping
20 low-income individuals and not-for-profit organizations.

21 In that context, we are often working on impact
22 analysis as well as working with lawyers to assist
23 individuals sometimes in the course of litigation and
24 sometimes otherwise. We do that both in New York and
25 around the country.

26 Today I would like to take a few moments to talk

1 Proceedings

2 about what the economic impact of the legal services in New
3 York are valued at. I want to start by saying it is
4 difficult to quantify life-changing impact, which is what
5 we have heard today and what I know you know is the case.
6 So many of the things that legal services provide make a
7 dramatic impact on the lives and people and lives of
8 families. That is simply difficult to precisely measure.
9 That said, we do have a growing body of evidence and
10 documents and information that allow us to estimate what
11 the economic impact of these services are.

12 I also want to note that while I have measured
13 certain things, there are many things I have not measured.
14 I think that is important before I start talking about the
15 details of what I have measured because it will help you
16 appreciate the understatement that is possible with the
17 numbers that I have calculated.

18 As we heard today, and which I know you know,
19 there are so many ways in which civil legal services are
20 impacting people. Some of the things I have not yet
21 measured are: Criminal record modification cases, the
22 value of criminal defense, juvenile justice and
23 representation, veteran benefits mentioned today, related
24 discharge cases in veteran benefits, assistance to
25 low-income entrepreneurs. So as I talk about the numbers,
26 appreciate that the actual economic impact probably is much

1 Proceedings

2 greater than what I am about to share.

3 You mentioned in your opening statement a prior
4 estimate of six dollars of return per dollar of funding.
5 The numbers I calculated, and I will go through them in
6 some detail, suggest that not only the direct
7 implementation of the legal services but the leverage from
8 both the legal community as well as the business finance
9 community that has achieved an appreciation for the scope
10 of those I think is improving every year. I believe that a
11 more reasonable estimate for the impact is ten dollars for
12 every dollar of funding, and I will walk through how we get
13 there. And it is important to understand that month after
14 month, year after year the magnitude and value of the
15 services that are being provided adds up to significant
16 amounts.

17 The areas that I have looked at include the
18 long-term financial impact associated with social security
19 and disability, Medicaid and other federal benefits. Those
20 are, obviously, opportunities to make a significant change
21 in a person's life, but also one that has long term
22 effects.

23 In my analysis I have looked at the combination
24 of value associated with ten years of those benefits which
25 is what's available when someone applies for those
26 benefits. Those amounts alone depending on how you look at

1 Proceedings

2 it, if you just focus on the amounts in 2014 related to
3 both extended representation and brief representation
4 cases, you are looking at around \$350 million or
5 \$400 million in value provided just for cases closed in
6 2014.

7 Those cases, there are dollars flowing into New
8 York this year from cases for which civil legal services
9 provided those benefits eight, nine, ten years ago. So the
10 impact into New York this year from legal services over the
11 last ten years is estimated to be close to \$275 million.
12 It is an amount that can grow every year. Medicaid is
13 similar. Ten years of benefits can be available for people
14 if legal services can assist in providing those benefits.

15 As you heard, in years past there has been an
16 economic multiplier effect to these amounts. Dollars that
17 are made available to people in the form of benefits or
18 other compensation are spent in communities. Studies have
19 shown that there is a multiplicative effect when people are
20 provided those dollars. And when taking the amounts that I
21 have calculated with respect to those benefits and applying
22 to what research has shown that factor is, approximately
23 \$1.45 billion of economic benefit was created in 2014 as a
24 result of civil legal services. That's over and above the
25 amounts that are associated with the actual benefits
26 themselves.

1 Proceedings

2 We have expanded the analysis this year, and I
3 think there are tremendous opportunities to expand this
4 analysis in coming years as we gather more information on
5 those areas that I mentioned in my earlier statements that
6 we have not yet measured. As an example, this year we have
7 looked at the value of the wage impact from work
8 authorization for immigrants.

9 So it's a tremendous opportunity when you have
10 the ability to provide or assist with authorization for
11 immigrants, and we calculated almost \$60 million in value
12 just in 2014 from cases in which civil legal services
13 called for that authorization.

14 As in years past, we have also estimated the
15 value associated with the decreased usage of emergency
16 shelters. That amount is estimated to be \$260 million
17 including both brief and extended representation cases.

18 New studies have shown the value of brief
19 representation. There is obviously a tremendous amount of
20 activity that goes into those representation cases across a
21 wide variety of these difference areas of legal service,
22 and I think it is a great enhancement to the analysis to be
23 able to more completely understand the value of brief rep.
24 We have done that with respect to both emergency shelters
25 as well as social security and disability benefits and
26 Medicaid.

1 Proceedings

2 Taking in total, as I mentioned before, there are
3 many ways to analyze these numbers. There are many ways to
4 think about the value to consider whether those benefits
5 will accrue over five years or ten years, whether we should
6 apply retroactive analyses. There are many different ways
7 to look at the value. But taking in total, I believe an
8 estimate in the neighborhood of \$3 billion is reasonable to
9 consider, and that is approximately ten times what the
10 funding level was for the applicable services.

11 I think it is particularly valuable to consider
12 that you have an opportunity with very limited resources to
13 try and find ways to make the biggest impact. I think the
14 calculation of these numbers provides us with more and more
15 clarity about where and how we can dedicate limited
16 resources to make the greatest impact. These numbers could
17 be particularly helpful going forward as we learn more
18 about the impact that these services are making in the
19 lives of New Yorkers and in people across the country.

20 Thank you again for the opportunity to talk to
21 you today. I very much appreciate it, and I am humbled by
22 the chance to share our findings with you.

23 JUDGE LIPPMAN: First, let me say that we
24 appreciate your pro bono efforts in this regard. I think
25 the numbers here are staggering. I think if we could get a
26 copy of your efforts to every member of the New York State

1 Proceedings

2 Legislature, we would probably be in pretty good shape. I
3 am going to try and do just that.

4 I do think that to get a recognition of how this
5 multiplies in terms of investing in legal services, it
6 should be an apple pie and motherhood to recognize that it
7 is a direction that serves everybody and serves society.

8 I want to thank you. Rest assured we are going
9 to use what you have done in every possible way to get
10 across our message.

11 Any questions? No?

12 Okay, thank you again. Really terrific. I can't
13 tell you how heartening it is.

14 MR. STEINKAMP: Thank you.

15 JUDGE LIPPMAN: Okay. Our next witness is Debra
16 Raskin, the President of the New York City Bar Association
17 and partner with Vladeck, Raskin & Clark who has done such
18 a terrific job as the president of a great, great venerable
19 bar association. We thank you for the support of City Bar
20 in every conceivable way.

21 Welcome, President Raskin.

22 MS. RASKIN: Thank you so much. I certainly
23 appreciate the opportunity to testify today on behalf of
24 the City Bar Association at this hearing addressing access
25 to justice for New Yorkers who can't afford attorneys in
26 crucial civil legal matters.

Proceedings

1
2 JUDGE LIPPMAN: Let me just say one thing.
3 Though some of the crowd may have dissipated, our
4 enthusiasm to hear your remarks have not.

5 MS. RASKIN: Not quite last, not quite least. It
6 is fine.

7 JUDGE LIPPMAN: We are listening to every word.

8 MS. RASKIN: Thank you so much.

9 Let me start by thanking you, Chief Judge
10 Lippman, Helaine Barnett, and the Task Force -- now a
11 Permanent Commission and we are thrilled at that -- for
12 your unwavering commitment over so many years to the cause
13 of access to justice. The work of this Commission has been
14 a true game changer. It has improved the lives of
15 thousands of New Yorkers and provided much needed support
16 for our courts. And please know that you have the
17 gratitude of our bar association and, I think, the
18 organized bar as a whole for this issue going forward.

19 The City Bar has long been committed to providing
20 access to justice through our policy and advocacy, through
21 our initiatives in support of legal services organizations,
22 for court funding, for a right to housing, a right to
23 counsel in Housing Court, and a right to counsel in
24 immigration cases for those who are detained, and also for
25 direct legal assistance provided by our public service
26 affiliate which is the City Bar Fund.

1 Proceedings

2 The City Bar Fund has the City Bar Justice Center
3 which leverages the efforts and resources of the whole
4 legal community to increase access to justice through both
5 our own employee staff and through pro bono representation.

6 Through Chief Judge Lippman's and former Chief
7 Administrative Judge Prudenti's outstanding leadership, the
8 Judiciary budget now includes \$85 million for civil legal
9 services, and we urge that you stay the course to the
10 \$100 million for annual civil legal services.

11 This is a vital element of any effort to provide
12 legal assistance to those who can't afford it, and there
13 are still far too many unrepresented people facing threats
14 to their basic needs every day.

15 Of course adding \$15 million to the funding is a
16 necessary but not sufficient condition. We deeply
17 understand the importance of pro bono representation as
18 well as the need to find innovative ways to leverage the
19 volunteer efforts of our legal community. The City Bar has
20 supported pro bono reporting, the 50-hour pro bono
21 requirement for new lawyers, and the innovative Pro Bono
22 Scholars Program.

23 Through our Justice Center's activities, we have
24 engaged volunteer lawyers to assist homeless individuals,
25 cancer survivors, immigrant women and children who have
26 been trafficked or abused, families facing foreclosure and

1 Proceedings

2 veterans, among others.

3 And just to address for a moment Judge Lippman's
4 question about coordination. We try very very hard to
5 focus our Justice Center's programs in areas where for one
6 reason or another, oftentimes funding, the regular legal
7 services programs don't address those needs. And,
8 actually, to give you one example; we have a pro bono
9 program for trusts and estates. You may think, My
10 goodness, why do people need T and E advice? Well, you
11 have situations where people who never had money in their
12 lives come into money because of a death or an inheritance,
13 and need legal services through experienced trust and
14 estate lawyers for that problem. That's an area that, for
15 obvious reasons, LSC programs are not going to be
16 addressing. So we do try to deal with that issue of
17 coordination that the judges brought up.

18 Our legal hotline is the largest free legal
19 services hotline in New York City. And now, thanks to this
20 additional funding, hotline attorneys are able to provide
21 brief or limited legal services to folks who call in such
22 as helping them create court papers for pro se litigants,
23 or assisting them with filling out forms for critical
24 benefits.

25 These services will be the focus of my testimony
26 today because they provide a good framework for our talking

1 Proceedings

2 about what has been called unbundled legal services in
3 civil cases to those who otherwise would be without
4 representation.

5 First let me give you some more statistics,
6 although the ones we just heard were quite heartening.

7 The City Bar Justice Center helps about 25,000
8 New Yorkers annually. Last year we closed approximately
9 13,000 cases and engaged approximately 1,400 pro bono
10 lawyers to work on cases and conduct trainings in the
11 community to advise people of their legal rights. And
12 included in those numbers are thousands of New Yorkers who
13 rely on our legal hotline. Now we have expanded that to
14 include limited service or unbundled services to callers.
15 Unbundled or limited services refers to an attorney
16 agreeing to provide only one part of the legal services
17 that a client may need. This has become somewhat less
18 controversial in recent years and certainly is no longer
19 questionable ethically so long as it is clear to the client
20 that the nature of the services is limited and that there
21 is a clearly-worded and understandable retainer agreement
22 setting that out.

23 At the Justice Center we use limited scope
24 services for many of our projects such as elder law and
25 consumer bankruptcy, as well as on our legal hotline. We
26 also are operating two new programs using limited scope

1 Proceedings

2 representation: Legal Assistance to the Self-Represented,
3 LASR, nice acronym, which an extension of the brief
4 services we provide on the legal hotline; and in the
5 Eastern District Federal Court, federal pro se legal
6 assistance. I will, however, focus today on state court
7 matters.

8 Since November 2014 the Justice Center has
9 handled approximately 2,300 limited scope services.
10 Representation in these matters depends on the need of the
11 individual and can include providing answers over the
12 phone, sending callers "know your rights" information,
13 reviewing a caller's faxed legal documents and providing
14 advice about that, setting up in-person appointment with a
15 caller for more extensive assistance. Limited scope
16 representation of this nature often results in avoiding or
17 settling litigation, helping an unrepresented individual
18 assess the values, for example, of a settlement offer that
19 they might not be able to do very well for themselves, or
20 to help them more effectively move forward with a pending
21 case. And let me give you a few examples of that kind of
22 limited representation:

23 Assisting a disabled client with drafting and
24 sending a cease and desist letter to creditors in order to
25 stop harassment. Then guiding that client through the
26 steps on the court's website to help pro se individuals in

1 Proceedings

2 vacating default judgments that are inappropriately
3 entered; helping a single working mother to file an
4 uncontested divorce and secure child support and healthcare
5 for her two children; demanding the return of more than a
6 year's worth of rent overpayment to a senior citizen who
7 didn't know that his adjusted rent amount was about twice
8 what he should have been paying; and coming to the aid of a
9 widow by drafting an Article 78 proceeding to correct her
10 husband's death certificate so that she can get death
11 benefits to which she was entitled.

12 Such quick, brief representation in these kinds
13 of cases can result in credits and refunds to clients and
14 end the threat of litigation.

15 Although the vast majority of the Justice
16 Center's limited scope cases don't involve court
17 representation -- and the panelists have spoken about the
18 importance of legal services prior to litigation in
19 avoiding litigation -- we are also aware that not all
20 judges have embraced this idea of attorneys taking only one
21 part of a case. And we are also aware of pro bono
22 attorneys being concerned that they may be asked to stay to
23 work through a whole case even though their personal
24 resources may not allow them to do that.

25 We would ask that the court should continue to
26 educate judges which is an essential part of bridging the

1 Proceedings

2 justice gap, and that attorneys should ethically be able to
3 do this and end their services after they complete a
4 discrete and helpful portion of the matter.

5 The ability to do this obviously varies by
6 practice setting and by the court or administrative
7 agencies, and we ask that judges be encouraged to permit
8 this. Attorneys will not volunteer for limited scope
9 representation in court or in administrative settings
10 unless they think that they can end their representation at
11 an appropriate time as per the limited scope retainer.

12 There is also a concern that pro bono attorneys
13 who are handling only a part of the case may fail to
14 identify interconnected issues. We have heard a lot about
15 how in poverty so many legal issues are intertwined and
16 interconnected. This increases the burden of careful
17 supervision of these attorneys by experienced lawyers,
18 oftentimes experienced legal services lawyers, and the
19 obligation to explain carefully to the client the nature of
20 the limited representation and that it will focus on only
21 one particular aspect of the problem. And in some cases it
22 is simply inappropriate and could worsen a problem to deal
23 with only one issue, and those cases wouldn't work for this
24 kind of representation.

25 The City Bar's Justice Center's experience today
26 with such unmuddled legal services representation is quite

1 Proceedings

2 heartening. Our surveys of client satisfaction, while we
3 don't have the economic wherewithal as the prior witness,
4 we have done some amount of studies of how this has worked
5 out from the client point of view. And what we have
6 learned is that the clients have been extremely happy to
7 have this kind of representation and feel that it has given
8 them more authority, more control over their situation.

9 The cases we have handled so far show a potential
10 to help even more people who, despite our wishes, are not
11 going to be able to obtain full representation from a legal
12 services or pro bono provider.

13 We believe that pro bono attorneys will be
14 pleased to take on limited scope representation as long as
15 it is appropriate and an appropriate retainer is signed.
16 It is our hope to be able to encourage more lawyers to take
17 on these pro bono activities given this kind of limitation
18 of scope. We also hope to continue working on innovative
19 collaborations and other new resources for these kinds of
20 problems.

21 I want to end my testimony by talking about and
22 thanking some of these other programs that have been
23 instituted under your leadership, the Pro Bono Scholars
24 Program in this particular case. This past spring the City
25 Bar Justice Center had two pro bono scholars, and it was a
26 terrific experience for everyone involved. Our scholars

1 Proceedings

2 came from New York Law School and Cornell Law School and
3 provided invaluable assistance answering hotline legal
4 calls, providing brief services to callers. These scholars
5 received training from the experienced supervisory
6 attorneys, and provided concentrated support in particular
7 to elderly and veterans needing assistance. We believe
8 this program holds great promise, and we look forward to
9 continuing our participation.

10 Thank you again for the opportunity to testify
11 here on behalf of the City Bar Association, and a very
12 special thank to the CJ for all he has done to improve
13 justice in this state. Your leadership has not only moved
14 the needle, it has permanently altered the playing field.
15 We thank you four that.

16 JUDGE LIPPMAN: Thank you, President Raskin, for
17 those lovely remarks and kind words. I appreciate it.

18 I have one quick question. The City Bar
19 commitment to this issue has been so terrific over such a
20 long period.

21 Do you see today many young lawyers coming to you
22 without jobs and looking to do something useful? And we
23 have talked so many times about channeling them into doing
24 good deeds for people in need and getting some practical
25 experience even though they can't find a permanent job. So
26 do you still see a lot of that?

Proceedings

1
2 MS. RASKIN: My predecessor, Carey Dunne, chaired
3 a task force on this problem of new lawyers and lack of
4 employment but under service of so many populations.

5 The City Bar has instituted a number of programs
6 to address that. For example, we take a class of 40 or 50
7 young attorneys who have just graduated and put them
8 through various kinds of substantive training and job
9 search training. And certainly in that and, really, in all
10 our other efforts to help lawyers find jobs, we don't miss
11 those opportunities to preach the gospel of pro bono,
12 public service and so on. I mean, this kind of funding
13 obviously supports and provides opportunities for more of
14 those recent lawyers to do that kind of work.

15 JUDGE LIPPMAN: Thank you for preaching the
16 gospel. I know that State Bar President Miranda agrees
17 with me that the City Bar does a spectacular job in the
18 area of access to justice, and we are greatly appreciative
19 of your leadership and the City Bar's efforts.

20 MS. RASKIN: Thank you so much.

21 MR. MIRANDA: I do have a quick question.

22 JUDGE LIPPMAN: A quick question from the
23 President, one to another.

24 MR. MIRANDA: I do appreciate your testimony
25 today and the leadership of your association. You have
26 many wonderful innovative programs.

1 Proceedings

2 How do you think we can replicate some of these
3 programs that are working so well for the City Bar with
4 other smaller bars that might not have the infrastructure
5 that your association has?

6 MS. RASKIN: In a sense, this measuring client
7 satisfaction is a part of it. We try to, sort of, very
8 consciously evaluate these programs at every stage. And
9 part of it, although I hate the word "scaleability," is
10 trying to figure out: Are these programs we can package
11 and take on the road and share with other bar associations?
12 So that is really something that is kept in mind.

13 And, you know, to the extent you are outside of
14 big cities where you have more smaller practitioners,
15 solos, although we do focus on our solos and small
16 practitioners in New York, but to what extent, for example,
17 is unbundled legal services more possible for someone who
18 has a solo practice? Perhaps they can't take on a
19 prolonged litigation pro bono but could well do a piece of
20 it. That would be enormously helpful to the litigant. Can
21 the bar organization in that smaller community leverage
22 that example to make pro bono more appealing to people in
23 that community?

24 So that really is something that we think about
25 in these programs.

26 JUDGE LIPPMAN: Sharing good ideas and good

Proceedings

1
2 mottos. It obviously is such a good idea for all of us.

3 Judge Marks, I believe, has a question.

4 JUDGE MARKS: Yes.

5 So separate and apart from the new lawyers who
6 have trouble finding employment, is it your sense that
7 there has been an uptick in pro bono participation in New
8 York City? Related to that, the difficulties in the legal
9 profession, did that result in more pro bono, less pro
10 bono, or did it have any impact on pro bono participation?
11 What is your sense of that?

12 MS. RASKIN: It is a little bit hard to say, but
13 I think what I would say is that there is a certain level
14 in which from 2008 on, the crisis in many lawyers' recent
15 memories of folks coming out of law school and not being
16 able to get jobs perhaps made people more conscious of the
17 fact that on a certain level we are all vulnerable. You
18 know, Wall Street has had its problems, the Lehman Brothers
19 of the world laying off large numbers of people. Does that
20 kind of experience raise consciousness at a certain level
21 that we are all in this together? Those of us who are
22 fortunate enough to have jobs, fortunate enough to be
23 somewhat secure in our firms, don't we have an obligation
24 now that we have seen this kind of unfortunate economic
25 situation to help others? You know, that's a little bit of
26 a sense of what I get.

Proceedings

1
2 Unfortunately I don't have any apparent skills to
3 do a study, but that would be my view, and, really,
4 starting with things like Carey Dunne's task force of how
5 do we help not just new lawyers who are without jobs. You
6 know, very experienced lawyers sat on that task force and
7 put their heads together about what do you do about all
8 these unrepresented people and these lawyers who are not
9 employed. So wiser heads at all levels of the profession
10 were thinking in those terms.

11 JUDGE LIPPMAN: Thank you, President Raskin.
12 Thank you again for your leadership and the bar's efforts.

13 (Continued on next page)

14
15
16
17
18
19
20
21
22
23
24
25
26

1 Proceedings

2 JUDGE LIPPMAN: Thanks. Sarah Moss, Executive Vice
3 President and General Counsel of The Estée Lauder Companies
4 which is a name that is familiar to all of us. Thank you
5 for your patience too as well. You are one of the latest
6 speakers before our client panel. We are delighted to have
7 you and we're so pleased to have the visions you represent
8 to me today.

9 MS. MOSS: Thank you, Chief Judge Lipmann and
10 distinguished panel. Thank you for the opportunity to speak
11 to you this morning. Chief Judge Lipmann, I want to echo
12 Mayor De Blasio and others who have thanked you for your
13 extraordinary leadership through our profession and it is
14 really an honor to be here.

15 I thank Chief Justice Lippman, you set the
16 framework right when several years ago you said that in
17 speaking of the importance of being the civil legal needs
18 for our citizens, quote, there are certain fundamentals for
19 a civil society, for a moral society, and this is one of the
20 priorities. That's exactly right. And I could not agree
21 more. That is a framework that I think we look at this and
22 the lens that we look at it through.

23 I am General Counsel, chief legal officer, of the
24 Estée Lauder Company and in that position I have a
25 responsibility for the role I have on legal functions for
26 the company. Throughout my career, I have a lifetime

1 Proceedings

2 commitment to public service and pro bono work,
3 particularly, serving low-income New Yorkers. In my current
4 legal position, I supported providing legal counsel to a
5 wide variety of service organizations, including the women's
6 career and development programs, sexual assault crisis
7 centers, and substance abuse and rehabilitation centers.

8 I have the privilege of serving on a number of
9 non-profit boards including the Board of Directors of the
10 New York Common Pantry, the Board of Directors of M.A.C.
11 AIDS Fund, and the Board of Directors of NYU Law School and
12 I know John Sexton was here. I supported Nazareth Housing
13 which supports homeless women and through Estée Lauder I am
14 an active volunteer with The Young Women's Leadership School
15 in Harlem.

16 Throughout my legal career and my board and
17 volunteer work, I have seen firsthand how difficult it is to
18 see justice served when people do not have legal
19 representation. This is especially acute when the legal
20 issues impact low-income people who are facing eviction in
21 housing court or domestic abuse or struggling to access
22 public housing, disability and unemployment and other
23 benefits. And we all know as we see this every day.

24 Today there are more than 58,000 homeless
25 New Yorkers in the City shelter system, and we face an acute
26 affordable housing crisis. I see this at the New York

1 Proceedings

2 Common Pantry, the working poor who have lost their homes
3 struggling to feed their families and house their families
4 and maintain their jobs. We see it in the M.A.C. AIDS fund,
5 many low-income people living with aids trying to find
6 stable, supportive and safe housing. Moreover, as the need
7 for affordable housing increases among this population, the
8 available resources have continued to lag behind. Legal
9 services are critical to secure an increase access to
10 government benefits, reduce barriers to health care and
11 treatment, and promote family stability for future care and
12 custody planning for families and pro bono assistance can
13 only do so much.

14 We see the legal service programs, attorneys
15 triaging cases, making the difficult decision on who to
16 serve and who they cannot serve and turning away people who
17 need their help. The continuing unmet need for civil
18 assistance in all areas of the state has a negative impact
19 on businesses. There is a significant economic and social
20 value to providing services to poor New Yorkers to help them
21 deal with civil legal matters. As someone who works in the
22 business world, we appreciate the economic value that is
23 realized by expanding civil legal services in areas such as
24 housing, health immigration, family rights, housing, health
25 care, again, obtaining child care and education. The burden
26 that is placed on low-income New Yorkers who lack

1 Proceedings

2 representation reduces their ability to contribute to our
3 economic growth, and surely limits their productivity
4 wherever they may work. My company, Estée Lauder, shares
5 these values and perspectives and we strive to be good
6 citizens of our city and our state by supporting legal
7 services which secure these essentials of life but no
8 company or pro bono work can do it and can do it alone.

9 The work of legal services organizations often has
10 far-reaching effects, well beyond a specific case, in
11 advocacy such as changing public policy or the law on issues
12 concerning low-income New Yorkers, the recent divorce law is
13 an example of that and these shifts in policies could not
14 happen without the advocacy of providers of direct legal
15 services with the hard evidence of the individual needs of
16 New Yorkers, especially vulnerable populations like domestic
17 violence survivors, who often find leaving a battering
18 partner subjects them to extreme poverty. Civil legal
19 services form a safety net that must be strengthened and
20 expanded. Increased support for these programs is essential
21 if those New Yorkers without resources are to be accorded
22 equal justice under the law.

23 Thank you again for your work Chief Judge Lippman
24 and the panel to meet the critical needs of the citizens of
25 our city and state. Thank you.

26 JUDGE LIPPMAN: Thank you so much for your

Proceedings

1
2 testimony and again thank you for your patience. Let me ask
3 you one question. Why is legal services important to the
4 business community, what it would seem kind of
5 counterintuitive? Why do businesses in this city, the
6 state, this country, why do you care about legal services?
7 Why is that important?

8 MS. MOSS: Well, first of all, I started from the
9 fundamental panelist that I read in the beginning that this
10 is critical to a normal society, to a justice society. On a
11 more practical level --

12 JUDGE LIPPMAN: The bottom line.

13 MS. MOSS: The bottom line level, if someone loses
14 their home, they can't come to work. If someone -- if a
15 child doesn't have a home, can't get education, can't become
16 a productive member of society. If someone is the victim of
17 an abusive relationship, they can't come to work or they do
18 come to work and they can't function and we see this. How
19 many New Yorkers are there who have these tipping points
20 that something happens and they unjustly lose their housing
21 or their health care or whatever is keeping their family
22 together. We have workers at Estée Lauder in factories in
23 Melville, often tens of thousands of employees in this state
24 in Melville, primarily in Melville and New York City and
25 they can't support the work and the company if they don't
26 have these fundamentals and the civil legal services are

Proceedings

1
2 critical.

3 JUDGE LIPPMAN: On two levels, you need people in
4 the local communities who have money to put in the bank and
5 go to the store and buy products, Estée Lauder products or
6 some other products.

7 MS. MOSS: Not other products.

8 JUDGE LIPPMAN: And they can't do that if they
9 don't have assistance with basic fundamental issues and on
10 another level within your own family. You need your
11 employees who have these different problems, housing,
12 consumer credit, whatever it might be, healthy in the best
13 sense in that way in getting the legal assistance that they
14 need.

15 MS. MOSS: I have to say we are a great company and
16 have great employers. We cannot provide those services. We
17 simply cannot. They must be provided. Thank you again.

18 JUDGE LIPPMAN: Thank you so much. We appreciate
19 your testimony. Okay. For our final witnesses, we are
20 going to have our clients of panel and let's see. We are
21 going to have Fatim Kamara, Stacy Snowden, Cassandra Wilson.
22 Come up. Okay. Fatim, you are a client of The Door, a
23 Center for Alternatives. You're accompanied by Rebecca
24 Wilson Heller. Tell us how has legal services affected your
25 life.

26 MS. KAMARA: I am going to start by saying good

1 Proceedings

2 afternoon to you and the individuals. Thank you for having
3 us be here today.

4 JUDGE LIPPMAN: Speak into the mic.

5 MS. KAMARA: My name is Fatim Kamara. Thank you
6 for giving me the opportunity to tell you how the legal
7 services at The Door, I received, have given me a secured
8 guardian and for my life back on the right track.

9 I was born in Togo South Africa. I am 19 years
10 old. I came to New York City with my father when I was 11
11 who returned back to Togo two weeks after. When I come to
12 New York, I was living with my aunt and she and her husband
13 had two kids but still treated me like a burden. She would
14 start fights with me. She would argue with me about
15 everything. And when I talk back or do not talk back, she
16 will still hit me. Sometimes it left bruises but it got to
17 the point where once she hit me I would just look at her and
18 I couldn't cry anymore.

19 I take time to take care of the house, clean, take
20 care of the kids and go to school. I was in high school. I
21 was very uncomfortable at her house, but I had nowhere else
22 to go. One day at school, one of my classmates told me
23 about The Door and brought me over to become a member.
24 There I was able to talk to a lawyer who told me that I
25 could qualify for Special Immigrant Juvenile status but that
26 I need a guardian because I was too young.

1 Proceedings

2 Happily, I went home. I asked my aunt if she could
3 be my guardian. She said that she was too busy and like
4 always that I was going to get myself into more trouble. I
5 was very discouraged by her answer. And I abandoned my case
6 for a year now. I kept living at her house because I had
7 nowhere else to go.

8 So one day I was on the train and I ran into a
9 friend of mine from Togo she told me that her family had
10 moved to New York City and she invited me over to her house.
11 So there I was explaining to them how life was at my aunt's
12 house. And her father decided to be my guardian from there.
13 So he came to the The Door. He spoke with my lawyer who
14 explained to him how everything would work. He also invited
15 me to come and live with them at their house but first we
16 had to go to the Family Court.

17 At the Family Court, my lawyer filed a petition in
18 Bronx Family Court to have my friend's father appointed as
19 my guardian and to let the special factor findings that
20 would allow me to petition for an immigrant award, Special
21 Immigrant Juveniles status or SIJ.

22 The SIJ is a way for children who have been abused,
23 neglected, abandoned to receive protection of the Family
24 Court that will eventually help them obtain a Green Card.
25 The process was confusing at first, but my lawyer took care
26 of everything. My guardian needed a French interpreter

1 Proceedings

2 which the Court had. My lawyer conducted the hearing. The
3 judge granted the guardianship and special findings. It was
4 wonderful to have a place -- safe place to live at and also
5 a family that welcomed me. The Door helped me with my
6 immigration application. I didn't have the document so I
7 couldn't have worked and supported myself so I had to -- and
8 or go to file financial aid for college. After The Door
9 filed my SIJ application, I got my work authorization and
10 everything started to flourish.

11 I started working for \$8.25 an hour. I started
12 buying myself clothes, food, school supplies. I was a much
13 more happier person because I knew everything was going to
14 be okay and the same year I graduated from high school.
15 When I got my Green Card, wow, by then I moved out on my own
16 with my own roommate. The Green Card made me realize I
17 could do so much better in life, so I start by getting a job
18 at a restaurant on 42nd Street but still that job wasn't
19 enough for me to support myself. So a lawyer told me at The
20 Door that the health center was hiring. The health center
21 at The Door was hiring peer educators. I went down. I
22 present myself and I got the job.

23 I am going to Bronx Community College now. I am
24 studying biology. I have a lot of ideas for my future, to
25 finish college, be a doctor and volunteer in non-profit
26 organizations. I am grateful that I found The Door and that

1 Proceedings

2 the findings and the capacities they had to help me obtain a
3 guardian in Family Court and immigration status that allowed
4 me to become working and support myself. Without the legal
5 services I received at The Door, I wouldn't be where I am
6 today. Thank you. Thank you so much for providing funding
7 for civil legal services in our state and thank you so much
8 for the opportunity you have given me to testify before you
9 today. Thank you.

10 JUDGE LIPPMAN: Thank you for telling us your
11 story. It's fair to say that legal services changed your
12 life.

13 MS. KAMARA: It did. Thank you so much.

14 JUDGE LIPPMAN: Such a great example of why you are
15 seeking this funding and this help so legal services can
16 help people who just need a hand and we thank you for
17 coming.

18 MS. KAMARA: Thank you.

19 JUDGE LIPPMAN: Stacy Snowden, client of The Legal
20 Aid Society, Harlem Community Law Office, accompanied by
21 Evan Hasbrook.

22 Stacey, move the mic close to you.

23 MS. SNOWDEN: Thank you for this opportunity to
24 speak. I want to thank you for this opportunity to speak
25 about the help I received from The Legal Aid Society. It
26 was a very frightening experience to almost be homeless.

1 Proceedings

2 Without their help, I might have been homeless and me and my
3 son wouldn't have a place to go. I want to say good morning
4 or good afternoon now. My name is Stacy Snowden and a
5 lifelong New Yorker who came to The Legal Said Society for
6 help. I had been living at 485 Lenox Avenue with my son for
7 more than 17 years. And I'm also a former health care
8 worker that became disabled so I was getting help to pay my
9 rent through the Section 8 program.

10 Last year we got new management and out of nowhere
11 they said I owed them arrears of like \$10,000 and they took
12 me to Housing Court to evict me. My son and I, we were
13 terrified. My son was in his senior year of high school.
14 He was thinking about having to quit high school to get a
15 job. He wanted to help me. I was afraid. I was ill. We
16 didn't know what we were going to do; we were going to be on
17 the street. They were like you got to get out now. You got
18 to get the money. They had a three-day notice on the door.

19 The next thing you know, I was in court. I had to
20 sign some paperwork saying I had to move because Social
21 Service gave me 30 days or get out, but, luckily, there was
22 a lady in court. She told me not to sign anything. I came
23 home. I told my son I was going to try to get help at The
24 Legal Aid Society and that he should focus on going to
25 school finishing high school and not worry about getting a
26 job but I was going to try to get some help.

1 Proceedings

2 When I met with my Legal Aid Society, my lawyer
3 explained to me that the most rent I could owe was a couple
4 of hundred dollars. They said \$10,000. No, they said a
5 couple of hundred dollars and that the landlord had not,
6 they thought, not legally entitled to the money because the
7 arrears that have piled up was because they had lost their
8 subsidy to collect the rent because of penalties that they
9 received for repairs that were not made in my apartment.

10 So The Legal Aid Society agreed to take my case and
11 to fight for me in the court. And after we went to court
12 and The Legal Aid Society raised this defense in court about
13 the subsidy and that they weren't entitled to the money,
14 they gave me back my Section 8 and my son finished high
15 school and now he finished his first few weeks in college so
16 I am so grateful to The Legal Aid Society for helping us
17 because without them I could have been evicted. I could
18 have signed that paper. I could have probably been homeless
19 and The Legal Said Society is an incredible resource to New
20 Yorkers like me and people that experience difficult times.

21 You don't know how scarey it is you are going to
22 come home and you are not going to have no place to go and
23 you have no one to help you and there is no resources and
24 you have no money and I just want to tell you how grateful I
25 am for The Legal Aid Society helping me and my attorney
26 explained to me that this investment from you guys, the

1 Proceedings

2 Chief Judge and OCA, for increased funding, I'm just -- you
3 don't know how difficult it was for me, it was for the
4 increased funding and to make this help work. It was the
5 reason why I was able to get assistance and other families
6 will be able to get assistance because it was a dramatic,
7 dramatic experience for me and without someone's help, I am
8 so grateful that The Legal Aid Society -- and I hope you
9 give the guys more funding and more help so that they can
10 help other families that may have the same situation and may
11 not know where to go and might not have funding or services
12 to get help and move on so I am most grateful. Thank you.

13 JUDGE LIPPMAN: We are most grateful to you for
14 coming in and, you know, you see these ads on television
15 about health care and so and so, hospital give me back my
16 life, legal services can give you back your life, right?

17 MS. SNOWDEN: Yes. Thank you.

18 JUDGE LIPPMAN: Thank you. Thank you very much for
19 coming in. Cassandra Wilson, client of Legal Services NYC,
20 accompanied by Tanya Douglas.

21 MS. DOUGLAS: Good afternoon. I am actually Tanya
22 Douglas. Miss Wilson had a medical emergency and were not
23 able to come today.

24 JUDGE LIPPMAN: We are happy to have you here.

25 MS. DOUGLAS: I am happy to read her testimony or
26 submit it. You tell me what fits.

1 Proceedings

2 JUDGE LIPPMAN: However you want to do it. You can
3 read it, whatever works for you.

4 MS. DOUGLAS: I will read it. It is an classic
5 example of the holistic work that we do at Legal Services.
6 Miss Cassandra Wilson came into our office for help, to
7 present an eviction, and also to submit social security
8 benefits. She is 50-years-old and had worked for over
9 20 years as a security guard. She lives at 163 West 133rd
10 Street, apartment 3C, New York, New York and had lived there
11 for over a couple decades.

12 In January of 2013, she was diagnosed with Stage IV
13 uncurable breast cancer and underwent major surgery. She
14 had no other source of income and, therefore, had to go back
15 to work after the surgery. She was unable to meet the
16 demands of work. However, her employer accommodated her
17 disability by cutting her hours and reducing her duties but
18 that led to her falling behind in her bills including her
19 rent and her Con Edison.

20 Over time she was became sicker and sicker,
21 suffered from fatigue, shortness of breath and was in severe
22 pain due to her Stage IV cancer. She had to stop working
23 because she applied for social security and SSI benefits.
24 Her case was denied, her applications. She filed an appeal
25 and was waiting for a decision. Then she was brought -- she
26 received -- brought to court for nonpayment of rent. She

1 Proceedings

2 attempted to represent herself in Housing Court but to no
3 avail. By the time she came to Manhattan Legal Services,
4 her case had been adjourned nine times for her to pay back
5 rent and she couldn't get the money. She had went to public
6 assistance for help but was turned down because she could
7 not afford to pay the future rent because she wasn't working
8 at the time.

9 She was desperate to have the social security case
10 approved. And while she was waiting, she received a notice
11 from the city marshal stating that she would be evicted.
12 She could not afford to pay for an attorney. Manhattan
13 Legal Services staff was able to help her. Our housing
14 attorney, Miss Patel, filed emergency papers in Housing
15 Court to demonstrate her severe illness and that we were
16 trying to help her get money through social security and
17 social security benefits.

18 Miss Patel was able to hold off her eviction and
19 provide -- the Court provided more time for her to pay her
20 arrears. Miss Valentine, who's a volunteer in the
21 Disability Law Unit, fought with the social security
22 administration to get a hearing. Miss Valentine was able to
23 gather all of the necessary medical documents including
24 reports from the doctors. It's often difficult to get a
25 doctor to write a report.

26 Then the social security administration said it

1 Proceedings

2 would take months or years before a hearing would occur.
3 Miss Valentine requested an expedited hearing and was able
4 to submit evidence so that her case would be approved on the
5 record without waiting for months or up to a year for a
6 hearing. She now receives social security and SSI benefits
7 so she can prove that she can pay her rent going forward and
8 was able to get a one-shot deal from public assistance with
9 help from Manhattan Legal Services. So money from the
10 one-shot deal combined with the retroactive social security
11 and SSI benefits allowed her to pay for rent arrears and
12 save her home.

13 Manhattan Legal Services is now working with her
14 for her to qualify for disability, rent increase exemption,
15 to keep her rent affordable. We, Manhattan Legal Services,
16 were each able to help her get money to pay her Con Edison
17 arrears. Legal Services has made a huge difference in her
18 life and she knows that many other people were able to get
19 help because of Legal Services. She fully supports
20 continued funding with civil legal services in New York
21 City.

22 JUDGE LIPPMAN: Thank you for coming in and telling
23 us this. There is another story of life, being imaginably
24 helped by New York City. We greatly appreciate you coming
25 in.

26 MS. DOUGLAS: Thank.

1 Proceedings

2 JUDGE LIPPMAN: That's our last witness. I want to
3 thank all of you, the stewards who stayed to the very end.
4 This is not for the short winded and, you know, rest
5 assured, we are going to go through these next three
6 hearings in different parts of the state and I have every
7 confidence that the Commissioner is going to come up with a
8 great report. And as we indicated earlier, while we are
9 very pleased and happy that you have been able to achieve,
10 much more needs to be done and we are all going to work
11 very, very hard, including the State Bar Association, and
12 all of us working together, to get where we need to go which
13 is every person in need of legal assistance get the
14 representation that they deserve. So thank you all.
15 Greatly appreciated. Thank you.

16 * * * *

17 Certified to be a true and accurate transcript of
18 the stenographic minutes taken within.

19
20
21 -----
22 RACHEL SIMONE, CSR, RMR, CRR
23 SHAMEEKA HARRIS, CSR, RMR, CLR
24 Senior Court Reporters
25
26

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 8:

**Transcript of the Fourth Department Hearing Held on
September 30, 2015**

NOVEMBER 2015

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPREME COURT OF THE STATE OF NEW YORK

FOURTH DEPARTMENT

-----x

THE CHIEF JUDGE'S HEARING ON
CIVIL LEGAL SERVICES

-----x

Syracuse University College of Law
Dineen Hall, 950 Irving Avenue
Syracuse, New York

September 30, 2015

B E F O R E:

HONORABLE JONATHAN LIPPMAN
Chief Judge of the State of New York

HONORABLE LAWRENCE MARKS
Chief Administrative Judge

HONORABLE HENRY J. SCUDDER
Presiding Justice, Appellate Division
Fourth Department

DAVID P. MIRANDA
President, NYS Bar Association

1 **A P P E A R A N C E S :**

2 PROFESSOR HANNAH R. ARTERIAN
3 Syracuse University College of Law

4 JEFFREY DONIGAN, ESQ.
5 Pro Bono Scholar, Harter Secrest & Emery

6 FULVIA VARGAS, ESQ.
7 Pro Bono Scholar, Legal Services of CNY

8 THOMAS KEILY
9 Consumer Education & Data Coordinator
10 AmeriCorps VISTA Volunteer, Western New York Law Center

11 JOHN G. ROMAN, JR.
12 Director, IT Operations & eDiscovery
13 Nixon Peabody, LLP

14 TIMOTHY C. HUNT
15 Principal Law Librarian, Seventh Judicial District

16 ROBERT F. NICOLAIS, ESQ.
17 Pro Bono Attorney, Volunteer Legal Services Project
18 UCS Help Center, Seventh Judicial District

19 RONALD YOUNKINS, ESQ.
20 Executor Director, NYS Office of Court Administration

21 COLLEEN McELLIGOTT
22 Client of Volunteer Legal Services Project
23 Accompanied by Mary Beth Conway, Esq.

24 LILIANA ALVARADO-ROJO
25 Client of Erie County Bar Association
26 Volunteer Lawyers Project,
27 Accompanied by Emma Buckthal, Esq.

28 TIMOTHY SHINE
29 Client of Legal Assistance of Western New York, Inc.,
30 Accompanied by Louis Prieto, Esq.

1 (Morning Session - September 30, 2015.)

2 CHIEF JUSTICE LIPPMAN: Good morning.
3 Good to see all of you at this beautiful Law
4 School. And it's always a delight to be in
11:05:13 5 Syracuse, and particularly here again at the Law
6 School in this wonderful new building.

7 As you know, the Court of Appeals was here
8 not too long ago, and as for me personally, I just
9 had to come back, you know. So I was very pleased
11:05:33 10 that we were able to sit here and in Syracuse, and
11 I thank Dean Arterian for welcoming us. We had a
12 great visit and today is a little bit of a
13 different subject.

14 Today we're holding one of our four annual
11:05:54 15 hearings on Access to Justice that we hold at each
16 of the four Judicial Departments.

17 These hearings are sort of building a
18 foundation for the recommendations that we make to
19 the Legislature on funding for Civil Legal
11:06:17 20 Services for the poor.

21 There was one hearing we held yesterday in
22 Manhattan where Mayor DeBlasio came and testified.
23 In past years, across the state, we have had
24 Mayors and Attorney Generals and Comptrollers and
11:06:36 25 heads of the biggest banks and biggest business

1 organizations, cardinals of the church,
2 representatives of the health industry. We've had
3 a very broad cross-section of our State who
4 testify at these Legal Services hearings.

11:06:54 5 The idea is that we have the leadership of
6 the Judiciary and the profession who preside over
7 these hearings.

8 Next to me and to my right is Presiding
9 Justice Scudder of the Fourth Department,
11:07:09 10 Appellate Division. To my far right is David
11 Miranda, the President of the New York State Bar
12 Association. To my left is Lawrence Marks, the
13 Chief Administrative Judge of the State Courts.

14 So we really do have the leadership of the
11:07:29 15 profession and the Judiciary because this issue is
16 so important to all of us, Access to Justice.

17 Sitting in front here is Fern Fischer, the
18 Department Chief Administrative Judge in New York
19 City and the head to our Access to Justice program
11:07:46 20 around the country.

21 Helaine Barnett, who is the Chair of our
22 Permanent Commission on Access to Justice. She
23 was a former president of the Legal Services
24 Corporation in Washington. Served for five years
11:08:04 25 in that role. The longest serving chair.

1 We have members of our commission, including
2 Sheila Gaddis, who I am so grateful to for putting
3 together so much of this hearing. Raun Rasmussen
4 is here, also a member of the Commission, and the
11:08:22 5 heads -- the head of one of our legal service
6 providers in New York.

7 And what this is all about is the New York
8 template for dealing with the justice gap in our
9 State and in the country between the finite legal
11:08:44 10 resources that are available and the desperate
11 need for Legal Services by the poor and people of
12 limited means.

13 There is clearly a crisis in access to
14 justice here in New York and around the country
11:09:02 15 that absolutely, totally threatens to throw people
16 off a cliff in bad economic times because they
17 cannot afford legal representation.

18 These are people fighting for the
19 necessities of life. The roof over their head.
11:09:21 20 Their physical safety. Their livelihoods. The
21 well-being of their families are all at risk when
22 they cannot get representation and cannot afford
23 it to help them through these crises which are
24 fundamental to life, the essentials of life.

11:09:39 25 In all parts of this State, we have leaders

1 who are working to address this crisis. I
2 particularly mention George Lowe, here in
3 Syracuse, who is a member of the Commission who is
4 storied in the battle for equal justice, and I'm
11:09:59 5 so proud that there is going to be in short order
6 the George H. Lowe Center for Justice here in
7 Syracuse, with the idea being to have a central
8 clearinghouse for Legal Services for people in
9 need.

11:10:18 10 And this -- this will include officers for
11 the Legal Services of Central New York, Legal Aid
12 Society of Mid New York, and the Volunteer Lawyers
13 Project of Onondaga County.

14 This is really a one-roof concept. You need
11:10:35 15 help, you come in and we will get you to where you
16 can get that assistance. And I salute Judge Lowe,
17 again, for his lifetime of commitment to Access to
18 Justice and to closing the justice gap in helping
19 the most vulnerable in society with their legal
11:10:57 20 needs.

21 So thank you, Judge Lowe, for everything
22 you've done, and I think Judge Lowe deserves a big
23 round of applause.

24 (Applause.)

11:11:16 25 CHIEF JUDGE LIPPMAN: So let me give you a

1 sense of what we have been doing and why we have
2 been doing it, and then we will start with our
3 first witnesses, which will include Dean Arterian,
4 and a panel that will be dealing with Law School
11:11:34 5 involvement to expand Access to Justice.

6 But what we have tried to create in New York
7 is a State that understands that equal justice is
8 the foundation of our society and our government
9 and that is central to the Constitutional mission
11:11:54 10 of the Judiciary.

11 That if the Judiciary and the profession and
12 so many of you in the audience are going to be a
13 part of the profession and are not going to stand
14 up for poor people and people of limited means,
11:12:11 15 the disadvantaged, who need help but can't afford
16 legal representation, if you don't do it, if we
17 don't do it, no one is going to do it.

18 And that's part of why we hold these
19 hearings. That's why we put in the Judiciary
11:12:31 20 budget each year monies to support Legal Services
21 for the poor, because if we don't have equal
22 justice, we might as well close the courthouse
23 doors.

24 There's no purpose for us to have courts or
11:12:48 25 a justice system if what happens inside the halls

1 of justice is not a level playing field for all.

2 And we're very proud to have gone from zero,
3 no monies for Legal Services for the poor in the
4 this State, to \$85 million this year to support
11:13:12 5 Legal Services that we received in the Judiciary
6 budget from the Legislature and the Executive, and
7 I think it's a tribute to the Commission that
8 Helaine Barnett heads, Sheila and all the other
9 members to be able to make those recommendations,
11:13:31 10 and Judge Lowe and all the people who have been
11 fighting the good fight, so we are thrilled.

12 We're excited, but you know what, it's the
13 tip of the iceberg. The need is so great that
14 almost today -- it was much more than this today,
11:13:47 15 almost two million people come into the courts
16 unrepresented, you know, unable to afford a
17 lawyer. The Legal Service providers turn away
18 more people than they can accept.

19 When we started on this work, we said that
11:14:08 20 we are at best meeting 20 percent of the need with
21 all the things that we have done. Maybe we're
22 approaching meeting a third of the need.

23 And the proof of the matter is that this is
24 the best investment that our State can make at a
11:14:27 25 time when the Legal Services corporation, the

1 monies are drying up in Washington because of the
2 gridlock there. May have \$300 million to give out
3 for the entire country in terms of helping Legal
4 Services for the poor, but at a time when IOLA
11:14:48 5 funds, those are the interesting-bearing accounts
6 that lawyers keep in their fiduciary, interest
7 rates are so low that they went from \$36 million
8 to \$6 million in one year.

9 So we need an investment at the State level
11:15:07 10 in Legal Services for the poor, and we have
11 testimony -- we had testimony yesterday that
12 showed us for every dollar invested in Legal
13 Services for the poor \$10, 10, are returned to the
14 State in lower social service cost. Lower cost
11:15:26 15 corporation cost.

16 With more Federal dollars coming to the
17 State, and again, keeping people as vital members
18 of the community, rather than let them fall by the
19 wayside where there is such a tremendous impact on
11:15:41 20 their jobs, on their families, on their ability to
21 be meaningful members of our community.

22 So if money isn't enough, and there isn't
23 enough money in the world to do it, what else do
24 we need? We need the pro bono work of members of
11:16:00 25 the legal profession.

1 I say to all of you who are students in this
2 audience that there is nothing more important that
3 you can do in your career than to help people in
4 need.

11:16:15 5 That's what lawyers do. We serve others.
6 We help people. It's a noble profession, and you
7 shouldn't ever forget that. It's great to go out
8 and earn money and, you know, we wish you long and
9 fruitful and successful careers, but whether
11:16:36 10 you're a lawyer in a big firm, a single
11 practitioner, or obviously those working in the
12 public service or in the legal service
13 organizations, whatever you do, corporate lawyer,
14 doesn't matter, tax lawyer, you have a
11:16:56 15 responsibility as members of the profession to
16 help those in need.

17 That's what's made our profession great and
18 that's why we so emphasize that in addition to
19 public funding, pro bono work, and we encourage it
11:17:13 20 from the baby boomers, we have a Lawyers Emeritus
21 Program, those who are slowing down and starting
22 to end their practices, and they need to do pro
23 bono work. Corporate counsel who are allowed to
24 practice in our courts, even if they're not
11:17:30 25 admitted in New York, if they're going to do pro

1 bono work and that's why, as you all know so very
2 well, we require 50 hours of pro bono work before
3 you can be admitted to the bar in New York.

4 And the long and short of it is, if you
11:17:49 5 don't understand what it means to be a lawyer, if
6 you don't embrace the core values of our
7 profession, which is service to others, then you
8 shouldn't be a lawyer, and you certainly shouldn't
9 be a lawyer in New York.

11:18:05 10 And I can't tell you the satisfaction that
11 comes from helping those in need. It is our hope
12 that while you're in law school that you will get
13 that buzz, that excitement that comes from helping
14 people who need your services, and it will carry
11:18:26 15 throughout your careers and that's why we have the
16 Pro Bono Scholars Program.

17 Where we have students from Syracuse in that
18 program. Where if you give your last term of law
19 school over to the full-time pro bono work, you
11:18:42 20 can take the bar exam in February as sort of a
21 reward for giving that last term of service over
22 to pro bono work.

23 So I think there's a revolution in Access to
24 Justice happening in this country. There are so
11:19:02 25 many interesting things here in New York and in

1 other states going on. We are changing the
2 landscape of access to justice. We are
3 re-prioritizing what's important in this state and
4 recognizing that Legal Services for the poor is as
5 important as health, hospitals, schools, housing.

6 We don't say: Gee, we don't have money this
7 year, so we're not going to educate our young.
8 And we don't say: Gee, we don't have a lot of
9 money this year, so we're not going to have
10 hospitals to tend to the sick.

11 And we can't say that we don't have money
12 this year and so we're not going to provide legal
13 representation to those fighting for the
14 necessities of life.

15 And we hope to get to the day in the not too
16 distant future when everybody in need will have an
17 attorney and be entitled to an attorney. You all
18 know or should know the seminal case on the
19 criminal side of Gideon v. Wainwright. U.S.
20 Supreme Court said that if your liberty is at
21 stake, you're entitled to a lawyer.

22 I think it is indisputable that there are
23 things in civil cases every bit as important and
24 has just as great an impact on a human being's
25 life than the very loss of liberty itself.

1 For instance, you lose the roof over your
2 head. What can be more serious to your family,
3 your life, everything that is important to you.

4 So we believe that these hearings can make a
5 difference. It's not only the public attention
6 that it brings to this issue, but it's also
7 getting in your hearts and minds what is important
8 about being a lawyer, and obviously from a very
9 important perspective, building the case for
10 public funding for Legal Services for the poor.

11 And again, we have \$85 million, and we
12 intend this year to ask for more money for Legal
13 Services, and those monies have been a lifeline
14 for our Legal Service providers, for the people in
15 the trenches who do, in my view, the most
16 important work in our profession.

17 Everyone does. Lawyers. It's all
18 important. But the people who give up their lives
19 to help others deserve all of our support. So
20 that kind of gives you some context of what we're
21 trying to do at this hearing.

22 We are going to have a number of speakers.
23 I would ask the speakers that you can either read
24 your statement, or you can just speak from the
25 heart as to how you feel. The statements of all

1 of the witnesses will be in the record that we
2 will put out on December 1 with the report and
3 recommendations of the Permanent Commission.

4 We had some timeframes for each witness and
11:22:31 5 for the hearing. We're going to go from now until
6 1:00 o'clock, and we usually are pretty much on
7 time. Sometimes we'll interrupt the witnesses
8 with some questions. Sometimes we'll wait until
9 the end to ask some questions.

11:22:48 10 But I think you'll hear from the really
11 terrific witnesses we have here from many
12 different perspectives on why Access to Justice is
13 important in our State, in this country and to our
14 way of life.

11:23:05 15 So let me ask, there are three members of
16 the panels that can come up. The first panel, as
17 I mentioned to you before, is law school
18 involvement to expand Access to Justice.

19 I'm going to ask my dear friend, Professor
11:23:22 20 Arterian to come up, who you all know so well; and
21 Jeffrey Donigan, 2015 Pro Bono Scholar, who is at
22 Harter Secrest and Emery; and Fulvia Vargas, 2015
23 Pro Bono Scholar, who is with Legal Services of
24 Central New York.

11:23:47 25 So I'll ask our three first witnesses to

1 come up to the table, and I'm going to ask your
2 former, fabulous, spectacular Dean to speak first.

3 I want to say to all of you what a leader
4 she is in this State and in this country in the
11:24:23 5 field of legal education. She was instrumental, I
6 take all the blame, but she was instrumental on
7 the committee that we had to study the uniform bar
8 exam that you know will be starting in the not too
9 distant future. I think it's a wonderful thing
11:24:42 10 that you're involved in.

11 All kidding aside, I think it brings New
12 York to where it should be, a leader in the bar in
13 setting the way for other states, and I think due
14 to the Dean's leadership and the wonderful
11:25:03 15 committee we had looking at this issue, in short
16 measure, I think we will have a uniform bar exam
17 in the United States that virtually every state
18 will be a member of. So without further
19 introduction, I give you the Dean, Dean Arterian.

11:25:23 20 PROFESSOR ARTERIAN: Thank you very much.
21 My microphone is live? Thank you. Uhm, thank you
22 very much, Judge Lippman. And it was an honor and
23 it was one of the greatest experiences in my legal
24 career actually to serve on that -- to serve on
11:25:38 25 that Task Force.

1 I want to thank Mr. Miranda, Judge Scudder,
2 Judge Marks, and, of course, you, Chief Judge
3 Lippman for this opportunity.

4 I am going to read -- mostly read some of
11:25:51 5 the testimony. I'm going to embellish it a bit,
6 but not embellish it with things that are not from
7 the heart and I hope absolute truth.

8 CHIEF JUSTICE LIPPMAN: Everything you
9 say, Dean, is the truth. I know that.

11:26:05 10 PROFESSOR ARTERIAN: Okay.

11 CHIEF JUSTICE LIPPMAN: All right.

12 PROFESSOR ARTERIAN: I mean as Judge
13 Lippman noted, for 13 years I had the honor to
14 serve as the Dean of this Law School. And it not
11:26:15 15 surprisingly coincided with increasing needs for
16 legal assistance, because we lived through the
17 recession during that time period, and academic
18 programs of the college include those that provide
19 free legal assistance.

11:26:29 20 My testimony will focus on our clinical
21 programs. Students in our clinics are supervised
22 by our faculty and work on legal matters for
23 academic credits. It's also true that our
24 externship programs have such characteristics and,
11:26:48 25 of course, as you noted, our students are engaged

1 in noncredit earning pro bono activities. And
2 last year we had -- last year, I'm going to say
3 August 2014-August 2015, 6,500 hours of pro bono
4 service provided by our students.

11:27:08

5 The College has faculty members on their own
6 engaged in pro bono activities. But my focus is
7 really on our clinics, and particularly the
8 importance of the clinics in developing pathways
9 to Access to Justice.

11:27:24

10 And our clinical education program is headed
11 by Associate Dean and Professor of Law Deb Kenn.
12 Over the past 13 years, the College has grown to
13 nine clinics, including a Veteran's Legal Clinic
14 that was added in 2015 -- January 2015. They are
15 organized by subject matter. The notion being
16 that that's the best way to serve the clients, and
17 it is also the best use of our human resources
18 efficiently.

11:27:42

19 Not surprisingly, as Judge Lippman noted at
20 the beginning, and it is a truism, demand for
21 assistance vastly exceeds capacity. All but one
22 of these clinics serve the needs of clients in the
23 civil arena. One is a criminal defense clinic.

11:27:55

11:28:15

24 Between August 2014 and August 2015, all of
25 the clinics served a total of 467 clients; 92 were

1 criminal defense; 375 were civil clinic clients.
2 And these are clients, as you know, who would
3 otherwise be unable or very disadvantaged to
4 access in the legal system.

11:28:33 5 Judge Lippman noting that there are so many
6 people who are pro se in the courts.
7 Understanding that's only the tip of the iceberg.
8 There are a bunch of people who cannot figure out
9 that they can get to the court. That they have a
11:28:47 10 venue and an opportunity to present themselves.
11 So we understand the depth of the problem.

12 Uhm, the College of Law invests heavily in
13 this endeavor. This is an academic program. We
14 care about it. We care about it. We care about
11:29:05 15 it because it's important educationally for our
16 students and it's not a byproduct that it helps
17 the community, but we invest in it because it's
18 our responsibility in terms of legal education.

19 During my time as Dean, I received e-mails
11:29:22 20 and letters from people who have been clients of
21 the clinic, and who are so thankful and found out
22 where the Dean was and sent a message.

23 I also think it's important that we work to
24 create interdisciplinary strengths because we all
11:29:38 25 know that people come with legal problems or think

1 they are strictly legal problems, but there are a
2 myriad of other issues that individuals face.
3 They may need health referrals. They may need
4 counseling, uhm, and they're at a loss at how to
11:29:56 5 navigate the complexity of the legal and social
6 services system.

7 Our College is in an area of great need for
8 access, and the growth and strength of our
9 clinical programs has played a critical role in
11:30:08 10 helping individuals across a variety of instances.
11 I detailed the list in the -- in my testimony.

12 Uhm, and saying this, the clinics we know
13 have enormous impact. Although, clinics cannot
14 solve all the problems, we can't begin to touch it
11:30:30 15 as legal education systems.

16 I think what is important to recognize is
17 that what a loss it would be if these clinics
18 weren't there. Some of these clinics get funding
19 from grants or from agencies, but overall the
11:30:48 20 funding is really from the Law School.

21 And the amount of work that's done is a
22 measure of that. There are bridges that need to
23 be crossed and it's difficult to cross them if you
24 don't have the assistance. That at the current
11:31:08 25 structure, we wouldn't have -- we wouldn't have

1 one person at a time being assisted.

2 We can all work certainly, and you are
3 working, and I want to say, I'm thrilled to hear
4 there will be a Judge Lowe Center, because as you
11:31:23 5 said, I mean Judge Lowe has been a force in this
6 community and State and nationwide for the most
7 important things, so I was -- that's from the
8 heart. I was thrilled to hear that announcement.

9 With respect to the clinics, we are doing
11:31:39 10 this one client at a time, over 400 clients a
11 year, and this is a College in an area which has
12 been in an economic decline, that has a diverse
13 population and an increasing settlement of
14 refugees.

11:31:54 15 The College's program cannot do everything,
16 but it is a long-standing and an important beacon
17 and has been for years and years and years about
18 how important the Access to Justice mantra is.

19 I want to point out that in addition to the
11:32:10 20 direct legal work of the law clinics, there is an
21 indirect benefit, which is training soon-to-be
22 lawyers in representing the needs of low-income
23 people.

24 Between six one-semester clinics and the
11:32:21 25 three two-semester clinics, there are about 150

1 law students engaged and enrolled in these clinics
2 every year. Each student develops knowledge of
3 substantive law and skills to take them to
4 whatever and into whatever community they will
11:32:37 5 live in ultimately and that can be used to provide
6 pro bono legal assistance throughout their
7 careers.

8 But for their clinical education, they may
9 not have known how to apply their legal education
11:32:50 10 in representing clients who are severely limited
11 in their access to Legal Services, and I want to
12 add this, because I think it is really critical,
13 and being equipped to face the complexity of the
14 personal contacts that so many individuals bring
11:33:05 15 to their need for legal services.

16 Our work provides an impact in each
17 instance, but it also intends to produce a
18 multiplier as our students graduate and enter a
19 profession.

11:33:17 20 I want to end with a quote from Professor
21 Kenn in our postscript. These -- this is
22 Professor Kenn's words.

23 The clients we serve would not otherwise be
24 represented by an attorney and would either have
11:33:29 25 to navigate the legal system on their own or, more

1 likely, not have access to basic rights and
2 recourse when denied human rights. Some of the
3 clinics' outcomes can be quantified in dollars and
4 cents, but most have tangible results contributing
11:33:45 5 to the economic, social, emotional well-being of
6 clients that are far more difficult to value
7 monetarily.

8 Saving someone's home from foreclosure,
9 preventing financial abuse of an elderly person,
11:33:57 10 keeping a mother or father out of prison,
11 assisting a person who is deaf in fighting
12 discrimination, helping a single mom collect child
13 support, representing a community organization
14 after creating after-school programs in obtaining
11:34:10 15 a 501(c)3 tax exception all have the effect of
16 improving quality of life and shaping the world
17 one client at a time. The clients we represent
18 will not otherwise have access to justice. And
19 that is my postscript.

11:34:24 20 One of the things that is most critical
21 about these clinical operations is that they
22 demonstrate to people who otherwise would not have
23 it that there is a path to justice. There is
24 access to it. Not every case is going to result
11:34:40 25 the way the client would like it to be. But each

1 client has the dignity of recognition of the
2 portion of their problem and has representation to
3 demonstrate that there is access.

4 And I think, as Judge Lippman said, if you
11:35:00 5 can't help your community, see the path that there
6 is access, it's very, very difficult to see how
7 you sustain in a civil society.

8 And I thank you for the opportunity to
9 present the information. You have an appendix
11:35:15 10 that has a list for our clinics. It captures what
11 they do and the impact in any given year.

12 CHIEF JUSTICE LIPPMAN: Thank you, Dean.
13 I think that the interest that you sparked in
14 Syracuse, in this area, is witnessed by the great
11:35:32 15 turnout that we have. Some of these students, I
16 think, are interested in this particular part of
17 what we do.

18 But let me ask you a question going towards
19 that, and I think you heard me say this before and
11:35:44 20 I mentioned it yesterday when we had former Dean
21 Sexton from NYU Law School testify.

22 I've been around the country and believe me,
23 I get that here in Syracuse and virtually at all
24 of our New York schools, we appreciate the
11:36:04 25 importance of Access to Justice Legal Services for

1 the poor, and yet I have been around the country
2 and I've had, you know, speaking with deans of law
3 schools that aren't within the New York system who
4 say to me, you know, with all due respect, Chief
11:36:26 5 Judge, you know, I'm preaching the gospel of
6 Access to Justice, with all due respect, law
7 schools are not in the access to justice business.

8 And my answer, of course, is with all due
9 respect, Dean, I think you're very much in the
11:36:41 10 access to justice business.

11 Why is it important, Dean, that law schools
12 be in the access to justice business? Can you be
13 separate and apart from this?

14 PROFESSOR ARTERIAN: Look, look, again,
11:36:57 15 I'm speaking my mind now and not, you know, a
16 mantra that I memorized. It's very hard for me to
17 see how -- why you have legal education if you
18 don't care -- either care about access to justice
19 or don't think access to justice is a critical
11:37:15 20 part of what lawyers must do.

21 I mean what are they doing? I mean what do
22 lawyers do if they have -- are not all involved in
23 some way or another in access to justice.

24 Now, of course, it may well be that people
11:37:31 25 have -- who have their own definitions, but I do

1 think the power of legal education in part is part
2 of a civil society. How do you view that -- how
3 do students get that? How do we feel about it if
4 we don't seem to care about access to justice?

11:37:48

5 So I don't -- I guess, Judge, I don't see
6 these as like you can meet this or be that. It
7 seems to me there is a confluence here, and it may
8 well be sometimes, you know, there is the -- too
9 much entanglement, not enough understanding how
10 those things relate.

11:38:05

11 But, you know, I have to tell you in all
12 honesty, having been Dean for thirteen years, I've
13 spent a lot of time with deans around the United
14 States. I'm unhappy to hear there is a dean that
15 would have said that because at least in my
16 experience I haven't had that but --

11:38:16

17 CHIEF JUSTICE LIPPMAN: Me, too. So I
18 will ask the panel, do you have any questions?
19 What I would say along the lines of what we both
20 have been talking about, and I usually give the
21 example that if we say that law students are
22 required to take torts and contracts and property,
23 they also ought to be required to understand what
24 the values of being a lawyer are all about.

11:38:27

11:38:52

25 So as the Dean says, they're not separate

1 things. They're altogether. You can't learn the
2 disciplines if you don't understand what it means
3 to be a lawyer.

11:39:02 4 PROFESSOR ARTERIAN: Can I follow up with
5 that?

6 CHIEF JUSTICE LIPPMAN: Sure.

7 PROFESSOR ARTERIAN: Judge, to me there is
8 a pretty significant move, well, it's bubbling
9 across legal education in the concept of
11:39:13 10 professional identity, and professional identity
11 develops formation.

12 How do you form your -- how you do form
13 yourself really should require careful thinking
14 about the interrelationship between the doctrine
11:39:28 15 and the reality.

16 CHIEF JUSTICE LIPPMAN: Okay. Any
17 questions for the Dean?

18 MR. MIRANDA: Yes.

19 CHIEF JUSTICE LIPPMAN: State Bar
11:39:33 20 President Miranda.

21 MR. MIRANDA: Thank you, Dean, for your
22 testimony. Also, for your leadership in the area
23 of Access to Justice and for hosting us here at
24 Syracuse University College of Law.

11:39:45 25 As you noted, it's important to the

1 students, the law students that they understand
2 their obligation when they come into this
3 wonderful profession, and lawyers have obligations
4 that other professions don't have and that's
11:40:04 5 providing pro bono legal services to those in
6 need.

7 Law students here at Syracuse University
8 College of Law and throughout the state have a
9 passion, I think, for public service, and
11:40:20 10 Syracuse, of course, has many great programs to
11 provide an outlet for those issues and to do the
12 public good when they graduate from school. Some
13 have substantial debt. Some have difficulty
14 finding work.

11:40:32 15 How can we, as a profession, better provide
16 opportunities for those who got a great foundation
17 here in law school to provide -- be involved in
18 public service and to provide part of their career
19 providing access to justice and pro bono legal
11:40:52 20 services throughout their legal careers?

21 PROFESSOR ARTERIAN: That's a complicated
22 question, but sounds like a great deal of
23 interest.

24 MR. MIRANDA: Thirty seconds.

11:41:02 25 PROFESSOR ARTERIAN: Look, yes, they

1 come -- most law students will graduate with a lot
2 of debt. Interestingly, I will point out, I think
3 probably law students that graduate in three years
4 will have less debt than their predecessors
5 because of the amount of scholarship assistance
6 that schools are giving.

7 Also, I do think one of the things I think
8 lawyers can do, and this may sound farfetched, but
9 I think it's really important if there is not a
10 continuation at the Federal level of income-based
11 repayment for debt for, you know, public service
12 loan forgiveness after a period of time, it's
13 going to be much, much more difficult.

14 And I do think lawyers have a role in that,
15 in making clear that the work that the students
16 do, the work that graduates -- the work that
17 lawyers do in those areas is really, really
18 important, and legal education is a value that
19 needs to be protected.

20 I also think if there is an opportunity for
21 students while they're in law school to do things
22 that are not for credit. They may not be for
23 money, but it will be great if it could be where
24 they can work with lawyers in law firms and watch
25 lawyers actually who are engaged in their own

1 full-time practice and have the time to help
2 implement pro bono.

3 I think example mentoring like that is
4 terrific, but I do think there are very practical
11:42:41 5 political things and lawyers -- and lawyers, not
6 just in the State of New York, but generally can
7 undertake to make it much, much easier for the
8 students to make the choices about, you know, what
9 they're going to be based on, where they feel they
11:42:54 10 can do most good.

11 And I also say, I think people go to big law
12 firms, there are pro bono opportunities aplenty
13 for the new lawyers in those firms. And again, I
14 think it's the responsibility of all of us to have
11:43:12 15 those students see that path.

16 You know, it's not just: I work for big
17 clients, I make a lot of money. I mean that
18 increases your responsibility to take that over
19 time. So it is role modeling, among other things.
11:43:25 20 I don't know if that begins to touch the question
21 that you asked.

22 CHIEF JUSTICE LIPPMAN: Begins to answer
23 the question, absolutely. Okay. Now, we will see
24 the fruits of the law school and your efforts,
11:43:36 25 Dean, by our next two witnesses, who I'm very

1 proud to say were very much pioneers in the Pro
2 Bono Scholars Program. So let's start Jeffrey,
3 with you. Tell us about the Pro Bono Scholars
4 program. Tell us about what you're doing and what
11:43:58 5 you think about this whole business that we're
6 talking about today, young lawyers particularly,
7 old lawyers understanding so much of what we do is
8 about helping people.

9 JEFFREY DONIGAN: Thank you, Chief Judge.
11:44:14 10 Your Honors, President Miranda, appreciate the
11 opportunity that you've invited me here to testify
12 about this very important topic.

13 As the Chief Judge said, my name is Jeffrey
14 Donigan. I'm a first-year associate at Harter
11:44:27 15 Secrest & Emery in Rochester, New York, and I
16 graduated from SUNY Buffalo Law School this past
17 year.

18 Last spring I participated in the first
19 class of Chief Judge Lippman's Pro Bono Scholars
11:44:40 20 program. I was placed at the Erie County Bar
21 Association Volunteer Lawyers Project in Buffalo
22 to complete my pro bono commitment with my fellow
23 classmate and Pro Bono Scholar, Anne Modica.

24 I requested the Volunteer Lawyers Project
11:44:58 25 because of the wide range of civil free legal

1 services it provides its clients, from traditional
2 ongoing representation to limited-scope legal
3 services.

4 I participated in a number of VLP's Legal
11:45:12 5 Services Programs. I assisted at the Attorney of
6 the Morning Program, an award winning eviction
7 defense program in Buffalo City Court that is
8 staffed by local pro bono attorneys.

9 With my Student Practice Order, I helped
11:45:28 10 clients by negotiating with landlords or their
11 attorneys to settle cases, allowing our clients to
12 remain in their homes or obtain the time they need
13 to locate suitable housing.

14 These settlements reduced the number of
11:45:43 15 cases before the Court, making the system more
16 efficient and cost effective.

17 I also gained invaluable practice skills by
18 appearing in court on behalf of clients who are
19 unable to reach a settlement with their landlord.

11:45:55 20 Being a Pro Bono Scholar and working with
21 pro bono attorneys from the community helped me to
22 appreciate the value that I can contribute as an
23 Associate at Harter Secrest & Emery.

24 In addition to Housing Court, I assisted at
11:46:09 25 VLP, a new program in the Family Court, Family

1 Court Help Desk. The Help Desk provides
2 limited-scope legal advice to unrepresented
3 litigants with family law matters. The Help Desk
4 is staffed by experienced pro bono family law
11:46:27 5 attorneys and assisted by SUNY Buffalo Law School
6 students.

7 I supported the pro bono attorneys by
8 interviewing clients and identifying their legal
9 issues. It was satisfying to assist
11:46:39 10 unrepresented, low-income individuals facing the
11 complex Family Court system.

12 This experience gave me many valuable
13 practical skills that I would not have learned
14 these in the traditional law school setting.

11:46:53 15 For the classroom component of the program,
16 we had to write a research paper on any pro bono
17 topic. Based on my experiences, I have advocated
18 in my paper for additional funding and resources
19 for the Family Court Help Desk because of the
11:47:08 20 positive impact it had on not only the clients but
21 the Court's efficiency.

22 Adding Family Court Judges to the bench will
23 certainly help with the efficiency issues that the
24 Family Court is facing.

11:47:19 25 However, if programs like the Help Desk

1 received more resources, then more unrepresented
2 litigants will have the opportunity to speak
3 briefly with an attorney and gain invaluable
4 advice about a complicated process, saving many
11:47:35 5 resources in the long run.

6 The limited-scope legal advice provided at
7 the Help Desk has resulted in fewer filed
8 petitions, because clients learn that their claims
9 are meritless or that they have a better way to
11:47:50 10 address their issues.

11 The Help Desk also assisted litigants in
12 crafting better petitions that survived motions to
13 dismiss because the Court was informed of the
14 issue in a clear manner.

11:48:04 15 Allocating greater resources to the Help
16 Desk would serve the dual purpose of improving
17 Court efficiency and assisting these litigants in
18 desperate need of help.

19 I was excited to apply for the Pro Bono
11:48:18 20 Scholars Program because of the positive pro bono
21 experiences I had as a Summer Associate at Harter
22 Secret & Emery.

23 I volunteered at the Attorney of the Morning
24 Program in Rochester and the Volunteer Legal
11:48:29 25 Services Project's Family Law Clinic.

1 By using my developing legal skills to help
2 those in need is extremely rewarding. I'm proud
3 of everything I've learned as a Pro Bono Scholar
4 at the Volunteer Lawyers Project.

11:48:43

5 Thank you, Chief Judge Lippman, for creating
6 this program and providing me with this
7 unforgettable experience.

11:48:53

8 CHIEF JUSTICE LIPPMAN: Thank you. Sounds
9 like it was great. Let me ask you one leading
10 question. Lawyers, right, we know about leading
11 questions.

11:49:15

12 Do you think it's a good idea if every
13 single law student in the State of New York, in
14 this country, would take one term, one-sixth of
15 their legal career and just help people and do pro
16 bono work like you did as part of the Scholars
17 Program?

11:49:27

18 JEFFREY DONIGAN: I do. I think it's such
19 a great resource, not only for the people that we
20 provide legal assistance for, but I think it's
21 also such a great experience for ourselves.

11:49:44

22 I know personally I've gained more practical
23 skills during the last semester of law school
24 doing this program than I did in the first two and
25 a half years at law school. I felt much more

1 confident.

2 CHIEF JUSTICE LIPPMAN: That's quite a
3 statement that he just made.

4 JEFFREY DONIGAN: And --

11:49:55 5 CHIEF JUSTICE LIPPMAN: He's a good lawyer
6 and a good witness. Do we recognize that? Go
7 ahead.

8 JEFFREY DONIGAN: I also learned about the
9 experiences that I can continue to do while I'm in
11:50:09 10 private practice. Although I was a volunteer with
11 the Lawyers Project, we worked closely with many
12 other legal service providers, and I just became
13 familiar with all of the different places that I
14 could go and volunteer and ways that I can keep
11:50:27 15 contributing in the future.

16 CHIEF JUSTICE LIPPMAN: Great. Thank you
17 so much, Jeffrey. Really great testimony.

18 JEFFREY DONIGAN: Thank you.

19 CHIEF JUSTICE LIPPMAN: So Fulvia, what
11:50:35 20 are you doing in the program? Something
21 constructive, I hope.

22 FULVIA VARGAS: I hope, yes. Good
23 morning. My name is Fulvia Vargas. I would like
24 to extend my gratitude to Chief Judge Lippman and
11:50:47 25 the Hearing Panel for conducting these hearings to

1 further address the need and impact that legal
2 services providers have on low-income communities.

3 As part of the first class of Pro Bono
4 Scholars in New York, I'm honored to be here today
11:51:01 5 to discuss my experiences and the impact that the
6 program had on the community, Onondaga County
7 community and --

8 CHIEF JUSTICE LIPPMAN: Syracuse?

9 FULVIA VARGAS: I was at Syracuse, yes --

11:51:16 10 CHIEF JUSTICE LIPPMAN: SUNY Buffalo is
11 good, too.

12 FULVIA VARGAS: -- my choice of career in
13 public sector work. Before I discuss my
14 experiences, I would like to provide some
11:51:27 15 background as to why I chose to go to law school.

16 I grew up in the Washington Heights
17 neighborhood of New York City, a neighborhood
18 composed primarily of immigrant residents from
19 various Latin American and Caribbean countries.

11:51:40 20 My mother was an immigrant from the
21 Dominican Republic who worked as a housekeeper and
22 who I saw struggle each day to provide for my
23 siblings and I.

24 In my neighborhood, there was no concept of
11:51:50 25 justice, getting a lawyer, or even seeking out

1 legal services. To them, the legal system in the
2 United States was not designed to protect
3 low-income, immigrant families who often times
4 could not afford a lawyer.

11:52:03

5 Thus, at a young age I decided that pursuing
6 a career in law would allow me to change this
7 perception among many in my community. As a first
8 of my family to graduate high school, college and
9 even pursue a degree in law, I felt tasked with
10 using my education to serve those in need.

11:52:18

11 Growing up, I did not know anyone that was a
12 lawyer. At a young age, I was determined to
13 pursue a career to help those in my community who
14 felt that they did not have a voice in the legal
15 system.

11:52:30

16 I constantly saw people being evicted from
17 their homes, being sent to jail, or facing various
18 instances of civil discrimination. I knew then
19 that I would become a lawyer so I could one day
20 fight against these injustices.

11:52:42

21 I went on to attend Syracuse University
22 College of Law with the goal of pursuing a career
23 in public interest. While at the College of Law,
24 I participated in the Elder Law Clinic and
25 interned with the New York Legal Assistance Group

11:52:55

1 in New York City.

2 Through my experiences, I realized the dire
3 need for legal services that still exists in
4 low-income communities around the State of New
5 York.

6 Aside from the lack of legal services among
7 these communities, these communities face language
8 and cultural barriers that make seeking legal
9 assistance daunting, if not impossible.

10 These experiences also reaffirmed my desire
11 to pursue a public interest career upon finishing
12 law school.

13 During the summer before my third year of
14 law school, I was informed about the Pro Bono
15 Scholars Program. This program quickly caught my
16 attention, not only because it would allow me to
17 finish law school and take the bar prior to
18 graduating, because it would allow me to address
19 the legal needs of low-income residents in the
20 Syracuse area.

21 I spent my ten-week internship as a Pro Bono
22 Scholar for Legal Services of Central New York.
23 As a Pro Bono Scholar, I had the opportunity to
24 work with Legal Services of Central New York in
25 their Advocacy Group.

1 The opportunity to work with Legal Services
2 allowed me to advocate for low-income individuals
3 facing a range of civil legal issues, including
4 housing, unemployment and public benefits.

11:54:05 5 Day to day, I interacted with clients whose
6 legal needs meant the loss of food, shelter, or a
7 means of providing for their family.

8 Many times, I encountered clients who only
9 spoke Spanish, and thus faced an array of issues
11:54:19 10 in being unable to communicate their needs to
11 local government agencies or even landlords in
12 housing matters.

13 The clients I encountered were extremely
14 welcoming and thankful for the help I was able to
11:54:31 15 provide to them.

16 One of my greatest accomplishments as a Pro
17 Bono Scholar was working with a hearing-impaired
18 inmate at the Onondaga County Justice Center.

19 He had contacted our office after being
11:54:42 20 unable to access rehabilitative and vocational
21 classes at the Justice Center due to his need for
22 an American Sign Language interpreter.

23 Soon after filing a Federal complaint, the
24 Onondaga County Justice Center installed a
11:54:54 25 videophone to allow for better communication

1 between hearing-impaired inmates and their
2 families, and it allowed hearing-impaired inmates,
3 like my client, to participate in GED and
4 rehabilitation courses.

11:55:06

5 Being a Pro Bono Scholar gave me the
6 opportunity to use my legal education to make a
7 difference in the Syracuse community. I cannot
8 explain how rewarding it was to go into work each
9 day and speak with clients who were extremely
10 thankful for the help I was able to provide.

11:55:20

11 This opportunity reminded me in many ways of
12 how many people in our community depend on public
13 interest attorneys to help them navigate through
14 the legal issues. It is because of the work and
15 dedication of public interest attorneys that many
16 clients hold on to the very essentials of life,
17 including food and shelter.

11:55:32

18 The Pro Bono Scholars Program inspired in me
19 a greater commitment to work with low-income
20 communities. It reminded of the very reason why
21 as a young girl growing up in Washington Heights
22 that I wanted to pursue a career that would allow
23 me to help those who need it most.

11:55:45

11:55:56

24 Even in the short ten weeks of my
25 internship, I realized the vast impact this

1 program and legal services providers across the
2 state have on impacting the lives of those who are
3 often undeserved and underrepresented in the legal
4 field.

11:56:08 5 I want to thank Chief Judge Lippman and the
6 Commission on Access to Justice for the
7 opportunity to be part of the inaugural class of
8 Pro Bono Scholars. It is because of your belief
9 and the need to narrow the justice gap that I as a
11:56:20 10 Pro Bono Scholar was able to make the slightest
11 difference among the residents of the Syracuse
12 community. Thank you.

13 CHIEF JUSTICE LIPPMAN: Thank you, Fulvia.
14 Thank you.

11:56:29 15 (Applause)

16 CHIEF JUDGE LIPPMAN: Thank you for your
17 service in helping people. Let me ask you a
18 question that I think sometimes it's not clear to
19 people who talk about legal services for the poor.

11:56:49 20 It's often thought that what we are talking
21 about is only about when you are -- go into court
22 and you're representing somebody, a client before
23 a Judge in a court of law.

24 Most of what you do has nothing to do with
11:57:07 25 that. It's about interfacing with bureaucracies.

1 It's about giving people basic advice. Is that
2 the case? I mean, you know, legal services is
3 really helping people one by one and not
4 necessarily -- obviously there comes a time when
11:57:26 5 we do have to go into court and represent our
6 client, but what you did you got great
7 satisfaction, yet you didn't go into court, did
8 you?

9 FULVIA VARGAS: I did go to Housing Court
11:57:39 10 sometimes, yes.

11 CHIEF JUSTICE LIPPMAN: Once was enough?

12 FULVIA VARGAS: Uhm, but it is true, I
13 think with low-income communities, and even
14 speaking with the Department of Social Services to
11:57:51 15 give them access to public benefits was an issue
16 they had to face.

17 It didn't mean going to court. It did mean
18 having to hold a fair hearing or calling someone
19 over at the agency to ask them what was going on
11:58:01 20 with the public benefits.

21 CHIEF JUSTICE LIPPMAN: Interceding for
22 someone?

23 FULVIA VARGAS: Yes. Whether Section 8 or
24 Department of Social Services, we constantly spoke
11:58:10 25 with other people in the community to get access

1 to benefits.

2 CHIEF JUSTICE LIPPMAN: You described kind
3 of a troubleshooting for people?

4 FULVIA VARGAS: Yeah.

11:58:16 5 CHIEF JUSTICE LIPPMAN: People coming in
6 with a problem and how do we address it, and there
7 is a time, obviously sometimes we wound up in
8 court about the problem, but it is really helping
9 out people.

11:58:27 10 FULVIA VARGAS: It is really about helping
11 people as fast as possible often times. You know,
12 going to court takes a lot. Sometimes --
13 sometimes we don't have the time and they may lose
14 their home tomorrow if we don't address this.

11:58:39 15 CHIEF JUSTICE LIPPMAN: If not necessarily
16 the most productive use of your time as a lawyer.

17 FULVIA VARGAS: Or they're not going to
18 get food stamp benefits for themselves or their
19 children next month. We have to act quickly.
11:58:49 20 Most of the time we are speaking with agencies
21 just to get them what they need.

22 CHIEF JUSTICE LIPPMAN: Okay. Any other
23 questions from the panel? Judge Marks.

24 JUSTICE MARKS: One question. So when I
11:59:00 25 went to law school, it's a long time ago.

1 CHIEF JUSTICE LIPPMAN: Very long time
2 ago.

3 JUSTICE MARKS: You went a longer time
4 ago, but it was a long time ago. So I -- there
11:59:17 5 was one clinic at the law school that -- I think
6 only one, there was definitely one clinic, I don't
7 recall anyone advising me when I was in law school
8 or encouraging me to participate in the clinic.

9 In fact, I don't remember anybody advising
11:59:32 10 me or encouraging me about anything when I was in
11 law school. I won't mention which law school it
12 was. But did each of you -- did your law schools
13 do anything in any form or way to encourage you to
14 participate in clinics, or for that matter to
11:59:51 15 encourage you to participate in the Pro Bono
16 Scholars Program, or is this -- are those
17 decisions that you've made on your own? Was there
18 faculty or staff at the law school that advised
19 you or encouraged you about these things?

12:00:05 20 JEFFREY DONIGAN: At SUNY Buffalo, there
21 would be faculty and staff that would hold
22 meetings, inform the students of various clinics
23 that are available, as well as the Pro Bono
24 Scholars program.

12:00:18 25 I think what was most important to me,

1 though, was just talking to the older classmates
2 or people that I trusted in the law school and
3 hearing from them what they thought was important.
4 A lot of times it was, you know, specific clinics
12:00:32 5 or doing the Pro Bono Scholars Program.

6 I know that personally when I speak to law
7 students now, one of the first things I talk to
8 them about is the Pro Bono Scholars program and
9 what a great opportunity it is as far as learning
12:00:45 10 your legal skills, and the reward of that is being
11 able to have the best summer that I've had to
12 date. So there's --

13 JUSTICE MARKS: Did your law school invite
14 you to come back and talk about it with law
12:01:01 15 students?

16 JEFFREY DONIGAN: Have they?

17 JUSTICE MARKS: Have they done that, have
18 they invited you back to speak to students that --

19 JEFFREY DONIGAN: No. When I say talking
12:01:12 20 to my law students, it would be my first or second
21 year talking to third-year law students about what
22 they'd done at the law school.

23 JUSTICE MARKS: What about the clinics?

24 JEFFREY DONIGAN: The opportunity --

12:01:23 25 JUSTICE MARKS: Yeah.

1 JEFFREY DONIGAN: -- as far as learning
2 about them?

3 JUSTICE MARKS: No. No. I understand
4 what you're saying. You were relying on the more
12:01:33 5 senior law students for advice and information.

6 JEFFREY DONIGAN: But the law school as a
7 staff also makes informational meetings and --

8 JUSTICE MARKS: They did?

9 JEFFREY DONIGAN: Yes.

12:01:45 10 FULVIA VARGAS: At Syracuse we do have
11 various clinics. I think I remember as a
12 first-year student that that was something that
13 was explained to us as part of the curriculum,
14 being part of the clinic was something that just
12:01:57 15 came with when you pick a semester or year that
16 you want to be part of a clinic.

17 So to me from the start it was something
18 that I felt like Syracuse emphasized as being an
19 important part of the overall education, and so I
12:02:08 20 knew at some point or another I should be involved
21 if I had the time to do a clinic.

22 As a Pro Bono Scholar, I came back, I think
23 it was a week ago, to speak to other students who
24 are interested in the program, and they asked
12:02:20 25 questions, and they asked me about my experiences.

1 CHIEF JUSTICE LIPPMAN: That's great.

2 FULVIA VARGAS: Why I felt it was a great
3 program and that they should get involved. I have
4 been back to school to speak to other students
12:02:29 5 about the program as well.

6 CHIEF JUSTICE LIPPMAN: It is our hope
7 that when the students hear what you did and how
8 fulfilling and important it was to you that we'll
9 get, you know, lots of students who want to do it,
12:02:45 10 and I suspect in relation to the leading question
11 I asked you before, that this will be -- it's -- I
12 think pro bono work is -- it's engaging, it gets
13 people excited.

14 It's, you know, and I think that we're going
12:03:03 15 to see them in later years, large numbers of
16 students at the law schools all around our state
17 giving their time, you know, in large time, an
18 entire term to this kind of effort.

19 What I want to say is thank you to our
12:03:21 20 students and to our spectacular Dean for being
21 here and heading this panel. It really got us off
22 to a great start and thank you so much.

23 (Applause)

24 CHIEF JUSTICE LIPPMAN: Okay. The next
12:03:41 25 group that will come up are going to talk about

1 the technology to improve the delivery of Civil
2 Legal Services.

3 Now, you might think technology is a dry
4 subject. With this panel it's not going to be
12:03:54 5 dry. So Thomas Keily, Consumer Education and Data
6 Coordinator from AmeriCorps VISTA Volunteer,
7 western New York Law Center. Come up.

8 John Roman, Jr., Direct IT Operations
9 eDiscovery, Nixon Peabody. Timothy Hunt,
12:04:15 10 Principal Law Librarian, Seventh Judicial
11 District. And Robert Nicolais, Pro Bono Attorney
12 Volunteer Legal Services Project, UCS Help Center,
13 Seventh Judicial District. I promise an exciting
14 panel here, so don't disappoint us.

12:04:42 15 JOHN ROMAN: This will be very exiting.
16 No technical jargon.

17 CHIEF JUSTICE LIPPMAN: So as I said, you
18 don't have to -- you can do whatever you want.
19 You don't have to read your testimony. You can
12:04:53 20 just talk. You know, sometimes that's better.
21 It's totally up to you.

22 Let's talk with Thomas Keily. Tell us about
23 yourself and what you want to tell us about how
24 technology improves legal services.

12:05:12 25 THOMAS KEILY: First, I'd like to thank

1 Chief Judge Lippman and the Panel for this
2 opportunity to speak on behalf of the benefit
3 provided by legal services providers to help
4 underserved communities and the impact that data
5 can play --

12:05:27

6 CHIEF JUSTICE LIPPMAN: Move your speaker
7 closer to you.

8 THOMAS KEILY: The role that data can play
9 in enhancing and expanding legal services.

12:05:38

10 Specifically, I'm an AmeriCorps VISTA volunteer at
11 the Western New York Law Center in Buffalo, New
12 York.

13 The Western New York Law Center twice a week
14 holds a consumer clinic called CLARO. This is
15 services to help pro se litigants with paperwork
16 and support and advice on consumer-related debt
17 matters.

12:05:49

18 We see a range of individuals that come into
19 our clinic. We don't discriminate upon --

12:06:04

20 CHIEF JUSTICE LIPPMAN: How do they know
21 about you?

22 THOMAS KEILY: They know about us through
23 a range of sources. We do a lot of outreach in
24 the community organizations in Buffalo through
25 flyers and pamphlets and information on, you know,

12:06:14

1 what Summons and Complaints look like. What to do
2 if you receive these documents.

12:06:27 3 CHIEF JUSTICE LIPPMAN: How does the
4 person who comes in the door, how does technology
5 help them? How did it help you in helping them?

6 THOMAS KEILY: The way it is helped most
7 is on site. We use various forms that are
8 automated, so when an attorney sits down to fill
9 out paperwork for the individual, they are able to
10 put it in very quickly to serve the client in the
11 most efficient manner, and also data that we take
12 in from --

13 CHIEF JUSTICE LIPPMAN: So what they are
14 doing when they come in, you're taking their
12:06:59 15 information electronically?

16 THOMAS KEILY: Yes.

17 CHIEF JUSTICE LIPPMAN: Then converting it
18 into something that will help them perform --

19 THOMAS KEILY: It could be a form,
12:07:08 20 possibly an Answer for the Court in response to a
21 legal matter, or an Order to Show Cause, documents
22 of that type where the attorney has a Word
23 document where they can just put in basic
24 information, the person's name, the issue,
12:07:25 25 defendant, plaintiff, and so on and that will

1 automate the form, so it's a much more fluid
2 process.

3 CHIEF JUSTICE LIPPMAN: It allows you to
4 do your work more quickly?

12:07:34 5 THOMAS KEILY: More quickly, yes.

6 CHIEF JUSTICE LIPPMAN: And help them
7 obviously more quickly.

8 THOMAS KEILY: Because we find a lot of
9 people that come into the clinic work and have
10 other obligations and family that, you know, it's
11 even spend a half hour to an hour with that
12 individual is a lot of their time, it's precious
13 time on their behalf, it helps us, this support
14 that provides more opportunity, too, for the
15 attorney to explain the situation to the
16 individual as opposed to filling out a form.

12:07:55 17 CHIEF JUSTICE LIPPMAN: How many lawyers
18 do you have in the Western New York Law Center?

19 THOMAS KEILY: Overall, any given clinic
12:08:07 20 night we may have three to four law center staff.
21 We also have volunteers from the communities, so
22 attorneys from the community. We also have law
23 students who are from UB.

24 CHIEF JUSTICE LIPPMAN: How big an entity
12:08:22 25 is Western New York Legal Services?

1 THOMAS KEILY: We roughly have 19 people
2 on the staff.

3 CHIEF JUSTICE LIPPMAN: 19?

4 THOMAS KEILY: Yeah. And, you know,
12:08:31 5 that's a range of paralegals, volunteers such as
6 myself and attorneys.

7 CHIEF JUSTICE LIPPMAN: How many other
8 legal service entities are there in your immediate
9 area? You're in the Buffalo area?

10 THOMAS KEILY: We are. I'm not certain on
11 the number. We're part of an organization that
12 focuses on foreclosures, which is among two other
13 organizations, three including ourselves, which
14 provides a majority of foreclosure support in
12:09:04 15 Western New York, so Erie County.

16 CHIEF JUSTICE LIPPMAN: Foreclosure still
17 a great problem in --

18 THOMAS KEILY: It is. It's a very
19 persistent problem. It perhaps -- taking a step
12:09:14 20 down, but it is still very influential in the
21 economy even, has a huge impact.

22 CHIEF JUSTICE LIPPMAN: Are you still
23 having only signings and that kind of thing come
24 in, or has that practice become more transparent
12:09:28 25 since all the attention?

1 THOMAS KEILY: I think it's certainly more
2 in the eye of people to be aware of. So perhaps
3 it's helped in a sense, but I can't comment one
4 way or another on whether it's, you know, subsided
5 or not.

12:09:43

6 Going further, with the information that we
7 collect actually about the individual we serve,
8 we're able to use that information to expand our
9 services because we know people that require these
10 services, and we know that all people within that
11 demographics are not necessarily receiving our
12 services, but we can use that and track it with
13 census data and other community-based data to
14 provide greater access to services to communities
15 where there is greater need.

12:09:57

12:10:15

16 CHIEF JUSTICE LIPPMAN: I think the
17 problem that we see is that a lot of poor people
18 just don't know where to go. And the question is:
19 How do you reach them, and can technology help us
20 to reach them?

12:10:30

21 THOMAS KEILY: I think it can. Through
22 actually social media we've experimented with in
23 the last year to increase, and as we tracked our
24 post-dating and the number of times we do that,
25 and then consequently the number of visitors that

12:10:47

1 show up in our clinic we have seen an increase.
2 Whether it is correlated or not, it's hard to say.
3 But I -- it does play an impact because often
4 times you're not reaching a person that comes in
12:11:01 5 the clinic, but you're reaching a person who
6 mentions to a friend, you know, I'm aware of this
7 clinic, you should come, so in that sense it has a
8 greater impact that way.

9 CHIEF JUSTICE LIPPMAN: All right. So
12:11:14 10 you're an example of where a legal service entity
11 is using technology to help to service people, to
12 reach them, to make their lives better?

13 THOMAS KEILY: Yes.

14 CHIEF JUSTICE LIPPMAN: Let's see what
12:11:31 15 does Nixon Peabody do, and the Director of IT
16 Operations, how do you use technology, Mr. Roman,
17 to help people?

18 JOHN ROMAN: First let me thank you --

19 CHIEF JUSTICE LIPPMAN: People in the room
12:11:50 20 are --

21 JOHN ROMAN: -- for allowing me to be
22 here.

23 CHIEF JUSTICE LIPPMAN: -- delighted to
24 have you.

12:11:57 25 JOHN ROMAN: How does technology help

1 people?

2 CHIEF JUSTICE LIPPMAN: How as a private
3 law firm how do you help your pro bono work where
4 you -- what does technology do for you, or more
12:12:11 5 importantly for the person who is trying to help?

6 JOHN ROMAN: Few things. First of all, it
7 makes attorneys and staff tremendously more
8 productive. Tremendously more responsive to our
9 clients' needs, to our pro bono clients' needs.

12:12:26 10 On the underserved side, the clients it
11 makes access to information easier.

12 CHIEF JUSTICE LIPPMAN: For them or for
13 you?

14 JOHN ROMAN: Them. I think a
12:12:40 15 well-informed client --

16 CHIEF JUSTICE LIPPMAN: Right.

17 JOHN ROMAN: -- is extremely powerful.
18 And it does it through a few different ways.
19 First of all, everybody has access to technology
12:12:51 20 through the library system. Folks can walk into a
21 public library and use complexities that are
22 there, and there is a wealth of knowledge found on
23 the internet or through a various law school, such
24 as Syracuse University Law School, it has a wealth
12:13:07 25 of information on their website relative to legal

1 matters, especially as it relates to civil
2 matters.

3 So I think technologically, the technology
4 is available for people who want to use it. It's
12:13:26 5 pretty much ubiquitous that it is anywhere, and
6 the information that it contains and the access to
7 information that you can gain from using
8 technology makes people more informed, as well as
9 makes our legal practitioners, whether they're
10 12:13:44 attorneys or staff, better able to meet the needs
11 of their clients.

12 CHIEF JUSTICE LIPPMAN: Does the private
13 law firm because of the resources, and obviously
14 Nixon is a major law firm, does it make an uneven
15 12:14:03 playing field?

16 What I mean by that is that the private law
17 firm has the resources to have the high end of the
18 technology. Uhm, the legal service provider not
19 necessarily. How do we ensure that we get that
20 12:14:20 technology to its maximum usage? Do you talk to
21 them technologically?

22 JOHN ROMAN: Yes.

23 CHIEF JUSTICE LIPPMAN: To the providers
24 so that kind of using technology, obviously with
25 12:14:32 what you can afford, what they can afford, what

1 they can all mesh together.

2 JOHN ROMAN: First I think it's about
3 leveraging existing technology. It's not always
4 about you have to have the latest and greatest.
12:14:44 5 It's typically --

6 CHIEF JUSTICE LIPPMAN: Just have to
7 communicate.

8 JOHN ROMAN: -- how do you leverage what
9 you have, and how do you get more use out of it.
12:14:51 10 So over the past three years, I've worked with the
11 Empire Justice Center.

12 Part of the success in rolling out
13 technology to the Empire Justice Center, both
14 utilizing what they currently have as well as --

12:15:04 15 CHIEF JUSTICE LIPPMAN: Right.

16 JOHN ROMAN: -- purchasing newer
17 technology because we developed a three-year plan.

18 CHIEF JUSTICE LIPPMAN: So it's really the
19 creative use of the technology rather than state
12:15:14 20 of the art or it's --

21 JOHN ROMAN: Absolutely. Absolutely.
22 It's not about, you know, technology is only part,
23 right, it's a tool. It's like a -- it's
24 synonymous with what the carpenter has in his or
12:15:31 25 her toolbox. Technology is a tool.

1 It's not about getting the latest and
2 greatest. It's about what is available to help
3 myself, help my client.

4 CHIEF JUSTICE LIPPMAN: And in your
12:15:42 5 toolbox in the private firm, quite a substantial
6 one, it really makes a difference in terms of your
7 ability to help people --

8 JOHN ROMAN: Absolutely.

9 CHIEF JUSTICE LIPPMAN: -- whether you are
12:15:53 10 working through the provider or on your own.

11 JOHN ROMAN: Absolutely makes a
12 difference, because through the use of technology,
13 we can collaborate better. We can share documents
14 together.

12:16:05 15 CHIEF JUSTICE LIPPMAN: I think that's a
16 key issue is collaboration. We're all in this
17 together.

18 JOHN ROMAN: Absolutely.

19 CHIEF JUSTICE LIPPMAN: Whether you're the
12:16:13 20 biggest law firm in the country or --

21 JOHN ROMAN: Right.

22 CHIEF JUSTICE LIPPMAN: -- a rural legal
23 service provider, or the Judiciary for that
24 matter.

12:16:21 25 JOHN ROMAN: Correct.

1 CHIEF JUSTICE LIPPMAN: So let's --
2 talking about the Judiciary, let's go to Timothy
3 Hunt. How do you use -- Principal Law Librarian
4 in the Seventh Judicial District. How do you use
12:16:32 5 technology to help people?

6 TIMOTHY HUNT: Chief Judge Lippman,
7 Presiding Justice Scudder, Chief Administrative
8 Judge Marks and President Miranda, I want to first
9 thank you for allowing me the opportunity to speak
12:16:47 10 today.

11 One way we use technology, Your Honor, is
12 data collection. When these unrepresented
13 litigants come into our Help Center, we have to
14 fill out a form. Either fill it out on paper or
12:17:01 15 we have an iPad, and after the volunteer attorney
16 works with him, he fills out -- he or she fills
17 out her own form.

18 Based on this information, we're able to
19 create stats, and using these stats we can
12:17:13 20 determine most frequent case types and what
21 services in the forms are requested most and that
22 allows us to streamline and fine tune or offer
23 training.

24 CHIEF JUSTICE LIPPMAN: Explain to people
12:17:23 25 a little bit what this concept is of the Help

1 Center? We don't represent people in the courts.
2 What does this business about a Help Center, what
3 do you do with this and how does it fit in to the
4 role of the Court?

12:17:37 5 TIMOTHY HUNT: Your Honor, that's a good
6 question. The Help Center was established in 2013
7 to assist the growing number of unrepresented
8 litigants in our court system.

9 CHIEF JUSTICE LIPPMAN: Is it our
12:17:49 10 responsibility, does the court system take a
11 responsibility --

12 TIMOTHY HUNT: Yes.

13 CHIEF JUSTICE LIPPMAN: -- to help people?

14 TIMOTHY HUNT: Yes.

12:17:54 15 CHIEF JUSTICE LIPPMAN: Why is that? I
16 know the answer.

17 TIMOTHY HUNT: My boss told me so, that's
18 why.

19 CHIEF JUSTICE LIPPMAN: That's a good
12:18:05 20 answer. Try another one.

21 TIMOTHY HUNT: Well, actually Honorable
22 Fisher would be the best person to ask, but she's
23 not up here today, but yes, it is our -- I think
24 it's an obligation of the court system. I mean we
12:18:18 25 have a captive audience in that building, and

1 they're looking for help as soon as they walk out
2 of the courtroom, and what better place to go than
3 a Help Center Law Library. Now, it's a designated
4 Help Center.

12:18:32

5 CHIEF JUSTICE LIPPMAN: I think the point
6 is we in the judiciary, certainly in the state,
7 don't think that we just stand on the side and
8 dispose of cases without a concern as to whether
9 there is equal justice, that everyone gets their
10 day in court.

12:18:50

11 Our job is to make sure that the playing
12 field is level. So that, you know, no one comes
13 in -- we're not going to -- the Judge is not going
14 to represent the litigant.

12:19:03

15 By the same token, the court system, the
16 Judiciary that Timothy Hunt represents feels a
17 responsibility to make sure that everyone comes
18 and has a chance to state their case, to seek
19 justice, and we can't just be -- well, again,
20 we're not going to violate our neutral role as the
21 arbitrator in dispute.

12:19:24

22 We're also just not an observer of what is
23 happening, and when people come into the courts,
24 we just kind of whatever happens, happens. We
25 want them to have their chance and that's why the

12:19:38

1 Help Center that Timothy is talking about is our
2 effort to have these people who come in and wander
3 around the courthouse and have no idea what to do
4 to get justice. We need to give them a helping
12:20:00 5 hand. Again, we're not representing them, but
6 we're helping them.

7 Let's take it from our fourth witness on
8 this panel, Pro Bono Attorney talking about
9 technology and how it helps each of the players in
12:20:16 10 this process. As a Pro Bono Attorney, what do you
11 use technology for?

12 ROBERT NICOLAIS: All right. Let me begin
13 with good afternoon, Chief Judge Lippman,
14 distinguished Members of this Panel. Thank you
12:20:28 15 for allowing me this opportunity to provide you
16 with a pro bono practitioner's experience with the
17 partnership between the New York State Unified
18 Court System Access to Justice Initiative Court
19 Help Center and --

12:20:42 20 CHIEF JUSTICE LIPPMAN: Most important
21 player.

22 ROBERT NICOLAIS: Okay. And Volunteer
23 Legal Services Project of Rochester in the Seventh
24 Judicial District.

12:20:50 25 Little background. I have been a practicing

1 attorney for over 23 years. Most of my legal
2 experience has been in the public sector,
3 including ten years as an attorney in the New York
4 State Unified Court System, Ninth Judicial
12:21:05 5 District, White Plains Supreme Court. That is
6 kind of familiar.

7 CHIEF JUSTICE LIPPMAN: Yes.

8 ROBERT NICOLAIS: As part of my various
9 responsibilities, I was assigned to the Ninth JD
12:21:15 10 Help Center which served a population of three
11 million people in five surrounding counties.

12 Upon leaving the court system, I relocated
13 to Monroe County to accept a position as an
14 adjunct faculty member with the Rochester
12:21:31 15 Institute of Technology and to open a private
16 legal practice.

17 I would like to comment briefly on how
18 technology assisted me in finding opportunities to
19 provide legal services to unrepresented persons.

12:21:44 20 CHIEF JUSTICE LIPPMAN: So how do you
21 actually zero in on --

22 ROBERT NICOLAIS: Right on. I got it.
23 While utilizing the Unified Court System web-based
24 attorney registration program, I became aware of
12:21:59 25 the Attorney Emeritus Program which --

1 CHIEF JUSTICE LIPPMAN: You're not old
2 enough to be in the Attorney Emeritus Program.

3 ROBERT NICOLAIS: Thank you very much.
4 Hair color.

12:22:08 5 CHIEF JUSTICE LIPPMAN: Good. Good. Go
6 ahead.

7 ROBERT NICOLAIS: Seeks to provide quality
8 pro bono legal services by experienced attorneys
9 to New Yorkers in need.

12:22:18 10 Now, this is important, I hope I communicate
11 it. I continued to find out more about the
12 program through this site which linked me to
13 Volunteer Legal Service Providers in Monroe
14 County. So it's just a couple of clicks directing
12:22:34 15 you right to the county that I have an interest
16 in.

17 The site contained a comprehensive list of
18 providers, which included individual links to the
19 providers and their contact person, telephone
12:22:45 20 number and e-mail.

21 CHIEF JUSTICE LIPPMAN: Let me stop you
22 for a second to explain to the audience what the
23 lawyers Emeritus Program is. I think I mentioned
24 in my opening remarks it is suppose to attract
12:22:56 25 baby boomers, people who are slowing down on their

1 legal practice, and yet want to do something
2 meaningful. They may not be doing what they did
3 for most of their careers, but what they do at a
4 certain stage in any career. Go ahead.

12:23:11

5 ROBERT NICOLAIS: Okay.

6 CHIEF JUSTICE LIPPMAN: So automatically
7 connects them, that's what Robert is saying, to
8 these different legal service centers.

12:23:21

9 ROBERT NICOLAIS: Not only did the site
10 provide me with the basic contact information,
11 this site linked me with the provider's website
12 which described in detail services offered, so I'm
13 still on screen. I'm drawing down. It is point
14 and click.

12:23:35

15 Uhm, while reviewing the kinds of services
16 the providers offered, I saw on a video on the
17 Volunteer Legal Services Project website that the
18 Volunteer Legal Services Project partnered with
19 the Unified Court System Access to Justice
20 Initiative by providing attorney volunteer
21 staffing to the Seventh Judicial District Help
22 Center. I'm closing the loop now.

12:23:51

23 CHIEF JUSTICE LIPPMAN: So it all comes
24 together.

12:24:00

25 ROBERT NICOLAIS: As noted earlier in my

1 remarks, I had a great deal of experience working
2 in the Ninth JD Help Center. I felt it was the
3 perfect fit for me to work with Volunteer Legal
4 Services Project and the Unified Court System
12:24:11 5 staff at the Help Center.

6 CHIEF JUSTICE LIPPMAN: I think the
7 problem is, and you'll correct me if I'm wrong, a
8 lot of people who want to do pro bono work don't
9 know how to go about doing it. And technology --
12:24:24 10 it's not only our program, which Robert has, you
11 know, found and been so helpful, there are things
12 like probono.net, which is a program that a lot of
13 people in large law firms use to do what Robert
14 did, to connect to a particular program or a
12:24:49 15 particular kind of work.

16 Let me ask you, I'll ask you a leading
17 question, too. Why do you do pro bono work? I
18 know the answer, too, but tell us.

19 ROBERT NICOLAIS: Uhm, you're going to get
12:25:07 20 the answer: For an opportunity for me to give
21 back.

22 CHIEF JUSTICE LIPPMAN: Why is that
23 important?

24 ROBERT NICOLAIS: That's the best way I
12:25:13 25 can tell you that.

1 CHIEF JUSTICE LIPPMAN: Why is that
2 important to you?

3 ROBERT NICOLAIS: I have a case. I will
4 give you an overview.

12:25:19 5 CHIEF JUSTICE LIPPMAN: Go ahead.

6 ROBERT NICOLAIS: All right. Let me get
7 to that, and I will close the loop on that one,
8 too.

9 CHIEF JUSTICE LIPPMAN: Go ahead.

12:25:25 10 ROBERT NICOLAIS: I contacted Volunteer
11 Legal Services Project and spoke to the contact
12 person regarding my interest in the Help Center,
13 my experience in the Ninth JD.

14 I then met with members of Volunteer Legal
12:25:35 15 Services Project and the Court Librarian, and
16 sitting to my right, Tim Hunt, at the Help Center.

17 Since the meeting, I volunteered
18 approximately 60 hours of legal services to the
19 Help Center. In my experience, I would not have
12:25:49 20 been aware of the many opportunities to
21 participate in volunteering my services but for
22 the web-based technology that directed me from the
23 Court Attorney Emeritus Program and then to the
24 Volunteer Legal Services Project and then to the
12:26:04 25 Help Center. This is important. The process was

1 intuitive, easy to navigate and simple. It was
2 point and click.

3 It has often been said that one of the best
4 ways to illustrate a point is through example. I
12:26:17 5 would like to share with you a case that I handled
6 for an unrepresented person that utilized the
7 Unified Court System and the Volunteer Legal
8 Services Project technology.

9 I recently accepted a case from Volunteer
12:26:30 10 Legal Services Project that involved a transgender
11 individual that was seeking a name change with a
12 sealing order.

13 Through the use of e-mail from the Volunteer
14 Legal Services Project, I obtained all the
12:26:43 15 pertinent information I needed to commence
16 representing this individual.

17 Understanding that a name change was an
18 important and pivotal part of the process that
19 this individual is undertaking, I was able to
12:26:57 20 reduce the number of times that the individual
21 would have to come to the Help Center. I needed
22 to prepare -- I needed to prepare the necessary
23 documents for the name change.

24 I then accessed the Unified Court System
12:27:11 25 web-based do-it-yourself, DIY program and

1 completed and drafted the petition, RJI --

2 CHIEF JUDGE LIPPMAN: And related
3 documents and saved them in the program. All
4 technological.

12:27:23 5 ROBERT NICOLAIS: It's all in there. Only
6 by one phone call so far to the unrepresented. I
7 contacted the individual by telephone and reviewed
8 the drafted documents with the individual. Once
9 we were satisfied with the documents, I set up an
12:27:36 10 appointment to meet the individual at the Help
11 Center for a final review of the documents, which
12 I printed out at the Help Center.

13 I didn't have to carry anything. If any
14 changes had to be made, I can easily access the
12:27:49 15 documents in the system and make the changes while
16 the individual was present.

17 Upon final review, the individual signed the
18 petition, which I notarized, and a copy of the
19 documents was provided to the individual. In this
12:28:02 20 instance, the cooperative efforts between the
21 Volunteer Legal Services Project and the Help
22 Center provided a platform that streamlined the
23 use of easy access web-based technology so that
24 the individual had to make only one trip to the
12:28:17 25 Help Center.

1 CHIEF JUSTICE LIPPMAN: Let me sum up, and
2 I think it carries to all the terrific people on
3 this panel. The technology is not dry when the
4 result is that you help human beings. And it may
12:28:35 5 seem like: Gee, I pushed a button, what's it
6 mean. It means something when the end result is
7 that a human being, a life can be turned around,
8 or at least immeasurably helpful. I think this
9 panel has emphasized that issue. Let me ask
10 anyone on our panel --

11 JUSTICE SCUDDER: I do. Tim, I'm aware of
12 the problems with the Help Center in the Seventh.
13 I know the Appellate Division Fourth Department
14 has tried to help some, but I'd just like to know,
12:29:12 15 do you have any ideas how we can make it better to
16 help the center -- Help Center?

17 I mean to the point maybe is it in the right
18 place? I know we are building courtrooms and that
19 kind of thing. I'd like to hear from you on that.

12:29:28 20 TIMOTHY HUNT: As far as it being located,
21 Your Honor, it is in the right place. It's on the
22 fifth floor. Very spacious room for all.
23 Attorneys use the space, so we kind of monitor,
24 make sure they have their own space as well as --

12:29:42 25 CHIEF JUSTICE LIPPMAN: How do people in

1 the courthouse know it is there on the fifth
2 floor?

3 TIMOTHY HUNT: Every front counter
4 personnel refers them up there, Your Honor.

12:29:50 5 CHIEF JUSTICE LIPPMAN: Go ahead. Right.

6 TIMOTHY HUNT: And we have the resources
7 up there as far as complexities, books and the
8 staffing. It's a truly collaborative effort by
9 VLP and us. It's a hybrid, and I consider it very
10 successful as far as improvement.

12:30:07

11 CHIEF JUSTICE LIPPMAN: You have enough
12 people there who work there?

13 TIMOTHY HUNT: Well, speaking of
14 technology, what speed does is they use technology
15 to recruit, schedule, train and recognize our help
16 center volunteers.

12:30:20

17 CHIEF JUSTICE LIPPMAN: Do you have the
18 technology you need to make it work?

19 TIMOTHY HUNT: Yes --

12:30:28

20 CHIEF JUSTICE LIPPMAN: Good.

21 TIMOTHY HUNT: -- at this point. As far
22 as improvement, based on my stats, because of the
23 limited staff from VLSP and the courts, we count
24 on the volunteers to help us operate. But the
12:30:45 25 minute -- these people are corporate counsel,

1 large law firms, we have some recent graduates,
2 when they walk in, you know, these are very
3 intelligent people, but they are scared because I
4 don't know what to tell somebody about an eviction
12:31:01 5 notice. I say this is street law. This is where
6 the law hits the street.

7 So we -- one of the things I think we can do
8 to improve in using technology is to -- I would
9 pick the five top subject matter, and I would set
12:31:18 10 up some training, which we would link on the VLSP
11 site to, for instance, domestic relations. We
12 have a lot of people who come in for an
13 uncontested divorce.

14 CHIEF JUSTICE LIPPMAN: You mean training
12:31:31 15 for the volunteers?

16 TIMOTHY HUNT: Train the volunteers so
17 they become more proficient and knowledgeable and
18 able to look at this before they walk in.

19 CHIEF JUSTICE LIPPMAN: Right. I think
12:31:41 20 that's a really good idea. Any other questions?
21 Okay. I think you demonstrated in a lively way
22 the benefits of technology, so thank you so much.

23 (Applause)

24 CHIEF JUSTICE LIPPMAN: Technology are
12:32:00 25 really a great end to help people. Okay. So next

1 we're going to see, and this is a very
2 entertaining witness, I am very familiar with this
3 witness, and I think you will be interested in
4 what he has to say. He's going to give you an
12:32:36 5 assessment of the Judiciary's efforts to address
6 unmet needs for Civil Legal Services in New York.

7 And Ron will explain what we are trying to
8 do, what we are trying to find out that you will
9 be telling us today what you found out.

12:32:53 10 RONALD YOUNKINS: Okay. Good morning.
11 Good afternoon. Pleasure to be here. I will be
12 testifying about a number of -- I will be
13 testifying about numbers and stats. I find it
14 very interesting, but I know it's rather dry.

12:33:09 15 CHIEF JUSTICE LIPPMAN: It will not be dry
16 the way you give it.

17 RONALD YOUNKINS: I will try to make it
18 interesting. I will not read my testimony
19 verbatim. You can pour over it. What we are
12:33:19 20 trying to do is, as you mentioned in your opening
21 statement, six years ago we had no money in the
22 Judiciary budget for Civil Legal Services.

23 The current year we have \$85 million. As a
24 result of that, we have been able to give grants
12:33:32 25 to 78 providers around the state ranging from

1 fairly modest amounts, around \$19,000, to a couple
2 of grants in the \$8 million range as a result of
3 the increase.

4 CHIEF JUSTICE LIPPMAN: These are grants
12:33:47 5 to Legal Service Providers?

6 RONALD YOUNKINS: Legal Service Providers.
7 As a result of the steady increase in the
8 Judiciary budget for funding for Civil Legal
9 Service providers, there has been a significant
12:33:59 10 increase of money available statewide for this
11 purpose.

12 According to the IOLA board, in 2010 from
13 all sources there was \$216 million available for
14 Civil Legal Services. Four years later, largely
12:34:16 15 as a result of the increased funding available in
16 our budget, that amount had increased to \$297
17 million. That's a 38 percent increase in funding.
18 So the question that I want to talk about today is
19 what are we getting for that.

12:34:30 20 CHIEF JUSTICE LIPPMAN: Right. We want to
21 know what the monies have accomplished.

22 RONALD YOUNKINS: What they accomplish.

23 CHIEF JUSTICE LIPPMAN: But explain that
24 prior to the State getting our -- getting this
12:34:39 25 large amount of State funding, Legal Services were

1 funded in a lot of different ways. Some come from
2 legal services corporations?

3 RONALD YOUNKINS: Yes, some private
4 funding.

12:34:51 5 CHIEF JUDGE LIPPMAN: Yes.

6 RONALD YOUNKINS: It's a hodgepodge of
7 sources of money.

8 CHIEF JUSTICE LIPPMAN: We kind of
9 consolidated or at least made as the big ticket
10 the monies that come from State government.

11 RONALD YOUNKINS: Right. It gives certain
12 stability to know you have this year after year,
13 and you can build upon it, and many of these
14 providers every year they ask for increased
15 amounts of money in building infrastructure to
16 possibly make them more efficient because of this
17 increase of the money.

18 CHIEF JUSTICE LIPPMAN: We accomplished
19 almost a 40 percent increase in funding for legal
12:35:26 20 services in the State, whatever the source?

21 RONALD YOUNKINS: Yes.

22 CHIEF JUSTICE LIPPMAN: Then the question
23 comes up, how many cases does that involve and
24 more than that, how have we addressed the justice
12:35:37 25 gap, the gap between the need and the services

1 available?

2 RONALD YOUNKINS: First question, how many
3 cases. That's the easy part. And there has been
4 a steady increase in the number of cases. Just
12:35:49 5 last year versus the prior year about a ten
6 percent increase in the number of cases.

7 The more interesting question was the one
8 you raised just now and in your opening remarks,
9 how are we doing in terms of the justice gap, and
12:36:02 10 we have looked at that, and I think we have some
11 encouraging news, also news that that shows
12 there's a lot more to do.

13 To do this, this analysis, what we did is we
14 began with a study on the Task Force on expanding
12:36:19 15 access to Civil Legal Services, which is the
16 predecessor of the Permanent Commission.

17 They have done a study in 2010. They
18 actually hired a research group called Lake
19 Research Partners to conduct an assessment of the
12:36:32 20 degree to which the need for Civil Legal Services
21 would be met in New York, and they did this very
22 methodically.

23 They actually conducted a survey of a large
24 group of low-income New Yorkers, a structured
12:36:48 25 interview asking them if they had over the prior

1 year legal issues in a whole host of areas. They
2 compared that with the number of people in New
3 York State that were living at or below 200
4 percent of the Federal poverty guidelines.

12:37:04 5 At that point, there were six million
6 people. Putting those two things together, six
7 million people and the results of the survey, what
8 they determined was that half of the people living
9 at or below 200 percent of the poverty guidelines.

12:37:18 10 In other words, three million people had at
11 least one legal need in the prior year, not -- 1.7
12 of them had one or two legal needs; and 1.2 had
13 three, and those were considered to be the people
14 with, you know, greatest need for legal
15 assistance.

12:37:35 16 So they measured the degree to which we were
17 meeting the need in terms of how we were
18 satisfying the need with regard to that 1.2 that
19 had three or more legal needs, and they took data
12:37:47 20 that they had from IOLA with respect to the number
21 of cases that were closed, and then they just did
22 some simple math, and what they concluded was at
23 that point we were meeting 22 percent of the most
24 serious legal needs of low-income New Yorkers. We
12:38:04 25 were asking --

1 CHIEF JUSTICE LIPPMAN: That was at what
2 point you're talking about?

3 RONALD YOUNKINS: That's in 2010. 2010.

4 CHIEF JUSTICE LIPPMAN: Keep going.

12:38:10 5 RONALD YOUNKINS: We were asked more
6 recently, four years later where this huge ramp up
7 in additional Civil Legal Services funding, how
8 are we doing today? So we essentially went back
9 and updated the same methodical. The first thing
12:38:25 10 we did is to look at the need. Is the need the
11 same?

12 And so we looked at the number of people
13 living at or below 200 percent of the Federal
14 poverty guidelines. Unfortunately, that number is
12:38:37 15 increasing.

16 CHIEF JUSTICE LIPPMAN: Right.

17 RONALD YOUNKINS: According to the Kaiser
18 Family Foundation, based on the Census Bureau 2014
19 population survey updates, it is now 35 percent of
12:38:49 20 New Yorkers, not 30 percent. That's an increase
21 of --

22 CHIEF JUSTICE LIPPMAN: At or below the
23 poverty level. You listening to what he is
24 saying? 35 percent of the people in this state
12:39:01 25 are at or below the poverty level.

1 RONALD YOUNKINS: Right. So it use to be
2 six million. Now it is 6,750,000. So the number
3 of people living at or below the poverty level is
4 increasing. So what we did is some math to figure
12:39:17 5 out what that means in terms of the number of
6 people, low-income New Yorkers that have two or
7 more -- I'm sorry, three or more legal needs, and
8 we concluded that whereas in 2010 it was 1.2
9 million, it is now increased by 150,000, so it is
12:39:34 10 1.35 million people. It's a 12 percent increase.
11 In other words, the problem has been increasing.

12 CHIEF JUSTICE LIPPMAN: There's more need?

13 RONALD YOUNKINS: There's more need, yes,
14 absolutely. But at the same time, more is being
12:39:48 15 done because there is additional funding. And so
16 what we did is to take that new assessment of the
17 need, the larger need and, again, did simple math
18 in terms of how many cases are being handled now
19 against that larger need, and what we found is
12:40:03 20 that, in fact, we are now meeting 31 percent of
21 the need. We have been meeting 22 percent. We're
22 now meeting 32 percent, but a larger need.

23 CHIEF JUSTICE LIPPMAN: I was just going
24 to say what we want to demonstrate is this money
12:40:19 25 means something that we are getting to help people

1 who need legal representation, so the testimony is
2 that even though there is a greater need in the
3 State, there's more people that need our
4 assistance since the time when they did five years
12:40:37 5 ago, these original numbers. We are meeting a
6 much greater amount of that.

7 RONALD YOUNKINS: We're not keeping pace.
8 We are actually making progress.

9 CHIEF JUDGE LIPPMAN: We are getting up to
10 meeting a third of the need, even though the pie
11 is bigger, so I think, you know, that shows a lot.

12 RONALD YOUNKINS: I think it does. I
13 think it is encouraging what it shows is while the
14 funding has increased by 38 percent, that's the
12:41:02 15 total funding for Civil Legal Services New York,
16 that's increased by 38 percent, the increase from
17 22 to 31 percent. Do the math. That's an
18 increase of actually 41 percent. So the increase
19 funding was 38 percent.

12:41:17 20 The increase in terms of people being served
21 is a 41 percent increase over what we were doing
22 in 2010, so I think that is -- that is good news.
23 The other side, though, is what the data shows,
24 there is still 69 percent of the population that
12:41:34 25 is not being met.

1 JUSTICE MARKS: Ron, you say 31 percent of
2 the need is being met?

3 RONALD YOUNKINS: Yes.

4 JUSTICE MARKS: Does that include pro
12:41:44 5 bono?

6 RONALD YOUNKINS: Uhm, yes and no. That's
7 an interesting question. Complicated one. It
8 does to a certain extent include work done pro
9 bono by attorneys. Many attorneys do pro bono
12:41:55 10 through organizations, so to the extent that
11 attorneys are doing pro bono work --

12 CHIEF JUSTICE LIPPMAN: Through the
13 providers?

14 RONALD YOUNKINS: Through providers, yes.

12:42:03 15 CHIEF JUSTICE LIPPMAN: That's included in
16 the number?

17 RONALD YOUNKINS: That's included in the
18 numbers. They report to us. That would include
19 work done by the provider, so to the extent in
12:42:12 20 which the work is pro bono work is being done
21 through the providers that is embedded and already
22 incorporated in to the numbers, so in other
23 words --

24 CHIEF JUSTICE LIPPMAN: So pro bono work
12:42:21 25 the firms or individual lawyers do on their own,

1 not through the legal service providers, are not
2 accounted for?

3 RONALD YOUNKINS: That is not accounted
4 for in the numbers.

12:42:31 5 CHIEF JUSTICE LIPPMAN: Does that mean in
6 reality we are reaching more than the 31 percent?

7 RONALD YOUNKINS: Absolutely. The reality
8 is we are. We don't know exactly what that is. I
9 have some ideas how we may measure that.

12:42:43 10 CHIEF JUSTICE LIPPMAN: So your next
11 mission, Ron, is to figure that out because you
12 know what we have in New York State now is
13 mandatory pro bono reporting of the work that
14 lawyers are doing to help poor people.

12:43:04 15 Maybe we can take that reporting and maybe
16 we're able to more clearly answer the question of
17 how much are we really meeting in terms of the
18 need.

19 RONALD YOUNKINS: Yes. I asked the
12:43:17 20 Director of Resources of the Office of Court
21 Administration to do that.

22 CHIEF JUSTICE LIPPMAN: So you are trying
23 to say you are one step ahead of us?

24 RONALD YOUNKINS: Barely.

12:43:25 25 CHIEF JUSTICE LIPPMAN: Good.

1 RONALD YOUNKINS: Yes, I think with that
2 new reporting, particularly as to the reporting
3 requirements have changed in May, because now we
4 are specifically getting at pro bono that is done
12:43:36 5 pursuant to 6.1 of the Rules which deals --

6 CHIEF JUSTICE LIPPMAN: Right. You know
7 what, I think to -- particularly to leaders of the
8 bar, like our friend David Miranda, President of
9 the Bar Association, that would be very important
12:43:50 10 for them to know.

11 RONALD YOUNKINS: Yes.

12 CHIEF JUSTICE LIPPMAN: Gee, what is our
13 product doing, you know, all the hard work that
14 lawyers do, to be able to demonstrate that there
12:44:01 15 really is a noble profession, and I think data is
16 really tremendously helpful to all of us in
17 figuring out if it is the bar, the court system,
18 the Chief Judge, where we go from here. They have
19 to understand where we are.

12:44:18 20 RONALD YOUNKINS: Absolutely. Just a
21 couple of other points about that.

22 CHIEF JUSTICE LIPPMAN: Yes, tell us what
23 else.

24 RONALD YOUNKINS: We do have some sense
12:44:24 25 now about the amount of total pro bono. We think

1 the State Bar has estimated about two and a half
2 million hours of pro bono is being devoted by the
3 State Bar.

4 We think that about 20 to 25 percent of that
12:44:38 5 is being done through Civil Legal Services
6 Providers, which means they are talking about 75
7 or 80 percent that is unaccounted for. That is
8 your point to look at it. That is a lot.
9 Obviously, not all of it would be in civil areas.
12:44:52 10 Not all of it is necessarily for poor people,
11 still I think a substantial amount.

12 CHIEF JUSTICE LIPPMAN: But the reporting
13 system now is pretty detailed as to where that
14 work is going, right, and you know what part of
12:45:05 15 the bar it comes from.

16 So all of that, I think the more information
17 we get, the more we can better see where we are,
18 and then again decide what else needs to be done.

19 RONALD YOUNKINS: Absolutely.

12:45:18 20 CHIEF JUSTICE LIPPMAN: Great. Anything
21 else? That was terrific. I told you he would
22 make this very, very interesting. Thank you for
23 your presentment.

24 RONALD YOUNKINS: Thank you.

12:45:30 25 (Applause)

1 CHIEF JUSTICE LIPPMAN: Okay. Now we're
2 going to have -- this is really what this is all
3 about. This is the clients, the people that are
4 helped by Legal Services, so I'm going to ask
12:45:44 5 Colleen McElligott, client, Volunteer Legal
6 Services Project, accompanied by Mary Beth Conway
7 to come forward.

8 Liliana Alvarado-Rojo, client of Erie County
9 Bar Association Volunteer Lawyers Project,
12:46:03 10 accompanied by Emma Buckthal.

11 And Timothy Shine, client of the Legal
12 Assistance of Western New York, accompanied by
13 Louis Prieto. So come on up.

14 All right. So we will start with Colleen
12:46:25 15 McElligott. Is that the right pronunciation?

16 COLLEEN McELLIGOTT: Yes.

17 CHIEF JUSTICE LIPPMAN: Tell us how Legal
18 Services has impacted on your life. Mary Beth I
19 assume has been a part of it?

12:46:38 20 COLLEEN McELLIGOTT: Yes, she has. Thank
21 you for having me here this afternoon to tell my
22 story. This is a great opportunity for me and I
23 really appreciate being here.

24 Uhm, again, my name is Colleen McElligott.
12:46:53 25 I am a victim and a survivor of domestic violence

1 for almost 18 years.

2 Uhm, I was in a 15-year marriage with my now
3 ex-husband who physically, mentally, everything
4 just abused me and my children for years. Uhm, I
12:47:13 5 felt like I had --

6 CHIEF JUSTICE LIPPMAN: What led you to
7 break from this intolerable situation, and how did
8 you decide where to go?

9 COLLEEN McELLIGOTT: Uhm, I went online
12:47:28 10 and looked for services in Monroe County in
11 Rochester. Uhm, because I was at the point where
12 I felt like I didn't have any way out.

13 CHIEF JUDGE LIPPMAN: So you were
14 desperate to do something?

12:47:40 15 COLLEEN McELLIGOTT: I needed to do
16 something and just do it quickly.

17 CHIEF JUDGE LIPPMAN: So you went to the
18 web?

19 COLLEEN McELLIGOTT: Yes. Because I had
12:47:46 20 no job. He made me depend on him for everything.
21 Uhm, and --

22 CHIEF JUSTICE LIPPMAN: It took a lot of
23 courage I know to do that. Keep going.

24 COLLEEN McELLIGOTT: I wanted to just get
12:47:56 25 out. I wanted to leave. I had left and I was

1 staying with my parents for a couple of weeks
2 because it had gotten really bad.

3 Uhm, so I contacted the Volunteer Legal
4 Service Project, and I went down and I just wanted
12:48:15 5 to do a simple divorce and just get it over with
6 and just get away from him, and they advised me
7 not to do that and advised me what my rights were,
8 and what my childrens were and what I was entitled
9 to from this man.

12:48:32 10 CHIEF JUSTICE LIPPMAN: So what did you do
11 next?

12 COLLEEN McELLIGOTT: Uhm, Sharon Kelly
13 Sayers took my case pro bono, and she saved my
14 life.

12:48:44 15 CHIEF JUSTICE LIPPMAN: What happened once
16 Legal Services helped you, what changed in your
17 life?

18 COLLEEN McELLIGOTT: They made him vacate
19 the house. Uhm, the house was in his name.

12:48:57 20 CHIEF JUDGE LIPPMAN: Got a court order?

21 COLLEEN McELLIGOTT: Yup. And he had to
22 vacate the house, which took some time and effort
23 because he refused to leave but --

24 CHIEF JUSTICE LIPPMAN: How did you deal
12:49:07 25 with that? How was it dealt with?

1 COLLEEN McELLIGOTT: He eventually left,
2 but he kept coming back and threatening my life,
3 putting his hands on me.

4 CHIEF JUSTICE LIPPMAN: And the Legal
12:49:21 5 Services attorney was able to navigate all of this
6 for you as it was --

7 COLLEEN McELLIGOTT: Yes. They got a
8 restraining order the next day to keep him away
9 from me and the children.

10 CHIEF JUSTICE LIPPMAN: How is your life
11 different today?

12 COLLEEN McELLIGOTT: It's -- I'm a
13 different person. They have completely saved my
14 life. Changed my life. I probably wouldn't be
12:49:42 15 sitting here right now if it wasn't for them.

16 CHIEF JUSTICE LIPPMAN: Without going into
17 detail, we understand what you are saying.

18 COLLEEN McELLIGOTT: It was horrible. I
19 mean the man abused me for years. I have scars
12:49:53 20 all over my body from him as a reminder every day.

21 CHIEF JUSTICE LIPPMAN: So Legal Services
22 fair to say saved your life?

23 COLLEEN McELLIGOTT: Oh, definitely.
24 Definitely. Without Mary Beth and Sharon, Sharon
12:50:05 25 is the strongest women I met in my life, and she

1 gave me so much courage to stand up and fight him
2 back and --

3 CHIEF JUSTICE LIPPMAN: You are the
4 strongest woman and Legal Services is there to
12:50:18 5 help people like you in your situation with things
6 that you don't know how to handle on your own.

7 COLLEEN McELLIGOTT: I didn't. I felt
8 like I didn't have any choice, and I thought this
9 would be my life and just deal with it but --

10 CHIEF JUSTICE LIPPMAN: It's wonderful
11 that you, again, have the courage to come in and
12 tell us your story, because what we're trying to
13 do is make the case of why it's so important that
14 we have Legal Services funding to help people who
12:50:33 15 are really doing God's work and helping others to
16 turn around their life. So thank you so much,
17 Colleen, for coming in.

18 COLLEEN McELLIGOTT: Thank you.

19 CHIEF JUDGE LIPPMAN: We greatly
12:51:04 20 appreciate it. I know how hard it is in a public
21 setting to come in and tell your story.

22 COLLEEN McELLIGOTT: I wanted to look for
23 my children. I mean my children are different
24 now. They're happier, healthier. They see me
12:51:16 25 happy and healthy. And it's just been an amazing

1 experience for me.

2 CHIEF JUSTICE LIPPMAN: You make all of us
3 happy that your life is now in so much more in
4 order.

12:51:28 5 COLLEEN McELLIGOTT: It is.

6 CHIEF JUSTICE LIPPMAN: Thank you.

7 COLLEEN McELLIGOTT: Thank you.

8 CHIEF JUSTICE LIPPMAN: Okay. Let's now
9 hear from --

12:51:33 10 (Applause)

11 CHIEF JUSTICE LIPPMAN: -- Liliana
12 Alvarado-Rojo. So how did Legal Services impact
13 on your life? And I know you're accompanied by
14 Emma Buckthal.

12:51:57 15 LILIANA ALVARADO-ROJO: (Through the
16 Interpreter) Uhm, it was a really big change.
17 After I separated from my abusive spouse, I got
18 Emma's help. With Emma's help I obtained
19 permission to be in this country legally. I got a
12:52:42 20 much better job. My family is happy and we don't
21 have violence in our lives anymore. It helped us
22 a lot economically. I am able to give my kids a
23 dignified life now, a better house. It was a huge
24 change in my life.

12:53:15 25 CHIEF JUSTICE LIPPMAN: Could you have

1 done any of this without the help of Legal
2 Services?

12:53:30 3 LILIANA ALVARADO-ROJO: (Through the
4 Interpreter) no. No. Without them, I wouldn't
5 have been able to do anything.

6 CHIEF JUSTICE LIPPMAN: I wish that every
7 legislator who makes these decisions as to where
8 we invest our public dollars could hear your story
9 and the other stories we're hearing today. So we
10 are so grateful to you for coming in and telling
11 your story because by doing so you're making the
12 case as to why Legal Services for people in need
13 is so important. Thank you so much. Okay.

14 (Applause)

12:54:24 15 CHIEF JUSTICE LIPPMAN: So now we are
16 going to have Timothy Shine, client of Western
17 Legal Assistance of Western New York, accompanied
18 by Louis Prieto.

12:54:37 19 TIMOTHY SHINE: Thanks so much for having
20 this symposium here. What is most impressive is
21 you are all paying attention to every speaker that
22 came up. It's not often you get that.

23 So I live in Rochester. I have seven
24 children, age two to twenty. I am an Army
12:54:54 25 Veteran. And what happened is I got into some

1 trouble with the mortgage and --

2 CHIEF JUSTICE LIPPMAN: Not uncommon in
3 the economy we live in --

4 TIMOTHY SHINE: No.

12:55:02 5 CHIEF JUSTICE LIPPMAN: -- for the last
6 number of years.

7 TIMOTHY SHINE: And the one mortgage
8 service agency decided they were going to
9 foreclose on me, and I went and got a lawyer and
10 stopped the foreclosure. We paid everybody off.
11 Nobody lost any money in that in terms of the
12 payoff. It wasn't like got it for 25 cents on
13 the dollar. We paid it all back.

14 In the middle of that, the mortgage -- your
12:55:27 15 mortgage gets sold a lot of times or moved to many
16 different mortgage servicing agencies, and one of
17 the ones I got to didn't really understand how to
18 apply the funds to the mortgage, and they said
19 that I was delinquent.

12:55:44 20 And we went to court twice. This was in the
21 middle of the bankruptcy because they wanted to
22 save the bankruptcy, and we proved that I was
23 making all the payments because I was using bank
24 checks, certified mail for everything.

12:55:57 25 They then two months after the second court

1 appearance sold the mortgage as a package to my
2 current mortgage servicing agent. And it came
3 that I was around \$17,000 delinquent as far as
4 they were concerned, but I did have all of the
5 checks and everything so I was current.

6 So this went on for few years, and then they
7 finally figured out that I had been cleared from
8 the bankruptcy, and they decided to say: You owe
9 us this money. You're behind. And I said: I'm
10 not behind.

11 We went through a number of transactions
12 that I showed them that I was current and as an
13 individual that they really didn't care, and I
14 heard on the radio there was --

15 CHIEF JUSTICE LIPPMAN: Form of
16 bureaucracy.

17 TIMOTHY SHINE: Forms of bureaucracy I can
18 give lots of examples on. So there was a Valor
19 Day, which was in Rochester. I said: I'm a
20 Veteran. They talked about help with housing and
21 that, and I really couldn't afford the same level
22 attorney I had in the bankruptcy.

23 CHIEF JUSTICE LIPPMAN: Where did you see
24 this?

25 TIMOTHY SHINE: I heard it. It was an ad,

1 like an ad, radio ad, TV ad and newspaper, so I
2 picked it up in an ad.

3 CHIEF JUSTICE LIPPMAN: Said it will give
4 you help without cost?

12:57:17 5 TIMOTHY SHINE: All they said was there
6 would be people there, so I went to that. And
7 there I met Jonathan Placito, who is with Law of
8 New York Legal Assistance of Western New York, and
9 he said that he could help. Once I laid out
12:57:34 10 here's my issue, here's what I have, statistics
11 and proof of payment, and within two months they
12 turned around, and I did get a partial refund.

13 Part of the deal was as I was making my
14 payments, my escrow which is for insurance and
12:57:55 15 taxes, anything over \$50, Federal law says you
16 have to return it. I was around \$21,000 in
17 escrow.

18 Then they started sending foreclosure
19 notices. So I called the guy up. I said: You
12:58:13 20 people are like stupid. I says: There's more
21 money in my escrow than the value of the loan
22 because I'm towards the end. And the first thing
23 they said: Well, it's the complexity.

24 CHIEF JUSTICE LIPPMAN: And someone
12:58:25 25 understands what this mortgage is all about.

1 TIMOTHY SHINE: So he said: It's the
2 complexity. I said: Well it is AI, artificial
3 intelligent software, somebody designed this.
4 Then they said: It's a different department. I
12:58:38 5 said: It's within the same company. And they
6 don't care. They got stuck with by another
7 service agent and they don't want to lose the
8 money, which they are going to do.

9 With the help of the law firm, it made me
12:58:55 10 not just an individual that they can blow off.
11 They had to start paying attention and they did
12 and it was resolved.

13 And this is about -- this symposium is about
14 getting more services for people in need. And as
12:59:12 15 a side thing, one of things we do is we collect
16 bread and give it to homeless agencies, and that
17 we collect it from Panera, collect it from
18 Wegmans. The law unfortunately says when you're
19 done, throw it out, and it is perfect.

12:59:28 20 CHIEF JUDGE LIPPMAN: This is a different
21 kind of help, right? This is where you're trying
22 to help others in need. You got a legal problem
23 and sometimes you just don't know what to do,
24 right? And you can't afford to hire a high-priced
12:59:41 25 lawyer to go --

1 TIMOTHY SHINE: Right. So the point here
2 is that I also saw this group at a homeless
3 symposium, so it was their outreach that I found
4 them, and they go out and find other people who
12:59:56 5 are in need, and if they were not funded or
6 however it is, when I walked in, see all these
7 people, my first question was like: Who is paying
8 for all this stuff? He said: Grants and
9 everything. And so I think it's a really good
13:00:11 10 thing that --

11 CHIEF JUSTICE LIPPMAN: You know, a lot of
12 Legal Services entities made it a point to try to
13 help Veteran's who sometimes have unique problems.
14 You know, yours is not so unique, a foreclosure.
13:00:26 15 You know, people who come back with all kinds of
16 syndromes from --

17 TIMOTHY SHINE: They do, yes. And it is
18 nice they are available because everybody can't
19 afford a lawyer and, you know, if you don't get a
13:00:37 20 lawyer, you get a "C" lawyer, you know. It's just
21 like doctors, you get the "A" doctor or you don't.
22 You a lot of times can't afford them.

23 CHIEF JUSTICE LIPPMAN: But Legal Services
24 dramatically impacted your life?

13:00:54 25 TIMOTHY SHINE: Yeah. I wouldn't have the

1 money to be able to put aside on the rest of my
2 house if I didn't have that money.

3 CHIEF JUSTICE LIPPMAN: And could anything
4 be more important to you than the roof over your
13:01:06 5 head?

6 TIMOTHY SHINE: Right. Protecting my
7 children.

8 CHIEF JUSTICE LIPPMAN: And your children.

9 TIMOTHY SHINE: Yes.

13:01:11 10 CHIEF JUSTICE LIPPMAN: So again, so
11 helpful that someone comes in and explains what
12 his limited amount of funding that is public
13 monies makes such an impact on people's lives.

14 TIMOTHY SHINE: Absolutely.

13:01:26 15 CHIEF JUDGE LIPPMAN: So thank you so
16 much --

17 TIMOTHY SHINE: Thank you.

18 CHIEF JUSTICE LIPPMAN: -- for coming in
19 and telling your story.

13:01:31 20 (Applause)

21 CHIEF JUDGE LIPPMAN: Let me just close
22 the hearing by saying that all of the witnesses
23 today in different ways all get to the same place,
24 which is that we need public funding and, of
13:01:54 25 course, pro bono efforts by the Bar to support

1 people in need who cannot afford Legal Services.
2 Who cannot afford to hire a lawyer and, you know,
3 unfortunately, the cost of legal representation is
4 very hard for them.

13:02:14

5 And believing President Miranda, myself, all
6 of us on this Panel, we're the greatest fans of
7 lawyers, and they make a living by representing
8 people, but there are many people who cannot
9 afford, and I'm not just talking about people who

13:02:36

10 are totally destitute, we're talking about people
11 who have a problem and need assistance, and
12 without that legal assistance, they're not going
13 to be able to solve their problem, which in many
14 circumstances are the most important things in

13:02:54

15 their lives, that are absolutely involving the
16 necessities and essentials of life, so the
17 profession and the Judiciary have joined together
18 to say we need to -- for people who cannot afford
19 that representation, cannot afford to hire a

13:03:14

20 lawyer, we need to get public funding to support
21 Legal Services entities, and we need lawyers to
22 give of themselves often without any compensation
23 services just on the basis of our understanding
24 that this is a noble profession, that in the end

13:03:36

25 it is all about helping people.

1 So we thank everybody who came to these
2 hearings today, those who are in attendance and
3 are witnesses because it helps us to make the case
4 that we need to meet the justice gap in our State,
13:03:56 5 the difference between the legal resources
6 available and the need to address the crisis and
7 Access to Justice here in our State and in our
8 country, and I can't tell you how helpful these
9 hearings are to the Commission, to the Judiciary,
13:04:16 10 and to the Profession in helping us to lay the
11 foundation for doing the things that we need to do
12 to ensure that everybody in this part of the State
13 and all over the State have access to justice.
14 Everyone gets their day in court, so to speak. So
13:04:36 15 thank you so much for being here. Thank you.

16 (Applause)

17 (Proceedings adjourned.)

18

19

20

21

22

23

24

25

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 9:

**Transcript of the Third Department Hearing Held on
October 13, 2015**

NOVEMBER 2015

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPREME COURT OF THE STATE OF NEW YORK
THIRD DEPARTMENT

THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES

COURT OF APPEALS
20 Eagle Street
Albany, New York 12207

BEFORE:

HONORABLE JONATHAN LIPPMAN
Chief Judge

HONORABLE LAWRENCE K. MARKS
Chief Administrative Judge

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

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

Colleen B. Neal
Official Court Reporter

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

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

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

25 Our legal service providers in this state are

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

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

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

22 The Judiciary recognizes that it is our
23 Constitutional mission to foster equal justice and that it
24 is central to what we do and not tangential. And so we do
25 all of this recognizing that we cannot have two million

1 people in New York State who come to the courts
2 unrepresented. That's not what equal justice is about.
3 It can't be that you cannot have your legal problem
4 resolved unless you have a large amount of money in your
5 pocket. Our studies have shown that for every dollar
6 invested in legal services for the poor, \$10 are returned
7 to the state in decreased social service costs, decreased
8 incarceration costs, more federal funding coming to the
9 state.

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

1 So I think that we can truly say that there is a
2 revolution in access to justice in our state and in our
3 country. There are many exciting things happening here in
4 New York and around the nation. We are re-prioritizing
5 the importance of legal services for the poor here in New
6 York with a recognition that it is as important as
7 housing, schools, hospitals and every other thing that we
8 hold dear in our state. That we don't say that gee we
9 don't have a lot of money this year so we're not going to
10 educate our children, or we don't have a lot of money this
11 year so we're not going to tend to our sick. And we can't
12 say gee we don't have a lot of money this year so we're
13 not going to provide desperately needed legal services for
14 the poor.

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

1 have a lawyer that needs representation. That is the
2 ultimate goal of what we're doing.

3 We're delighted to have you here. We have a
4 wonderful series of speakers. I would ask each of the
5 speakers -- and this first panel I don't want to push too
6 hard, I'm just making a request, because you actually go
7 to a higher source than even the Judiciary of the State of
8 New York and we are well aware of that on this panel. But
9 what we are suggesting to panelists, that if you want to
10 you can read your statement, but there's really no reason
11 to, you can just say what's in your heart and tell us what
12 you have to say and what your testimony is. We may
13 interrupt you a little bit for questions either during
14 your presentations or when you finish.

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

23 So without further ado, the first panel, which
24 we are so delighted, and all kidding aside, we are
25 delighted to have an ecumenical panel. And some might ask

1 well what is the relation, why would we have people of the
2 cloth, why would they be here to talk about legal services
3 for the poor? And I suggest that it is a very good
4 reason. You're going to hear, and I would mention that I
5 think it was last year we had Cardinal Timothy Dolan in
6 the New York City hearing who testified and basically said
7 that the doctrine of the church was very much exactly on
8 all fours with the quest of the court system for equal
9 justice and for legal representation for the poor people
10 of need.

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

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

24 We often are the first to hear from people who
25 are in need. They come to us often first, particularly

1 when they don't feel that there's any other place that
2 they can turn. And providing social justice for all
3 regardless of income, race or any other difference is in
4 fact based upon God's call to us. It is a part of our
5 doctrine to help the whittled, the orphaned, the
6 immigrant, the hungry and the homeless.

7 And as you know, Pope Francis recently in his
8 visit here has been reaching not only to Catholics, but
9 inviting everyone to reach out to those most in the
10 margins. We see that as our mission as well. And as the
11 Bishop of Albany, I know firsthand that many Catholics in
12 the Capital District need the services that you work so
13 hard to provide for the poor even throughout New York.

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

20 We're a social services organization, Catholic
21 Charities, the Diocese of Albany works closely with the
22 Legal Aid Society of Northeastern New York in serving the
23 homeless as leaders in the Albany County Homeless
24 Coalition, and together we provide housing, social
25 services and essential civil legal services to those who

1 are without a home.

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

9 However, hearing as I do the remaining unmet
10 need for civil legal services from our parishioners,
11 clergy and parish leaders, we know that more needs to be
12 done. Given the cost-effectiveness of an investment of
13 legal services as \$6 returned to New Yorkers for every one
14 invested means more than that. In fact, makes great sense
15 to work together to meet the unmet need of civil legal
16 services.

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

24 CHIEF JUSTICE LIPPMAN: Reverend, let me ask you
25 how on an everyday basis does legal services affect the

1 flock, the people coming into the local parishes, what are
2 their daily problems that we say gee we need to get a
3 legal service provider to help you? What kind of things
4 do they come in with and does it relate to the very basics
5 of life?

6 REVEREND SCHARFENBERGER: Absolutely. And one
7 of the things I often said is that when I came to
8 Albany -- as you know, they sent me up the river from
9 Brooklyn where I had my pastoral ministry, and one of the
10 things I feared most was that I wouldn't be able to be a
11 pastor anymore. Fortunately, one of the things I like
12 most is getting out of the office and getting into the
13 parish and into the communities. And frequently I'll meet
14 with people, maybe it will be a confirmation, which isn't
15 much different than what any other pastoral person does,
16 people will come up to me, it could be an immigrant
17 family, it could be somebody that is experiencing domestic
18 violence, it could be somebody that is in a difficult
19 marriage situation and they may come to me asking for a
20 church annulment, but at the same time they may be in a
21 civil process as well, or may just simply be a question of
22 somebody that is trying to get the funds together to send
23 their child to school. I can't tell you how many times
24 that there is an interplay between a person's spiritual
25 needs and their need to have --

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

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

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

19 REVEREND SCHARFENBERGER: You're not kidding.

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

22 REVEREND SCHARFENBERGER: That's one of the
23 reasons that I decided to study law myself about 30 years
24 ago, because I felt there was a lack of that need.
25 Because even though I was a priest in the parish, trained

1 to do pastoral work, I didn't often have the legal
2 services available to me.

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

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

12 REVEREND SCHARFENBERGER: That's right. And
13 you're dealing with people that themselves are already
14 vulnerable because of their fear and their anxiety, so
15 they may be able to put them in touch with somebody they
16 understand. And also the language too. Many of our
17 immigrants may not be fluent in English. So having
18 somebody that's bilingual that's key.

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

1 who I mentioned before. So we're so pleased the
2 Commission members are here.

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

5 RABBI ROSS: That's correct, Judge.

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

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

12 It's a privilege to have the opportunity to
13 speak with you about a cause we all care about so deeply,
14 justice for all New Yorkers, and I'm honored to join
15 Bishop Scharfenberger and Pastor Traynham in sharing with
16 you the support of the local religious community for this
17 cause. As you said, I serve with Rabbi Shpeen at
18 Congregation Beth Emeth here in Albany, New York.
19 Rabbi Shpeen asked me to extend his regrets, he was called
20 away at the last minute.

21 Congregation Beth Emeth is the largest reform
22 congregation in the Capital District. Our mission is to
23 worship God in accordance with the Tenets of Reform
24 Judaism, and that includes the reason why we're here
25 today. That is specifically bringing near the teaching of

1 God to the Torah by emphasis on fairness, human
2 responsibility and social justice.

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

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

15 Congregation Beth Emeth has a Social Action
16 Network which strongly supports the work of these civil
17 legal service providers. The mission of our network is to
18 spearhead the commitment of our Congregation Beth Emeth to
19 Tikkum Olam, which is the Hebrew term for improving the
20 world and making our world a better place for all who live
21 here, and to espouse the social justice values of Reformed
22 Judaism.

23 Our efforts to repair the world include the
24 operation of a weekly soup kitchen in downtown Albany. We
25 run this kitchen 52 weeks a year serving meals to the

1 community members who need a hot meal and a place to go.
2 Beth Emeth also has a community vegetable garden, an
3 ongoing food collection program which allows us to provide
4 direct support to the same low-income people our local
5 legal service providers serve. Our congregation also
6 provides leadership and support to all of the local legal
7 services providers.

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

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

24 So on behalf of Rabbi Shpeen and myself, I want
25 to applaud your efforts creating and preserving and

1 increasing funding to meet the essential needs of every
2 New Yorker. Thank you very much.

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

16 RABBI ROSS: Yes, well, you know, where I come
17 from the door to the spirit opens outward, and from a
18 religious perspective I think it's important for each
19 person to make the world a better place. Sometimes I'll
20 talk to people and say well it's my responsibility in
21 life, my religion says to care for myself and I don't want
22 to hurt anybody. And from a Jewish perspective that's
23 inadequate because we're supposed to open that door to the
24 spirit by turning outward and helping others.

25 CHIEF JUSTICE LIPPMAN: Thank you. Anything

1 else? Okay, next we're going to go to Reverend David
2 Traynham who is associated with Elder McKinley B. Johnson,
3 Senior, the pastor of St. John's Church of God in Christ;
4 District Superintendent of the Tech Valley District,
5 Church of God in Christ. Reverend.

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

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

18 I also serve on various community committees:
19 Board of directors for the Albany County Land Bank, the
20 Mayor's Equity Advisory Committee, and I am also serving
21 on the Albany Law Enforcement Assisted Diversion Project.
22 So I'm speaking from the perspective of justice and mercy
23 because I do know that is what is being offered here
24 through the services of the Bar Associations.

25 It's an honor to have an opportunity to speak to

1 you about the cause that touches both of us deeply, Pastor
2 Johnson and myself, he as the pastor of Greater St. John's
3 Church of God in Christ here in Albany, New York.

4 St. John's was founded in Albany in 1952. In 2013 their
5 Family and Community Worship Center opened at 74 Fourth
6 Avenue in the South End. From their current home they
7 serve God and they serve mankind to the best of their
8 ability.

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

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

23 Our church members may need advice or
24 representation to solve the threat of homelessness due to
25 an eviction or a foreclosure; a family dispute, including

1 the threat of violence or abuse; or an unfavorable
2 consumer contract to rent furniture or personal
3 possessions. In the South End there is a 33 percent rate
4 of poverty. Many churches, including mine, are very
5 active in the neighborhood which promotes a sense of
6 community and involves many long-term residents.

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

13 Conversely, almost twice the percentage of
14 households in the South End have incomes of less than
15 \$20,000 per year when compared to the City of Albany as a
16 whole. This breeds problems of lack of food and clothes,
17 increased crime, child abuse, as well as mental, sexual
18 and physical abuse. Drug and alcohol addictions,
19 unemployment or underemployment, including the risk of
20 homelessness, these are the types of problems our members
21 bring to us on a daily basis.

22 We offer spiritual support, but many issues are
23 beyond the scope of our expertise, and we refer our
24 members to our local legal services providers, such as
25 Legal Aid. Legal Aid's Homelessness Prevention Project

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

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

17 CHIEF JUSTICE LIPPMAN: Thank you, Reverend, we
18 appreciate it. Let's dwell a little bit on what you do
19 and what we're trying to do here. You heal the soul, you
20 provide spiritual support. To the average person it would
21 seem like there's no real connection to this idea of
22 lawyers representing people. Can you do your job without
23 the support of people who have this legal knowledge? Can
24 you totally do your magic, your healing, your spiritual
25 role when you don't have the tools to help you in terms of

1 these issues that require legal representations?

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

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

22 REVEREND TRAYNHAM: Yes, they do.

23 CHIEF JUSTICE LIPPMAN: Any other questions?
24 Judge Peters.

25 HONORABLE KAREN PETERS: I understand that the

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

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

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

23 Back then it was the various ethnic groups that
24 were Caucasian, the Italians, Jewish, French and German,
25 African American. It wasn't black and white, it was those

1 various ethnic groups. But today you drive down the
2 street and you find that there's Hispanic, there's also
3 people from Jamaica. You can't identify one group and say
4 this is in its entirety.

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

8 THE COURT: Any other questions? Judge Marks.

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

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

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

25 CHIEF JUSTICE LIPPMAN: Rabbi, Reverend, you

1 find the same thing, that there's an increased need over
2 time?

3 RABBI ROSS: Yes. Specifically as I hear people
4 speaking, when somebody comes to their pastor for counsel
5 this may be the first point where they are reaching out to
6 the social network for help. And that's number one. And
7 number two, it's our responsibility to provide holistic
8 care. So if there is an incidence of domestic violence
9 there's health care concerns, there may be child care
10 concerns, there could be housing concerns, and legal
11 support is critical to that holistic piece.

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

20 CHIEF JUSTICE LIPPMAN: Reverend, same
21 experience?

22 REVEREND TRAYNHAM: It's all about
23 relationships. And so many times, as my father said to
24 me, fear of new immigrants reaching out, particularly to
25 somebody in the legal profession and breaking down that

1 barrier, open up the door to have the conversation is much
2 needed.

3 CHIEF JUSTICE LIPPMAN: Thank you so much. We
4 really appreciate your being here. I think that again
5 it's so obvious that the role that you perform in society,
6 which is so vital, is buttressed by what we're trying to
7 do with legal representation, those in need. And we thank
8 you so much for being part of this effort to help people
9 and to serve people. Thank you.

10 REVEREND SCHARFENBERGER: Thank you.

11 RABBI ROSS: Thank you.

12 REVEREND TRAYNHAM: Thank you.

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

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

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

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

1 services.

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

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

18 I also served as chair of the Virginia State Bar
19 Special Committee on Access to Legal Services for two
20 years and chair of the American Bar Association Section of
21 Taxation's Low Income Taxpayers Committee. I learned
22 firsthand that a representative can have a significant
23 impact in resolving a controversy with the IRS. The
24 absence of representation meant not only that taxpayers
25 sustained adverse audit and litigation outcomes, but many

1 of the issues they faced were never resolved in the
2 courts. As a result -- and this is very important --
3 entire areas of the tax law remained relatively free of
4 judicial interpretation. The invisibility of low-income
5 taxpayers also meant it may be more difficult for the IRS
6 to appreciate the consequences of its administrative
7 practices or procedures with respect to low-income
8 taxpayers, and therefore would be unable to accommodate
9 their needs.

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

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

9 Another essential function of TAS is
10 administration of the Low Income Taxpayer Clinic. The
11 LITC Program Office awards matching grants to qualifying
12 organizations to operate clinics that represent low-income
13 taxpayers in disputes with the IRS and to educate
14 individuals for whom English is a second language about
15 rights and responsibilities as U.S. taxpayers. The LITC
16 must provide services to taxpayers for free or for no more
17 than a nominal fee.

18 Beginning in 1999, Congress appropriated funds
19 annually to provide matching grants to organizations that
20 operate LITCs. Since that time, the LITC program has
21 experienced significant growth in the number of clinics,
22 the amount of funds awarded, and the geographic area of
23 coverage. In its initial year, the IRS awarded grants
24 totaling less than \$1.5 million to 34 entities located in
25 18 states and the District of Columbia. I'm proud to

1 report that in 2014 the IRS awarded nearly \$10 million in
2 grants to 131 grantees located throughout the United
3 States. Nearly every single state and Puerto Rico.

4 Today there are 10 LITCs alone in New York
5 State. In 2014 these clinics, these New York clinics,
6 represented over 1100 taxpayers in tax disputes and almost
7 10 percent of their case inventory involved tax court
8 litigation. They obtained about \$290,000 in refunds. And
9 most importantly, decreased taxes, penalties and interest
10 owed by almost \$2.6 million. This is not chump change for
11 a low-income taxpayer.

12 As a result of the annual appropriations which
13 can award up to \$100,000 grant per year per clinic, many
14 Legal Aid and legal services programs have expanded their
15 services to include tax representation. And this is
16 important particularly in recent years because the IRS's
17 responsibilities have shifted not just in collecting tax,
18 but in distributing government benefits, including the
19 Earned Income Tax Credit, the Additional Child Tax Credit,
20 the American Opportunity Tax Credit, and now they've moved
21 into health care via the Premium Tax Credit and the
22 Advanced Premium Tax Credit.

23 The availability of these credits unfortunately
24 have also created an opportunity for unscrupulous persons
25 to act as tax return preparers and prey upon vulnerable

1 taxpayers. In response, the IRS has stepped up
2 enforcement through correspondence exams and through using
3 filters to freeze questionable refund claims.
4 Consequently, these efforts by the IRS may delay
5 legitimate refunds to eligible taxpayers. And because
6 low-income taxpayers may not understand notices from the
7 IRS or may lack access to the types of documents that the
8 IRS requests, they may be denied benefits to which they
9 were entitled. That is certainly where representation
10 plays a very important role in navigating this process.

11 Now, just to give a little profile to low-income
12 taxpayers, which are also the people who need civil legal
13 services, we focused on 250 percent federal poverty level
14 because that brought in the working poor. An analysis of
15 2012 U.S. Census Data revealed that the most common
16 occupation for low-income worker, people making less than
17 48,000, which is about 250 percent for a family of
18 four. 250 percent federal poverty level. These include
19 nurses, retail clerks, truck drivers, office workers,
20 janitors, cooks, managers, teachers, cashiers, accountants
21 and bookkeepers, customer service representatives,
22 laborers, housekeepers, and child care providers. They
23 also include retirees and disabled individuals who live on
24 fixed income. And others are immigrants who have never
25 before had to file a U.S. tax return. And just to be

1 clear, under the federal system if you are a resident of
2 the United States, regardless of what your green card
3 status is, you have an obligation to report your worldwide
4 income to the United States federal government through
5 income tax return. So even if you're undocumented and
6 you're working you still have to file your income tax
7 return.

8 The defining trait of this population however --
9 scarcity of financial resources -- brings with it a myriad
10 of hardships that present distinctive challenges for tax
11 administration, the legal system. Low-income taxpayers
12 are more likely to face limited English proficiency, low
13 literacy rates, physical or mental disabilities, lower
14 education levels, unstable job prospects, substandard
15 housing situations, lack of affordable child care,
16 unreliable transportation, limited access to banks, and
17 lack of access to competent and affordable tax return
18 preparation services.

19 Now, in order to better understand the needs and
20 circumstances of taxpayers eligible for assistance from
21 low-income taxpayer clinics I commissioned a survey to
22 gather information on eligible taxpayers' awareness and
23 use of LITC services, because if they don't know about the
24 services how will they ever get them. Only about 30
25 percent of all eligible taxpayers in the United States

1 were aware of an organization outside the IRS that helped
2 taxpayers with IRS problems.

3 After these taxpayers were read a description of
4 the LITC nearly 5 percent of all eligible said they
5 actually contacted a clinic at one time or another.
6 Interestingly, over 10 percent of Spanish speakers
7 reported they had used a clinic. Conversely, about 95
8 percent of all eligibles and nearly 90 percent of Spanish
9 speakers had not previously used the services of a clinic.
10 Clearly we have more to do to get the word out about these
11 problems. In fact, about two of every three LITC eligible
12 taxpayers stated they were likely or very likely to use an
13 LITC if they had a need for their services and they would
14 use the LITC for a wide variety of services, including tax
15 court representation. All eligible taxpayers indicated
16 that LITC should be advertised and in a variety of media,
17 including TV, radio, posters, direct mail. They all
18 wanted a letter from the IRS telling them about this. And
19 online.

20 They said that they would be willing to travel
21 20 to 30 minutes for a clinic, but when we asked them
22 about their technological capabilities, and their comfort
23 and preferences for discussing taxes and interacting with
24 an LITC, the taxpayer said that they preferred in-person
25 meetings and meetings at a community services center.

1 About 75 percent of these eligible taxpayers preferred
2 that. Only about 10 percent of all eligible taxpayers
3 were willing to interact by computer. Interestingly, 10
4 percent said they were willing to do video conferencing.
5 And of the Spanish speakers 20 percent said they were
6 willing to do video conferencing. Overall, less than one
7 in five were willing to communicate by email. They wanted
8 to talk in person, whether it was face-to-face or by
9 phone.

10 Now, one important aspect of LITC representation
11 is the clinics' participation in the U.S. Tax Courts
12 calendar calls. More than 75 percent of U.S. Tax Court
13 cases are pro se. Let me repeat that. More than 75
14 percent of their cases are pro se. So prior to each court
15 calendar the Tax Court sends out letters from LITCs in the
16 area informing the petitioner about the assistance
17 available from them. At the opening of the Tax Court
18 sessions throughout the United States LITC representatives
19 are on hand to meet with, consult, negotiate and even
20 enter an appearance on behalf of unrepresented low-income
21 taxpayers. Many cases have been settled without trial at
22 the calendar call through the assistance of LITC staff and
23 volunteer attorneys. And the LITCs are also then able to
24 assist petitioners who may end up owing a liability and
25 thus interact with the IRS collection function.

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

8 Based on suggestions from the working group IRS
9 Chief Counsel sent letters inviting fifteen petitioners
10 with an upcoming trial date to attend pretrial conferences
11 at its Los Angeles offices on August 21st, 2015, just a
12 few months ago. Four petitioners called in advance to
13 reschedule their conferences. But of the remaining
14 eleven, five actually attended the pretrial conference.
15 Of those five, three resolved their tax court cases at the
16 pretrial conference, thus they achieved a 45 percent
17 attendance rate, not counting those who rescheduled, and a
18 60 percent resolution rate.

19 Now, taxpayer rights are central to voluntary
20 compliance. If taxpayers believe they are being treated,
21 or can be treated, in an arbitrary and capricious manner,
22 they will distrust the system and be less likely to comply
23 of their own volition. By contrast, taxpayers will be
24 more likely to comply if they have competence in the
25 fairness and integrity of the system.

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

9 In order to secure access to justice, it is
10 essential that government entities educate the public on
11 their rights to protest government action, and make
12 available pro bono representation to seek relief. The
13 trend towards centralization and automation of government
14 functions leads to a dehumanization of government
15 processes that makes the public feel disconnected and
16 creates additional barriers to engagement with government
17 agencies. If individuals do not engage with their
18 government the government will act on inaccurate and
19 insufficient information, thus leading to endless cycles
20 of distrust. And this risk is particularly acute for the
21 low-income population.

22 But increasing access to justice cannot be a
23 one-sided effort. As we have seen in the tax world the
24 Judiciary, Executive agencies, the Legal Aid and legal
25 services organizations must cooperate with each other to

1 bring much needed assistance to low-income persons.
2 Without this corporation and assistance, our system of
3 laws is itself impoverished.

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

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

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

24 On the other hand, they may also end up with a
25 liability so that that will keep them in the tax system

1 having collection actions taken against them, including
2 levies against their Social Security benefits for years to
3 come.

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

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

11 CHIEF JUSTICE LIPPMAN: Thank you. Anything
12 else?

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

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

1 with them.

2 CHIEF JUSTICE LIPPMAN: President-Elect
3 Gutekunst.

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

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

1 I would also note that taxpayers can also come
2 to the Taxpayer Advocacy Service and by law I am required
3 to have one office in each state and I do have one in
4 Albany here, and we're looking in the Syracuse area to
5 maybe place one in Syracuse as well, one of my offices.

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

16 CHIEF JUSTICE LIPPMAN: Thank you. Judge Marks.

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

25 MS. OLSON: Absolutely. And many of the

1 volunteers at these clinics are accountants, CPAs and role
2 agents who are licensed to take the course, pass an exam
3 to represent the taxpayers before the IRS. And I would
4 also note paralegals -- we've often had paralegals. In my
5 clinic we use paralegals to assist in preparing audit
6 documents, walking the taxpayer through what they needed
7 to gather up, and also translating. And we also partner
8 with community organizations who are able to span the
9 breach of languages so that if you're in a community with
10 Somalis you can work with a Somali community who has a
11 translator on hand and things like that.

12 If I may just add one point which someone was
13 discussing earlier about domestic violence. There's a tax
14 aspect to domestic violence and when I started my clinic
15 we particularly focused on that because we focused on the
16 fact that after the abused spouse or partner may leave an
17 abusive relationship, particularly if they're married what
18 they will find is that there are tax problems from that
19 marriage where income from the abusive spouse has been
20 hidden, but it's a joint return, so just when the abused
21 spouse is getting on her feet, you know, she's now socked
22 with an IRS liability. And there's actually relief under
23 the Internal Revenue laws called Innocent Spouse Relief,
24 generically, that actually provides relief to taxpayers
25 who didn't know about the income of their spouse. And we

1 have worked a lot with domestic violence shelters to sort
2 of pick up the pieces after the separation to make sure
3 that they're able to get back up on their feet and they
4 don't have another obstacle. Did you have another
5 question?

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

14 MS. OLSON: Thank you.

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

25 MR. BURSE: Our organization is In Our Own

1 Voices, we are located in Albany, but we serve seven
2 counties in the capital region. We work primarily with
3 the lesbian, gay, bisexual and transgender community with
4 a particular focus now on LGBT people of color who face
5 additional barriers and challenges when trying to seek
6 safety and support and when navigating through society.

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

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

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

25 MR. BURSE: Some of it In Our Voices has funds

1 for and then we partner with the Legal Project and the
2 Legal Aid Society of Northeastern New York, as well as two
3 private attorneys, Anne Reynolds Copps and Geri Pomerantz.

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

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

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

9 MR. BURSE: I'm off the books.

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

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

16 CHIEF JUSTICE LIPPMAN: How does it change their
17 lives?

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

1 changes, helping get their documents --

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

5 MR. BURSE: Well, we see the consequences on a
6 daily basis because our communities still are reluctant to
7 access our service, whether it's law enforcement, legal,
8 et cetera. Those are depression. Disproportionately by
9 depression, civil matters, substance abuse, not having
10 access to services, homeless issues, and in the lesbian,
11 gay community as well. So there are a lot of negative
12 consequences.

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

17 MR. BURSE: Of course, definitely.

18 CHIEF JUSTICE LIPPMAN: For people in need?

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

21 CHIEF JUSTICE LIPPMAN: Any questions?

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

24 MR. BURSE: Well, there's two. One is training
25 technical assistance for attorneys and other providers.

1 We provide legal assistance consultation. We are seeing a
2 lot of ground being made in equity and quality for our
3 communities, and that change may be done legally, but it
4 doesn't change people's minds and hearts without proper
5 training and education. So I think the technical
6 assistance, how do I provide competent costly related
7 services to members of the LGBT community. A trans
8 individual comes how do I know which pronouns to use, I
9 don't want to say the wrong things, or brush up on
10 legalese and what laws are relevant and what laws are
11 changing.

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

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

25 Laws are changing daily, so just having that

1 access to the training and technical support is I think a
2 huge area of unmet need. And secondly, the homelessness
3 factor, not being aware of the laws that protect
4 victims/survivors of domestic violence.

5 CHIEF JUSTICE LIPPMAN: Thank you, Mr. Burse.
6 Let's go to Professor Sarah Rogerson who is the Director
7 of Immigration Law Clinic and Director of the Law Clinic
8 and Justice Center at Albany Law School. Professor
9 Rogerson, what population do you serve through the clinic?

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

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

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

25 Originally the Immigration Law Clinic combined

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

7 We also have a prosecution clinic where the
8 students are placed in DA's offices to prosecute domestic
9 violence offenses. And the students, we focus on the
10 intersectionality of these issues. Any client who walks
11 into any of our clinics may be certified on a multitude of
12 our clinics. We've had individuals come in seeking tax
13 assistance and a student who is exposed to domestic
14 violence in a clinic notices that something isn't right in
15 the counseling session and calls in a student from the
16 Domestic Violence Clinic and said I think there's an issue
17 here.

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

24 Some of the criticisms of the 50-hour rule when
25 we first did it were that gee the students really don't

1 know enough yet how can they help people if they're not
2 really lawyers yet, it's kind of the blind leading the
3 blind idea. Do you think that has any validity? Can law
4 students doing pro bono work really help human beings in
5 need?

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

9 CHIEF JUSTICE LIPPMAN: It's not complete.

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

13 I'm heartened to follow that ecumenical panel.
14 My father is a Lutheran minister and he serves a
15 congregation in Toledo, Ohio, in the inner city. He's
16 also the vice president at a Lutheran Social Services in
17 northeastern Ohio.

18 So I was steeped in the idea of the role of a
19 lawyer and the role of a person in society in helping
20 others. And a lot of students walk through our doors
21 saying that's what they want to do, they want to change
22 the world, they want to impact the lives of people around
23 them. So they come into the clinic when they're permitted
24 to in their second year after they've had their first year
25 of courses and they start new. They encourage first-year

1 students after their first semester to look at the pro
2 bono groups that have formed.

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

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

1 answer is that students can be very helpful.

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

10 Students also -- I'm glad that you spoke to the
11 skills that they do bring to the table. We teach in
12 clinic transferable skills. You may not go out and do
13 immigration legal services to the poor as I did after
14 practicing honestly for a couple of years to help chip
15 away at that student loan debt, but if you choose not to
16 go that path that's fine, but we're going to give you the
17 skills that you need to take on these cases pro bono after
18 graduation. And those skills are things like client
19 counseling, communication skills, drafting, how to
20 communicate effectively, which I hope I'm doing today.

21 So these are the types of things that we impart
22 to the students before they're able to dig in one-on-one
23 on that representation where the substantive knowledge
24 really is important. And the Immigration Code has been
25 likened to the Tax Code in terms of complexity and levels

1 of detail and knowledge required, so we're very careful to
2 give them lots of guidance.

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

10 So Albany County Jail is the only facility that
11 receives federal funds to house detainees in the immediate
12 area. Batavia is one. There are some further upstate,
13 but in our area Albany County Jail is the only one that
14 houses them. It's usually on a temporary basis.
15 Sometimes it's women and families who are being
16 transported from Texas or Louisiana or Washington, they
17 come from all over, and they're there for a period of
18 time, three to six weeks, and the students said if we
19 could get in there and do some screening and see if there
20 are people who are deserving of representation then we can
21 connect them with our community service providers and
22 partners in this effort.

23 And they're the ones, by the way, who are
24 recruiting attorneys to supervise the students while
25 they're at the jail pro bono. The Legal Project has been

1 very key in making sure that the students have adequate
2 supervision while they're there. And we've been able to
3 connect people at a time that's very dark in their life,
4 at a time -- you talk about providing legal services to
5 folks who are facing criminal charges, the violation of
6 our immigration laws and codes so often has penalized
7 criminally.

8 Women and children are housed in facilities
9 meant to house adults. And we saw a lot of that in the
10 2014 influx of youth from Central and South America.
11 Those are our clients. Those are who my students are
12 representing right now. And those are the children that
13 need our assistance and we're the only clinic that is able
14 to do it.

15 CHIEF JUSTICE LIPPMAN: And let me tell you I
16 think that -- not to beat this to death, but I think it's
17 the students who above all get the importance of pro bono
18 work. And while we had some controversy when we first did
19 the program the students have embraced it so wonderfully
20 because they feel it, they get to understand the great
21 high that you get from helping people. I think our law
22 students in New York are just spectacular, here at Albany
23 Law School and around the state. Anything else for the
24 Professor?

25 HONORABLE KAREN PETERS: I have something to

1 say. Having served as that justice who swears in all the
2 clinic students at your law school, I'm just really
3 grateful for all the great work you do.

4 MS. ROGERSON: Thank you.

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

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

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

19 MR. JARZOMBEK: It's an information hub for the
20 community.

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

23 MR. JARZOMBEK: Their inexperience is what we
24 typically point them in the right direction.

25 CHIEF JUSTICE LIPPMAN: Right. What do you do

1 with the legal questions?

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

6 CHIEF JUSTICE LIPPMAN: A legal services entity.

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

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

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

22 CHIEF JUSTICE LIPPMAN: Any other questions?
23 This is a great crew and I think it shows a diversity
24 really of this whole idea of how you help people, what are
25 the collaborations, the partnerships, does it come from

1 the students, does it come from the volunteer lawyers,
2 does it come from the legal services entities. Sort of
3 all being a part of a joint effort that in the end is to
4 pursue justice. And I think that's what we all do in our
5 different ways, whether it's the community organization,
6 the public entities, the law school, we're all seeking the
7 same thing, that people get the legal help they need on
8 matters relating to the essentials and the very basics of
9 life.

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

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

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

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

24 CHIEF JUSTICE LIPPMAN: We want to thank you and
25 your client for coming in.

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

8 CHIEF JUSTICE LIPPMAN: Sure, go ahead.

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

11 CHIEF JUSTICE LIPPMAN: Thank you. Counselor.

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

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

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

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

25 I want to share my experience with young women

1 and other people who might be victims as I was. Speak
2 out, and do not be afraid to break the silence. Open your
3 eyes and do not let yourself be deceived and abused by
4 those who speak of a rose-colored world that will never
5 exist if you stay at the side of the wrong person who will
6 try to dazzle you with sweet talk and promises that will
7 never be fulfilled. Please take care in whom you choose
8 to give the best part of your lives to. Because nobody,
9 absolutely nobody, has the right to beat or abuse another,
10 or force another into doing something that they do not
11 wish to do.

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

22 CHIEF JUSTICE LIPPMAN: Thank you for that very
23 moving testimony. We had a conference just last week in
24 New York City on human trafficking with judges and lawyers
25 from around the country, law enforcement people, to talk

1 about this issue. And certainly one of the key most
2 meaningful things we can do is to provide legal
3 representation to those people who have been abused and
4 victimized and victimized again.

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

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

15 MR. McLEAN: Thank you, Judge.

16 HONORABLE KAREN PETERS: Thank you for your
17 courage.

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

21 MS. RUSSELL: Good morning. My name is Krista
22 Russell, and my husband John and I live in our family home
23 in Morrisonville, New York. I am here today to talk about
24 how the Rural Law Center's legal staff helped my husband
25 and I gain custody of his cousin and the cousin's two

1 brothers, and keep them out of the foster care system. In
2 2012, these three boys were placed in temporary foster
3 care as an Article 10 abuse and neglect proceeding was
4 beginning in Clinton County Family Court.

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

11 CHIEF JUSTICE LIPPMAN: Take your time. Relax.

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

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

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

22 Based on conversations with the social workers,
23 we decided to withdraw our petition for custody and be
24 considered as a custodial resource as part of the abuse
25 and neglect proceedings. In the beginning the boys were

1 in foster care, but after many interviews, background
2 checks and a home study, the boys were placed in our care.
3 We followed all DSS recommendations for medical treatment
4 and therapy.

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

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

1 own, so that it was also to be considered as the case went
2 forward.

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

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

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

25 After we met with Susan we understood that if we

1 were not the natural parents we had to show that
2 extraordinary circumstances existed about why we were
3 filing for custody before our case would even be heard by
4 the judge. We learned that those specific extraordinary
5 facts had to be in a new amended petition or the case
6 could be dismissed.

7 There was a court conference already scheduled
8 that would include our custody petition and we were afraid
9 our petition would be dismissed. After we understood what
10 was necessary for us to go forward, we worked with Susan
11 to amend the petition and replace it with one that
12 detailed the extraordinary circumstances of the case. And
13 we also provided more information about why it would be in
14 the boys' best interest to have them placed in our home
15 permanently.

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

22 Before the conference we also needed to complete
23 the Judge's Scheduling Order, which we really did not
24 understand, so Susan took time and went through each part
25 of the order and helped us prepare for the conference.

1 When we went to the conference it was clear that the
2 mother and her boyfriend, who was now determined to be the
3 father of the youngest child, opposed our petition. They
4 seemed to know that DSS would oppose the children being
5 returned to the mother, but still they did not want us to
6 have custody. So that meant there was going to be a trial
7 and the judge scheduled one.

8 When we told Julie that there was a going to be
9 a trial she scheduled an appointment with Susan who had
10 helped us amend our petition. She told us she would work
11 with us every step of the way through the trial and we
12 began that day to prepare our case. We created a list of
13 witnesses and developed questions for each one who would
14 support our efforts. We talked about each part of our
15 case that we wanted to prove, and then we determined which
16 witnesses we would call and what questions we would ask
17 witnesses if there was a hearing.

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

1 how to question a witness and how to stay on track with
2 our case.

3 By the time of the hearing we had folders,
4 notebooks and all our documents in order and we were ready
5 to have our case be heard. I won't go through these, but
6 just to show you how prepared we are, we have a case file
7 on the table behind us showing all the materials we had
8 ready should we go to trial. When we got to the
9 courthouse, arriving with our very organized materials, we
10 sat and waited for our case to be heard. We are not
11 allowed in the inner offices of family court where the
12 lawyers were gathering so we weren't aware of the
13 discussions going on inside. After several hours someone
14 came out and announced that the mother and the children's
15 father had agreed not to oppose our custody petition. And
16 so we went into court and before the judge it was put on
17 the record.

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

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

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

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

18 MS. RUSSELL: Yes.

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

22 MS. RUSSELL: Yes.

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

1 MS. RUSSELL: Thank you.

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

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

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

13 I was raised by my grandmother in Upstate New
14 York. When she passed away I went to live with my aunt
15 and uncle who are like parents to me. My aunt got cancer
16 and most of my life was spent caring for her and then
17 helping my uncle after my aunt passed away. We all lived
18 together in their home, and while I took care of them,
19 they took care of me too. When my uncle passed away I
20 inherited the home, but now had to take care of all of the
21 expenses of living alone.

22 I have never worked outside the house and so my
23 first job I got was at K-Mart and that was seven years ago
24 and I'm still there. It's only part-time so I don't get
25 any benefits. In fact, I spent most of my life without

1 health insurance, but as I got older health care became
2 more important to me.

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

11 I called Janet Tiffany of HIICAP and she
12 connected me with the Empire Justice Center and Cathy
13 Roberts came right out to my home. She went through all
14 the papers and helped me figure out what to do. She
15 worked with social services and Medicare and Medicaid and
16 she actually got me the coverage I needed without zero
17 payments.

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

24 I wanted to come here today to tell you how
25 important it was for me to call HIICAP and Janet and then

1 have someone like Cathy and the Empire Justice Center to
2 help me. I want to say thank you for helping make that
3 happen.

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

12 I want to thank the client panel for coming in.
13 I want to thank all the witnesses for coming in today. I
14 think this hearing will help us greatly when the Permanent
15 Commission and the Chairperson, Elaine Barnett, do their
16 report on December 1 that will help us to make an
17 appropriate recommendation this year to the Legislature
18 for funding for legal services.

19 To me, and certainly to the Judiciary and the
20 profession and the state, there is nothing more important
21 in terms of preserving the viability, the integrity, the
22 strength of the legal system in our state than ensuring
23 that everybody gets their day in court. That everyone
24 gets the representation or assistance that they need. So
25 these hearings couldn't be more helpful. We couldn't be

1 more appreciative. We thank you so much. And again,
2 you're all terrific. And the last panel, you bring it all
3 to light. What all the others said before you you bring
4 it to light. So thank you all. Appreciate it. Have a
5 good day.

6 (The proceedings in the above-entitled matter
7 were concluded.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

1
2
3
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: October 15, 2015
11

Colleen B. Neal

Colleen B. Neal, Senior Court Reporter
Albany County Courthouse
Albany, New York 12207

15
16
17
18
19
20
21
22
23
24
25

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 10:

**Transcript of the Second Department Hearing Held on
October 16, 2015**

NOVEMBER 2015

SUPREME COURT OF THE STATE OF NEW YORK
-- SECOND DEPARTMENT --

-----x

THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES,

-----x

New York State Judicial Institute
84 North Broadway
White Plains, New York 10603
October 16, 2015

BEFORE:

HONORABLE JONATHAN LIPPMAN,
Chief Judge, New York Court of Appeals

HONORABLE LAWRENCE MARKS,
Chief Administrative Judge

HONORABLE RANDALL T. ENG,
Presiding Justice, Second Department

CLAIRE GUTEKUNST,
New York State Bar President-Elect

CAMI L. LANDAU
Official Court Reporter

1 HONORABLE LIPPMAN: Good morning. Good morning.
2 We're going to get started. Everyone please find their
3 seats.

4 I want to thank you all for being here. This is
5 the fourth and final legal services hearing for this year.
6 We have had hearings in the First Department in Manhattan,
7 the Third Department in Albany, and in the Fourth Department
8 in Syracuse. And the purpose of these hearings is to insure
9 that New York is doing everything that they can to close the
10 justice gap that exists in our state and in the country
11 between the finite legal resources that are available, and
12 the desperate need for legal services for the poor in,
13 again, our state and in the country.

14 There is a justice gap. There is a crisis in
15 access to justice, and we want to make sure that we do
16 everything we can so that people don't fall off the cliff in
17 difficult economic times because of a lack of legal
18 representation. These are people who are fighting for the
19 necessities of life, the roof over their heads, their
20 physical safety, their livelihoods, and the well-being of
21 their families.

22 We recognize that equal justice is central to the
23 constitutional mission of the judiciary, and we have tried
24 to use these hearings to make a public record of the need
25 for the public funding for legal services and the need for

1 more pro bono work by the bar.

2 We're very proud that New York, we've been able to
3 obtain \$85 million this year from the Legislature and the
4 Executive to give out in grants to legal service providers,
5 but that's the tip of the iceberg in terms of the need. It
6 is, by far, the most in the country in terms of public
7 funding, but certainly the need is so great, where legal
8 service providers are still turning away more people than
9 they can help in terms of providing legal assistance. In
10 the height of the fiscal crisis, providers were turning away
11 as many as eight out of ten people who came to see them. So
12 we know that the best investment that the state can make is
13 in legal services for the poor. We had an economic report
14 just this year in the New York area that indicated that for
15 every dollar invested in legal services for the poor, \$10.00
16 is returned to the state in terms of decreased social
17 service costs, incarceration cost, and more federal dollars
18 coming to New York.

19 In New York, we've not only looked to public
20 funding, but we've looked to pro bono work, and that
21 includes lawyers of Meritus programs, that concentrates on
22 the baby boomers that are winding down their practices and
23 trying to get them to do more pro bono work, the Empire
24 State Counsel Program that the State Bar has been so
25 terrific in implementing. The new lawyers, you know that

1 they're now required to do 50 hours of pro bono work before
2 they can be admitted to the bar, with the bottom line being
3 that if an aspiring lawyer is not going to embrace the core
4 values of our profession, then they are not going to be
5 lawyers in New York. And those core values obviously are,
6 first and foremost, helping people in serving others. And
7 we also have the Pro Bono Scholars Program that lets
8 aspiring lawyers take the bar exam in February of the last
9 year, and in return, they give the last term of the legal
10 career over to pro bono work.

11 So I think there is a revolution in access to
12 justice taking place in our state and in our country. We
13 are re-prioritizing what's important in recognizing that
14 legal services for the poor is as important as schools and
15 hospitals and housing and all the other things we hold dear
16 in our society. We're working towards the point we hope
17 where in the resolution by the State Legislature this year
18 that basically says that everyone who's in need should be
19 able to get legal representation or effective legal
20 assistance, and that is now, pursuant to that resolution,
21 the public policy of our state.

22 So, we're going to get forward with the hearing.
23 The end result of the hearing is, we will make a Permanent
24 Commission on Access to Justice shared by Helaine Barnett,
25 who's sitting right over there.

1 Helaine, you want to raise your hand?

2 Helaine is the former Chair of the Legal Services
3 Corporation in Washington, and has done a wonderful job.

4 The Commission will do a report on December 1,
5 which will coordinate with the introduction of our budget,
6 and it will provide a basis upon which we will seek
7 additional funding this year for legal services for the
8 poor.

9 I want to also mention the other people from the
10 Commission who are here today, in addition to Helaine.
11 Barbara Finkelstein, who has done such great work in putting
12 together this hearing here in the Second Department, as she
13 always does. Fern Fisher, the Deputy Chief Administrative
14 Judge, who is right up there, from New York City, and the
15 Director of Access to Justice Program. Adriene Holder is
16 right over there, from the Legal Aid Society. Denise
17 Kronstadt, from The Fund for Modern Courts. Marcia Levy,
18 who is -- Marcia -- there she is. Lillian Moy, a Third
19 Department person, but we've let her come over here to the
20 Second Department. And Ron Rasmussen, who is also in the
21 legal services community, and is also on the Board.

22 So, we thank all the Board members for being here,
23 the Commission members for being here.

24 I also want to introduce to you the panel who is
25 here presiding over this hearing with me. To my right, the

1 Presiding Justice of the Second Department, the Honorable
2 Randall Eng. Randy. To my far right, the President Elect
3 of the State Bar, Claire Gutekunst. And to my immediate
4 left, our wonderful Chief Administrative Judge, Lawrence K.
5 Marks. Together, we will preside over this hearing
6 representing, in a real sense, the leadership of the
7 profession in the Judiciary here at this hearing.

8 So we're going to start today with a relatively
9 crisp schedule. The hearing starts, it started at 10:00.
10 We will end it at 12:00. We have some terrific witnesses.
11 I would ask the witnesses, they can either read their
12 testimony if they want to, or they can just, you know, that
13 testimony will go in the record, so they can either tell us
14 the testimony just informally, or they can read it; whatever
15 is better for them. We will, either during the testimony,
16 occasionally interrupt them with questions, or certainly at
17 the end of the testimony, certainly we'll have a few
18 questions.

19 We'll try and stay on schedule. We don't have the
20 red lights here, Mr. District Attorney. Don't get worried,
21 there's no red lights, although we did use the red lights in
22 Albany at our last hearing, and as Lillian will account, the
23 only ones who we didn't hold to the red lights were the
24 clergy, who answer to a higher calling than the red lights
25 that we have. So, we let them give their testimony.

1 So, again, all great folks, all our witnesses, and
2 I'm very pleased to introduce as our first witness, the
3 Honorable Thomas P. Zugibe, the District Attorney of
4 Rockland County. We're honored by your presence,
5 Mr. District Attorney, and the floor is yours.

6 MR. ZUGIBE: Thank you. Good morning, Chief Judge
7 Lippman and members of this distinguished panel.

8 Can you hear me okay?

9 HON. LIPPMAN: Yes, we can.

10 MR. ZUGIBE: I thank you for allowing me the
11 opportunity to appear this morning to speak to you about the
12 importance of civil legal services and the critical need for
13 counsel for those less fortunate than ourselves. I am the
14 District Attorney of Rockland County. Rockland has a
15 population of approximately 320,000 people and combines
16 suburban, urban and rural geography with an economically,
17 racially and ethnically diverse population of residents.

18 I understand that this is the last in a series of
19 hearings on the need for access to lawyers in civil cases.
20 I want to personally thank the Chief Judge for his efforts
21 in increasing funding for civil legal services, providing
22 keen focus and awareness of the desperate need for civil
23 legal service programs, and for addressing the need for
24 civil counsel in many cases before the courts, whether it be
25 privately retained, government provided or volunteered. I

1 know that other District Attorneys have testified during
2 prior hearings, and I echo their calls that there is more to
3 be done to increase the opportunities for counsel in civil
4 arenas in our state, and that funding civil legal services
5 is important to law enforcement and a civil society.

6 The continued need for more resources for civil
7 legal services and the need for counsel in civil cases
8 extends from the single mother who has been forcibly evicted
9 from her home, without due process of law, in a local city
10 or justice court, to the domestic violence victim who cannot
11 imagine leaving an abusive spouse, because, quote, "I can't
12 afford to leave," to the family that must sue in Supreme
13 Court to obtain the benefits that they deserve because one
14 governmental office or another has unjustifiably denied the
15 benefits. Access to competent advocates who will speak for
16 the poor to obtain the help that they deserve and
17 desperately need remains an important mandate for our state.

18 The Chief Judge has invited District Attorneys to
19 these hearings to ask what we believe is the importance of
20 civil legal services. The unfortunate reality is, as
21 District Attorneys, we cannot do much to provide counsel in
22 civil cases. Our jurisdiction limits our responses in this
23 arena. We can, however, and do, vigorously enforce the
24 criminal laws in many areas where the civil and criminal
25 lines actually intersect. Because of this intersection, we

1 understand the impact and the importance of all funding and
2 civil legal services and fostering partnerships and
3 collaborations to create programs and opportunities to
4 provide support for the needs of legal services and their
5 clients.

6 For example, soon after I took office, I was
7 approached by the Legal Aid Society and apprised of an
8 ongoing problem. While most residential landlords appeared
9 to be law abiding, some landlords were engaging in self-help
10 by forcibly and unlawfully evicting tenants without the due
11 process the law affords them. In many of these cases,
12 landlords were taking advantage of our most vulnerable
13 residents, including the elderly and domestic violence
14 victims. Now, Section 235 of the Real Property Law makes it
15 a criminal offense for a landlord to willfully withhold
16 necessary services such as utilities or to lock out a tenant
17 without a warrant of eviction, but the law was rarely
18 enforced. Through the intervention of my office, we were
19 able a protect these victims from further victimization.
20 Without the vigilance of civil legal service providers in
21 our community, the information needed to properly prosecute
22 these cases might not have ever been reported.

23 Another example concerns victims of domestic
24 violence. As every member of this panel is well aware, the
25 biggest obstacle that prevents the effective prosecution of

1 domestic violence cases is the unwillingness, or more
2 appropriately, in most cases, the inability of victims to
3 cooperate in the process. And we know that this inability
4 is not the product of unwillingness, it's the product of the
5 cycle of violence and control that defines this scourge.

6 In addition to vigorously developing evidence-based
7 cases that minimize and often eliminate the prosecution's
8 reliance on the victim's cooperation, my office has begun a
9 pilot program that amounts to a victim support network, to
10 support them through what in many cases is the most
11 difficult time in their lives. Our Special Victim Center,
12 built through the generosity of local businesses and donated
13 union and private labor, provides a safe environment for
14 these victims. Their in-home visits with victims, specially
15 trained detectives and my special victims prosecutors meet
16 with these vulnerable victims to provide the support they
17 need to follow through on their complaints. The preliminary
18 results of this pilot program are very encouraging,
19 demonstrating thus far a significant increase in the number
20 of victims who are able to follow through with their cases.

21 Yet, the problem of access to counsel persists in
22 these and other vulnerable populations. There is no doubt
23 in my mind that in the above example, an attorney's
24 presence, legal expertise and guiding hand would most
25 certainly increase successful outcomes. In fact, we are

1 working now with one of Rockland County's Family Court
2 Judges to recreate the concept of our Special Victims
3 Center, with its concomitant support structures, in the
4 Family Court setting. This will allow civil victims the
5 same access to counseling and attorneys that we currently
6 provide to criminal victims. These and other very admirable
7 pilot programs statewide demonstrate how a holistic approach
8 of the problem of access to counsel and support services
9 leads to better outcomes for many people in New York.

10 But there is more that can be done. Having read
11 portions of prior testimony before this Commission, I'm
12 aware of Chief Judge Lippman's concerns regarding potential
13 right to counsel in civil cases. And I am pleased to see
14 the Legislature, because of the Judiciary's advocacy, has
15 adopted a resolution declaring that the fair administration
16 of justice obligates the state to insure that all New York
17 residents have adequate and effective legal representation
18 for matters pertaining to the essentials of life.

19 Now, your Honor has mentioned Gideon versus
20 Wainright, a United States Supreme Court case that
21 guaranteed, for the first time, the right to counsel in
22 criminal cases. There is no such right in civil cases. In
23 fact, the Supreme Court has stated as recently as 2011 that
24 the Fourteenth Amendment's due process right to counsel only
25 is implicated in civil cases where there is a possibility of

1 incarceration as a remedy. New York has also recognized
2 that at least some civil cases require counsel. For
3 example, the Second Department has found that a person
4 facing a hearing pursuant to the Sex Offender Registration
5 Act, known as SORA, has the right to effective counsel at
6 that proceeding.

7 There is one other consideration that uniquely
8 falls within the purview of the Legislature and the courts.
9 Courts in New York have never shied away from applying more
10 broadly the protection embodied in the New York
11 Constitution. In fact, the Court has consistently ruled, in
12 both criminal and the appropriate civil cases, that the Due
13 Process Clause embodied in New York's Constitution provide
14 greater protections than its counterpart in the United
15 States Constitution. Perhaps the time has come for the
16 Courts and the Legislature to closely examine the need for
17 guaranteed counsel in areas that have not before been known
18 to require such representation. At a minimum, I would
19 advocate for such counsel in domestic violence cases that
20 have a civil component to them, such as concomitant child
21 support or divorce proceedings. This would result in
22 significantly better outcome in both the civil and criminal
23 cases, and, most importantly, lead to better outcomes for
24 the victims and the abusers alike.

25 The United States Constitution sets forth the basic

1 laws and rules that guide our society in order to, as the
2 Preamble states, "form a more perfect union." That Preamble
3 also announces to the world that the Constitution was
4 devised to "insure domestic tranquility." While these three
5 words most certainly do not allude to the scourge of
6 domestic violence in this country, they could.

7 Another founding document strongly reflects the
8 work of the Permanent Commission on Access to Justice and
9 the purpose of these hearings. The Declaration of
10 Independence states that it is self-evident that all people
11 are endowed with certain unalienable rights, that among
12 these are life, liberty and the pursuit of happiness. The
13 language and the spirit of the Declaration of Independence,
14 the Constitution and the New York State Constitution combine
15 to provide an umbrella of safety over the people who make up
16 the United States of America and live in the great State of
17 New York. The application of these great principles has
18 resulted in a country and state that embodies the freedom of
19 our country. Throughout the two-and-a-half centuries of our
20 existence, we have established and expanded the rights of
21 our residents for the better. I know that going forward we
22 will continue to advocate for our most vulnerable citizens.
23 I am proud to be part of a system in the greatest state and
24 greatest country our world has ever known. Supporting civil
25 legal services, the right to counsel, and providing poor

1 people with legal assistance is a critical part of how we
2 continue to make sure the words of the founding documents
3 remain alive and continue to apply to our present society
4 and the reality of the day to day lives of the people of our
5 State. I thank you very much.

6 HON. LIPPMAN: Thank you, District Attorney Zugibe.
7 We really appreciate your interest in legal services for the
8 poor, and your action, and I know you're being honored by
9 Legal Services in Rockland County, and it's not every day
10 that District Attorneys get honored by legal services.

11 MR. ZUGIBE: And I am proud of that, Judge.

12 HON. LIPPMAN: We're very proud of you that that's
13 the case.

14 Let me ask you just a couple of short questions.
15 You know, this idea of a civil Gideon, that Gideon versus
16 Wainright, obviously the seminal case in the United States
17 on criminal representation, and people talk of a civil
18 Gideon. Is that feasible? Is that possible? As you
19 indicate, the United States Supreme Court has very recently
20 indicated that that's not the case, but as you know, 20
21 years before Gideon versus Wainright, the United States
22 Supreme Court indicated there is no right to representation
23 in criminal cases. And during those 20 years, the dialog in
24 America changed, and the public started to get it, that when
25 someone's liberty is at stake, it's so important. Do you

1 think it's conceivable that in a civil case, there could be
2 just as much of an impact on a human being by what happens
3 in a civil case than with a criminal case, which has the
4 loss of liberty itself? Can you analogize the two?

5 MR. ZUGIBE: The right to counsel enunciated in
6 Gideon was based on the fact that this is possible
7 deprivation of your liberty. It's a very severe penalty,
8 but our experience has been, especially dealing with not
9 just criminal defendants, but victims, the far greater
10 implication to their lives happen in the civil sphere and
11 not in the criminal sphere. Oftentimes the criminal side of
12 it, where they have the right to counsel, is minimal
13 compared to the trauma that's inflicted on these individuals
14 during the civil process, where the rights are not
15 protected, and they wind up with results that affect them
16 for their entire life, as opposed to the criminal case,
17 which is oftentimes very short lived.

18 So I believe that the Constitution, it would be
19 constitutionally supported. I think most D.A.'s that I
20 speak to would be certainly in favor of that and recognize
21 that the criminal side is not always the penalty you think
22 it is. The civil side is really where the damage is done.

23 HON. LIPPMAN: Thank you, Mr. District Attorney. I
24 knew the answer, but I knew you did too.

25 MR. ZUGIBE: Glad I got it right.

1 HON. LIPPMAN: The impact of a civil case on
2 housing, the roof over your head, your family, the trauma
3 that can come, can be every bit as severe as the loss of
4 liberty, and that's why there's this ongoing movement in the
5 United States.

6 MR. ZUGIBE: But it's especially true with regard
7 to victims of crimes. We hold their hand through the
8 criminal proceeding, but then they're left high and dry on
9 the civil side of it.

10 HON. LIPPMAN: And you're exactly right. Jumping
11 off from that point, you know, you mentioned domestic
12 violence victims, and I think another area where you mix the
13 civil and the criminal, at least by impact of what's
14 happening with the criminal case, we recently had last week
15 a summit in New York on human trafficking, and there's
16 another area where I think so-called defendants, you know,
17 are really victims, and need help in terms of so many civil
18 issues dealing with their very lives themselves, you know,
19 having a helping hand to get out of a life which is of abuse
20 and victimization. Do you think human trafficking is one of
21 those areas that cuts across the lines of criminal/civil?

22 MR. ZUGIBE: It is. It took awhile for law
23 enforcement to truly understand the effect of human
24 trafficking. You have a person labeled as a defendant, when
25 in fact, in a percentage of cases, they truly are victims.

1 But how do you get there, how do you establish that? And we
2 do fortunately today have our detectives, our special
3 victims detectives are trained to be able to meet with the
4 victim. They are not their attorney representing them, but
5 they're meeting them to assess are they a victim or are they
6 an offender. Unfortunately, because of that same control
7 and combination and cycle of violence, we have these victims
8 that we are convinced that are victims, are not defendants,
9 but refuse to cooperate, go into court and immediately plead
10 guilty to avoid even any influence on them because they're
11 more concerned about the people who have imprisoned them as
12 traffickers than they are the criminal justice system. So
13 many of them will, despite the fact they're victims, refuse
14 our assistance and go in anyway.

15 So, yes, I think having available counsel for them
16 too, counsel is provided to them in most cases, but it's
17 provided by the johns, by the traffickers, and they send
18 them in with a single purpose in mind when they meet with
19 them.

20 HON. LIPPMAN: What's clear from the conference we
21 had just a short while ago is that the science tells us
22 today that prostitution is not a profession of choice, and
23 that trafficking comes whether it's around the world or
24 around the corner here in Westchester, Rockland, or, you
25 know, across the ocean. It's the same issue.

1 MR. ZUGIBE: It's far more prevalent in the
2 sleeping bedroom communities than people would ever imagine.

3 HON. LIPPMAN: Thank you.

4 Presiding Justice Eng?

5 HON. ENG: Thank you very much, Chief Lippman.

6 The Chief Judge has given me a wonderful segue into
7 something I had on my mind, and that is, Rockland probably
8 has a dearth of multifamily housing. I would think that
9 most of your residential landlords are probably owners of
10 two and three-family houses. That's probably the situation,
11 I would think. I learned of situations where you have, you
12 have landlords that have been victimized by tenants, in that
13 the landlords themselves might be elderly, they might have
14 heavy financial commitments. They're landlords nonetheless,
15 but they've had abusive tenants, and then the landlords may
16 have a lack of access to civil legal services because
17 they're the landlord in that sense, oh, you have a home
18 that's worth three, four, \$500,000.00, don't qualify. I
19 wonder if you've run into that, where you've had a situation
20 that's sort of turned on its head there. What relief can
21 these marginal landlords have in those kinds of situations?

22 MR. ZUGIBE: I happen to have seen it first hand,
23 not as a D.A., but I served for 18 years as Village Justice
24 up in Haverstraw, New York. Landlord/tenant was a big part
25 of it, and a good percentage -- I'm glad you mentioned

1 that -- a good percentage of the cases was that, where the
2 landlord was being physically or economically abused, and
3 oftentimes, the tenant would be represented and the landlord
4 not. And oftentimes, they'd be seeking, the landlord would
5 be put into a situation where the judge was imposing a stay
6 for three, six months where they -- but the landlord has a
7 mortgage to pay, was in tough financial straits, could not
8 afford his bills. Yet, courts were imposing, at the request
9 of counsel, a stay, allowing, basically, the tenant to stay
10 there rent free, further victimizing the landlord. And it
11 was a problem we saw all the time.

12 I agree with you. I think you have to look at each
13 case differently. We've had many cases with tenants where
14 landlords are just, as I mentioned, been involved with
15 self-help. They've just thrown all the property out in the
16 street, locked the doors, which is a crime, and the police
17 departments wouldn't act on it.

18 So, yes, we've seen both. I think we have to be
19 open-minded to it. If a landlord is being abused, yes, they
20 should have the right to counsel as well.

21 HON. MARKS: One question. Mr. Zugibe, given that
22 crime victims can also have civil legal problems that, in
23 fact, may arise from the fact that they've been victimized
24 by crime, clearly, you recognize that and you should be
25 commended for that. Has the statewide District Attorneys

1 Association actively supported efforts to get, in Albany and
2 elsewhere, to get more money for civil legal services?

3 MR. ZUGIBE: You know, I don't believe it's ever
4 been an issue presented to the D.A. for support. Just
5 talking to them anecdotally, I know all D.A.'s I know have
6 stepped forward and tried to provide that within their own
7 jurisdictions. It's certainly something the D.A.'s would
8 support. I'm not aware of whether or not they've actually
9 taken a public position on that.

10 HON. LIPPMAN: I think it's a great issue, and
11 maybe we'll talk to the leadership and see what we can do.

12 MR. ZUGIBE: I'm the President Elect of the
13 Association.

14 HON. LIPPMAN: We knew that.

15 That's a great idea. It's very powerful, you know,
16 and I think the law enforcement comes forth just as it is.
17 I know you're equally supportive with indigent criminal
18 defendants on the criminal side of the equation. It's very
19 powerful when D.A.'s come and say we need a level playing
20 field, and it's so important, so I think that in civil
21 issue, I think that's really a great idea. So, we will talk
22 more.

23 MR. ZUGIBE: Look forward to it. Thank you.

24 HON. LIPPMAN: Thank you, Mr. District Attorney.
25 Such a delight and pleasure --

1 MR. ZUGIBE: Thank you very much. I'm honored.

2 HON. LIPPMAN: To have you with us. Thank you.

3 Our next panel is a Corporate Leaders Panel. And
4 I'm going to ask Edward J. Sebold, Shawn A. Miles and David
5 Yawman to come down and sit at the front, and we'll have a
6 chat about legal services in the corporate community.

7 Now, I have the same suggestions for all of you.

8 Vanessa, you are going to replace Shawn?

9 MS. WATSON: Yes.

10 HON. LIPPMAN: Okay, you can read the testimonies
11 or just talk to us about the, you know, your individual
12 commitment in the context of the corporate community, and
13 don't be upset if we interrupt you and start asking
14 questions. We don't want to interrupt the District
15 Attorney. Careful not to do that.

16 So we're going to start with Edward J. Sebold,
17 Esquire, the Vice-President and Assistant General Counsel of
18 I.B.M.

19 And let me start by saying, Mr. Sebold, what's the
20 connection? It's counterintuitive. Why does the corporate
21 community care about legal services for the poor?

22 MR. SEBOLD: Absolutely, your Honor, and I'm happy
23 to answer that. I think for several different reasons, and
24 I can speak from my own experience in that regard.

25 I'm, even though I'm in-house now, I'm what I call

1 a recovering trial lawyer --

2 HON. LIPPMAN: I've heard there are a lot of those
3 people around.

4 MR. SEBOLD: Exactly. So for many, many years, I
5 represented a number of the major companies in the United
6 States in their litigation, touching on banking, health
7 care, real estate, what we would call the essentials of
8 life. And I can say that some of my toughest cases were
9 actually cases involving pro se plaintiffs. Plaintiffs who
10 are unrepresented in court. And when I say tough, I don't
11 necessarily mean on the merits; and I can assure my paying
12 clients out there that I didn't lose any to pro se
13 plaintiffs. But I think in a way we all lost in those
14 situations. Everyone in the system lost when you have a pro
15 se plaintiff. It's not good for the clients, it's not good
16 for the court system, and it's certainly not good for these
17 folks who are unrepresented in court, because they often
18 have unrealistic expectations about the legal system and
19 about the merits of their case. And so it's actually more
20 difficult to resolve those types of cases. For --

21 HON. LIPPMAN: Do you find it wastes everybody's
22 time because you're trying to do the right thing and yet
23 someone isn't trained to?

24 MR. SEBOLD: Absolutely, your Honor. Not just our
25 time, but the court system's time, because, you know, the

1 court system has to bend over backwards in many ways to make
2 sure that the pro se plaintiffs are having their day in
3 court and those types of things, so it's incredibly wasteful
4 for everyone. And as you said, from the corporate
5 perspective, it's obviously wasteful because our lawyers are
6 back and forth in the court system. You don't get a speedy
7 resolution and those type of things. So, certainly from
8 that standpoint alone, we're interested in that issue.

9 HON. LIPPMAN: And do you think that in the long
10 run, and I know you do, but that's a rhetorical question,
11 but that everyone benefits when there is legal
12 representation for those in need because, again, they get
13 their day in court, and yet, society benefits because
14 there's a level playing field? Whatever issues there are,
15 are able to be resolved by a neutral arbiter, so the Judge
16 is not acting as, really, in effect, acting as a lawyer for
17 somebody that needs a lawyer? Does it work for everybody?

18 MR. SEBOLD: I think you're absolutely right, your
19 Honor. It goes back, really, to the rule of law and the
20 respect for the rule of law, I would say. In part, that's
21 what sets the United States apart, and one of the things
22 that I've seen in my practice now, having more international
23 exposure, is the tremendous respect for the rule of law in
24 our country. And that's really a cornerstone of our
25 capitalist economy too, and that's why it's important.

1 HON. LIPPMAN: But that's a really good point. Why
2 does a place like I.B.M., one of the seminal corporations in
3 the United States, why does it place, when you talk about
4 the communities -- and look, people in the corporate world,
5 they want people to buy their product. Whatever it is, why
6 would it be important to I.B.M. that people in the community
7 are not falling off the cliff in difficult economic times?
8 How does it help I.B.M., putting aside the ethical and moral
9 commitment that so many of our big corporations have to do
10 the right thing? Why is it good from a bottom line
11 perspective of a huge enterprise like I.B.M. for people not
12 to, again, just have their life totally sidetracked and go
13 off a cliff, literally, you know, because they can't get
14 legal representation?

15 MR. SEBOLD: Absolutely. It's important for
16 several different reasons. One is this respect for the rule
17 of law situation that we were talking about. But it's also
18 particularly important for our clients as well. And that's
19 why at first I struggled a little bit, because oftentimes we
20 don't directly provide government services, obviously, for
21 banking or things like that, but our clients are certainly
22 right out there doing that. For example, our computers help
23 the bankers make their mortgages, for example. The mortgage
24 system, we talk about foreclosures and things like that.
25 The banks can't process the loans, the mortgages, the things

1 like that if you can't get through the court system, if both
2 sides aren't adequately represented, let's say, in a
3 foreclosure proceeding. So there is a situation where the
4 essentials of life are implicated, and so it's dramatically
5 important, not only for us, but for our customers to make
6 sure that there's this equal access to justice.

7 You could look at it in the healthcare arena,
8 government benefits, where we provide computer systems for
9 many of the major welfare benefit programs. But if people
10 are denied those benefits, you can have the best computer
11 system in the world, but if the benefits are denied because
12 there is not adequate representation, the system breaks
13 down. So those --

14 HON. LIPPMAN: Can people buy your product if they,
15 you know, they're on the street, and they don't have money
16 to put in the bank, and they can't go to the local store,
17 and they can't go to the local community, whatever is
18 happening? If they're not meaningful members of the
19 community, they can't be helpful to your bottom line; can
20 they?

21 MR. SEBOLD: That's certainly true. We don't
22 always sell directly to our customers. Let's say, you know,
23 our customers that provide food and essential products like
24 that. So, in turn then, our customers can't buy from us.
25 And we're getting more and more into certain areas. For

1 health care, you may have seen some of the commercials on
2 TV. That's an area where, the health care system, where we
3 want to help with cancer and those types of things, and if
4 the end users and their customers can't buy, then, you know,
5 everyone is harmed in society.

6 HON. LIPPMAN: And I want to commend all
7 corporations like yours that don't really need to do this,
8 but understand the connection between, again, the right
9 thing, what helps the economy, the bottom line. All of it
10 fits together.

11 Let's talk to the second person on the panel.

12 Vanessa, you're representing Shawn Miles?

13 MS. WATSON: Yes.

14 HON. LIPPMAN: Executive Vice-President and
15 Associate General Counsel of Global Public Policy for
16 Mastercard Worldwide.

17 And Vanessa, you're the Senior Managing Counsel of
18 Mastercard Worldwide.

19 In the same vein that I asked Mr. Sebold, what
20 possible connection does Mastercard have to civil legal
21 services? Why is this important?

22 MS. WATSON: Well, your Honor, I feel like as
23 attorneys, our responsibilities follow us regardless of
24 whether we're inhouse or at a law firm. So we have a
25 commitment corporate-wide to Mastercard to giving back, and

1 to corporate social responsibility.

2 HON. LIPPMAN: Why is it good for the corporation?

3 MS. WATSON: It's good for the corporation because
4 if we are able to help those who are in need, for the same
5 reasons that you've just stated, to provide them with
6 services that, with legal services that can help them in
7 that critical stage in their life, then they're the ones who
8 will be able to utilize all the services that are being
9 provided by the corporation. That's the bottom line. If
10 there are indigent folks and more people aren't able to meet
11 the basic needs that they need in order to function in our
12 society, we won't have corporations.

13 HON. LIPPMAN: How does Mastercard meet that
14 particular commitment to legal services for the poor?

15 MS. WATSON: Well, Mastercard is committed to
16 financial inclusion, for example, and so we educate youth
17 and others about the importance of using credit cards
18 responsibly and understanding how to get out of debt, as an
19 example, and in doing so, you know, folks are able to
20 utilize our services in more responsible ways. So it's
21 important to educate as well as to --

22 HON. LIPPMAN: What about your employees? What
23 happens when they have legal problems? How do they get it?
24 Do they utilize the services of legal services' entity?

25 MS. WATSON: I'm not sure of everyone's

1 circumstances, but there could be people who are in need of
2 services as well that could utilize those services, so it
3 goes beyond the community at large, but also employees of
4 Mastercard itself.

5 HON. LIPPMAN: Thank you.

6 We have David Yawman, Senior Vice President and
7 General Counsel of PepsiCo North America and Quaker Foods
8 North America.

9 Why does Pepsico think this is an important issue?

10 MR. YAWMAN: Well, I would tell you that Pepsico
11 admits its global scale and all the money that we make
12 around the world, we do it one transaction, one consumer,
13 day in and day out. If you look at Pepsico, if you look at
14 every man on the street and how they're doing in the
15 economy, and I think we represent or recognize that there is
16 essentially a symbiotic relationship between our corporation
17 and the broader society, and we operate very clearly under a
18 concept of performance with purpose, and performance is the
19 idea that we can do good from a business perspective with
20 purpose, which is by doing good --

21 HON. LIPPMAN: So you're also on two levels; the
22 commitment of Pepsico is, one, because obviously you want
23 people to buy your product, and if they can't defend
24 themselves in issues relating to the basics of life, it
25 doesn't help to sell soda or anything else, all the

1 different products that you sell. And then the commitment
2 of the corporate community to what you -- and how do you
3 need it?

4 MR. YAWMAN: Well, our relationship is even more
5 acute. I would take it from not just a consumer lens, but
6 also a customer lens, and also our employees, to your prior
7 question to Vanessa. From a consumer lens, exactly. If
8 people don't have the wherewithal to spend the buck to get a
9 water or a Tropicana juice, Pepsi or Gatorade or what have
10 you, it hurts our business. But ultimately, we operate at a
11 very local level. Our warehouses are in virtually every
12 community. Our trucks drive through every town. Our
13 products are on every shelf. So we need the consumer
14 population ultimately to provide us a source of employees.
15 We need a healthy access to talent in those markets that
16 speaks to a broader need for a healthy society. Once we get
17 folks that we bring into our fold, a lot of the employees
18 that we have work long, work hard, they operate the trucks,
19 they work in the warehouses. They're front-line employees.
20 A lot of them are hourly employees. Faced with a legal
21 matter, as much as they work hard and earn a living, they
22 don't have unlimited resources. And when they have a civil
23 legal matter that is complex, it's intimidating, it's
24 overwhelming. They're hourly employees; they take time off
25 from work to deal with it. That ultimately impacts how much

1 money they're bringing home to their home and families. It
2 can affect their livelihood. For us, on days they have to
3 take off, often unexpectedly, we have to find labor at cost
4 to us, so it hurts our productivity. There's a consumer
5 element to it, there's an employee element to it.

6 HON. LIPPMAN: So it all kind of plays together.

7 MR. YAWMAN: Also our customers. A lot of our
8 customers are mom and pop shops, delis, convenient stores,
9 often sole proprietorships. They have landlord-tenant
10 issues. Sometimes they're the landlord, sometimes they're
11 the tenant, but oftentimes these places live or fail based
12 on the efforts of a single individual. And if those
13 individuals are burdened by some legal matter, if they don't
14 have the means to hire an attorney, it damages their
15 business. That can shut down their business in some cases,
16 and that leaves an empty store front, one less customer for
17 Pepsico, and certainly the damaging impact on the
18 individual.

19 HON. LIPPMAN: This is a terrific panel. People
20 don't understand the significance of the corporate world in
21 this area, and I really think your support is very, very
22 helpful, because what we found in New York is that when we
23 go for an issue like legal services for the poor and just
24 have our hands out and say, you know what? It's right thing
25 and it's the moral thing, and people need help, the answer

1 we get is, well, we have a lot of competing interests in our
2 state and in our cities and in our communities. Everyone
3 needs help; get in line. When you make the argument that we
4 are committed to the right thing, but also, we want you to
5 understand that the well-being of our economy, and our
6 state, and our society is helped by doing legal services,
7 supporting legal services for the poor, we get a much more,
8 what should I say, full responsiveness, recognizing it's not
9 just -- and believe me, it should be enough that it's the
10 right thing and that's what we should be doing, but the help
11 of, particularly, the business community has been
12 instrumental to our being able to get really very generous
13 public funding. Not as much as we need, but certainly to
14 get public funding.

15 Any questions?

16 Presiding Justice Eng.

17 HON. ENG: Yes, thank you. I've noticed something
18 that I've seen in records and briefs and in my own
19 experience, and that is, a forum selection clause in
20 consumer relationships. Some contain mandatory arbitration.
21 Is that good for the consuming public? Is it better for the
22 corporation? Does that have an impact on access to justice?

23 I can't have stumped you all.

24 MR. SEBOLD: I can take that one first, I guess.

25 Again, ours are traditionally more in larger client

1 relationships, so it might not be exactly apples to apples,
2 but I think in some ways, the informality of an arbitration
3 process can actually benefit folks, because you don't need
4 as much representation. At least theoretically, it's
5 supposed to go a little quicker, and those types of things,
6 so I actually think there are some benefits along those
7 lines that you do get perhaps a quicker, maybe more informal
8 access and process and things like that.

9 HON. ENG: But is it fair? That's just it. I'm
10 just looking, from the point of view of a consumer,
11 particularly a marginal consumer, is this really a fair
12 process or not if they're mandated to participate in it?

13 MR. SEBOLD: Well, I guess, you know, as we're
14 looking at the alternatives though, if you're not getting
15 the access and it's challenging to get into the court system
16 and it's intimidating to go to the courthouse and those
17 types of things, I actually think potentially the
18 arbitration process or a more informal type of process could
19 give, could give access along those lines.

20 HON. ENG: And regarding forum selection, it always
21 seems to me to be forum non-convenience, like there's a
22 certain theme park in Florida somewhere, and you have an
23 issue with them, you have to go to, you know, the central
24 district of Florida. Have you any insights into that?

25 MR. SEBOLD: I don't on that particular --

1 HON. ENG: I'm not picking on you. The record
2 should not reflect that I'm picking on you.

3 MR. SEBOLD: No, no, I appreciate that because
4 that's usually not our situation. Usually we're selling to
5 other larger companies, so I may have to defer on that. I
6 don't know if anyone else has a view.

7 MR. YAWMAN: We also don't sell direct to consumers
8 but just as a comment, I would say that I think any team
9 would rather play home than on the road. I think, faced
10 with the decision as to, do I want to win, I think anybody
11 with resources would want to play in a venue where resources
12 matter and give you an advantage. In that context, if
13 you're fighting a pro se plaintiff and you're a corporation
14 and you're on your own turf, do I think that's fair? I
15 think there's an imbalance in who's got a right or a chance
16 to win. If you're to put some odds on those cases to
17 perhaps a prior comment about the record against pro se
18 plaintiffs, I think that's probably reflective of some
19 element of --

20 HON. LIPPMAN: It's a very interesting issue. We
21 could go for days on it.

22 There have been some commentary on some of the
23 Supreme Court decisions, U.S. Supreme Court relating to
24 these kind of arbitration agreements as they relate to
25 consumers, you know, and what the -- and I think that's what

1 the P.J. was driving at. And certainly in some of the --
2 again, this isn't necessarily the forum for it. In some of
3 the access to justice pieces that I've, you know, forums
4 I've been involved with, there's talk about how to make sure
5 everyone gets their day in court. And I think what we can
6 all agree to is that legal services for the poor in so many
7 different ways help people get their day in court. And I
8 think there are a lot of different forums, which I think is
9 what the P.J. is referring to, and we have to insure in all
10 those forums that everyone gets the level playing field that
11 they're entitled to.

12 Any other questions for the corporate panel?

13 You're all great. We congratulate you on your
14 commitment to this issue, and again, I have to say, I can't
15 tell you how important your support has been for our ability
16 to get public funding for legal services, because we have to
17 be creative in terms of the basis that we're asking for
18 that. And it can't just be, as much as it should be that,
19 gee, this is what society should do. It's very helpful when
20 you all come and tell the partners in government that, you
21 know, this helps all of us, and helps, in the end, our
22 economy and our society. So, thank you so much. Appreciate
23 it.

24 The next panel is a Veterans Services Panel, and
25 I'm going to ask Linson Bailey, Kiron Dawkins and Rogerlyn

1 Velez to come down to the main table.

2 So what we found is that there are different
3 niches, different people, different kinds of people who need
4 legal services. And one of the groups which has really
5 gotten the attention of the legal services community in the
6 last years have been veterans, because they have unique
7 problems in terms of civil legal services. They come back
8 with so many traumatic experiences in their lives,
9 afflictions that maybe don't relate to the rest of the
10 general public. So we've been trying to figure out how to
11 assist them, and this is a great panel for just that.

12 Linson Bailey, you're the Executive Director of
13 HELP USA's Supportive Services for Veterans Families.

14 What is that? What kind of work do you all do for
15 veterans?

16 MR. BAILEY: The Access V.A. Program is a V.A.
17 funded initiative to help veterans who are homeless or at
18 risk of becoming homeless. So we're charged with -- and
19 there are about, maybe 400 programs of its kind across the
20 country, and we're charged with helping veterans essentially
21 become housing stable. We've been focusing on homeless
22 veterans, and we've found that civil legal services is a
23 significant part of that, just because of the chaos and
24 dysfunction that homelessness causes, in addition to the
25 issues of, you know, military service and reintegrating back

1 into the community.

2 HON. LIPPMAN: Let's first find out what the other
3 panelists do.

4 Kiron Dawkins, Regional Director of Employment,
5 Training and Community Services, Westchester Community
6 Opportunity Program.

7 Kiron, what does your organization do?

8 MR. DAWKINS: So we've been in business for about
9 50 years. We were birthed out of the war on poverty. We're
10 a multi-service organization that ultimately serves
11 individuals from the cradle to the grave.

12 In 2011, we saw the need increasing for serving our
13 veteran families. We were already servicing about ten
14 percent of our population, which is about 30,000, and as we
15 saw the need increase, we saw the opportunity for the V.A.
16 funding, we went after it and partnered with civil legal
17 services, and to this day have served more than 2,000
18 veterans and their families in the Hudson Valley region.

19 HON. LIPPMAN: I want to introduce the third member
20 of the panel, Rogerlyn Velez, Esquire.

21 You're the Founder and Chief Executive Officer of
22 Angels for Warriors. What is Angels for Warriors?

23 MS. VELEZ: Angels for Warriors is a 501(c)(3)
24 resource in advocacy center for veterans. I founded the
25 organization three years ago after my brother was severely

1 injured in Afghanistan. As an attorney, I was able to
2 navigate through the very confusing aspects of his
3 treatment, and as a result of that, I took my experience and
4 started Angels for Warriors. Currently, we connect service
5 members with resources in the community and in the V.A., and
6 we also provide, promote our legal assistance to veterans.

7 HON. LIPPMAN: Let me ask the first question to the
8 panel, and any of you jump in, and then I'll open it up to
9 the rest of the panel here.

10 Why are veterans different? Why do we need special
11 services for veterans in terms of civil legal assistance as
12 opposed to the rest of the population?

13 MR. DAWKINS: One thing I can say, the number one
14 thing identified for our veteran community is that they have
15 difficulty navigating community services, and at this point,
16 what we've seen is that there are strong differences between
17 what they're doing inside of the military community, which
18 is very structured, where they can understand their points
19 of progression, their points of promotion. They understand
20 how everything works. And then at the point of
21 reintegration back into our civilian society, it doesn't
22 seem to go that way. We constantly hear the complaint that,
23 you know, I'm told to go here, and this system is not
24 working for me, this is not working for me, that's not
25 working for me. And civil legal services has become

1 imperative for our veteran community. And oftentimes the
2 needs that they have from psychosocial needs to even deeper
3 psychological needs are different than what's being faced by
4 the average civilian.

5 HON. LIPPMAN: A lot of times I don't think people
6 understand that when I talk about legal services for those
7 in need, it doesn't necessarily mean that you're going into
8 the courtroom. To represent somebody, it often means that
9 you're having exactly what you're saying, Kiron. You're
10 having trouble interfacing with all the different
11 bureaucracy that are out there in the community, and how you
12 do that is not the simplest thing, whether you're a vet or
13 anybody else. You know, I think it's intimidating and
14 difficult, and I think particularly when you have a group
15 who comes back with re-entry problems, you know, it's even
16 more exacerbated.

17 So, what other questions do we have?

18 MS. GUTEKUNST: Clearly, Mr. Bailey, you've
19 identified homelessness as the key issue that your group is
20 identifying and working with. For the others of you, with a
21 veteran population -- particularly, we're here in the Second
22 Department. With a veteran population here, what are the
23 principal issues that you're seeing where civil legal
24 services can, are most needed for veterans?

25 MS. VELEZ: Well, primarily, I find child support

1 issues. Also foreclosures, evictions, landlord-tenant.
2 Additionally, license restoration. A lot of our veterans
3 come home, they don't have jobs, they, some of them have
4 experienced numerous issues while overseas, most of them
5 come back with PTSD, a lot of them come back with various
6 injuries to their bodies, and it's very difficult for them
7 to reintegrate. And so what happens is, they lose their
8 lifestyles, they lose their homes, they lose their families
9 because they can't reintegrate. So, a lot of the issues
10 that I have personally seen revolve around matrimonials,
11 child support, and that sort of thing.

12 MR. DAWKINS: We also are support services for
13 veterans and their families. We're the largest provider in
14 the Hudson Valley, so we deal with homelessness primarily,
15 but prevention, which involves a lot of eviction assistance,
16 is really a primary need to make sure that individuals do
17 not become homeless.

18 We also see the child support issue. Certainly
19 debt mitigation is a major issue, and finally, I would say
20 veterans achieving their benefits and sometimes change of
21 their discharge status. There are many different
22 definitions of what a veteran is, which is something that
23 all of us had to find out on the ground in terms of what
24 type of benefits they're entitled to. And sometimes also
25 just based on the discharge, which often involves civil

1 legal services to be able to change.

2 MR. BAILEY: I just want to add that all of those
3 issues impact on homelessness, including student loans,
4 advocacy for benefits, whether it's V.A. benefits or public
5 benefits, and family law issues on custody. When someone
6 goes away to war, to the military, when they come back,
7 their lives are often different than when they left. So a
8 lot of that involves where their children are and where
9 they're just kind of, how they're going to meet their basic
10 needs of finding employment and that kind of stuff. And
11 people make bad decisions in challenging situations, and so
12 legal services is very important.

13 HON. LIPPMAN: There's also been, in relation to
14 veterans, there's been an attempt both at the local and
15 national level to have legislation that makes it easier for
16 veterans to be able to deal with some of their legal
17 problems; particularly some of the family-related problems
18 that come up.

19 Do you think that, you know, one of the things
20 that's come up when we talk about veterans is, well, gee,
21 why are veterans different from everybody else? You think
22 that veterans are entitled to special consideration even
23 beyond the average person? Is that a fair thing to say
24 really, because of the service that they've done for their
25 country?

1 MR. DAWKINS: Absolutely. Unless they were
2 defending our civil liberties, we wouldn't be here to be
3 able to have this discussion. So I think it's our patriotic
4 duty, and I think therefore some of the things that have
5 happened, certainly have been egregious in the veteran
6 community. As far as I'm concerned, the United States
7 should have considered this a state of emergency.

8 HON. LIPPMAN: And a lot of the commitment to
9 veterans by so many, all of you and other people, we've had
10 this in hearings over the years, that certainly in the last,
11 I'd say, five years or more, a whole subset of the legal
12 services assistance which is provided, is in relation to the
13 unique, again, unique problems that veterans have.

14 Other questions? Judge Marks?

15 HON. MARKS: Following up on that question, so on
16 the criminal side, in the state court system we've set up
17 specialized veterans courts which you may be familiar with,
18 which are really, I think, sort of operated on that premise
19 that veterans are different. They often have distinct
20 problems as a group that may be more prevalent for veterans
21 than other groups of people. And so in the criminal courts
22 they sort of operate more as problem-solving courts and seek
23 to address the underlying problem that may have led the
24 veterans to commit a crime, drug problem, a mental health
25 problem, and so on. I'm just wondering, and I don't know if

1 -- I'd be interested in your thoughts on this, if you've
2 thought about it at all, but should we be rethinking our
3 civil courts in the state court system and should, in terms
4 of how they deal with veterans, when veterans are litigants
5 in civil cases and come into the state courts on civil
6 cases? Should we be rethinking the way that we, as the
7 court system, approach those cases?

8 MS. VELEZ: I have personal knowledge as to Suffolk
9 County, Suffolk County Long Island Veterans Court. They're
10 an amazing court. Judge Toomey is the judge there. He is
11 also a veteran. It stems mostly from how the drug courts
12 ran. And so the veterans get tested once a week for about a
13 year or so, and if they're compliant and they see their
14 social workers, they graduate from Veterans Court, in
15 parentheses. I don't think personally that we should
16 establish a separate court for veterans, a civil court for
17 veterans, but I do think that more money needs to be funded
18 to help veterans so that they can access the services and
19 the legal representation that they are entitled to, that
20 they've served our country for.

21 HON. LIPPMAN: And often I think, to your point,
22 often, as we talked about before, it's before you get to the
23 court that you need the assistance, and you don't get to the
24 court if you have the legal services. I think so much of
25 what you all do does that. That it's sort of preemptive in

1 terms of not having to go to court.

2 MS. VELEZ: Exactly. I just want to make a point
3 that we, as a society, don't realize there are over 22
4 veterans a day, 22 veterans a day that commit suicide
5 stemming from homelessness and their lack of legal
6 assistance. That is double, double the population, the
7 general population. That is, in my opinion, despicable.
8 That should not happen in this country.

9 HON. LIPPMAN: And I think it goes to the question
10 that we asked the D.A. before about, could it be that civil
11 legal assistance in some ways is even more important than
12 the possible loss of liberty in a criminal case, because it
13 can have such a traumatic effect when you're dealing with
14 these very basics, and you can't get legal representation.

15 HON. ENG: I think I'd like to know a little bit
16 more about --

17 HON. LIPPMAN: Let me add that Judge Eng knows very
18 much about veterans and the military.

19 HON. ENG: Thanks. I'm a retired army guard --

20 MS. VELEZ: Thank you for your service.

21 MR. DAWKINS: Thank you for your service.

22 HON. ENG: -- and I've had training with legal
23 assistance and benefits and everything else, but I'm trying
24 to recall now the differences in the provisions of service
25 based on characterization of discharge. Generally, it's

1 honorable, general, dishonorable. I think the general has
2 some subsets too, regarding general under honorable, general
3 under less than honorable, but how different are they? And
4 that you're entitled to benefits based on your character of
5 discharge -- because some people who have received generals
6 really are in need of more services than anyone else because
7 they left service with greater problems.

8 MR. DAWKINS: Well, in terms of what's happening
9 with discharge status, it's discharge status and it's time.
10 So for instance, for us serving homeless veterans, we, the
11 individual has served active at least one day, you know, we
12 can approach that individual. For individuals that are
13 going to the V.A. and are seeking medical benefits and
14 service, generally they have to have served at least 24
15 months. Then here, frequently in the Hudson Valley we have
16 a lot of National Guard and others. These individuals, even
17 though they are service members, they are not considered
18 active. So unless they've been activated for a national
19 disaster or they've actually spent some time overseas, this
20 is one of the discrepancies in terms of who's considered a
21 veteran, even though there has been some military service.
22 So it's not just the discharge in terms of general other
23 than honorable, dishonorable. Generally, if it's a bad kind
24 of discharge, none of us can touch the individual, but there
25 are different reasons why that happens. So even for that,

1 civil legal services can step in and potentially get the
2 discharge changed.

3 As I close I just want to say quickly in terms of
4 the question you asked about the civil court, I think that
5 it should be a key consideration, and I think that one of
6 the things that needs to be really looked at is the
7 supportive services connected to it. The existing criminal
8 court works well because of the process and everything
9 that's working together. And what works for us now that
10 we're going into general court is that legal services and
11 supportive services are working together with the veteran to
12 go in and be able to answer some of the needs. But it's not
13 always cohesive, so if there was a process in a separate
14 court, it may very well be even more coordinated.

15 HON. LIPPMAN: Any other questions?

16 MS. GUTEKUNST: Mine is not really a question, it's
17 more of a comment, because I'm not sure you're necessarily
18 aware that I know that the New York State Bar Association
19 and I believe a number of the local bar associations have
20 veteran committees. It was one of the priorities of one of
21 the past presidents, Vincent Doyle from Buffalo, that the
22 State Bar Association had a committee. And I just want to
23 encourage you to come to us with some of the things you're
24 talking about where it isn't necessarily getting an
25 individual lawyer, where you're going to turn to our

1 phenomenal legal services in the Hudson Valley and
2 elsewhere. But where it goes to more systemic issues where
3 you think changes could be made in the law, I would just
4 encourage you to come to the bar associations because that's
5 something that we can do, we can at least try to do very
6 well, because we do have, you know, people about, lobbying,
7 and have developed legislation. So that's just something to
8 pass along to you and other organizations who are working
9 with veterans, that we would welcome your input, because
10 you're the ones on the ground who really are seeing the
11 veterans and seeing what they need. And if we can help, we
12 would love to do that.

13 HON. LIPPMAN: Okay, this is a terrific panel too,
14 and I think you see the wide diversity of this issue in
15 terms of legal services. I think today we've demonstrated
16 that. We have a criminal justice system, headed by a
17 District Attorney who testified from Rockland County, we had
18 the corporate leaders who showed the support of the
19 community that, you know, people think, gee, what's the
20 connection between the corporation and legal services for
21 the poor, and there is such a direct relationship, and then
22 we have this veterans panel. The panels, I think,
23 demonstrate that there are so many different people who have
24 specific needs that may be different than others, and we
25 have to target legal services.

1 And we're going to have our last panel for today,
2 which I think brings it all together. And that's going to
3 be a panel, a client panel that tells you the stories of
4 human beings who have been helped by legal service providers
5 and by those who provide assistance in the civil legal
6 services area in so many different regards.

7 So, thank you for your panel, and now we're going
8 to have, I'd ask George Harris, Irma Silva and De Ping Song
9 to come up. This is the final panel, and I think you'll see
10 what all of the previous witnesses were leaning towards, in
11 terms of providing direct assistance to human beings in
12 need.

13 Each of our clients is accompanied by a legal
14 service provider, or someone who assisted them. So, let's
15 start with George Harris, who's a client of Legal Services
16 of the Hudson Valley, accompanied by Rachael Halperin,
17 Esquire.

18 So, Mr. Harris, you want to tell us your experience
19 with legal service?

20 MR. HARRIS: Yes. Good morning.

21 HON. LIPPMAN: Good morning.

22 MR. HARRIS: My name is George Harris. I'm a
23 veteran of the United States Armed Forces. I thank you for
24 the opportunity to speak to you today about how important
25 access to high quality, free civil legal services is for low

1 income veterans to insure that we are able to protect the
2 basic necessities of life, including housing and benefits.

3 I served in the military for six years; the
4 national guard, army and navy. After being honorably
5 discharged and my health deteriorated, I suffer from PTSD, I
6 also have two dislocated shoulders, diabetes and diagnosed
7 with prostate cancer one year ago. In addition to health
8 problems, I have experienced housing instability for
9 decades. On three occasions I found myself homeless, having
10 to turn to the V.A. facility in Montrose for emergency
11 transitional shelter.

12 Eight years ago I was lucky enough to be awarded a
13 Veteran's Affairs Supportive Housing voucher from HUD. I
14 found a nice apartment in Peekskill, and it was such a
15 relief to have my own apartment. Despite my low income, I
16 live only on disability and food stamps, I was able to pay
17 the rent and feel stable. Having stable housing enabled me
18 to focus on and improve my health and give me a sense of
19 peace.

20 My security was threatened when my landlord served
21 a petition on me trying to evict me. This happened right at
22 the time that I was diagnosed with prostate cancer and
23 starting treatments. The petition claimed that I had
24 violated my lease by having too many guests over and making
25 too much noise. I was shocked and upset. I live alone and

1 rarely have guests in my apartment. I knew that the
2 allegation in the petition was not true. I also knew that
3 without an attorney to assist me, I could very well be
4 evicted. I had once been to housing court when I had fell
5 behind on my rent, and I didn't understand the court process
6 and was very stressed out. I didn't know my legal rights,
7 and I didn't know how to fight this petition.

8 I knew that Legal Services of the Hudson Valley had
9 an office right down the street from my apartment in
10 Peekskill. I walked into the office with my petition and
11 completed an intake. My case was taken, taken -- my case
12 was assigned to an attorney, Mihaela. She met with me and
13 went through the allegations in the petition. She also,
14 also interviewed other tenants in my building and confirmed
15 that the noise and the guests were not coming from my
16 apartment, but other tenants in the building. Additionally,
17 she got a copy of police reports that included noise
18 complaints from other units. With this information, she
19 filed an answer to the petition. The next thing I heard
20 from Mihaela was that the landlord had dismissed the
21 petition against me. I was thrilled to be able to keep my
22 apartment.

23 Having Legal Services of the Hudson Valley
24 represent me relieved me from so much stress and pressure.
25 I know I would not have been able to fight and win this case

1 without Mihaela's assistance. If I had lost my apartment
2 and VASH voucher, I know both my physical and mental health
3 would have seriously deteriorated. I am glad that I served
4 my country and that the agencies like Legal Services of the
5 Hudson Valley are available to help veterans ensure that
6 they are able to maintain basic necessities of life. I
7 continue to work with Mihaela on other issues, and I'm
8 grateful to have this wonderful organization in my
9 neighborhood. Thank you.

10 HON. LIPPMAN: Thank you, Mr. Harris. I can't tell
11 you how helpful it is to have you come in, tell your story.
12 All the other witnesses are so terrific, but nothing really
13 demonstrates what we're talking about than someone who has
14 actually been a client of a legal services organization.
15 And I think it's fair to say that your life was dramatically
16 changed by the help of legal services.

17 MR. HARRIS: I would say so. There is so much more
18 to it. So much more to it.

19 HON. LIPPMAN: Well, again, I couldn't be, we
20 couldn't be more grateful to you for coming in and
21 explaining what it means so that when we go to the places in
22 Albany where they fund legal services for the poor, we can
23 really demonstrate that human beings' lives are dramatically
24 changed through legal services, like you receive right in
25 your community, literally down the street. And fair to say

1 that you wouldn't have known where to turn without being
2 able to go to legal services?

3 MR. HARRIS: Say it again?

4 HON. LIPPMAN: That without legal services, what
5 would you have done?

6 MR. HARRIS: Committed suicide. I would have went
7 ballistic, believe me, put it that way. I wouldn't be here
8 now; I'll tell you that.

9 HON. LIPPMAN: You look terrific, and you're in
10 great shape, and we thank legal services for their
11 assistance, and thank you again for coming in. Thank you so
12 much.

13 Okay, so now we're going to go to Irma Silva, a
14 client of Pace Women's Justice Center -- and you know we're
15 right here, we're at Pace Law School -- accompanied by
16 Bertha Rodriguez, Esquire.

17 Irma.

18 MS. SILVA: Good morning. My name is Irma Silva,
19 and I live in Mahopac, New York, in Putnam County. I would
20 like to talk about how much the Pace Women's Justice Center
21 helped me and my children from the horrible situation of
22 domestic violence which we had been living with for many
23 years.

24 For years, my husband made me think that I was not
25 worthy of anything, and I would be nothing without him. So

1 I thought that if we get married, he will change. After
2 all, he was only like that when he would drink. But he
3 didn't stop. Yes, we got married and had a couple of kids,
4 but his drinking and his behavior did not change.

5 Excuse me.

6 He had terrible mood swings. He would call me bad
7 names and always want to know where I was and accuse me of
8 being with other men even when I was out with our children.
9 He would raise his hand, as if to hit me, but then hit and
10 break things around the house, and once put his fist through
11 the wall. And no, he never actually hit me, but he
12 threatened to do so and always reminded me that I had no
13 worth in his eyes.

14 The worst was the next day when he would get up,
15 did not say a word about the night before, but come and hug
16 me as if nothing had happened. I would forgive and forget,
17 but deep inside me I knew things would never change. I knew
18 I had to leave him for good when I saw him treating our son
19 in the same mean and derogatory way. But I didn't know how
20 to do it because he told me I could never leave him, and
21 that he would take the kids from me.

22 I have always wanted my children to do well in
23 school, and one day when I was at the library, I found a
24 card for the Women's Resource Center, a domestic violence
25 agency in Mahopac. After speaking to a social worker there,

1 I knew I had to take my children away from this abusive
2 relationship, but I still needed the courage to do it and
3 didn't know where to start. I also couldn't afford a
4 lawyer. My case worker told me I could get free legal help
5 from the Pace Women's Justice Center, and she helped me to
6 get an appointment with Bertha Rodriguez. When I met
7 Bertha, I could see right away that she understood what I
8 was going through and was even able to explain things in
9 Spanish and English. She clearly explained my rights and
10 the legal process for getting a divorce and keeping my
11 children. She assured me that my husband's threats to take
12 the children were just threats. She kept in touch with me
13 every step of the way and was always only a phone call away.
14 For example, when my husband was served with the divorce
15 papers, he tore them up as soon as he received them. I felt
16 panic and immediately contacted Bertha, and she told me that
17 even though he did not read the papers, he was still on
18 notice and should appear in the case and it would not
19 prevent me from getting a divorce. Even though it was so
20 uncomfortable for me to live with my husband during this
21 time, I felt stronger knowing that Bertha was helping me.

22 After Bertha submitted the divorce documents to the
23 court, she explained to me that the judge scheduled me for
24 an inquest. When the court date arrived, I was shaking. I
25 didn't know if he would show up. When I saw Bertha at the

1 courthouse, I felt immediate relief. As we waited for my
2 name to be called, I anxiously peered around the corner
3 watching the elevator doors open and close, wondering if my
4 husband would appear. My name was finally called, and we
5 proceeded into the courtroom. We started the inquest, and
6 as Bertha asked me questions, under oath, the door to the
7 courtroom opened, and my husband walked in. He was called
8 up to the bench, and the judge asked him if he had any
9 objections to being divorced from me. He responded that he
10 was sorry, and that he still loved me, and that he was
11 trying to change. He started telling lies about why I
12 wanted to get divorced, and I burst into tears and couldn't
13 stop crying. I was so confused and didn't understand what
14 was happening, and I thought I would never be able to get
15 away from him. My attorney continued to press for a divorce
16 to be granted immediately. I know if she wasn't with me
17 there, there was no way that I could have continued. The
18 judge granted my divorce.

19 My attorney helped me obtain sole legal custody of
20 my children, child support, and allow me and my children to
21 stay in our home. Most importantly, she saved us from the
22 ongoing cycle of abuse that we had been living through.

23 I am very grateful to the Pace legal team for their
24 help navigating this process. They really helped me change
25 my life. Thank you.

1 HON. LIPPMAN: Thank you. And again, your story
2 says it all in terms of a need for legal support and
3 services, and we're so thankful that you're here and that
4 you have the courage to come in to tell your story.

5 And how did you initially find out about the Pace
6 Center?

7 MS. SILVA: At the library, my local library. I
8 was paying for some printing material, and the cards were
9 right next, on the counter. I looked at it and I picked up
10 a card, and I didn't call immediately. I just kept looking
11 at it. I couldn't believe that would be a solution.

12 HON. LIPPMAN: I think it shows sometimes the legal
13 services are down the street, and sometimes you find out
14 about it at some kind of public community area like the
15 library. And again, I think fair to say that your life was
16 turned around by having legal assistance.

17 MS. SILVA: Absolutely. Absolutely.

18 HON. LIPPMAN: Thank you both. The first two
19 witnesses have certainly demonstrated what legal services
20 mean to individual human beings who have a problem that
21 needs to be resolved. And that brings us to our third
22 client, which is De Ping Song, a client of the Legal Aid
23 Society, accompanied by Karen Cacace, Esquire, and Aaron
24 Heluga (phonetic), Esquire, who will translate Mr. Song's
25 testimony.

1 MR. SONG: (Translated) Good morning. My name is
2 De Ping Song. I am here to support continued and increased
3 funding for civil legal services in New York. I am one of
4 six nail salon workers who filed a lawsuit against the
5 owners of the Babi Nail salons because they did not pay us
6 the minimum wage or overtime pay that the law required. We
7 first worked with the Chinese Staff and Workers Association,
8 who then referred us to The Legal Aid Society.

9 Legal Aid filed a lawsuit in federal court on our
10 behalf in 2009, and we were all fired. The case went to
11 court in 2012, and we were awarded a judgment of
12 \$474,000.00.

13 I had worked at nail salons for over three years
14 without being paid the wages I was entitled to. I routinely
15 worked more than 40 hours per week and was never paid any
16 overtime compensation. At some points I was not even paid
17 the minimum wage. Then after we filed the lawsuit, my
18 employers fired me. The Legal Aid Society did an excellent
19 job of representing us, and after a trial we were awarded
20 unpaid wages, damages for retaliation and liquidated
21 damages. We've collected some of the money owed, and Legal
22 Aid is continuing to try to collect the rest. Recovering
23 the money is important, but our case is also important
24 because it exposed the exploitation that is rampant in the
25 nail salon industry. What happened to us is typical of how

1 many nail salon workers are cheated out of the wages they
2 are owed. Our case has impacted the industry and has led to
3 change in the laws protecting nail salon workers.

4 I'm grateful that the Legal Aid Society agreed to
5 represent us in this case and is continuing to help us
6 collect the money. We did not have money to hire lawyers
7 and would not have been able to pursue our claims without
8 The Legal Aid Society. We are grateful for the excellent
9 representation that we have received. Our lawyers have
10 always made every effort to understand our situation, to
11 explain the laws to us, and to advocate for us.

12 I know that there are many other low-income workers
13 that also need this type of representation. It is very
14 important to fund The Legal Aid Society and other civil
15 legal services programs. This will allow workers who are
16 being exploited to challenge their employers' illegal
17 practices. Without civil legal aid, we would not have been
18 able to stand up for our rights and force our employers to
19 pay us the money owed to us for our hard work, and we would
20 not have been able to expose the wage theft that so many
21 nail salon workers are subjected to. Thank you.

22 HON. LIPPMAN: Thank you. And I think this is
23 really a story that's pulled from today's newspapers. We
24 see everyday stories about this particular industry and the
25 problems that you've had, and some of the laws have been

1 changed to address it. And I want to say that your story,
2 as with our other two clients on the client panel, have been
3 just so powerful and really tell us what all of this effort
4 is all about to help get funding for real people who have
5 real problems, and we all have it, and we're all entitled to
6 our day in court. And I thank you for coming in. You've
7 been terrific.

8 De Ping Song, Irma Silva, George Harris, again,
9 you've pulled together all the testimony that we've had
10 today, from the District Attorney, from our corporate
11 leaders, from the Veterans Services Panel. It all comes
12 down to all of you. Where you've really shown, I think, all
13 of us, why it's important that we keep fighting for legal
14 services funding, so that people like yourselves and other
15 people who need legal assistance and legal representation
16 get it, so that we have, in every sense, equal justice in
17 our state and in our country, where everyone gets justice,
18 regardless of the amount of money that they may have in
19 their pockets. That's what our country is built upon;
20 that's what these hearings are all about.

21 We're going to take the information that you've
22 given us, our other witnesses and the clients, we're going
23 to make a record from all of that, and we are going to
24 provide that record to the Legislature when we seek funding
25 this year for legal services. And you've been terrific, and

1 we are so grateful to you. And I want to thank all our
 2 witnesses, the audience, and the Permanent Commission on
 3 Access to Justice for all of their efforts. And we will
 4 continue to move forward in terms of getting to the day when
 5 everybody who needs legal representation and effective legal
 6 assistance gets it.

7 So, thank you so much, and thank you all for being
 8 here. Thank you.

9 (PROCEEDINGS CONCLUDED)

10

11 * * * * *

12

13 Certified to be a true and
 14 accurate transcription of the
 15 within proceedings.

16

 CAMI LANDAU
 Senior Court Reporter

17

18

19

20

21

22

23

24

25

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 11:

**Written Statements Submitted at the First Department
Hearing Held on September 29, 2015**

NOVEMBER 2015

Written Statements Submitted at the
First Department Hearing on September 29, 2015

Hon. Bill de Blasio (*Mayor of the City of New York*)

James R. Silkenat, Esq. (*Past President, American Bar Association; Partner, Sullivan & Worcester LLP*)

John Sexton, Esq. (*President, New York University; Dean Emeritus, New York University School of Law*)

Martin Lipton, Esq. (*Executive Committee Member and Former Co-Chair, Partnership for New York City; Founding Partner, Wachtell, Lipton, Rosen & Katz*)

Eric Weingartner (*Managing Director, Robin Hood Foundation*)

Neil Steinkamp (*Managing Director, Dispute Advisory & Forensic Services, Stout Risius Ross, Inc.*)

Debra L. Raskin, Esq. (*President, New York City Bar Association; Partner, Vladeck, Raskin & Clark, P.C.*)

Sara E. Moss, Esq. (*Executive Vice President & General Counsel, The Estée Lauder Companies*)

Fatim Kamara (*Client of The Door – A Center for Alternatives, accompanied by Rebecca Wilson Heller, Esq.*)

Stacy Snowden (*Client of The Legal Aid Society, Harlem Community Law Office, accompanied by Evan Hasbrook, Esq.*)

Cassandra Wilson (*Client of Legal Services NYC, accompanied by Tanya Douglas, Esq.*)

Hon. Bill de Blasio
Mayor of the City of New York

Testimony of Mayor Bill de Blasio
at the Chief Judge's Hearing on Civil Legal Services
September 29, 2015

Good morning Chief Judge Lippman, Chief Administrative Judge Marks, First Department Presiding Justice Gonzalez, and State Bar President Miranda. Thank you for inviting us to appear before you today to discuss the role that civil legal services play in providing access to justice, and to update you on our commitment to expanding those services in New York City. At this time, I'd also like to acknowledge Helaine [hell-AIN] Barnett, Chair of the Permanent Commission on Access to Justice, and all the Commission members in attendance today.

Chief Judge Lippman, we greatly appreciate your ongoing leadership and dedication to giving all New Yorkers fair and equal access to our civil justice system. The Task Force to Expand Access to Civil Legal Services that you established in 2010, and your annual allocation of civil legal services funding in the Judiciary's budget, have supported thousands of New York state residents each year who would otherwise navigate the State's legal system without representation, including thousands in civil cases in New York City.

It's difficult to overstate the importance of civil legal services. By providing representation to New Yorkers who would otherwise appear alone in court when other parties like landlords are represented, we give New Yorkers fair and equal access to our civil justice system, and fight poverty and inequality. These services help low-income New Yorkers keep a roof over their heads, they help keep a family together, and they help keep food in the cupboard. They help children stay in school and continue an education that could otherwise be disrupted by the loss of a home and a community. In short, we are helping those who need it most gain, and maintain, the basic building blocks of a life lived with dignity and security.

Investing in access to justice is also smart economics. Proof of this can be found in Judge Lippman's Task Force's finding that for every dollar invested in providing civil legal services, taxpayers see a return of more than six dollars in federal benefits, such as federal disability benefits. These benefits not

only improve the living standards of the people who receive them, but help lift up local communities as more resources are put into neighborhood economies.

Further, the City sees tremendous savings in averted shelter costs by investing in legal services that help prevent evictions, homelessness, and domestic violence. Providing civil legal services also reduces the costs of litigation and increases court efficiency, which benefits all litigants, regardless of income level.

Our commitment to expanding civil legal services to more New Yorkers, and making those services more effective, can be seen in the actions and investments of my Administration over the past 21 months.

One year ago, my Human Resources Administration (HRA) Commissioner testified before you regarding my Administration's consolidation of multiple civil legal assistance programs, previously spread out across several agencies, into a single streamlined operation at HRA. Bringing all services together in this way has enabled the City to utilize existing HRA mechanisms to claim available state and federal reimbursement for legal services, avoid duplication of effort, maximize resources, better address service gaps, evaluate emerging legal needs, and be as responsive as possible as emergencies arise.

My first budget as Mayor of the City of New York, for July 2014 through June 2015, allocated an unprecedented level of funding to civil legal services for low-income New Yorkers. That year we projected to spend a total of \$18.5 million to protect tenants facing eviction and harassment by unscrupulous landlords, which is a major cause of homelessness. (At this moment I must note that the vast majority of landlords do follow the law, and treat their tenants with respect. We are focused on the unscrupulous few.)

In Fiscal Year 2015, we vastly expanded the anti-eviction tenant protection program, and made a \$5 million down payment on the creation of our new anti-harassment program for rezoning areas, which next year will grow to \$36 million. This program is focused on ensuring that almost 14,000 of our city's low-income residents can stay in the neighborhoods they built as those areas grow denser, and see considerable investment, in the coming years.

In my second budget—the current year’s adopted budget—I again increased our commitment to fund tenant protection legal services for low-income New Yorkers, helping prevent homelessness and disruption in the lives of thousands. This year’s budget already included over \$33 million to help New Yorkers before they are forced to turn to shelter. Yesterday, I announced that we are further deepening this commitment, allocating an *additional* \$12.3 million to the anti-eviction legal services program, to be divided among the providers already hard at work so we can reach more New Yorkers as quickly as possible. This brings the total investment in tenant protection legal services in my second budget to nearly \$46 million.

Next year, in my third budget, that number will grow to more than \$60 million annually. By way of comparison, that is more than ten times the \$6 million spent in Fiscal Year 2013. It is by far the largest initiative of its kind in the nation, enough to give more than 113,000 New Yorkers each year legal services to protect against harassment and unnecessary eviction—which also has the benefit of protecting our affordable housing stock.

It’s important to note that these commitments to provide access to justice for low-income tenants are complemented by other major initiatives to prevent homelessness. Among them is HRA’s new Homelessness Prevention Administration, which includes an Early Intervention Outreach Team that seeks out families and individuals on the verge of losing their home, and who can be helped by legal assistance or emergency rental assistance.

Tenant protection is the cornerstone of our initiatives to provide access to justice for low-income New Yorkers, but we are also working on many additional fronts, by investing:

- \$4.3 million for Executive Action legal assistance programs for immigrants, operated by HRA in conjunction with the Mayor’s Office of Immigrant Affairs and CUNY;
- \$3.2 million for comprehensive immigration legal assistance (that will begin to be implemented through a new RFP process during FY16);
- \$2.1 million for civil legal services for seniors; and
- \$2.6 million for legal services to secure federal disability benefits.

When all of these programs are fully implemented in FY17, New York City will be allocating \$74 million annually in our baseline budget to provide access to justice for low-income New Yorkers.

No other municipality allocates even a small fraction of what New York City is committing to provide access to justice. But given the widespread need, we certainly welcome and support increased Judiciary resources to complement, and further leverage, our expanded services. This is one of the best investments we can make—because it can so clearly change lives for the better, as we are already seeing across the city.

For example, Legal Services New York City and Legal Aid have already received \$5 million through our anti-harassment program, and, working together, have supported more than 1,100 households in all five boroughs—a number that will dramatically increase in the coming months when the program is fully implemented.

In the Bronx, these legal providers went to court on behalf of 121 tenants at 111 Gerard Avenue. The landlord raised the rents in violation of the Rent Stabilization law, while also providing leases and letters to the tenants stating the apartments were no longer subject to Rent Stabilization. After Legal Services and Legal Aid represented the tenants, the landlord admitted to the overcharges, and a settlement is underway which will return tenants to their legal rent.

In Brooklyn, Legal Aid is representing residents of 702 Rockaway Avenue, where the management company divided 18 residential units into 55 units—while also pressuring the tenants to sign a waiver of their rights under the Rent Stabilization law, and neglecting the building until it reached nearly unlivable conditions. When the management company stopped paying the landlord, the landlord attempted to evict all of the tenants. Legal Aid is working to stop these evictions, enforce the tenants' rights under Rent Stabilization, and return the building to an acceptable state of repair for the approximately 40 people, including 10 children, who live there.

At this moment, I'd also like to acknowledge the deep commitment of City Council Speaker Melissa Mark-Viverito, and the entire City Council, to expanding access to justice. In FY16, HRA is overseeing \$19.1 million in discretionary funding added by the City Council during the budget process for a diverse

slate of civil legal services, including family reunification immigration defense, assistance for domestic violence survivors and veterans, and anti-eviction and SRO legal services, and more.

I also recently signed Council legislation establishing the Office of Civil Justice at HRA to further advance our efforts to provide access to justice in civil legal matters. Through this Office, annual reports on the need for civil legal assistance will be issued, allowing us to evaluate the quantity and quality of the services that are currently available, and the volume of need we must still meet.

We recognize that the challenges low-income and vulnerable New Yorkers are facing are complex and deep-rooted. But we know, too, that we have powerful tools at hand to address those challenges, and lift up our neighbors who need it most. Every family or individual who can keep their home with the help of legal assistance is spared the trauma of homelessness, including the disruption of education, employment and medical care. The City is spared the expense of emergency shelter services. And together, we become a stronger and more just city.

And, on a personal note as your retirement approaches at the end of this year, I want to acknowledge your tremendous leadership as our Chief Judge, Judge Lippman. Your commitment to access to justice has been extraordinary, as has been your ability to turn that commitment into action. Thousands of our City's low-income families and individuals have you to thank for helping them stay in their home, receive unemployment and disability benefits assistance, or escape from domestic violence. On their behalf, I offer my humblest thanks for all that you have done.

###

James R. Silkenat, Esq.
Past President, American Bar Association
Partner, Sullivan & Worcester LLP



James R. Silkenat

Sullivan & Worcester LLP
1633 Broadway, 32nd Floor
New York, New York 10019
212-660-3052
jsilkenat@sandw.com

James R. Silkenat is a Past President of the 400,000 member American Bar Association. He is a partner in the New York office of Sullivan & Worcester LLP and helps coordinate the firm's cross-border/international business practice. His practice concentrates on the areas of M&A, project and infrastructure finance, banking, securities law, privatizations and corporate law. He is a former Legal Counsel at the World Bank Group's International Finance Corporation. He is the Editor or Co-Editor of 15 books and more than 100 articles on legal, business and justice system issues. His books include: *The Law of International Insolvencies and Debt Restructurings*; *The Imperial Presidency and the Consequences of 9/11*; *The Legal Doctrines of the Rule of Law and the Legal State*; and *The ABA Guide to International Business Negotiations*. He is a former Chair of the ABA's Section of International Law and received the Section's Lifetime Achievement Award in 2007 and its Louis B. Sohn Award for Public International Law in 2013. He is also the recipient of the Diversity Champion Award of the Association of the Bar of the City of New York. He has been a member of the ABA House of Delegates since 1990 and was Chair of the New York Delegation to the ABA House from 2000 to 2009. He is a member of the American Law Institute and served as Chair of the Lawyers Committee for International Human Rights (now Human Rights First). He is a member of the Board of Directors of the World Justice Project and is the recipient of Allies for Justice Award from the National LGBT Bar Association and the Business Law and Leadership Award from the Lawyers Alliance for New York.

Testimony of James R. Silkenat

Partner, Sullivan & Worcester LLP

President, American Bar Association (2013-2014)

Hearings on Civil Legal Services

Chief Judge Jonathan Lippman, Presiding

First Department Hearing
Appellate Division Courthouse
27 Madison Avenue
New York, New York

September 29, 2015

1. Good Morning. I am Jim Silkenat, a former President of the American Bar Association and currently a partner in the New York office of Sullivan & Worcester LLP. I have been a member of the New York Bar for more than 40 years.
2. I applaud the important work of the Commission in exploring and evaluating the access to justice currently afforded to New Yorkers and the significant unmet legal needs that exist here. For our justice system, there is no priority that is more important.
3. Given my national focus over the past several years, and because of my role at the ABA, it is clear to me, despite the significant pro bono efforts of private sector lawyers and the innovative approaches adopted by strong state court systems (like New York's), that we have a huge gap in our legal system.
4. Within the American Bar Association, and within the legal community here in New York, we know that access to justice is more than a catch-phrase. It is what our Constitution guarantees and what our current practice does not fully deliver.

5. While we lawyers , as a profession, have made much progress in promoting the rule of law, we live in a world with many injustices and many pockets of deep poverty.
6. Growing up in the United States, we all learned, and many of us recited daily, one of the fundamental principles upon which America was founded: “liberty and justice for all.”
7. Yet, our nation is failing to fulfill this central promise.
8. Bryan Stevenson, the widely acclaimed public-interest lawyer who has dedicated his career to helping the poor and incarcerated, said: “The opposite of poverty is not wealth. ... In too many places, the opposite of poverty is justice.”
9. The need for legal services for the poor has never been greater; nearly one in five Americans now qualifies for legal assistance.
10. Every day across America, and right here in New York, victims of domestic violence seek protection, veterans try to avoid homelessness, unaccompanied child migrants seek refuge, and many

others are forced to navigate the legal system alone because they cannot afford a lawyer.

11. And it is not just the poor.
12. Less than four out of 10 moderate-income people turn to the legal system to resolve their legal problems.
13. Many give up and do nothing.
14. Too many low- and moderate-income people cannot access legal representation. As a result, they are denied the justice they deserve.
15. The organized bar can help to bridge this justice gap. We serve as representatives of our great profession, and we have the unique ability to call upon lawmakers to improve our justice system and advance the rule of law. The New York State Bar Association, and especially through its President David Miranda, is quite vigorous in pursuing this goal.
16. For nearly four decades, the American Bar Association has visited Capitol Hill in Washington to support funding for the Legal Services

Corporation. We call it ABA Day, although it has stretched to three days.

17. But ABA Day has always been about more than those three days.

We go to Washington, D.C., annually, but we do not stop caring about access to justice the rest of the year.

18. The law is a vehicle for fairness, peace, and justice. Our basic social and civic order relies on the legal system and public respect for it.

19. We cannot abandon the principles of fairness and due process.

20. During my tenure as President of the American Bar Association, one of my first actions was to create the ABA Legal Access Job Corps to address what I call an “access to justice paradox.”

21. While the number of Americans eligible for LSC-funded legal assistance continues to be at an all-time high, many recent law school graduates are without good jobs or the practical experience they need to be effective lawyers.

22. It has become increasingly difficult for graduating law students to compete in the job market.
23. Nationwide, only 59 percent of law students from the class of 2014 were employed full-time nine months after graduation in a job that required passage of a bar exam.
24. The Job Corps committed itself to looking at the dearth of legal jobs and the large number of unmet legal needs as one problem.
25. The Job Corps has been cataloguing the full range of programs in place that help struggling lawyers meet the legal needs of the underserved. These range from rural outreach programs and nonprofit fellowships, to modest-means programs and incubators.
26. We also launched an ABA Catalyst Grant Program to support innovative programs to enlist recently admitted lawyers in providing legal services to persons of modest means. We have awarded ten grants to Bar Associations, Law Schools and Legal Aid groups from coast to coast, including new programs in Arkansas, Illinois,

Nebraska, Hawaii, Pennsylvania, Michigan, Vermont, Massachusetts and California.

27. Lawyers have an important role to play in maintaining our democracy and ensuring that justice truly is for all. We can all be proud to be part of a profession the tenets of which include the responsibility to provide services to those unable to pay.
28. And from the ABA, I want to thank this Commission, and Chief Judge Lippman, for the leadership you have continued to show on access to justice issues.
29. There is a great deal of important work left to do and I am proud that New York's legal community is so committed to successfully addressing these issues.
30. Thank you.

John Sexton, Esq.

President, New York University

Dean Emeritus, New York University School of Law

JOHN SEXTON
PRESIDENT, NEW YORK UNIVERSITY

John Sexton was designated President of New York University in 2001. He is also NYU's Benjamin Butler Professor of Law and Dean *Emeritus* of the Law School.

During his Presidency, the University's reach and stature have grown tremendously. President Sexton oversaw the University's largest increase in the number of Arts and Science faculty; applications for undergraduate admissions have reached record levels; and, in 2008, NYU finished the most successful completed fundraising campaign in the history of American higher education. He led an academic strategic planning process, known as Framework 2031, and then a space planning process to produce the University's first long-term plan for physical growth.

A signature of his tenure has been the emergence of NYU as a Global Network University, with a unique network of 12 academic centers on six continents and liberal arts campuses in Abu Dhabi and Shanghai.

Other milestones include a merger with Polytechnic University (now NYU's Polytechnic School of Engineering) and the establishment of the Center for Urban Science and Progress in downtown Brooklyn.

President Sexton is a Fellow of the American Academy of Arts and Sciences, a member of the Council on Foreign Relations, and a past member of Executive Committee of the Association of American Universities. He is past Chair of the American Council on Education, the New York Academy of Sciences, and the Commission on Independent Colleges and Universities of New York. He has served as the Chairman of the Board of the Federal Reserve Bank of New York and Chair of the Federal Reserve Systems Council of Chairs. He also serves on the Board of the Institute of International Education.

He is an author of the nation's leading casebook on *Civil Procedure*. He served as law clerk to U.S. Chief Justice Warren Burger and to Judges David Bazelon and Harold Leventhal of the U.S. Court of Appeals. His latest book, *Baseball as a Road to God: Seeing Beyond the Game*, is based on an undergraduate seminar President Sexton teaches at NYU each spring.

President Sexton received a Bachelor's degree in history, a Master's degree in comparative religion and a Ph.D. in the history of American religion, all from Fordham University. He received a law degree magna cum laude from Harvard Law School. The recipient of a number of honorary degrees, he was named a Chevalier de la Légion d'Honneur, France's national order of the Legion of Honor. In March 2015, he received the TIAA-CREF Theodore M. Hesburgh Award for Leadership Excellence in Higher Education.



**TESTIMONY OF JOHN SEXTON
PRESIDENT OF NEW YORK UNIVERSITY**

**BEFORE THE CHIEF JUDGE'S FIRST DEPARTMENT
CIVIL LEGAL SERVICES HEARING**

TUESDAY, SEPTEMBER 29, 2015

I am pleased to appear before you today and testify in support of expanded legal services. This would not only help address the unmet need of low-income New Yorkers confronting legal problems but would widen the opportunities for law students to gain valuable experience in the clinical and pro bono spheres.

I speak to you on this topic from several perspectives: as a professor of law who also had the privilege of serving as dean of NYU's School of Law from 1988 to 2001; as president of New York University for the last 14 years; and as a father whose pride knows no bounds as my daughter Katie (a graduate of NYU's law school) is soon to begin her professional career at the Legal Aid Society. And it is from each and all of these perspectives that I applaud the work of the Chief Judge over the last decade to find innovative ways to increase the availability of civil legal services and urge that the effort be continued.

Let me start with NYU, the largest private university in the nation, whose very founding almost 185 years ago sprang from a desire to expand opportunity to those who had been excluded – to open wide the doors of higher education beyond the tight circle of the elites of the day or the clergy to include the sons and daughters of the commercial and mercantile classes who were shaping New York. Indeed, NYU's model was unusual not only in *whom* it included but *where* it was located. In the words of our founder, Albert Gallatin, NYU was to be a university “in and of the city,” situated not in some cloistered, pastoral setting, but deeply connected to the dynamism of urban life around it.

As a result, the ensuing decades have seen NYU develop an academic profile that seeks to address head-on broad urban and societal issues like equal justice under the law, alleviating poverty, expanding health services, and encouraging public service. Our Wagner School is home to researchers and policy planners who focus on issues of governance, health administration and urban planning. Our Steinhardt School works closely with the Board of Education improving the city's schools. Our Silver School of Social work has an entire institute, the McSilver Institute, devoted to poverty policy and research. And the Brennan Center for Justice tackles issues from access to the ballot to campaign finance reform.

At the Law School, I saw firsthand the dedication of our faculty and students – through one of the most robust clinical programs in the nation, through externships and through community service – to overcoming the legal hurdles facing those New Yorkers who are marginalized by low incomes or immigration status or lack of educational opportunities. Our

students have the commitment and passion; they provide many thousands of hours of volunteer assistance to those who need help with housing issues, with immigration issues, with access to voting. But they are often hard-pressed to continue to serve these populations due to the scarcity of opportunities upon graduation.

NYU is also one of the 15 New York law schools that work in collaboration with legal service providers, pro bono coordinators at law firms, the bar associations, and the courts to promote civil legal services and law school efforts to narrow the justice gap.

Similarly many of our law graduates – beneficiaries of the Law School’s scholarships and loan forgiveness programs for those who enter the public interest sector – are drawn to this work upon graduation and others commit countless hours of pro bono assistance. They all join me in support of the mission the Chief Judge has laid out: providing legal services to those who are in desperate need, especially those in danger of losing the essentials of life, including a place to live, access to health care and education, continuation of benefits, and protection from domestic abuse.

The Chief Judge has gone one step further and put his budget where his values are. If I have one final recommendation it is that the *next* Chief Judge continue to allocate funds from the annual Judiciary budget for civil legal services funding. It is a wise investment with savings down the line. The findings of the Task Force to Expand Access to Civil Legal Services make it clear that “the provision of civil legal services reduces the costs of litigation, increases court efficiency, saves taxpayers millions of dollars, and has a profound effect on the lives of low-income New Yorkers.”

On a final – and personal – note: My daughter Katherine Sexton, after attending Yale and then graduating from NYU’s School of Law, had many career choices before her and she carefully considered an array of options. But when she came to me and said she had decided on a clear direction – to work for the Legal Aid Society – I could not have been more proud. In fact, she starts October 1st and is eager to join on the front lines of some of the issues you are grappling with.

This Chief Judge has been a standard-bearer for the cause of providing legal civil services, and encouraging preventive and early intervention efforts. As president of a major university which bears the name of this city, as a member of the legal community and former law school dean, as the father of a young woman who has decided to follow this path, I applaud his commitment and recommend that his successor continue on the path he has forged.

Martin Lipton, Esq.

Executive Committee Member and Former Co-Chair,
Partnership for New York City
Founding Partner, Wachtell, Lipton, Rosen & Katz



MARTIN LIPTON

Martin Lipton, a founding partner of Wachtell, Lipton, Rosen & Katz, specializes in advising major corporations on mergers and acquisitions and matters affecting corporate policy and strategy. Lipton is Chairman of the Board of Trustees of New York University, a Trustee of the New York University School of Law (Chairman 1988-1998), an emeritus member of the Council of the American Law Institute, a director of the Institute of Judicial Administration and an Honorary Chair of The American College of Governance Counsel. Lipton is a member of the Executive Committee of the Partnership for New York City and served as its Co-Chair (2004-2006). Lipton has a B.S. in Economics from the Wharton School of the University of Pennsylvania and an LL.B. from the New York University School of Law. He is a member of the American Academy of Arts & Sciences, a member of the International Advisory Council of Guanghua School of Management of Peking University, and a Chevalier de la Légion d'Honneur. Mr. Lipton is an Emeritus Chairman of Prep for Prep, having served as Chairman from 1990 to 2002.

**The Chief Judge's Hearing on Access to Legal Services in New York
September 29, 2015
Appellate Division, First Department
27 Madison Avenue, New York, New York**

**Testimony by Martin Lipton
Senior Partner, Wachtell, Lipton, Rosen & Katz
Chairman of the Board of Trustees, New York University**

Good morning Chief Judge Lippman and members of the Permanent Commission on Access to Justice. I appreciate the opportunity to provide testimony today on the important topic of ensuring that all New Yorkers have access to justice.

As a long time member and former Chair of the Partnership for New York City, I am a firm believer in the importance of ensuring that our city provides fairness and opportunities to all of our residents, no matter what their income.

Civil legal services for those who cannot afford them are critical to help low income New Yorkers secure the essentials of life—shelter, safety, income security, and access to education and health care—that those of us with means can take for granted and to provide fairness and opportunity to those who cannot afford it.

To create the city that we all want to live in, we need to help those who are less fortunate. Free civil legal services, and pro bono legal services to low income New Yorkers, are critical not only in their lives but also in the health and vitality of the city.

The Chief Judge commenced last year's hearings by emphasizing that access to legal services for the poor is an issue that has "such great consequences for our society, for our communities and it is at a tremendous cost that we fail to provide legal representation for all, equal representation, equal justice for all." The Chief Judge is absolutely correct to emphasize that access to legal services for the poor is something that affects not only the poor, but the

community at large, and that we all share the costs of a judicial system that falls short of this core mission.

The economic vitality of our state depends on the strength of our court system. If businesses do not believe that New York is a jurisdiction where disputes are resolved efficiently, economically, and, above all, fairly, then they will try to avoid New York. One cannot overstate the importance of a first-class court system to the state's economy. The strength of our court system, in turn, depends on all members of society having access to the courts, and with real representation. Businesses and individuals, rich and poor, are looking for the same thing: a court system that treats all sides fairly. If the poorest members of society do not believe that they can receive justice from the courts, or if the courts are perceived to close their doors to large portions of the community, then the court system will lose the respect of all members of the community. A court system that does not provide access to everyone is a frail system that has failed in its fundamental duties, and businesses will take note of that.

Access for all is not just a matter of providing fairness. The court system is overburdened. Dockets have ballooned and cases have grown more complex, but judicial resources have not kept up with these demands. The increased workload delays the resolution of all cases. Our judiciary must be properly funded to handle the cases that come before it. One important tool that can help to increase courtroom efficiency is providing access to counsel. *Pro se* litigants lack legal knowledge, and as a result the courts have to spend time helping them to navigate the system. Judges and the court staff are of course sensitive to the fact that unrepresented litigants are at a disadvantage and often spend additional time assisting the litigant with courtroom basics, diverting already scarce time and resources away from their crowded dockets.

It is also important that potential litigants receive such access to representation and advice early in the process—not when it is too late to make a difference. Access to counsel at an early stage of a dispute can help parties identify mutually agreeable paths to resolution.

I commend the Commission for already considering options for legal services that go beyond the traditional courtroom representation at the fore of most people's minds. The pilot program for an online dispute resolution mechanism in consumer credit cases, for example, is an innovative approach that utilizes new technologies to help potential litigants resolve their disputes in online chat rooms with the help of mediators. More than 90% of business disputes end in settlement, but because the parties do not start exploring settlements early in the process, excessive litigation costs are incurred leading up to the point of settlement. The online mediation program that the Commission is exploring is just the sort of innovative, forward-thinking approach that makes the New York court system one of the most effective in the world, and it sends a message that the New York judiciary is focused on providing services that actually work for litigants. I also support the Commission's consideration of other innovations, such as the simplification of court forms, that will make our courts more efficient and more accessible to all.

Finally, while I firmly believe that a well-funded court system that provides equal access to all litigants is a fundamental responsibility of all, I also recognize the special role that law firms and lawyers play in ensuring equal access to justice. Our firm is a strong supporter of organizations that provide legal services to the poor and disadvantaged, and many of our lawyers take on a range of cases on a pro bono basis. It is the obligation of lawyers to play an active role in their community and to give back to their community in many different ways. We should be

proud that lawyers in New York take this obligation seriously. The work of the members of this Commission is yet another example of this important tradition.

In short, the problems that the Commission has set out to address are of great importance, and not just for those members of our community who are unable to afford counsel. Our state will retain its preeminent standing only if businesses view our judicial system as one that is open and available to every member of society. By ensuring access to robust legal representation, and by identifying efficiencies in the litigation process that can help reduce the costs of civil litigation, we are not only fulfilling our ethical duties to those who cannot afford counsel. We are also maintaining New York's continuing status as a place where companies and individuals want to do business.

Thank you again for inviting me to testify today.

Eric Weingartner
Managing Director
Robin Hood Foundation

Eric Weingartner is a Managing Director at Robin Hood, New York City's largest poverty fighting organization. At Robin Hood, Eric leads the Survival portfolio which focuses on issues including health, housing, homelessness, hunger, domestic violence, legal services, and public benefit enrollment. In addition, Eric manages Robin Hood's Veterans Fund as well as Robin Hood's American Dream Fund, two portfolios focused on veterans and immigrants living in poverty. His portfolio has launched over 25 large scale public / private partnerships with government and best in class not for profit organizations across New York City. At Robin Hood, Eric oversees a \$40 million grants portfolio directed to over 80 not for profit and government agencies.

Before joining Robin Hood, Eric served as a policy advisor to both Mayor Michael Bloomberg and Mayor Rudolph Giuliani. In both cases, Eric focused on issues including welfare reform, neighborhood economic development, public education, youth development, higher education, and work force programming. Also, Eric is a former Vice President of FEGS where he managed the education and workforce divisions including 30 programs and an annual budget of \$50 million. Eric is the former Executive Director of Teach For America, New York and was a Teach for America corps member having taught eighth grade English in the Bronx.

Eric graduated from the Kennedy School of Government at Harvard University and holds a BA in English and Political Science from the University of Wisconsin, Madison where he was the class president. Eric lives in Brooklyn, NY with his wife Jennifer and his children Henry and Ruby.

Testimony of Eric M. Weingartner
Managing Director at the Robin Hood Foundation
Testimony for The Chief Judge's First Department Civil Legal Services Hearing
September 29, 2015

Good morning and thank you for inviting me to address the chief judge and distinguished panelists on Access to Civil Legal Services in New York. My name is Eric Weingartner and I am a Managing Director 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 one common element to all these programs: they work. Robin Hood is well-known for its rigorous evaluation of its grants and we rivet on the outcomes that our grants have on poor New Yorkers, placing full emphasis on the impact that services have on earnings and health. In a nut shell, we make grants to raise the economic living standards and quality of health of the poor. And it is for these reasons that we are more aggressive than ever in our support of legal services for poor New Yorkers. In considering the benefit cost associated with access to legal services, we are increasingly convinced that our funding to expand access is smart grant making, effective, cost efficient, and impactful.

This calendar year, alone and in partnership with Single Stop USA -- Robin Hood will spend over \$10 million a year to help about 20,000 city residents handle civil legal disputes. Most of the cases involve housing disputes, access to government programs or immigration problems. In the past two years, we have expanded our investment substantially, turning our attention to support unaccompanied minors, immigrants without access to counsel, a ramped up investment in support of women who are the victims of violence, and an intensified investment in support of an already robust portfolio focused on New Yorkers facing eviction, deplorable housing conditions, and homelessness. And with your permission, I would like to give you a window into how we look at our investment in legal services, in effect following a pattern that is consistent across our grant making. Simply, we identify thorny policy problems that adversely impact our neighbors, and then we try to determine what intervention could reverse the condition. In this formula, we are looking to see where new dollars can raise living standards, and in the next few moments, I'll mention a few instances where we think that we've gotten it right, and where an expansion of legal services was the difference.

Let's start with Housing.

This year, Robin Hood entered into a unique partnership under Chief Judge Lippman's leadership, in support of the Pro Bono Scholars initiative. In partnership with the New York State Unified Court System, the New York City Human Resources Administration (H.R.A.) and the

Center for Court Innovation (C.C.I.). By providing qualified yet relatively inexpensive legal support to low-income families that are at risk of eviction, the partnership attempts to address the growing housing crisis in New York City: a record-high 250,000 eviction filings by the end of 2014;ⁱ a homeless population of nearly 60,000 individuals—including 25,000 children—also an all-time high;ⁱⁱ and one-third of those in homeless shelters entering the system immediately after an eviction.ⁱⁱⁱ The model, similar to those of Teach for America and the Immigrant Justice Corps (I.J.C.), deploys recent law school and college graduates—called Pro Bono Scholars—to nonprofits across the city to help low-income New Yorkers who are at risk of becoming homeless stave off eviction.

The impact of the program, we believe, could be significant. Currently, only 5 percent to 10 percent of low-income tenants sued in housing court have legal representation,^{iv} but more than 90 percent of landlords do.^v The upshot: according to Robin Hood-funded legal providers, tenants without representation win only about 10 percent of their cases.^{vi} And our support of this program will help even the playing field. And research indicates that having a qualified attorney can significantly improve a tenant's prospect for a successful legal outcome.^{vii} Based on a randomized controlled trial conducted by the Boston Bar Association and Harvard Law School (with participants randomly selected via computer program), low-income tenants with counsel win their cases 67 percent of the time, compared with only 30 percent for those without a lawyer.^{viii} The impact can be substantial: staving off eviction means that parents keep their jobs and avoid mental health issues. It means that children will not miss school, will not suffer from depression or will not be placed in foster care.^{ix} It is these metrics that we use to gauge the impact of this initiative.

Further, as the city runs out of shelter space for homeless New Yorkers, it is increasingly turning to "scatter site" shelters for support—that is, regular apartments where people who would otherwise be in a shelter are placed by the city. Increasingly, landlords are trying to evict all of the tenants in a building, often by asserting fraudulent claims, so that such buildings can be converted to scatter site housing, thus securing higher rental payments from the city than the normal rent roll would provide. And here again, with no counsel, the families that we aim to help have no recourse without an attorney.

And while this program has just begun, the policy case for added counsel is clear and we hope to keep the Court up to date on this program as it evolves.

Domestic Violence

Across New York City and the country, Domestic Violence continues to plague families in record numbers, and despite epidemic violence, access to legal supports is still low. In response, Robin Hood has invested in the City's infrastructure, again turning to lawyers to lead the way. The City's Family Justice Centers streamline assistance for victims of domestic violence by providing wide access to services under one roof. The centers, located in the Bronx, Brooklyn and Queens, assist over 1,500 people every month, and over 50 percent of the people who seek services from the centers are immigrants. For victims of domestic violence, their immigration status can be used against them, used to instill fear and prevent victims from leaving their

abuser or seeking help. Gaining legal immigration status is a critical first step to gaining both safety and self-sufficiency for victims.

For context, In New York City, the police respond to over 255,000 domestic violence incidents each year, or about 700 incidents per day. In response, the three existing Family Justice Centers assist about 20,000 people on an annual basis. Because all domestic violence cases in the Bronx, Brooklyn and Queens that involve the police are routed through the centers, the victims with the most violent and horrific cases are served through the centers. Robin Hood tracks outcomes for the program in three main areas: immigration legal services, connections to benefits and connections to education and job training programs. And for the purposes of today's discussion, I suggest how we value the legal intervention in the Robin Hood way. In the first nine months of our contract with the City, the centers provided immigration legal services for 1,411 individuals and are on track to handle over 1,650 cases by the end of the grant period. Of those cases, about 850 cases will be new cases opened during the 2013 grant year. The F.J.C.s will close about 660 cases during the year with a success rate of over 95 percent.

After gaining legal status, some participants become eligible for benefits, including Medicaid. The F.J.C.s screen all families for benefits after a change in legal status. They are on track to enroll 83 individuals in Medicaid, 67 individuals in food stamps, 45 individuals in public assistance and 28 individuals in rental assistance. The program is also on track to assist 33 people in obtaining an apartment through Nycha or to help individuals remain in their apartment (eviction prevention). None of these supports would have been eligible without a legal change in status.

Immigrants.

Lastly, I turn our attention to Immigrants and cite a new program, developed by Robin Hood in early 2014 called the Immigrant Justice Corps. Note some similarities to the Pro Bono Scholars model that I discussed earlier. Immigration status is directly linked to economic well-being. Legal assistance can help undocumented immigrants obtain legal status, which enables them to gain lawful employment, receive financial aid for school, and access health insurance and temporary public benefits. Preventing detention and deportation can also keep immigrant families from losing a primary breadwinner and children from being funneled into foster care or suffering educational and other disruptions. However, less than 20 percent of the legal needs of low-income New Yorkers are currently being met. And here, considering these factors, Robin Hood invested. The pattern should be clear at this point, find the gap, insert a solution, and again, quite frequently, lawyers to the rescue.

We believe that the I.J.C. will ameliorate this shortage. Chief Judge Robert Katzmann of the U.S. Court of Appeals for the Second Circuit originated the idea for the I.J.C. And beginning in the Spring of 2014, the I.J.C. recruited 25 law-school graduates and 15 college graduates from around the country, trained them in immigration law, and placed them in non-profits to serve immigrant New Yorkers. At capacity, the I.J.C. will see 14,000 cases each year, directly helping

over 20,000 individuals, at 20 percent lower cost than existing Robin Hood immigration legal services grantees. As we enter our second year, the team has grown to 50 lawyers and 30 college graduates.

Nearly 4 million people, 49 percent of New York City's population, are either immigrants or the children of immigrants.^x Immigrants and their children also make up nearly half of the New Yorkers living in poverty^{xi}, with higher rates of poverty among non-citizens (29%) than for the city overall (21%)^{xii} (see Figure 1).

However, an estimated 40 percent of immigrants nationwide who are eligible for citizenship have not yet naturalized, leaving them vulnerable to detention and deportation.^{xiii} Recent legal data have revealed that undocumented immigrants are often unaware that they are eligible for permanent legal status. Furthermore, between 2005 and 2010, the parents of over 7,000 U.S. citizen children in New York City were deported and over 10,000 were detained without bond, causing families to lose breadwinners and children to become vulnerable to foster care placement or educational, health and mental health complications.^{xiv}

Only 20 percent of the legal needs of low-income New Yorkers are served each year, according to the New York State Task Force to Expand Access to Civil Legal Services.^{xv} The shortage is particularly acute for immigrants threatened with deportation. Sixty percent of detained immigrants facing deportation in New York City lack counsel. As non-citizens, they have no right to representation. And immigrants who do have lawyers receive "inadequate" or even "grossly inadequate" representation 47 percent of the time, according to prominent judges.^{xvi} Immigrants, particularly the limited English proficient, often hire fraudulent legal providers, who take thousands of dollars in fees and can mishandle cases with disastrous consequences. Having a qualified attorney can dramatically improve an immigrant's prospect for a successful legal outcome. In deportation, immigrants with counsel win their cases 67 percent of the time, compared to only 8 percent for those without a lawyer.^{xvii}

To give you a sense of the scope of the program, and the year one numbers are just being tallied now, the I.J.C. expects to handle over 6,500 cases. Based on the average time required for adjudication, we expect that half of the less complex cases and one-third of the more complex cases will close within one year. We also assume that 80 percent of cases will close successfully, a conservative estimate considering that Fellows will be placed in premier legal services providers (many of which are Robin Hood grantees) where success rates averaging above 90 percent. All in all, we expect to report over 2,500 successfully closed cases by the end of year one of the fellowship program.

My objective today was simple. I wanted to make clear that in Robin Hood's view, legal services are a cost effective, critical tool in our fight against poverty. And secondly, through three examples, the Pro Bono Scholars, the Family Justice Centers and the Immigrant Justice Corps, to give the Court a summarized explanation for how the legal interventions that we support fight poverty. I hope that my case has been made, this is as close as I will ever get to being a lawyer, and I would be happy to take any questions.

Neil Steinkamp

Managing Director, Dispute Advisory & Forensic Services
Stout Risius Ross, Inc.

Neil Steinkamp

I am a Managing Director in the Dispute Advisory & Forensic Services group at Stout Risius Ross, a global financial advisory firm. I hold a bachelor's degree in finance from Michigan State University and am a Certified Valuation Analyst. I am experienced in providing business and financial advice to trial lawyers and in-house counsel regarding damages and other economic analyses. I have testified in domestic and international arbitration and jury and bench trials, and have assisted parties in settlement negotiations, mediations and facilitation. Further, I lead SRR's pro bono practice overseeing all of our efforts to apply the talents, experience and expertise of our finance professional for the benefit of low income individuals and not-for-profit organizations.

**Executive Summary of Testimony by Neil Steinkamp to The
New York State Permanent Commission on Access to Justice
Presented at the 1st Judicial Department Hearing
September 29th, 2015**

Stout Risius Ross (“SRR”) was asked by the New York State Permanent Commission on Access to Justice (the “Commission”) to update the estimates of the value of federal funds brought into New York State as well as the economic impact from the provision of civil legal services using data for cases closed through 2014. Using similar methodology described in testimony in September 2013, but relying on more recent data through 2014, the updated total economic impact from civil legal services in New York, for cases closed in 2014, is \$2.4 billion. This reflects present and future dollar benefits to clients and their families that were from civil legal services in 2014. In addition, this amount includes the economic impact as these amounts are used by clients and their families throughout their communities, estimated to be nearly \$1.3 billion.

SRR also was asked by the Commission to assess the value created by the provision of civil legal services 1) for immigrants securing legal work authorization, and 2) for clients attempting to delay or avoid eviction or foreclosure. The provision of legal assistance to immigrants attempting to secure work authorization generated an estimated \$59.1 million in total net present value of wages, while the provision of legal services to assist clients in delaying or avoiding eviction or foreclosure generated an estimated \$260.6 million in savings for taxpayers in the form of reduced emergency shelter costs.

All analyses performed at the request of the Commission were done pro bono.

I. Qualifications

1. I am a Managing Director in the Dispute Advisory & Forensic Services group at Stout Risius Ross, a global financial advisory firm. I hold a bachelor's degree in finance from Michigan State University and am a Certified Valuation Analyst. I am experienced in providing business and financial advice to trial lawyers and in-house counsel regarding damages and other economic analyses. I have testified in domestic and international arbitration and jury and bench trials, and have assisted parties in settlement negotiations, mediations and facilitation. Further, I lead SRR's pro bono practice overseeing all of our efforts to apply the talents, experience and expertise of our finance professional for the benefit of low income individuals and not-for-profit organizations.

II. Assignment and Summary of Findings

2. I was asked by the Commission to estimate the economic benefits resulting from the provision of civil legal services to help low-income New Yorkers access benefits. I, with the assistance of others at SRR, performed these analyses for the Commission pro bono. Specifically, I was asked to:
 - i. Evaluate the current year's financial impact of increased access to several federal programs on the direct recipients of those benefits and their families;
 - ii. 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, ongoing eligibility and benefits;
 - iii. Evaluate the economic impact of the flow of federal benefits into the New York State economy as a whole;
 - iv. 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
 - v. 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 estimated 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 2005 until 2014, along with estimates of the wage impact of legal work authorization for immigrants and taxpayer savings resulting from the delay or avoidance of eviction or foreclosure. Having reviewed this information, I find:
 - i. The long-term financial impact in 2014 of increased access to federal benefits (SSI/SSD, Medicaid, and Other Federal Benefits) on the direct recipients of those benefits and their families, inclusive of amounts received from civil legal aid activities in prior years, is conservatively estimated to be \$2.57 billion.
 - Focusing only on cases closed in 2014, and excluding amounts received in 2014 from prior years' work as well as amounts that will be received in future years for work completed in prior years, \$760.1 million in value was created in 2014 alone related to these benefits.
 - ii. Multiplier effects for the in-flow of federal resources to New York State resulted in estimated economic benefits to the State of \$1.28 billion and the estimated creation of approximately 7,210 jobs.
 - iii. The additional economic benefit in 2014 from Child and Spousal Support payments on the direct recipients of those benefits and their families is estimated to be \$46.6 million.
 - iv. The present value of the wage impact of work authorization assistance for immigrants is estimated to be \$59.1 million.
 - v. Taxpayers have saved an estimated \$260.6 million due to decreased usage of emergency shelters as a result of legal assistance delaying or avoiding eviction or foreclosure.

- vi. The long-term financial impact of increased access from the provision of civil legal services in recent years ranges as high as \$4.4 billion, depending upon the expected duration of continued participation in key federal programs and other support payments. Excluding the impact of services provided prior to 2014, the long-term financial impact of services provided in 2014 is conservatively estimated to be \$2.4 billion, for the value impacts described herein.
4. In this report, I summarize the various benefits evaluated, the data received from IOLA regarding increased access to these benefits, and my methodology and conclusions for evaluating the overall financial and economic impact resulting from increased access to benefits.

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. The benefits that I analyzed include:
- i. 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.
 - ii. 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.
 - iii. Medicaid funded by the federal government: Some portion of Medicaid benefits is funded by the State, but some is reimbursed by the federal government.

- iv. 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.
 - v. 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. We also received supporting data on the number of clients who received legal assistance and successfully gained work authorization, as well as cases in which legal assistance delayed or avoided eviction or foreclosure, and the estimated costs to the taxpayer of providing emergency shelter for homeless families.
7. I also analyzed Child Support and Spousal Support payments, which are as follows:
- i. 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.
 - ii. 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. It may be difficult for low-income New Yorkers to access these programs and benefits for a number of reasons, including: 1) they may not be aware of the programs or of their eligibility; 2) determining eligibility can require knowledge of complex rules and regulations; and 3) 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 receive the federal benefits and other payments to which they are entitled. As shown in my analysis, legal assistance

results in substantial cost savings for State and local governments to whom these needy families would likely turn to instead.

9. IOLA provided me with data reported by grantee organizations detailing the dollar value of benefits from cases completed in 2014 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 2005 and for "other" federal benefits to include cases closed back to 2012. We also received supporting data on the number of clients who received legal assistance and successfully gained work authorization and their estimated wages, as well as cases in which legal assistance delayed or avoided eviction or foreclosure, and the estimated avoided costs to the taxpayer of providing emergency shelter for homeless families. IOLA also provided me with data on Child Support and Spousal Support payments, which I used together with the benefits 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 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. Child and Spousal Support

10. Child and spousal support awards are segregated into amounts that consist of back awards and monthly payment awards. The value of the award for 2014 is

based upon the back awarded amount plus the net present value of future monthly payments expected to be received.

11. I have estimated that the monthly payments will continue, on average, for nine years. This is estimated on the premise that the average child of divorce is nine years old at the time of the divorce¹ which leaves nine more years for monthly payments until the child is 18. This also considers that spousal support payments are applicable over at least a similar duration.
12. In 2014, the IOLA Grantee Report presented back awards at \$1,526,457 and monthly payment awards at \$639,564. The net present value of awarded monthly payments, based on a payment stream of nine years, is approximately \$69.1 million. Thus the total value of the child and spousal support award for 2014 is approximately \$70.6 million.
13. However, when considering the economic impact of this award to the State of New York, it is important to consider the amount of these awards that are received by the clients. The U.S. Department of Health and Human Services, Administration for Children & Families, Office of Child Support Enforcement reports that roughly 66% of child support payments are actually received. Thus, the expected collection of back awards are estimated at approximately \$1 million and monthly payments at approximately \$45.6 million resulting in an estimated value of child and/or spousal support of approximately \$46.6 million.

Supplemental Security Income and Social Security Disability Income

14. Awards for Social Security Supplemental Income (“SSI”) and Disability Payments (“SSD”) are segregated by extended representation cases and limited

¹ Liu, Shirley H., "The Effect Parental Divorce and Its Timing on Child Educational Attainment: A Dynamic Approach," page 17; available at http://moya.bus.miami.edu/~sliu/Research_files/divorcetiming.pdf.

representation cases. Under both types of representation, these payments are awarded for back awards and monthly payments awards. The value of SSI/SSD awards are computed similarly to that of child/spousal support awards where the back awarded amount is added to the net present value of the future monthly payments.

15. The Social Security Administration has released studies that estimate the average duration of SSI payments at 9.7 years while SSD payments average 10.5 years. For purposes of my analysis, I have utilized a payment expectation of ten years. Thus, the SSI/SSD amounts awarded in 2014 are expected to continue until 2023.

Extended Representation

16. In 2014, \$24.37 million was awarded as back-pay and \$1.75 million in monthly payments for Extended Representation Cases. The net present value of the awarded monthly payments, utilizing a ten year payment period, is estimated at \$210.3 million. Thus the total value of the SSI/SSD award for Extended Representation cases in 2014 is estimated at \$234.7 million. This represents the estimated net present value of expected future payment streams exclusively for extended representation performed on cases closed in 2014. However, it is important to recognize that in 2014 amounts were received by clients as the result of prior civil legal services and that amounts will be received in future periods related to prior civil legal services.
17. Based on the information received from IOLA, the value of payments received by clients in 2014 as a result of civil legal services (extended representation) performed in prior periods (ten years) is estimated to be approximately \$274.2 million. For civil legal services provided over the last five years the amount is estimated to be \$151.9 million.

18. Further, both the cases closed in prior periods and the cases closed in 2014 will continue to provide amounts for clients in future periods. Based on a 10-year payment stream expectation, and incorporate a run-off whereby amounts end 10 years after case completion, it is estimated that the present value of the future payment stream (excluding 2014 which is included in the amounts above) for these cases is approximately \$1.1 billion. Based on a five year payment stream expectation this amount would be approximately \$216.2 million.
19. In combination, the total value of amounts received for SSI/SSD benefits in 2014 as a result of Extended Representation and the future benefits expected to be received (over a ten year period) is approximately \$1.3 billion.
20. Focusing only on cases closed in 2014, and excluding amounts received in 2014 from prior years' work as well as amounts that will be received in future years for work completed in prior years, \$213.6 million in value was created in 2014 alone related to these extended representation benefits.

Limited Representation

21. A similar analysis was performed with respect to Limited Representation matters. In 2014, \$18.10 million was awarded as back-pay and \$1.30 million in monthly payments for Limited Representation Cases. The net present value of the awarded monthly payments, utilizing a ten year payment period, is estimated at \$156.3 million. Thus the total value of the SSI/SSD award for Limited Representation cases in 2014 is estimated at \$174.4 million. This represents the estimated net present value of expected future payment streams exclusively for limited representation performed on cases closed in 2014. However, it is important to recognize that in 2014 amounts were received by clients as the result of prior civil

legal services and that amounts will be received in future periods related to prior civil legal services.

22. Based on the information received from IOLA, the value of payments received by clients in 2014 as a result of civil legal services (limited representation) performed in prior periods (ten years) is estimated to be approximately \$154.6 million. For civil legal services provided over the last five years the amounts is estimated to be \$88.0 million.
23. Further, both the cases closed in prior periods and the cases closed in 2014 will continue to provide amounts for clients in future periods. Based on a 10-year payment stream expectation, and incorporate a run-off whereby amounts end 10 years after case completion, it is estimated that the present value of the future payment stream (excluding 2014 which is included in the amounts above) for these cases is approximately \$635.1 million. Based on a five year payment stream expectation this amount would be approximately \$138.5 million.
24. In combination, the total value of amounts received for SSI/SSD benefits in 2014 as a result of Limited Representation and the future benefits expected to be received (over a ten year period) is approximately \$771.6 million.
25. Focusing only on cases closed in 2014, and excluding amounts received in 2014 from prior years' work as well as amounts that will be received in future years for work completed in prior years, \$158.8 million in value was created in 2014 alone related to these limited representation benefits.

B. Medicaid Funds into NY State

26. Advice and Brief services have also assisted New Yorkers in obtaining Medicaid benefits. In 2014, a total of 1,838 limited representation Medicaid cases were closed by the Advice and Brief Services program in New York. According to information provided by IOLA regarding survey results of Pennsylvania's legal

assistance programs in 2011 (the “Pennsylvania Survey”), such cases had a 6.5% success rate. I incorporated a more conservative 6.0% success rate in my estimates. Based thereon, I estimate that in total, 110 cases out of all limited representation cases closed in New York were likely to obtain or maintain Medicaid benefits for clients. Additionally, IOLA reported 5,215 extended representation cases in which Medicaid benefits were obtained or preserved. As a result, I estimated the total number of limited and extended representation cases in which Medicaid benefits were obtained or preserved in 2014 to be 5,325.

27. Medicaid benefits may also be obtained through successful SSI cases. In 2014, a total of 3,663 limited representation SSI cases were closed by the Advice and Brief services in New York. Applying the estimated success rate of SSI cases (per the Pennsylvania Survey) of 41%, I estimated a total of 1,502 SSI cases in which benefits were successfully obtained, preserved, or increased. Additionally, IOLA reported 1,855 extended representation SSI cases in which benefits were successfully obtained, preserved, or increased. As a result, I estimated the total number of limited and extended representation SSI cases in which benefits were obtained, preserved, or increased in 2014 to be 3,357.
28. Based on the above, I estimated that a total of 8,682 successful Medicaid and SSI cases were closed by the Advice and Brief services in New York in 2014. Per the New York State Department of Health, the average annual Medicaid benefits per case is \$7,988. Assuming an average duration of Medicaid benefits of ten years per case, I estimated the average total benefit per case to be \$79,882, or \$693.6 million in aggregate for all 8,682 successful Medicaid and SSI cases. Assuming a 50% federal reimbursement percentage (per the Kaiser Family Foundation), I estimate \$346.8 million in Medicaid benefits were generated from civil legal programs in 2014.

C. Other Federal Benefits into NY State

29. Other federal funds have also been awarded as back awards and monthly payment awards. As such, the value of the award for 2014 is based upon the back awarded amount plus the net present value of future monthly payments expected to be received.
30. In 2014, the other federal funds awards were \$16.7 million and the monthly payment awards were \$24.3 million. I have conservatively applied the premise that monthly payment awards are expected to continue for three years resulting in a net present value of \$72.8 million. Thus, the total value of the 2014 award is approximately \$89.5 million.
31. Alternatively, the Cumulative Approach to estimate the other federal funds received in 2014 is presented below.

Year	Nominal SSI/SSD Award (\$M)	Real SSI/SSD Award (\$M)
<i>2012</i>	\$ 18.45	\$ 19.02
<i>2013</i>	22.91	23.28
<i>2014</i>	24.28	24.28
Total	\$ 65.64	\$ 66.58

32. Adding the back award of \$16.7 million to the real payment stream presented above results in an estimated \$83.2 million of other federal funds received in 2014. Excluding benefits attributable to cases completed in prior years, an estimated \$40.9 million of benefits were received resulting from cases completed in 2014.

D. Earned Income Tax Credit Refunds into NY State

33. IOLA has provided me with estimates of the amount of Earned Income Tax Credit (“EITC”) refunds received by low-income New Yorkers who received civil legal services. The total of value of EITC refunds provided to me by IOLA is approximately \$21.6 million. I understand that this amount represents the total of refunds reported by IOLA grantees in their annual outcomes report provided to the IOLA Fund.

E. Wage Impacts of Immigrant Work Authorization

34. We used 1,924 (the total number of through U Visas, T Visas, and VAMA benefits obtained per The Resource of Great Programs, Inc. representatives) as the number of program clients who achieved work authorization.
35. To estimate the wage impact on working immigrant women, we assumed that 51% of clients were female² and based on information The Resource of Great Programs, Inc. representatives received from legal advocates in other immigration legal services programs, we have assumed that all female clients were employed. Afterwards, we assumed a differential in average annual wages between unauthorized and authorized female immigrant workers³. We calculated this differential to be \$1,278 for women.

² Based on data found in Furtuny, Capps and Passel, "The Characteristics of Unauthorized Immigrants in California, Los Angeles County, and the United States; The Urban Institute, 2007; Table 9

³ Source: Pastor, Scoggins, Tran and Ortiz, "The Economic Benefits of Immigrant Authorization in California", 2012. That study found an average wage differential between unauthorized and authorized immigrant workers to be 9.5 percent controlling for human capital and other characteristics. To estimate the impact for men we applied the differential to the average wage for unauthorized Latino immigrants working in California's "Building Maintenance and Grounds keeping" industry. To estimate the wage impact for women we applied the differential to the average wage for unauthorized Latino immigrants working in California's "Personal Care and Service" industry. We assumed the workers were employed 35 hours per week, 50 weeks per year, or 1,750 hours per year. The figures are in 2009 dollars and were not adjusted for inflation. Additionally, we considered an assessment of legal service programs funded by the Marin Community Foundation from 2009 through 2012 prepared by Ken Smith, Ph.D, Kelly Thayer, MA, and Kathy Garwold, MBA, as well as the article "Legal Status and Wage Disparities for Mexican Immigrants" by Matthew Hall, Emily Greenman, and George Farkas.

36. Multiplying the assumed wage differential by the number of employed women who received authorization results in the estimated annual wage impact for women of approximately \$1.25 million.
37. To estimate the wage impact on working immigrant men, we assumed that the remaining clients (49%) were male and based on information The Resource of Great Programs, Inc. representatives received from legal advocates in other immigration legal services programs, we have assumed that 94% of male clients were employed. Afterwards, we assumed a differential in average annual wages between unauthorized and authorized male immigrant workers⁴. We calculated this differential to be \$1,435 for men.
38. Multiplying the assumed wage differential by the number of employed men who received authorization results in the estimated annual wage impact for men of approximately \$1.27 million.
39. Adding the estimated annual wage impact for men and women results in the total wage impact of receiving authorization through a U Visa, T Visa, and WAMA benefits.
40. The duration of the wage impact of authorization was assumed to be 23.5 years. This is based on a median age of 41.5 years based on the assumption that the age of those employed would be at least 18 years and at most 65 years. Hence, we assume that the duration would last from this median age of 41.5 years until retirement at 65 years.
41. Furthermore, we assumed that there would be a difference in annual and monthly wage growth for an authorized immigrant and an unauthorized immigrant. Based on an article by Matthew Hall, Emily Greenman, and George Farkas titled “Legal

⁴ Ibid.

Status and Wage Disparities for Mexican Immigrants”, as well as with conversations with The Resource of Great Programs, Inc. representatives, we determined that 0.42% was an appropriate figure for the monthly growth in wage difference that an authorized immigrant would have over an unauthorized immigrant.

42. Lastly, we determined that a discount rate of 5.0% was appropriate when discounting the annual wage impacts over their duration.
43. Based on the factors above, we concluded that the present value of the wage impact of being an authorized immigrant is \$59.1 million, or \$30,721 per each of the 1,924 individuals awarded U Visas, T Visas, and VAMA benefits.

F. The Economic Multiplier Effect

44. Certain of the above-calculated benefits and savings result in added benefits associated with Federal funds being brought into the state, which result in additional ongoing economic benefits. Such items include the Social Security Supplemental Income and Disability (SSI/ SSD) Awards, Medicare and Medicaid benefits, and other federal benefits. These areas of economic benefits and savings were described in detail above. The annual benefit associated with each of these items was calculated. The sum of these benefits received in 2014 resulting from cases completed in recent years was estimated to be \$858.9 million, while total benefits attributable solely to cases completed in 2014 were estimated to be \$760.1 million.
45. An economic multiplier was applied to this amount to estimate the economic value associated with these additional federal funds being brought into the state. Specifically, an economic multiplier of 1.69 was estimated based on an analysis performed by The Resource for New York State in 2014 which considered the U.S. Dept. of Commerce “RIMS II” regional economic multiplier model.

46. The economic multiplier of 1.69 was multiplied by the total estimated Federal funds brought into the state in 2014 of \$858.9 million to yield \$1.45 billion associated with the economic multiplier effect. Excluding benefits attributable to cases completed prior to 2014, the economic multiplier of 1.69 applied to total benefits resulting from 2014 cases of \$760.1 million yields an estimated **\$1.28** billion associated with the economic multiplier effect.

G. Cost Savings for the Community – Avoidance of Emergency Shelter

47. The calculation of costs savings associated with the avoidance of emergency shelter costs was based on certain information and data provided to and compiled by the IOLA Fund. Primary factors considered in the calculation included (1) the number of housing cases for which brief representation was provided, (2) the number of housing cases for which extended representation was provided, (3) the success rate in these matters for the avoidance of public shelter, and (4) the average annual cost of emergency shelter for one family.

Brief Representation Cases

48. For Brief Representation Cases, information was provided by general legal aid grantees to the IOLA Fund relating to the number of housing cases closed by Brief Representation in 2015. A “success rate” was estimated for these cases representing the percentage of these cases in which one or more of the following outcomes was achieved: avoided eviction, obtained additional time, or avoided foreclosure. This percentage was estimated to be 11 percent based on a scientific survey by The Resource in which 400 legal aid clients that had received advice or brief services in the latter half of 2011 in Pennsylvania were randomly sampled and interviewed by phone to determine the outcomes of their cases. Eleven percent of

those with housing issues achieved outcomes of "avoided eviction," "obtained additional time to seek alternative housing," or "avoided foreclosure."

49. By multiplying the success rate by the number of Brief Representation Cases, the number of limited representation cases in which clients avoided eviction, obtained additional time, or avoided foreclosure was estimated.
50. A portion of these matters could be assumed to have resulted in the avoidance of emergency shelter costs by these families. To estimate the percentage of these matters for which emergency shelter was avoided, I have considered analysis results provided to the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York on October 19, 2011 by consultant Geeta Singh, Ph.D. of Cornerstone Research ("Singh Analysis"). The estimated avoidance percentage based on this study was 41%. This percentage was applied to calculate the number of cases for which emergency shelter was avoided.
51. Finally, an estimate of the average cost per family per year of emergency shelter was estimated, based on the Singh Analysis. The estimated annual cost per family of \$23,997 was multiplied by the estimated number of cases for which emergency shelter was avoided to yield total estimated cost savings from Brief Representation cases of **\$48.8 million**.

Extended Representation Cases

52. For Extended Representation Cases, the total number of extended representation cases in which clients avoided eviction, obtained additional time, or avoided foreclosure were determined based on the IOLA Grantee Report.
53. The number of cases was again multiplied by the 41% avoidance percentage represented in the Singh Analysis (described above). The resulting estimated number of cases for which need for emergency shelter was avoided was then

multiplied by the estimated annual cost per family of \$23,997 per the Coalition Report to yield total estimated cost savings associated with Extended Representation Cases of **\$211.7 million**.

Total Cost Savings

54. Based on the consideration and analysis of Brief Representation and Extended Representation Cases described above, the total estimated cost savings from the avoidance of emergency shelter was estimated to be **\$260.60 million**. This amount corresponds to shelter avoidance for an estimated 26,490 individual people, based on an estimated family size of 2.44 as per the IOLA Grantee Annual Report data.

IV. Conclusion

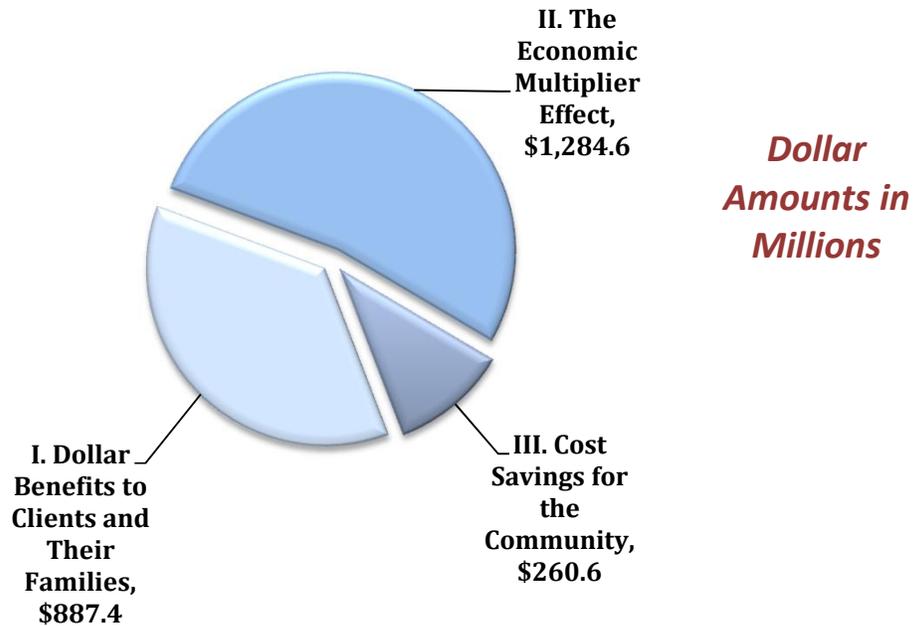
55. The provision of civil legal services to disadvantaged populations provides substantial economic value to needy families, as well as state and local economies and governments. Assuming continued participation in key federal programs and other support payments in coming years, the economic value to the beneficiaries and their families of benefits secured as a result of legal representation in 2014 is estimated to be approximately \$887.4 million. These benefits also provide 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 on the economy from the provision of civil legal services in 2014 is estimated to amount to \$1.28 billion and the creation of approximately 7,210 jobs. Finally, the use of civil legal services to delay or avoid foreclosure or eviction reduces homelessness and the associated costs to taxpayers. The 26,343 cases in 2014 in which legal

assistance helped avoid eviction or foreclosure resulted in an estimated savings for taxpayers of \$260.6 million as a result of reduced need for emergency shelter. As a result, the total economic impact of civil legal services provided to disadvantaged populations in 2014 is estimated to total approximately \$2.4 billion.

56. There are many ways one could use the estimates provided herein to consider a return on program funding. For example, relative to program funding of \$296.6 million, and considering the full 10 years of economic benefit from certain legal services would explicitly imply a return of \$8.20 on each dollar of funding for civil legal services. However, the program funding amount of \$296.6 million includes funding to support legal assistance services in fields such as consumer rights, advanced care planning, and community legal education, the economic impacts of which were not quantified for purposes of this analysis. Accordingly, the amount of program funding resulting in the aforementioned economic impact of \$2.4 billion is less than \$296.6 million, meaning the return on each dollar of funding is greater than \$8.20. While we have not estimated the funding directly attributable to civil legal aid, we believe a more reasonable estimate of a return on program funding to be **a return of \$10.00 on each dollar of funding for civil legal services.**

Summary of Economic Benefits and Savings From Civil Legal Services in New York, 2014

\$2.4 Billion in Benefits and Savings



Summary of Economic Benefits and Savings	Total Impact, Millions	Exhibit # For Details
I. Dollar Benefits to Clients and Their Families	\$887.4	
<i>A. Child and Spousal Support</i>	\$46.6	1
<i>B. SSI/SSD Income</i>	\$372.4	2, 2A, 2B
<i>C. Medicaid Funds Into NY State</i>	\$346.8	3
<i>D. Federal Benefits Other Than Above Into NY State</i>	\$40.9	4
<i>E. Earned Income Tax Credit (EITC) Refunds into NY State</i>	\$21.6	
<i>F. Wage Impacts of Immigrant Work Authorization</i>	\$59.1	5
II. The Economic Multiplier Effect	\$1,284.6	6
III. Cost Savings for the Community	\$260.6	
<i>Avoidance of Emergency Shelter</i>	\$260.6	7
Total Economic Impact (Sum of Lines I through III)	\$2.4 Billion	

Exhibit 1: Child and Spousal Support	Total Benefits
A. Brief Representation Cases	
1. Number of Child and Spousal Support cases closed by Brief Representation (see Note 1):	2,332
2. Percentage of above cases in which Child and/or Spousal Support was achieved (see Note 2):	4%
3. Number of brief representation cases producing the above outcomes ("1" x "2")	93
B. Extended Representation Cases	
1. Number of cases in which receipt of Child and/or Spousal Support was reported by IOLA grantees in GAR reports:	947
C. Total Benefits Achieved	
1. Total cases in which clients achieved the above outcomes (sum of "A.3" and "B.1" above)	1,040
2. Average dollar impact per successful case in which the above outcomes were achieved (see Note 3):	
a. Average one-time payment:	
(1) Total child and/or spousal support back awards	\$1,526,457
(2) Total number of cases for which child and/or spousal support was received by clients	1,040
(3) Average child and/or spousal support back award per successful case ("a(2)" divided by "a(1)":	\$1,468
b. Average monthly support payment:	
(1) Total child and/or spousal support monthly award amounts:	\$639,564
(2) Total number of cases for which child and/or spousal support was received by clients	1,040
(3) Average child and/or spousal support monthly award amount per successful case ("b(2)" divided by "b(1)":	\$615
3. Total impact	
a. Duration of monthly payments in months (see Note 4):	108
b. Total net present value of monthly payment stream ("1" x "2.b" x "3.a")	\$69,100,000
c. Impact of one-time payments (item C.2.a(1) above):	\$1,526,457
d. Total impact ("b" + "c")	\$70,626,457
4. Average percentage of ordered amounts actually received by clients (see Note 5):	66%
5. Net present value of support payment stream ("3.d" x "4")	\$46,613,461
Total Net Present Value of Child Support Received by Clients (in \$millions):	\$46.6
<p>Note 1: Source: Estimate by The Resource for Great Programs extrapolated from 2014 data reported by large, general civil legal services programs to the IOLA fund.</p>	
<p>Note 2: The assumed "outcomes achieved rate" was based on a scientific survey by The Resource in which 400 legal aid clients in Pennsylvania randomly sampled from all who had received advice or brief services in the latter half of 2011 were interviewed by phone to determine the outcomes of their cases. 6.5 percent of those with Medicaid issues achieved the positive outcomes they sought. Accordingly, we applied that percentage to the total number of cases closed by this program by Brief Representation for those legal problem types to derive the estimate indicated above.</p>	
<p>Note 3: Source of dollar benefit and case statistics: Outcomes reported in 2014 IOLA Grantee Annual Reports.</p>	
<p>Note 4: Assumed duration of child and spousal support: 9 years. This is the average time elapsed from the average age of children at divorce (9 years) to the age of majority (18 years). Source of figure for average age of children at divorce: Liu, Shirley H., "The Effect Parental Divorce and Its Timing on Child Educational Attainment: A Dynamic Approach," page 17; available at http://moya.bus.miami.edu/~sliu/Research_files/divorcetiming.pdf.</p>	
<p>Note 5: Source of this figure: U.S. Department of Health and Human Services, Administration for Children & Families, Office of Child Support Enforcement; "Preliminary Report, FY 2014," available on the web at: https://www.acf.hhs.gov/sites/default/files/programs/css/fy2014_preliminary.pdf. This is the percentage of child support orders that are actually collected.</p>	

Exhibit 2: SSI/SSD Funds Brought Into State in 2014	
A. Extended Representation Cases (see Exhibit A), in \$M:	\$1,352.5
B. Limited Representation Cases (see Exhibit 2B), in \$M:	\$789.7
Total Federal Funds Brought Into State, \$M:	\$2,142.2

For cases completed in 2014	
A. Extended Representation Cases (see Exhibit A), in \$M:	\$213.6
B. Limited Representation Cases (see Exhibit 2B), in \$M:	\$158.8
Total Federal Funds Brought Into State, \$M:	\$372.4

Exhibit 2A: SSI/SSD Funds Brought Into State in 2014 Not Including Limited Representation Cases (Advice and Brief Services)													
A. EXTENDED REPRESENTATION Cases - Benefits Received by Clients in 2014 From Cases Completed in 2014 and Earlier													
Year >>	Benefits from Cases Completed in 2014		Benefits Received in 2014 From Past Years' Cases									Total Received in 2014	
	(1) Back Awards	(1) Monthly Benefits	(2) 2013 Cases	(3) 2012 Cases	(4) 2011 Cases	(5) 2010 Cases	(6) 2009 Cases	(7) 2008 Cases	(8) 2007 Cases	(9) 2006 Cases	(10) 2005 Cases	Five Years, (1) thru (5)	Ten Years, (1) thru (10)
1. SSI/SSD back awards (\$M)	\$24.37											\$24.37	\$24.37
2. SSI/SSD monthly benefits received by clients from cases completed in year (\$M)*		\$1.75	\$1.66	\$1.71	\$2.61	\$2.90	\$2.20	\$2.23	\$1.83	\$1.79	\$2.15		
3. Total monthly benefits received for year (12 times Line 2), \$M in year's dollars		\$21.03	\$19.91	\$20.53	\$31.28	\$34.78	\$26.37	\$26.72	\$22.02	\$21.46	\$25.76		
4. Factor for inflation-adjustment to 2014 dollars		1.000	1.016	1.031	1.052	1.086	1.104	1.100	1.142	1.174	1.212		
5. Monthly Benefits Received in 2014 (Line 3 x Line 4), \$M in 2014 dollars (for reference):		\$21.03	\$20.23	\$21.17	\$32.92	\$37.76	\$29.10	\$29.38	\$25.14	\$25.20	\$31.23		
6. Total SSI/SSD benefits received in 2014 (Line 1 + Line 5), unadjusted (i.e., assuming inflation factor =1.000), \$M:	\$24.37	\$21.03	\$19.91	\$20.53	\$31.28	\$34.78	\$26.37	\$26.72	\$22.02	\$21.46	\$25.76	\$151.90	\$274.23

B. EXTENDED REPRESENTATION CASES - 10 YEAR ASSUMPTION* Net Present Value in 2014 of Benefits Received in Future From Cases Completed in 2014 and Earlier Assuming 10-Year Benefit Stream											Net Present Value in 2014 (excl. 2014)
Year in Which Benefits Are Received >>	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
1. Back Awards	\$24.37										\$0.00
2. Year's Total of Monthly Benefits from Cases Completed in:											
2014	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03	\$189.27
2013	\$19.91	\$19.91	\$19.91	\$19.91	\$19.91	\$19.91	\$19.91	\$19.91	\$19.91	\$19.91	\$159.28
2012	\$20.53	\$20.53	\$20.53	\$20.53	\$20.53	\$20.53	\$20.53	\$20.53	\$20.53	\$20.53	\$143.71
2011	\$31.28	\$31.28	\$31.28	\$31.28	\$31.28	\$31.28	\$31.28	\$31.28			\$187.68
2010	\$34.78	\$34.78	\$34.78	\$34.78	\$34.78	\$34.78	\$34.78				\$173.90
2009	\$26.37	\$26.37	\$26.37	\$26.37	\$26.37						\$105.48
2008	\$26.72	\$26.72	\$26.72								\$53.44
2007	\$22.02	\$22.02	\$22.02								\$44.04
2006	\$21.46	\$21.46									\$21.46
2005	\$25.76										\$0.00
3. Total of Monthly Benefits Received in Year >>	\$249.86	\$224.10	\$202.64	\$153.90	\$153.90	\$127.53	\$92.75	\$61.47	\$40.94	\$21.03	\$1,078.26
4. Total Benefits Received in Year, \$M in 2014 Dollars	\$274.23	\$224.10	\$202.64	\$153.90	\$153.90	\$127.53	\$92.75	\$61.47	\$40.94	\$21.03	\$1,078.3

* Assumed average duration of SSI/SSD benefits: 10 years. This assumption is based on studies by the Social Security Administration, which has estimated the duration of SSI benefits to be 9.7 years and SSDI benefits to be 10.5 years. See Kalman Rupp and Charles G. Scott, "Trends in the Characteristics of DI and SSI Disability Awardees and Duration of Program Participation," Social Security Administration, 1996. Benefit amounts are inflation-adjusted to 2014 dollars.

C. EXTENDED REPRESENTATION CASES - FIVE YEAR ASSUMPTION Net Present Value in 2014 of Benefits Received in Future From Cases Completed in 2014 and Earlier Assuming 5-Year Benefit Stream											Net Present Value in 2014 (excl. 2014)
Year in Which Benefits Are Received >>	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
1. Back Awards	\$24.37										\$0.00
2. Year's Total of Monthly Benefits from Cases Completed in:											
2014	\$21.03	\$21.03	\$21.03	\$21.03	\$21.03						\$84.12
2013	\$19.91	\$19.91	\$19.91	\$19.91							\$59.73
2012	\$20.53	\$20.53	\$20.53								\$41.06
2011	\$31.28	\$31.28									\$31.28
2010	\$34.78										
2009											
2008											
2007											
2006											
2005											
3. Total of Monthly Benefits Received in Year >>	\$127.53	\$92.75	\$61.47	\$40.94	\$21.03	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$216.19
4. Total Benefits Received in Year, \$M in 2014 Dollars	\$151.90	\$92.75	\$61.47	\$40.94	\$21.03	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$216.2

** Assumed average duration of SSI/SSD benefits: 5 years. This is a conservative assumption applied in prior years by the Task Force. Benefit amounts are inflation-adjusted to 2014 dollars.

Exhibit 2B: SSI/SSD Funds Brought Into State in 2014 by Limited Representation											Total Received in 2014	
A. Benefits Received in 2014 From Cases Completed in 2014 and Earlier	2014 Cases	2013 Cases	2012 Cases	2011 Cases	2010 Cases	2009 Cases	2008 Cases	2007 Cases	2006 Cases	2005 Cases	Five Years, (1) thru (5)	Ten Years, (1) thru (10)
A. SSI and SSD BRIEF REPRESENTATION Cases												
1. Cases Closed by brief representation (see Note 1):	4,719	3,853	4,040	4,514	4,434	5,297	4,270	3,890	3,640	3,468		
2. Estimated percentage of cases for which SSI/SSD Benefits were Obtained (see Note 2):	41%	41%	41%	41%	41%	41%	41%	41%	41%	41%		
3. Estimated Successful Cases ("1" x "2"):	1,943	1,587	1,664	1,859	1,826	2,181	1,758	1,602	1,499	1,428		
B. Estimated Dollar Benefits												
1. Estimated back awards per successful case (see Note 3):	9,321											
2. Total back awards ("1" x "2"), \$M:	\$18.1											
3. Estimated monthly award per successful case (see Note 3):	\$670	\$563	\$731	\$655	\$655	\$655	\$655	\$655	\$655	\$655		
4. Total monthly benefits ("1" x "4"), \$M:	\$1.30	\$0.89	\$1.22	\$1.22	\$1.20	\$1.43	\$1.15	\$1.05	\$0.98	\$0.94		
5. Annualized total of monthly benefits, 12 mos. x line 4, \$M:	\$15.63	\$10.73	\$14.60	\$14.61	\$14.35	\$17.14	\$13.82	\$12.59	\$11.78	\$11.22		
8. Total projected impact ("3" + "5"), \$M:	\$33.7	\$10.7	\$14.6	\$14.6	\$14.4	\$17.1	\$13.8	\$12.6	\$11.8	\$11.2		
9. Factor for inflation-adjustment to 2014 dollars	1.000	1.016	1.031	1.052	1.086	1.104	1.100	1.142	1.174	1.212		
10. Total estimated impact ("8" x "9") in 2014 dollars (for reference), in \$M:	\$33.7	\$10.9	\$15.1	\$15.4	\$15.6	\$18.9	\$15.2	\$14.4	\$13.8	\$13.6	\$ 90.6	\$ 166.6
C. Total Monthly Benefits, Not Adjusted for Inflation (Line 8) \$M (see Note 4):	\$33.7	\$10.7	\$14.6	\$14.6	\$14.4	\$17.1	\$13.8	\$12.6	\$11.8	\$11.2	\$88.0	\$154.6

Note 1: Source: Estimate by The Resource for Great Programs extrapolated from 2014 data reported by large, general civil legal services programs to the IOLA fund.

Note 2: The assumed "Estimated percentage of cases for which SSI/SSD Benefits were Obtained" was based on an analysis by The Resource of secondary data collected in a scientific survey in which 400 legal aid clients in Pennsylvania, randomly sampled from all who had received advice or brief services in the latter half of 2011, were interviewed by phone to determine the outcomes of their cases. Forty one percent of those with SSI or SSD issues achieved the positive outcomes they sought. Accordingly, we applied that percentage to the total number of cases closed by this program by Brief Representation for those legal problem types to derive the estimate indicated above.

Note 3: Source of these figures: dollar benefits reported to the IOLA Fund for extended representation cases of the above legal problem types closed by the programs. For the years 2005 through 2011, the average of the figures for 2012 through 2014 was used.

Note 4: Historically, federal benefits have been adjusted annually for inflation, so the benefit amounts awarded to clients in prior years (line 8) would increase automatically to the amounts shown in 2014 dollars (line 10). However, the total in row C applies the conservative assumption that benefits in prior years were NOT adjusted for inflation and accordingly uses the figures in line 8.

B. Net Present Value in 2014 of Benefits Received in Future From Cases Completed in 2014 and Earlier Assuming 10-Year Benefit Stream											Net Present Value in 2014 (excl. 2014)
Year in Which Benefits Are Received >>	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
1. Back Awards	\$18.10										\$0.00
2. Year's Total of Monthly Benefits from Cases Completed in:											
2014	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63	\$140.66
2013	\$10.73	\$10.73	\$10.73	\$10.73	\$10.73	\$10.73	\$10.73	\$10.73	\$10.73	\$10.73	\$85.84
2012	\$14.60	\$14.60	\$14.60	\$14.60	\$14.60	\$14.60	\$14.60	\$14.60	\$14.60		\$102.21
2011	\$14.61	\$14.61	\$14.61	\$14.61	\$14.61	\$14.61	\$14.61	\$14.61			\$87.67
2010	\$14.35	\$14.35	\$14.35	\$14.35	\$14.35	\$14.35					\$71.76
2009	\$17.14	\$17.14	\$17.14	\$17.14	\$17.14						\$68.57
2008	\$13.82	\$13.82	\$13.82	\$13.82							\$41.45
2007	\$12.59	\$12.59	\$12.59								\$25.18
2006	\$11.78	\$11.78									\$11.78
2005	\$11.22										\$0.00
3. Total of Monthly Benefits Received in Year >>	\$136.49	\$125.26	\$113.48	\$100.89	\$87.07	\$69.93	\$55.57	\$40.96	\$26.36	\$15.63	\$635.15
4. Total Benefits Received in Year, \$M in 2014 Dollars	\$154.59	\$125.26	\$113.48	\$100.89	\$87.07	\$69.93	\$55.57	\$40.96	\$26.36	\$15.63	\$635.1

C. Net Present Value in 2014 of Benefits Received in Future From Cases Completed in 2014 and Earlier Assuming 5-Year Benefit Stream											Net Present Value in 2014 (excl. 2014)
Year in Which Benefits Are Received >>	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
1. Back Awards	\$0.41										\$0.00
2. Year's Total of Monthly Benefits from Cases Completed in:											
2014	\$15.63	\$15.63	\$15.63	\$15.63	\$15.63						\$62.52
2013	\$10.73	\$10.73	\$10.73	\$10.73							\$32.19
2012	\$14.60	\$14.60	\$14.60								\$29.20
2011	\$14.61	\$14.61									\$14.61
2010	\$14.35										
2009											
2008											
2007											
2006											
2005											
3. Total of Monthly Benefits Received in Year >>	\$69.93	\$55.57	\$40.96	\$26.36	\$15.63						\$138.52
4. Total Benefits Received in Year, \$M in 2014 Dollars	\$70.34	\$55.57	\$40.96	\$26.36	\$15.63						\$138.5

Exhibit 3: Total Projected Medicaid Benefits from Cases Closed in 2014	
A. Benefits from Successful Medicaid Cases	
1. LIMITED REPRESENTATION Medicaid Cases	
a. Total limited representation Medicaid cases closed (see Note 1):	1,838
b. Estimated percentage of cases for which Medicaid benefits were successfully obtained or preserved (see Note 2):	6.0%
c. Number of cases in which Medicaid benefits were obtained or preserved "a" x "b") :	110
2. EXTENDED REPRESENTATION Medicaid Cases	
Number of cases in which Medicaid benefits were obtained or preserved (see Note 1):	5,215
3. LIMITED and EXTENDED REPRESENTATION Cases (Combined)	
Total number of cases in which Medicaid benefits were obtained or preserved (sum of "1" and "2"):	5,325
B. Medicaid Benefits From Successful SSI Cases	
1. LIMITED REPRESENTATION SSI Cases	
a. Total cases closed	3,663
b. Estimated percentage of cases for which benefits were successfully obtained, preserved, or increased (see Note 3):	41%
c. Estimated number of cases for which benefits were successfully obtained, preserved, or increased ("a" x "b"):	1,502
2. EXTENDED REPRESENTATION SSI Cases	
Number of extended representation SSI cases for which Medicaid benefits were successfully obtained, preserved, or increased (see Note 4):	1,855
3. LIMITED and EXTENDED REPRESENTATION Cases (Combined)	
a. Total estimated LIMITED and EXTENDED cases that produced benefits (sum of "1" and "2" above)	3,357
C. Medicaid Benefits From Successful Medicaid and SSI Cases Combined	
1. Total successful cases (sum of A.3 and B.3.a above)	8,682
2. Average annual benefit (see Note 5):	\$7,988
3. Assumed duration of benefits in years (see Note 6):	10.0
4. Projected total benefit per case ("2" x "3"):	\$79,882
e. Total cases x total projected benefit ("a" x "d"), in \$millions:	\$693.6
Sum of Benefits from Medicaid Cases (\$millions):	\$693.6
Federal Reimbursement Percentage (see Note 7):	50%
Federal Medicaid Funds Into New York State in 2013 (\$millions):	\$346.8
<p>Note 1: Source: Program's case tracking data systems, used to produce "Individual Benefits" reports to the IOLA fund.</p> <p>Note 2: The assumed "success rate" was based on a scientific survey by The Resource in which 400 legal aid clients in Pennsylvania randomly sampled from all who had received advice or brief services in the latter half of 2011 were interviewed by phone to determine the outcomes of their cases. 6.5 percent of those with Medicaid issues achieved the positive outcomes they sought. Accordingly, we applied that percentage to the total number of cases closed by this program by Brief Representation for those legal problem types to derive the estimate indicated above.</p> <p>Note 3: Source: survey described in Note 2. Forty one percent of those with SSI/SSI issues achieved the positive outcomes they sought. Accordingly, we applied that percentage to the total number of brief representation cases closed by this program for those legal problem types to derive the estimate indicated above.</p> <p>Note 4: Source of these figures: outcomes reported all 2014 cases of the above legal problem types closed by IOLA grantees in 2014.</p> <p>Note 5: Source: New York State Department of Health website, "Medicaid Quarterly Reports of Beneficiaries and Expenditures by Category of Eligibility and Social Service District," available at: http://www.health.ny.gov/statistics/health_care/medicaid/quarterly/ssd/.</p> <p>Note 6: Assumed average duration of Medicaid benefits: 10 years, same as assumed for SSI benefits - see "Note" below Exhibit 2.</p> <p>Note 7: Source: Kaiser Family Foundation Medicaid Website at http://kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/</p>	

Exhibit 4: Other Federal Funds Brought Into State in 2014

A. Federal Funds Coming Into the State	Benefits from Cases Completed in 2014		Benefits Received in 2014 From Past Years' Cases				Total Impact in 2014
	Back Awards	Monthly Benefits	2013 Cases	2012 Cases	2011 Cases	2010 Cases	
<i>Dollars in Millions</i>							
1. Other Federal Benefits Back Awards*	\$16.65						
2. Other Federal Benefits Monthly Benefits Going Forward**		\$2.02	\$1.91	\$1.54			
3. Total Monthly Benefits Received (12 times Line 2)		\$24.28	\$22.91	\$18.45			
4. Factor for inflation-adjustment to 2014 dollars:		1.000	1.016	1.031			
5. Monthly Benefits Received - Adjusted to 2014 Dollars (Line 3 x Line 4):		\$24.28	\$23.28	\$19.02			
6. Total Other Federal Benefits Received in 2014 (Line 1 + Line 5)	\$16.65	\$24.28	\$23.28	\$19.02	\$0.00	\$0.00	\$83.23

* Source of "Other Federal Benefits" figures: IOLA Grantee Annual Reports submitted by grantees. These include all benefits from federal programs OTHER than SSI or SSD, including such programs as Temporary Assistance to Needy Families (TANF), Food Stamps (SNAP), child care assistance, federal unemployment payments, cash aid, and housing assistance. Grantees are required to report only the total of these benefits, not individual categories.

** Conservative assumption regarding average duration of "Other" federal benefits: 3 years. Benefit amounts for previous years are inflated-adjusted.

Exhibit 5. Estimated Wage Impacts of Authorization	
1. Number of program clients who achieved work authorization as a result of programs' legal assistance (see Note 1)	
A. Number of U Visas, T Visas, and VAMA benefits obtained	1,924
2. Impact on Working Immigrant Women	
A. Number of the total in line 1.d who were female (see Note 2):	981
B. Percentage of authorized immigrant women who are employed (see Note 3):	100%
C. Number of employed women who received authorization ("2.A" x "2.B"):	981
D. Assumed differential in average annual wages between unauthorized and authorized female immigrant workers (see Note 4):	\$ 1,278
E. Estimated annual wage impact for women ("2.C" x "2.D"):	\$ 1,254,025
3. Impact on Working Immigrant Men	
A. Number of the total in line 1.d who were male ("1.D" minus "2.A"):	943
B. Percentage of authorized immigrant men who are employed (see Note 5):	94%
C. Number of employed men who received authorization ("3.A" x "3.B"):	886
D. Assumed differential in average annual wages between unauthorized and authorized male immigrant workers (see Note 4):	\$ 1,435
E. Estimated annual wage impact for men ("3.C" x "3.D"):	\$ 1,271,689

PV of Wage Impact	
Discount Rate	5.0%
PV of Wage Impact	59.11 million
Individual PV of Impact	30.72 thousand

Note 1: Source: The Resource for Great Programs, Inc. representative.

Note 2: For this analysis, we assumed that 51 percent of clients were female, based on data found in Furtuny, Capps and Passel, "The Characteristics of Unauthorized Immigrants in California, Los Angeles County, and the United States; The Urban Institute, 2007; Table 9. This table shows the characteristics of foreign-born citizens, legal non-citizens and unauthorized immigrants.

Note 3: Based on information received from legal advocates in other immigration legal services programs we have analyzed, we have assumed here that all female clients were employed.

Note 4: Source: Pastor, Scoggins, Tran and Ortiz, "The Economic Benefits of Immigrant Authorization in California", 2012. That study found an average wage differential between unauthorized and authorized immigrant workers to be 9.5 percent controlling for human capital and other characteristics. To estimate the impact for men we applied the differential to the average wage for unauthorized Latino immigrants working in California's "Building Maintenance and Groundskeeping" industry. To estimate the wage impact for women we applied the differential to the average wage for unauthorized Latino immigrants working in California's "Personal Care and Service" industry. We assumed the workers were employed 35 hours per week, 50 weeks per year, or 1,750 hours per year. The figures are in 2009 dollars and were not adjusted for inflation.

Note 5: Source: Furtuny, Capps and Passel, Table 9 - see Note 2 above.

Note 6: Source: Legal Status and Wage Disparities for Mexican Immigrants. Hall, Greenman, Farkas. We assumed the workers were employed 35 hours per week, 50 weeks per year.

Note 7: The duration of the wage impact of authorization was assumed to be ten years. This is a conservative assumption considering that at least one author has argued that a time horizon of 20 years should be applied, based on the fact that most unauthorized immigrant workers are young and are likely to stay in the United States throughout their working lives once achieving authorized status.

Note 8: Matthew Hall, Emily Greenman, George Farkas report shows average wage growth rates (the coefficient of time in the slope equation) of 0.1 percent per month for undocumented Mexican immigrants and 1.0 percent per month for documented Mexican immigrants.

Exhibit 6: Economic Impacts of Economic Multiplier Effect

I. Funds Brought Into Service Area From Outside in the Form of Direct Benefits for Clients	Total	Total Attributable to 2014 Cases
A. Federal benefits		
1. SSI/SSD benefits (See Exhibit 2), in \$M:		
a. Extended Representation Cases (See Exhibit 2A):	\$274.2	\$213.6
b. Limited Representation Cases (See Exhibit 2A):	\$154.6	\$158.8
c. Total of "a" and "b":	\$428.8	\$372.4
2. Medicare/Medicaid benefits - federal share (See Exhibit 3), in \$M:	\$346.8	\$346.8
3. Federal benefits other than the above (\$M):	\$83.2	\$40.9
B. Total Federal Funds Brought Into State, \$M:	\$858.9	\$760.1
II. Economic Multiplier Effect		
A. Multiplier (per U.S. Dept. of Commerce "RIMS II" Model - see Note 1):	1.69	1.69
B. Economic Multiplier Effect (Line I.C x Line II.A), \$M:	\$1,451.5	\$1,284.6
C. Jobs factor, number of jobs created per \$1 million in funds coming in from outside state (per U.S. Dept. of Commerce RIMS II Model - see Note 1):	9.48	9.48
D. Total jobs ("I.C" x "II.C"):	8,140	7,210

Note 1: Values derived by The Resource for New York State in 2014 using U.S. Dept. of Commerce RIMS II regional economic multiplier model. Multipliers have been adjusted for inflation to reflect 2014 dollars.

Exhibit 7: Savings in emergency shelter costs, 2014

ALL Cases Included	Total
A. Number of cases for which eviction was avoided or delayed or foreclosure was averted:	26,343
B. Estimated # of people for whom eviction was avoided or delayed or foreclosure was averted:	64,263
C. Percentage of the above for which the need for emergency shelter was avoided:*	41%
D. No. of cases for which the need for emergency shelter was avoided (line A times line C):	10,859
E. Average annual cost of providing emergency shelter to one homeless family:*	\$23,997
F. Estimated Savings for Taxpayers (line D x line E -- in \$Millions):	\$260.6
G. Estimated # of people who avoided the need for emergency shelter (line B times line C):	26,490

** Data source for assumptions in line C: analysis results provided to the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York on October 19, 2011 by consultant Geeta Singh, Ph.D., Cornerstone Research. The average cost figure in line "E" has been updated to reflect reported 2014 NYC emergency shelter costs. Estimated costs for upstate regions reflected in this average are based on Dr. Singh's 2011 data, inflation-adjusted to reflect 2014 dollars.*

Debra L. Raskin, Esq.

President, New York City Bar Association

Partner, Vladeck, Raskin & Clark, P.C.

VLADECK, RASKIN & CLARK, P.C.
COUNSELLORS AT LAW
565 Fifth Avenue, 9th floor
NEW YORK, NEW YORK 10017
TEL: (212) 403-7300
FAX: (212) 221-3172

Debra L. Raskin graduated from Radcliffe College magna cum laude in 1973 and received her law degree from Yale in 1977. She worked at the Legal Assistance Foundation of Chicago from 1977 to 1981, serving in 1981 as Supervisor of Employment Litigation for that organization. She served as law clerk to Hon. Lee P. Gagliardi of the United States District Court, Southern District of New York from 1982 to 1984. From 1984 to 1986, she served as an Assistant Attorney General of the State of New York in the Civil Rights Bureau. She joined the Vladeck firm in 1986, and became a partner of the firm in October 1988. Ms. Raskin is the President of the New York City Bar Association. She is a Fellow of the American College of Trial Lawyers, has taught at Columbia and Fordham Law Schools and has lectured and written on employment law matters for the New York State Bar Association and the Practicing Law Institute, among other groups.



**The Chief Judge's Hearing on Civil Legal Services
September 29, 2015
Appellate Division, First Department
27 Madison Avenue, New York City**

**Testimony of the New York City Bar Association
By: Debra L. Raskin, President**

Thank you. I appreciate the opportunity to testify 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. First let me start by thanking Chief Judge Lippman, Helaine Barnett and the Task Force – now Permanent Commission – for its unwavering commitment over many years to the cause of providing funding for civil legal services. It has been a true game-changer, and has improved thousands of lives and provided support for our courts. Please know that you have the gratitude of the Bar, as well as our commitment to this issue going forward.

The New York City Bar has long been committed to providing access to justice, through our policy and advocacy initiatives in support of civil legal services, court funding, and a right to counsel in Housing Court and detained removal cases, and through direct legal assistance provided by our public service affiliate, the City Bar Fund. Within the City Bar Fund, 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 through in-house and pro bono representation.

Through Chief Judge Lippman's and former Chief Administrative Judge Prudenti's outstanding leadership, the Judiciary Budget now includes \$85 million for civil legal services. We urge that you stay the course toward the original goal of a \$100 million increase in annual civil legal services funding. This is a vital element of any effort to provide additional legal assistance to those who cannot afford it. There are still far too many unrepresented people facing threats to their basic needs every day in our courthouses.

Of course, adding \$15 million in funding is a necessary but not sufficient condition. We deeply understand the importance of pro bono representation, as well as the need to find innovative ways to leverage the volunteer efforts of New York's legal community. The City Bar has supported pro bono reporting, the 50-hour pro bono requirement for new lawyers, and the innovative Pro Bono Scholars Program.

Through the Justice Center programs, we've engaged volunteer lawyers to assist homeless individuals, cancer survivors, immigrant women and children who have been trafficked or abused, families facing foreclosure and veterans, among others. Our Legal Hotline is the largest free general civil legal services hotline in New York City. And now, thanks to additional funding, Hotline attorneys are able to provide brief or limited legal services to callers, such as creating court papers for pro se litigants and assisting with filling out forms. These services will be the focus of my testimony today because they provide a good framework to talk about the provision of unbundled legal services in civil cases to those who otherwise would be without representation.

But first, some statistics. The City Bar Justice Center helps about 25,000 New Yorkers annually with civil legal problems. Last year, we closed approximately 13,000 cases and engaged approximately 1,400 pro bono attorneys to work on cases and conduct community

trainings. Included in those numbers are the thousands of New Yorkers who rely on the Legal Hotline, which we've expanded to include limited scope or unbundled legal services to callers. Unbundled or limited scope services refers to the attorney agreeing to provide only one part of the legal services that a client may need. This has become less controversial over the last decade and is no longer questionable ethically provided that the client is informed that they are receiving limited scope assistance in a clearly worded retainer letter.

At the Justice Center, we use limited scope services for many of our existing projects, such as the Elderlaw and Consumer Bankruptcy Project, as well as our Legal Hotline. We are also operating two very interesting new projects using limited scope representation – Legal Assistance to the Self Represented (LASR) which is an extension of the brief services we provide on the Legal Hotline and the Federal Pro Se Legal Assistance Project (FedPro). For purposes of this testimony, I will focus on state court matters only.

Since November 2014, the Justice Center has handled approximately 2,300 limited scope service cases. Representation in these cases varies depending on the needs of the individual and can include providing legal answers over the phone, sending callers know-your-rights information, reviewing a caller's faxed documents and providing advice, and setting up an in-person appointment with the caller so that a more extensive legal issue can be resolved. Limited scope representation often results in the avoidance or settlement of litigation or it empowers a pro se litigant to effectively move forward with a pending case. Examples of such representation include:

- Assisting a disabled client with drafting and sending cease and desist letters to creditors in order to stop harassment, then guiding him through the steps listed on the court's website to vacate a default judgment in civil court;

- Helping a single working mother file an uncontested divorce while securing child support and healthcare for her two children;
- Demanding the return of more than a year's worth of rent overpayment to a senior citizen who did not know that his adjusted rent amount was approximately half of what he was paying; and
- Coming to the aid of a widow by drafting an Article 78 proceeding to correct her husband's death certificate so that she might receive the death benefits to which she is entitled.

Quick, brief representation in these sorts of cases can result in credits and refunds issued to clients as well as end the threat of litigation.

BARRIERS TO EXPANSION OF UNBUNDLED SERVICES/LIMITED SCOPE

Although the vast majority of the Justice Center's limited scope cases do not involve court representation, we are aware that not all judges have embraced the notion of attorneys undertaking only one part of a case. Further, we are aware of pro bono attorneys being concerned that they may be asked to stay on for the whole case even if their retainer spells out the limited nature of the representation. We believe that the court should continue to educate judges that this is an essential part of bridging the justice gap and that attorneys should ethically be able to end their services after they complete a portion of the case. The ability to do this varies by the practice setting and court/administrative agency and judges need to be encouraged to permit this. Attorneys will not volunteer for limited scope representation in court or administrative settings if they think they cannot end their representation on the case as per the limited scope retainer letter.

There is also a concern that pro bono attorneys who are trained to handle only one part of a case may fail to identify interconnected issues. This increases the burden to explain carefully to the client that the representation will be limited in scope and will only focus on one aspect of a problem, which may entail additional legal issues. In some cases, it would be inappropriate and in fact could worsen a problem to deal only with one issue. Those cases would not work for limited scope representation and should not be handled as limited scope matters.

GOING FORWARD WITH UNBUNDLED SERVICES/LIMITED SCOPE

The City Bar Justice Center's experience to date with unbundled legal services is very promising. Our surveys of client satisfaction show that clients who can follow the directions are extremely happy with limited scope service and feel empowered. The cases we've handled so far show potential to help even more people who cannot obtain full representation from a legal services or pro bono provider. We believe that pro bono attorneys would be pleased to take on limited scope representation cases so long as the case is appropriate and an appropriate retainer letter is signed. It is our hope to engage many more pro bono attorneys in this sort of representation. It is our further hope to continue innovative collaborations around online intake for these sorts of cases, especially consumer debt cases.

I want to end my testimony by talking about the Pro Bono Scholars Program. This past Spring, the City Bar Justice Center hosted two Pro Bono Scholars and it was a fantastic experience for all involved. Our Scholars came from New York Law School and Cornell Law School and provided invaluable assistance answering hotline calls and providing brief services to callers. They received training and provided concentrated support, in particular, to elderly and veteran callers needing assistance. We believe this program holds great promise and look forward to continuing our participation in it.

* * *

Thank you for the opportunity to testify and a very special thank you to the Chief Judge for all he has done to improve access to justice in this state. Your leadership has not only moved the needle, it has permanently altered the playing field.

Sara E. Moss, Esq.

Executive Vice President & General Counsel
The Estée Lauder Companies



Sara Moss Executive Vice President and General Counsel

Sara E. Moss is Executive Vice President and General Counsel of The Estée Lauder Companies. She is responsible for the worldwide legal activities of the Company and its subsidiaries, including Board of Directors, corporate governance, acquisitions, U.S. and global filings, government relations, intellectual property, licensing, litigation and global security. She serves on the Company's Investment Development Committee, Fiduciary Investment Committee, Executive Leadership Committee, Program Management Team, Diversity Committee and is Chair of the Company's Ethics and Compliance Committee.

Before joining The Estée Lauder Companies in 2003, Ms. Moss held the position of Senior Vice President and General Counsel at Pitney Bowes Inc., which she joined in 1996. Prior to joining Pitney Bowes, Ms. Moss was a senior litigation partner at Howard, Smith & Levin (now Covington & Burling), a New York City-based law firm. From 1978 to 1981, she served as an Assistant United States Attorney in the Southern District of New York, where she prosecuted a wide range of federal cases. Prior to that, she practiced at Davis Polk & Wardwell and was a law clerk for the Honorable Constance Baker Motley, U.S. District Judge in the Southern District of New York. Ms. Moss is a Phi Beta Kappa graduate of the University of Massachusetts and New York University Law School.

Ms. Moss has received the Chambers Outstanding In-House Lawyer of the Year Award, the NYU Outstanding Alumna Award, the Anti-Defamation League Human Relations Award, the NOW Legal Defense and Education Fund "Aiming High" Award, the Minority Corporate Counsel Diversity Award, the Pro Bono Partnership Outstanding Contribution Award, and the Anastasia D. Kelly Transformative Leadership Award. She serves on the Board of Trustees of NYU Law School, the Board of Directors of the Legal Aid Society, the Board

of Directors of the New York Common Pantry, and the Board of Directors of the M.A.C AIDS Fund. She has taught trial advocacy at Harvard Law School and the National Institute for Trial Advocacy. Since 2002, she has participated in Fortune Magazine's Most Powerful Women in Business forum.

Biography of Sara E. Moss

Sara E. Moss is Executive Vice President and General Counsel of The Estée Lauder Companies. She is responsible for the worldwide legal activities of the Company and its subsidiaries, including Board of Directors, corporate governance, acquisitions, U.S. and global filings, government relations, intellectual property, licensing, litigation and global security. She serves on the Company's Investment Development Committee, Fiduciary Investment Committee, Executive Leadership Committee, Program Management Team, Diversity Committee and is Chair of the Company's Ethics and Compliance Committee.

Before joining The Estée Lauder Companies in 2003, Ms. Moss held the position of Senior Vice President and General Counsel at Pitney Bowes Inc., which she joined in 1996. Prior to joining Pitney Bowes, Ms. Moss was a senior litigation partner at Howard, Smith & Levin (now Covington & Burling), a New York City-based law firm. From 1978 to 1981, she served as an Assistant United States Attorney in the Southern District of New York, where she prosecuted a wide range of federal cases. Prior to that, she practiced at Davis Polk & Wardwell and was a law clerk for the Honorable Constance Baker Motley, U.S. District Judge in the Southern District of New York. Ms. Moss is a Phi Beta Kappa graduate of the University of Massachusetts and New York University Law School.

Ms. Moss has received the Chambers Outstanding In-House Lawyer of the Year Award, the NYU Outstanding Alumna Award, the Anti-Defamation League Human Relations Award, the NOW Legal Defense and Education Fund "Aiming High" Award, the Minority Corporate Counsel Diversity Award, the *Pro Bono* Partnership Outstanding Contribution Award, and the Anastasia D. Kelly Transformative Leadership Award. She serves on the Board of Trustees of NYU Law School, the Board of Directors of the Legal Aid Society, the Board of Directors of the New York Common Pantry, the Board of Directors of the M.A.C. AIDS Fund, and through Estée Lauder, she serves as an active volunteer with Nazareth Housing NYC and The Young Women's Leadership School in Harlem. She has taught trial advocacy at Harvard Law School and the National Institute for Trial Advocacy. Since 2002, she has participated in Fortune Magazine's Most Powerful Women in Business forum.

Testimony of Sara E. Moss Executive Vice President and General Counsel of the Estée Lauder Companies The Chief Judge's Hearings on Civil Legal Services September 29, 2015

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 applaud the work of the Chief Judge over the last five 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. I agree with Judge Lippnam when he said, "(t)here are certain fundamentals for a civil society, for a moral society. This is one of those priorities."

As Executive Vice President and General Counsel of The Estée Lauder Companies, I am responsible for the worldwide legal activities of the Company and its subsidiaries. Throughout my career I have maintained a strong commitment to public service and *pro bono* work, including those involving low-income New Yorkers. In particular, in my current and previous legal positions I have supported providing legal counsel to a wide variety of service organizations, including social service agencies, women's career and development programs, non-profit day care providers, sexual assault crisis centers, and substance abuse and rehabilitation centers. In addition, I serve on a number of boards, including the Board of Directors of the New York Common Pantry, and the Board of Directors of the M.A.C. AIDS Fund. Through Estée Lauder, I serve as an active volunteer with The Young Women's Leadership School in Harlem.

Throughout my legal career and through my board and volunteer appointments, I have seen firsthand how difficult it is to see justice served when people do not have legal representation. This is especially acute when the legal issues impact low-income people who are facing eviction in housing court, or at risk of foreclosure, struggling to access public, disability, and unemployment benefits, fleeing domestic violence, or find themselves vulnerable because of age or health.

For example, today there are more than 58,000 homeless New Yorkers in the City shelter system, and an acute affordable housing crisis. Many low-income persons living with HIV/AIDS (PLWHA) struggle to find stable, supportive, and safe housing. Moreover, as the need for affordable housing increases among this population, the available resources have continued to lag behind. Significant challenges include increasing housing costs and insufficient affordable housing. People living with HIV/AIDS and at-risk individuals are frequently threatened with eviction, denied critical benefits, and dealing with family problems and consumer debt which pose significant barriers to maintaining health care. Legal services can assist in securing or maintaining adequate housing, increase access to government benefits, can reduce barriers to health care and treatment, promote family stability through family law or domestic violence services, promote future care and custody planning for families with dependent children, as well as address consumer, immigration, employment and advanced planning legal issues.

Pro bono assistance can only do so much. Whether it is work with vulnerable clients living with HIV/AIDS, survivors of domestic violence, or any other low-income family in need of legal assistance, in order to serve as many clients as possible, legal services program attorneys often triage cases, making the difficult decision on which cases to turn-away or accept for services at

intake. Increased legal services funding to experienced legal services providers helps to close the justice gap.

The continuing unmet need for civil legal assistance in all areas of the state has a negative impact on businesses. There is a significant economic and social value to providing services to poor New Yorkers to help them deal with civil legal matters. As a person working in the business world, I appreciate the economic value that is realized by expanding civil legal services in areas such as housing, health immigration, family rights, housing, health care, obtaining child care and education. The burden placed on low-income New Yorkers who lack representation reduces their ability to contribute to economic growth, and surely limits their productivity wherever they may work. My company, Estée Lauder, shares these values and perspectives and strives to be a good citizen of our city and state, by contributing to services that support the essential of life for our fellow New Yorkers.

The work of legal services organizations often has far-reaching effects – well beyond a specific case – such as changing public policy or the law on issues concerning low income New Yorkers. One such example is the recent state bill passed and signed into law that will help thousands of New Yorkers to avoid cost and delay in their divorces by providing equity, fairness, consistency and predictability in spousal maintenance determinations. These shifts in policies or the law could not happen without the advocacy of providers of direct legal services with the hard evidence of the individual needs of New Yorkers, especially vulnerable populations like domestic violence survivors, who often find leaving a battering partner subjects them to extreme poverty. Civil legal services form a safety net that ought to be strengthened and expanded. Increased support for these programs is essential if those New Yorkers without resources are to be accorded equal justice under law.

I applaud Chief Judge Lippman and the New York State Permanent Commission on Access to Justice for its work and I strongly support the recommendation for additional funding for civil legal services.

Fatim Kamara

Client of The Door – A Center for Alternatives
Accompanied by Rebecca Wilson Heller, Esq.

Testimony of Ms. Fatim Kamara
Client of The Door – A Center for Alternatives
Testimony before the Chief Judge on Access to Civil Legal Services

My name is Fatim Kamara. Thank you for the opportunity to tell you about how the legal assistance I received from The Door gave me the security of a guardian and put my life on the right track. I was born in Togo, Africa, and I am nineteen years old. I came to New York City when I was twelve with my father, who returned to Togo after two weeks. I haven't seen my parents since I came to New York and I don't know where they are.

When I first arrived in the United States I lived with my aunt. She had a husband and two kids and she treated me like I was a burden. She would start fights with me. If I talked back to her, she would slap or punch me in the face. Sometimes it left a bruise. When she hit me, I would look at her in the eyes and I would not cry. I did my best to clean the house, cook, take care of her kids, and go to school at Liberty High School. I felt very uncomfortable at my aunt's house, so school became my first home. Usually, my only meal was school lunch.

My friend took me to The Door to become a member. I met with a lawyer who told me that I could qualify for Special Immigrant Juvenile Status, but that I needed a guardian because I was so young. I asked my aunt to be my guardian, but she said that she was too busy or that I was just going to get myself in trouble. I was very discouraged and I abandoned my case for a year. I kept living with my aunt because I had nowhere else to go.

One day I was on the train and I ran into a friend from Togo. She said that her whole family had moved to New York. She invited me to her house and I told my friend what was going on at my aunt's house. Her father agreed to be my guardian. He came to The Door and met with my lawyer, who explained how everything would work. Also, he invited me to come and live with him and his family. But first we had to go to family court.

My lawyer filed a petition in Bronx Family Court to have my friend's father appointed as my guardian, and to get special factual findings that would allow me to petition immigration for Special Immigrant Juvenile Status, or SIJS. SIJS is a way for children who have been abused, neglected or abandoned to win the protection of the family court and to eventually obtain a Green Card. The process was confusing but my lawyer took care of everything. My guardian needed a French interpreter, which the court had. My lawyer conducted the hearing and the judge granted the guardianship and special findings. It was wonderful to have a safe place to live and a family that welcomed me.

The Door also helped me with my immigration application. As an undocumented immigrant, I could not work to support myself or get federal financial aid for college. After The Door filed my SIJS application, I got my work authorization and everything started to flourish. I started working at Au Bon Pain making \$8.25 an hour. They had pastries and everyone was eating. I finally gained a lot of weight. I started buying clothes for myself and school supplies. I became a much happier person, because I knew everything was going to be ok. I graduated from high school.

When I got my Green Card: WOW. By then, I had moved out on my own with a roommate. The Green Card made me think I could do something better, get a better job, so I got a job hosting at a restaurant on 42nd Street. But it still wasn't enough for me to support myself. One of the lawyers at The Door told me that The Door's Health Center was hiring Peer Health Educators, and I got the job. I also have a second job at a restaurant in Soho.

I am going to school at Bronx Community College. I am studying biology. I have a lot of ideas for my future. To finish college, to be a doctor, to volunteer in non-profit organizations. I am grateful that I found The Door and that they had the funding and capacity to help me obtain a guardian in Family Court and obtain immigration status that allowed me to begin working and support myself. Without the legal assistance I received from The Door, I would not be where I am today.

Thank you for providing funding for civil legal services in our state and thank you for the opportunity to testify before you today.

Stacy Snowden

Client of The Legal Aid Society
Harlem Community Law Office
Accompanied by Evan Hasbrook, Esq.

Introduction by Evan Hasbrook

Good morning Chief Judge Lippman and members of the Hearing Panel. Thank you for the opportunity to submit this statement. My name is Evan Hasbrook, and I am a Staff Attorney with The Legal Aid Society's Harlem Community Law Office and a member of UAW Local 2325, the Association of Legal Aid Attorneys. I am here today with my client, Stacy Snowden. Ms. Snowden is one of numerous low-income New Yorkers who found herself faced with eviction through no fault of her own.

The Housing Practice of The Legal Aid Society handles a broad range of individual and group tenant representation at the trial and appellate levels, including holdovers, nonpayment proceedings, Housing Authority administrative hearings, Article 78 proceedings, and State court appeals. We represent group of tenants to help them form low-income cooperatives, and we also work with tenant associations, community-based organizations and *pro bono* attorneys to bring affirmative litigation, challenge illegal rent increases, help obtain repairs and essential services, and conduct regular off-site intake for applicants for legal services. Because representing tenants like Ms. Snowden who are facing eviction from long-term, affordable housing is a high priority for The Legal Aid Society, we accepted Ms. Snowden's case and I was able to provide her with the representation in Housing Court that she and her son needed. Ms. Snowden will now share her family's experience.

Testimony of Stacy Snowden Chief Judge's Hearing on Civil Legal Services

Good morning. My name is Stacy Snowden. I am a lifelong New Yorker who, when I came to The Legal Aid Society for help, had been living at 485 Lenox Ave, 6C, New York, NY 10027 with my son for more than 17 years. I also am a former healthcare worker with disabilities who always paid the rent with help from the Section 8 program. Last year, out of nowhere, my landlord demanded \$7,000 from me and tried to evict me in Housing Court. My son was terrified that he would become one of the many thousands of homeless students in our public schools during his senior year in high school, a time when I just wanted him to focus on his grades and college applications.

When I met with The Legal Aid Society, my lawyer explained the most rent I could owe was a couple hundred dollars. The landlord was not legally entitled to the \$7,000 they sued me for because those arrears piled up after the landlord lost the Section 8 subsidy as a penalty for not making repairs in my apartment. When my attorney from The Legal Aid Society raised this defense in court, the landlord agreed to discontinue the case and repair my apartment. Now I have my Section 8 subsidy back, and my son just finished his first few weeks of classes in college.

I am so grateful that The Legal Aid Society agreed to help us. Without them, I could have been evicted and probably homeless. I know there are so many other families like mine in Housing Court who do not have lawyers to fight for them and keep them in their homes. The Legal Aid Society is an incredible resource to New Yorkers like me who experience difficult times. I am here in support of continued and increased funding for civil legal services in New York.

Thank you.

Cassandra Wilson

Client of Legal Services NYC

Accompanied by Tanya Douglas, Esq.

Testimony of Cassandra Wilson at the Chief Judge's First Department Civil Legal Services Hearing
Represented by Legal Services NYC
September 25, 2015

My name is Cassandra Wilson. Thank you for the opportunity to tell you about how the legal help I received from Legal Services NYC's Manhattan office prevented my eviction at a time when I was battling stage IV cancer, and helped me to secure Social Security disability benefits which ensured my ability to pay my bills going forward.

I am 50 years old and, until I became ill, I had worked as a security guard for over 20 years. I live at 163 West 133rd Street, Apartment 3-C, New York, New York and have lived there for many years.

In January of 2013, I was diagnosed with Stage IV incurable breast cancer and underwent major surgery. Because I had no other source of income, I continued to try to work after my surgery but it became increasingly hard. My employer tried to help me by cutting my hours and reducing my duties but I fell behind in my bills, including my rent and my Con Ed. Over time, I became sicker and sicker and less able to work. I suffered from fatigue and shortness of breath and was in severe pain due to my illness. I had applied for SSI and Social Security disability income but had been denied. I had filed for an appeal but nothing was happening in my case. Then I was brought to court for nonpayment of rent. I tried to represent myself in housing court but was not able to resolve the case. By the time I came to Manhattan Legal Services, my case had been adjourned nine times for me to try to pay back the rent I owed, but I couldn't get the money. I went to public assistance for help but my case was turned down because they said I could not afford future rent. I was desperate to get income from Social Security so I could pay my bills and prevent my eviction. I received a notice from a city marshal telling me I was about to be evicted from my home. I did not have money to pay a lawyer.

The staff at Manhattan Legal Services sprang into action to help me. Ms. Patel, an attorney in the housing unit, filed emergency papers in housing court demonstrating that I was ill, that I had been trying to get money, and that I needed more time to qualify for Social Security disability. She was able to hold off my eviction and get more time for me to pay my rent arrears. Meanwhile, Ms. Valentin, a paralegal in the disability unit, fought with the Social Security Administration to get a hearing. Ms. Valentin helped me gather medical evidence to document my Stage IV breast cancer and inability to work. Because of the backlog in hearings, Social Security had told me it would be months before I could get a hearing—too late to save my apartment. Ms. Valentin requested an expedited hearing on my behalf. Ms. Patel even convinced the housing court judge to write a letter in support of that request.

As a result of all of these efforts, the Social Security Administrative Law Judge made a favorable decision on the record (without requiring me to wait for a hearing). I am now receiving Social Security and SSI. Since I could now prove I could afford my rent I received a one-shot deal from public assistance. The money from the one-shot deal combined with the retroactive benefits I received allowed me to pay my arrears and save my home. MLS is now working with me to help me qualify for

a Disability Rent Increase Exemption to keep my rent affordable. MLS even helped me get money to pay up my Con Ed bill.

Legal Services NYC's legal help has made a huge difference in my life. I also know that many others like me are not able to get help. I wholly support continued funding for civil legal services in New York.

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 12:

**Written Statements Submitted at the Fourth Department
Hearing Held on September 30, 2015**

NOVEMBER 2015

Written Statements Submitted at the
Fourth Department Hearing on September 30, 2015

Professor Hannah R. Arterian (*Professor of Law, Former Dean [2002-2015], Syracuse University College of Law*)

Jeffrey M. Donigan, Esq. (*2015 Pro Bono Scholar; Harter Secrest & Emery LLP*)

Fulvia Vargas, Esq. (*2015 Pro Bono Scholar; Legal Services of Central New York*)

Thomas Keily (*Consumer Education and Data Coordinator, AmeriCorps VISTA Volunteer, Western New York Law Center*)

John G. Roman, Jr. (*Director, IT Operations & eDiscovery, Nixon Peabody LLP*)

Timothy C. Hunt (*Principal Law Librarian, Seventh Judicial District*)

Robert F. Nicolais, Esq. (*Pro Bono Attorney, Volunteer Legal Services Project, UCS Help Center, Seventh Judicial District*)

Ronald Younkings, Esq. (*Executive Director, NYS Office of Court Administration*)

Colleen McElligott (*Client of Volunteer Legal Services Project, accompanied by Mary Beth Conway, Esq.*)

Liliana Alvarado-Rojo (*Client of Erie County Bar Association Volunteer Lawyers Project, accompanied by Emma Buckthal, Esq.*)

Timothy Shine (*Client of Legal Assistance of Western New York, Inc., accompanied by Louis Prieto, Esq.*)

C. Kenneth Perri (*Executive Director, Legal Assistance of Western New York, Inc.*)

John F. Boyd II (*J.D. Candidate, Class of 2016, Syracuse University College of Law*)

David M. Katz (*J.D. Candidate, Class of 2017, Syracuse University College of Law*)

Professor Hannah R. Arterian

Professor of Law, Former Dean [2002-2015]

Syracuse University College of Law

Hannah R. Arterian

Joined the Syracuse College of Law as dean and professor of law in July, 2002. She served as dean of the College until August 2015 and is currently a professor of law at the College. Under her leadership, the College hired many new faculty, created new programs including a semester in DC externship, expanded joint degrees and interdisciplinary learning opportunities, established new clinics, including the Veteran's Clinic, enhanced its professional development and student life offerings, as well as built and significantly increased its alumni support and network. Dineen Hall, the new home of the College was brought from concept to reality while she served as dean.

Arterian serves as Chair on the Board of Directors for the Access Group. ACCESS is a non-profit organization dedicated to broad access, affordability and the value of legal education. She has served on American Bar Association (ABA) site inspection teams for the law school accreditation process and has worked on several other ABA committees. She served as a member of Chief Judge Lippman's Advisory Committee on the New York State Adoption of the Uniform Bar Exam.

She is co-editor of the Legal Education Publication of the Law, Social Science Research Network Legal Scholarship Network (SSRN: LSN). Arterian also serves as a member of the Journal of Legal Education Editorial Board.

Prior to joining Syracuse University College of Law, Arterian served as an associate dean for 10 years at Arizona State University College of Law. She also taught at the University of Houston and the University of Iowa law schools. Arterian also worked as a corporate tax attorney with the New York law firm of Dewey, Ballantine, Bushby, Palmer & Wood.

Arterian earned a juris doctor degree, with high distinction, from the University of Iowa, where she was note and comments editor of the *Iowa Law Review*, a member of the Order of the Coif, and received the Murray Award. She earned a bachelor's degree in English, magna cum laude, Phi Beta Kappa, from Elmira College. She is a fellow of the American Bar Foundation.

Hannah R. Arterian
Syracuse University College of Law
Professor of Law
Dean of the College of Law July 2002 – August 2015

Testimony for the Chief Judge's Fourth Department Civil Legal Services Hearing (9.30.15)

Thank you for the opportunity to address you on the perspective I have on the impact and difference made by the College of Law's efforts to assist those whose access to legal assistance and representation is limited.

The thirteen years I had the honor to serve as Dean of the Syracuse University College of Law coincided with increasing needs for legal assistance. Academic programs at the College include those that provide for free legal assistance. The focus of my testimony will be our clinical programs. Students in our clinics are supervised by our faculty and work on the legal matters for academic credits. Before speaking about our clinics, other contributions to access to legal assistance are made in some of our externships which earn academic credit. Of course, many of our students engage in non-credit earning pro bono engagement made under the supervision of licensed attorneys. Last year (2014-15) students at the College of Law recorded approximately 6500 hours of such pro bono service. We have student Pro Bono leaders who will present statements today.

The College also has faculty members who engage in pro bono projects independently of any academic program.

My testimony focuses on the efforts and difference made through our clinics. Our clinical education program is led by Associate Dean and Professor of Law Deborah Kenn. Over the past thirteen years the College has grown to nine clinics including a Veteran's Legal Clinic added in January 2015. These clinics are arranged generally by subject matter to better represent clients they serve effectively and to use our human resources efficiently in supervising the students. The demand for assistance vastly exceeds the capacity to provide representation. Cases and clients are screened for meeting the clinical focus as well as the financial need for the representation.

All but one of the clinics serve the needs of clients in the civil arena. One clinic serves clients who need criminal defense assistance.

In the period between August 2014 and August 2015 all of the clinics served a total of 467 clients. Ninety-two were served by the Criminal Defense Clinic, 375 were clients of civil clinics, including 65 who are clients of the Veteran's clinic which we initiated in January, 2015.

These are clients who would otherwise be unable or very disadvantaged in accessing the legal system. Several of the clinics are funded by grant money, for example the low income taxpayer clinic. Virtually all of them are in fact a product of the support of the College of Law and are directed by faculty members, assisted by practitioners in residence.

During my time as Dean, I received letters and emails of thanks for what the Clinical program did for individual people. We also worked to create interdisciplinary strengths. As we can all attest, people sometimes need counseling, health referrals, in addition to or instead of legal representation, but are at a loss on how to navigate the complexity of the legal and social services system.

Our College is located in an area of great need for access and the growth and strength of our clinical programs has a critical role to play in helping individuals with everything- from bankruptcy to developing a business that may turn a community project into a success, dealing with elder abuse, finding assistance for veteran's claims, getting the right accommodation for a disabled person in their housing or in their classroom, making sure children are cared for and supported, assisting people who have been defrauded in the commercial world. The clinics have enormous impact although clinics cannot solve the overall problem of meaningful access. Rather it is important to consider what would be lost if these clinics hadn't existed to fill and bridge what is so desperately needed by individuals who in the current structure of legal services in this area would not have had access.

We can all work for greater systematic change to provide that access, but doing it one client at a time, more than 400 clients in a year is an incredibly important contribution to the work that must be done. This is a College in an area that has been in economic decline, that has a diverse population and an increasing settlement of refugees. The College's programs cannot do everything, but it is a long standing and increasingly powerful beacon and example of what must be done to make headway on the complicated issue of access to the legal system.

In addition to the direct legal work of the law clinics, there is also the indirect benefit of training soon-to-be lawyers in representing the needs of low-income people. Between the six one-semester clinics and the three two-semester clinics, there are about 150 law students enrolled in the clinics each year. Each student develops knowledge of substantive law and skills to take with them to whatever community they live in – knowledge and skills used to provide pro bono legal assistance throughout their careers. But for their clinical legal education, they may not have known how to apply their legal education in representing clients who are severely limited in their access to legal services, or been equipped to face the complexity of the personal context in which these problems arise. Our work provides an impact in each instance, but also intends to produce a multiplier as our students graduate and enter the profession.

I end with a quote from Associate Dean Deborah Kenn;

The clients we serve would not otherwise be represented by an attorney and would either have to navigate the legal system on their own or, more likely, not have access to basic rights and recourse when denied human rights. Some of the clinics' outcomes can be quantified in dollars and cents but most have tangible results contributing to the economic, social, and emotional well-being of clients that are more difficult to value monetarily. Saving someone's home from foreclosure, preventing financial abuse of an elderly person, keeping a mother or father out of prison, assisting a person who is deaf in fighting discrimination, helping a single mom collect child support, representing a community organization creating after school programs in obtaining 501 (c) 3 tax exemption all have the effect of improving quality of life and changing the world one client at a time. The clients we represent would not otherwise have access to justice.

Thank you again for the opportunity to present this information. Appendix A is a breakdown of the client service and capsule impact of each of our clinical programs.

Office of Clinical Legal Education

Clients served, August 2014-August 2015:

Bankruptcy Clinic

10 clients a year (since 1 credit clinic and 5 students)

Children's Rights and Family Law Clinic:

36 cases including divorce, child support enforcement, custody, adoption, paternity, orders of protection, and post-divorce modifications

Community Development Law Clinic:

Not-for-profit corporations: 48

For-profit businesses: 12

Real estate closings: 2

Criminal Defense Clinic

92 cases, the majority being violation-level offenses (42) or A-level misdemeanors (41); also traffic infractions (15), B-level Misdemeanors (3), and local ordinance violations (2)

Disability Rights Clinic

19 cases involving public access accommodation, prisoners' rights, employment discrimination, and special education

Elder Law Clinic

34 accepted cases: 13 Advanced Directives (wills, living wills, health care proxies), 8 housing law matters, 4 financial exploitation cases, 4 medicare issues and 3 powers of attorney, one case each in grandparent's rights, Medicaid, social security income, social security disability and consumer law.

Low Income Taxpayer Clinic

113 cases represented for Earned Income Tax Credit, collection, non-filer status, and audits and examinations. Since its inception (2002) the LITC has assisted low income taxpayers in receiving almost \$1,100,000.00 (over a million dollars) of awards from the IRS. That is dollars received, not including the tax payments and penalties avoided.

Securities Arbitration and Consumer Law Clinic

36 cases including 7 car purchase/loan problems, 6 debt collection, 5 repossessions, 5 home purchase/improvement and 3 foreclosures. In addition, there were 5 general consumer issues, 2 general securities issues, and 3 general fraud issues.

Veterans Legal Clinic

65 cases opened since January 2015 involving all types of benefits from the VA and discharge upgrades. The student attorneys have already gotten over \$130,000 in cumulative back pay awards for their clients who are veterans.

Jeffrey M. Donigan, Esq.
2015 Pro Bono Scholar
Harter Secrest & Emery LLP

Jeffrey M. Donigan

Associate

PI 585.231.1389

FI 585.232.2152

LI Rochester

EI jdonigan@hselaw.com

Practice Areas

- Corporate

Bar Admissions

- New York

Professional Experience

Jeff Donigan concentrates his practice in the areas of general business and corporate matters, mergers and acquisitions, securities and not-for-profit organizations. His experience includes performing due diligence review, drafting memoranda, drafting transactional and governance documents and assisting clients in business acquisitions.

Education

- SUNY Buffalo Law School, J.D., *magna cum laude*, 2015
- Binghamton University, B.S., B.A., *cum laude*, 2012

Clerkship

- New York State Attorney General, Syracuse Regional Office

Professional and Civic Activities

- Member, New York State Bar Association
- Member, Monroe County Bar Association

Honors and Awards

- Order of the Coif, SUNY Buffalo Law School Chapter
- Pro Bono Scholar, SUNY Buffalo Law School, 2015
- Publications Editor, *Buffalo Law Review*
- Recipient, American Bankruptcy Institute Metal for Excellence in Bankruptcy, 2015



Harter Secrest & Emery LLP

ATTORNEYS AND COUNSELORS

ROCHESTER

1600 Bausch & Lomb Place
Rochester, NY 14604-2711
585.232.6500

BUFFALO

Twelve Fountain Plaza, Suite 400
Buffalo, NY 14202-2293
716.853.1616

ALBANY

111 Washington Ave., Suite 303
Albany, NY 12210-2209
518.434.4377

CORNING

8 Denison Parkway East, Suite 403
Corning, NY 14830-2638
607.936.1042

NEW YORK

733 Third Avenue
New York, NY 10017
646.790.5884

TESTIMONY FOR CHIEF JUDGE'S FOURTH DEPARTMENT CIVIL LEGAL SERVICES HEARING

Your Honors and President Miranda,

Thank you for this opportunity to testify about unmet civil legal services, and how the Pro Bono Scholars Program is a powerful resource to address these needs.

My name is Jeffrey Donigan. I graduated from SUNY Buffalo Law School in 2015. Last spring I was honored that the Court selected me to participate in the first class of Chief Judge Lippman's Pro Bono Scholars Program.

I was placed at the Erie County Bar Association Volunteer Lawyers Project (VLP) in Buffalo with my fellow pro bono scholar, Anne Modica, from March 2015 – May 2015. I requested VLP because of the wide range of free civil legal services it provides its clients, from traditional ongoing representation to limited-scope legal services.

I participated in a number of VLP's limited-scope legal services programs. I assisted at the Attorney of the Morning Program (AOM), an award winning eviction defense program in Buffalo City Court. Pro bono attorneys staff the program, and VLP paralegals and law student volunteers assist them. With my Student Practice Order, I helped clients by negotiating with landlords and their attorneys to settle cases, which enabled our clients to remain in their homes or obtain the time needed to locate suitable housing. These settlements reduced the number of cases before the Court, which made the system more efficient and cost effective. Additionally, I gained invaluable practice skills by appearing in Court on behalf of clients who were unable to reach a settlement with their landlord. Being a Pro Bono Scholar and working with pro bono attorneys from law firms and solo practices made helped me appreciate the value that I can contribute as an Associate at Harter Secrest and Emery in Rochester, NY.

In addition to helping in the Housing Court, I assisted with a relatively new program at VLP, the Family Court Help Desk. The Family Court Help Desk provides limited-scope legal assistance to unrepresented litigants. The Help Desk is staffed by experienced pro bono family law attorneys and assisted by SUNY Buffalo Law School students. It was satisfying to assist unrepresented, low-income individuals facing the complex Erie County Family Court system. I supported the pro bono attorneys by interviewing clients and identifying their legal issues. This experience gave me many valuable practical skills that I would not have learned in the traditional law school classroom setting.

For the classroom component of the Pro Bono Scholars Program we had to write a research paper on any pro bono topic. Based on my experiences, I advocated in my paper for additional funding and resources for the Family Court Help Desk because of the significant impact it had on many clients and the Court. Adding Family Court Judges to the bench will certainly help with efficiency issues in Family Court. However, if programs like the Help Desk received greater resources, then more unrepresented litigants will have the opportunity to speak briefly with an attorney and gain invaluable advice about a complicated process. The limited-scope legal services provided at the Help Desk has resulted in fewer filed petitions, because clients learn that their claims are meritless or that they have a better way to address their issues. The Help Desk also assists litigants in crafting better petitions that will survive a

motion for summary judgment. Allocating greater resources to Help Desks would serve the dual purpose of improving court efficiency and assisting litigants in desperate need of help.

I was excited to apply for the Pro Bono Scholars Program because of the positive pro bono experiences I had as a Summer Associate at Harter Secrest and Emery. I volunteered at the Attorney of the Morning Program in Rochester and the Volunteer Legal Services Project's Family Law Clinic. I have found that using my developing legal skills to help those in need is extremely rewarding. I am proud of everything that I learned as a Pro Bono Scholar at VLP, and I am thankful for Harter Secrest and Emery's commitment to pro bono service so that I can continue to help those in need.

Thank you Chief Judge Lippman for creating this program and providing me with this unforgettable experience.

Respectfully submitted,

Jeffrey Donigan
100 Milburn Street
Rochester, NY 14607
(315) 430-1647

Fulvia Vargas, Esq.
2015 Pro Bono Scholar
Legal Services of Central New York

Fulvia Vargas

Background:

My name is Fulvia Vargas and I was part of the inaugural class of Pro Bono Scholars. I grew up in the Washington Heights neighborhood of New York City and I am the first in my family to graduate from high school, college, and obtain a law degree. I obtained my Bachelor of Arts degree from Lehigh University and my Juris Doctorate from the Syracuse University College of Law.

Fulvia L. Vargas –*Inaugural Class of Pro Bono Scholars*
Testimony at Chief Judge’s Fourth Department Civil Legal Services Hearing
September 30, 2015

Good Morning, my name is Fulvia Vargas and I would like to extend my gratitude to the hearing panel and Chief Judge Lippman for conducting these hearings to further address the need and impact that legal services have on low-income communities. As part of the first class of Pro Bono Scholars in New York, I am honored to be here today to discuss my experiences and the impact the program had on the community and my choice to pursue a career in public services.

Before, I discuss my experiences, I would like to provide some background as to why I chose to go to law school. I grew up in the Washington Heights neighborhood of New York City, a neighborhood composed primarily of immigrant residents from various Latin American and Caribbean countries. My mom was an immigrant from the Dominican Republic who worked as a housekeeper and who I saw struggle each day to provide for my siblings and I. In my neighborhood there was no concept of justice, getting a lawyer, or even seeking out legal services. To them, the legal system in the United States was not designed to protect low-income, immigrant families who often times could not afford a lawyer. Thus, at a young age I decided that pursuing a career in law would allow me to change this perception among my community but also many others. As the first in my family to graduate high school, college and even pursue a degree in law I felt tasked with using my education to serve those in need.

As a young child, I became intrigued by this foreign concept of the legal system. I did not know anyone who was a lawyer, but at a young age I was determined to pursue a career to help those in my community who felt they did not have a voice in the legal system. I constantly saw people being evicted from their homes, being sent to jail, or facing various instances of

discrimination. I knew then that I would become a lawyer so that I could one day fight against these injustices.

I went on to attend Syracuse University College of Law with the goal of pursuing a public interest career. While at the College of Law I participated in the Elder Law Clinic and interned with the New York Legal Assistance Group. Through my experiences, I realized the dire need for legal services that still exists in low-income communities around the State of New York. Aside from the lack of legal services among these communities, these communities face language and cultural barriers that make seeking legal assistance daunting if not impossible. These experiences also reaffirmed my desire to pursue a public interest career upon finishing law school.

During the summer before my third year of law school, I was informed about the Pro Bono Scholars program. This program quickly caught my attention not only because it would allow me to finish law school and take the bar prior to graduating but because it would allow me to address the legal needs of low income residents of the Syracuse area.

I spent my ten week internship as a Pro Bono Scholar for Legal Services of Central New York. As a pro bono scholar I had the opportunity to work with Legal Services of Central New York in their Advocacy Group. The opportunity to work with legal Services allowed me to advocate for low-income individuals facing a range of civil legal issues including housing, unemployment and public benefits. Day to day, I interacted with clients who's legal needs meant the loss of food, shelter, or a means of providing for their family. Many times, I encountered clients who only spoke Spanish and thus faced an array of issues in being unable to communicate their needs to local government agencies or their landlords. The clients I encountered were extremely welcoming and thankful for the help that I was able to provide to them.

One of my greatest accomplishments as a Pro Bono Scholar was working with a hearing impaired inmate at the Onondaga County Justice Center. He had contacted our office after being unable to access rehabilitative and vocational classes at the Justice Center due to his need for an American Sign Language interpreter. Soon after filing a federal complaint, the Onondaga County Justice Center installed a video phone to allow for better communication between hearing impaired inmates and their families and installed video interpretation devices that would allow a hearing impaired inmate like our client to participate in GED and rehabilitation courses.

Being a Pro Bono Scholar gave me the opportunity to use my legal education to make a difference in the Syracuse community. I cannot explain how rewarding it was to go into work each day and speak with clients who were extremely thankful for the help I was able to provide. This opportunity reminded me in many ways of how many people in our community depend on public interests attorneys to help them navigate through their legal issues. It is because of the work and dedication of public interest attorneys that many clients can hold on to the very essentials of life including food and shelter. The Pro Bono Scholars Program, inspired in me a greater commitment to work with low-income communities. It reminded me of the very reason why as a young girl growing up in Washington Heights I wanted to pursue a career that would allow me to help those who need it most. Even in the short ten weeks of my internship, I realized the vast impact that this program and legal services providers across the state have on impacting the lives of those who are often underserved and underrepresented in the legal field.

I want to thank Chief Judge Lippman and the Commission on Access to Justice for the opportunity to be a part of the inaugural class of Pro Bono Scholars. It is because of your belief

in the need to narrow the justice gap, that I as a Pro Bono Scholar was able to make even the slightest difference among low income families in the Syracuse community.

Thomas Keily

Consumer Education and Data Coordinator

AmeriCorps VISTA Volunteer

Western New York Law Center

Thomas Keily
Western New York Law Center
AmeriCorps VISTA
Personal Background

I am honored to have the opportunity to testify before the Chief Judge's hearing on civil legal services. My name is Thomas Keily, I currently serve as an AmeriCorps VISTA member at the Western New York Law Center in Buffalo, New York. At the Law Center I work with the CLARO (Civil Legal Advice and Resource Office) program monitoring data and trends to identify ways to expand and improve the program in order to provide well rounded legal services for Western New York residents. My duties also include work on consumer related studies that evaluate the overall condition of consumers in the greater Buffalo area. Through the use of data both from the CLARO program and an array of other consumer based sources I am able to evaluate the need for additional services and the impact of legal services provided by support organizations such as the Western New York Law Center.

Prior to serving as a VISTA member at the Western New York Law Center I worked in the financial services industry and as a social studies teacher. I hold a Bachelors of Science in Business Administration Finance and Economics from the University of Denver and will complete my Masters of Arts in Secondary Education in December of this year from Canisius College.

Good morning,

My name is Thomas Keily, I am honored to have the opportunity to testify on the impact that legal service providers have on underserved communities, and the role data plays in enhancing and expanding legal services. I am an AmeriCorps VISTA volunteer on assignment at the Western New York Law Center (Law Center) in Buffalo, New York. The primary focus of my work is on data collection and analysis surrounding the Law Center's CLARO consumer clinics. I work extensively with Law Center data to better understand the range of visitors to our clinic and determine ways to expand and provide necessary legal services to a broader range of underserved populations. The maintenance and expansion of free legal services plays a vital role in ensuring each community member has access to justice and the opportunity to reestablish themselves after facing consumer-related legal matters. In the City of Buffalo, CLARO services play a vital role in providing individuals with access to the justice system and opportunity to reestablish themselves after a consumer-related debt situation.

While the Western New York economy has progressed since the last recession, there are still many individuals and families that live in financial instability, some of which stems from consumer-related legal issues. When debt is not addressed or wrongfully assigned to someone, it can lead to significant legal challenges, at which point the services provided by Buffalo CLARO become vital.

Through CLARO clinics, the Law Center is able to help alleviate financial pressure for some Western New Yorkers. CLARO clinics are offered twice a week by the Law Center and generous volunteers. The program provides free legal advice on consumer debt-related issues for pro se litigants. Each visitor to the clinic can discuss their legal issue with an attorney, have documents reviewed and drafted, as well as speak with a consumer staff member on reestablishing their credit and finances after their situation is settled. Visitors leave the clinic equipped with tools necessary to seek justice in the legal system and with the information necessary to rebuild their financial lives.

As a result of the free legal services provided by the Law Center, the CLARO program has placed over \$681,331 back in the hands of Western New Yorker consumers, which speaks volumes to benefit of legal services in communities. Empowering visitors with tools needed to navigate the justice system ameliorates their legal and financial standing while reducing the burden of uninformed constituents on the legal system. The Law Center has been able to help these individuals with their lives and help improve the situation of the Western New York legal system. Buffalo CLARO has made significant progress in helping constituents by assisting pro se litigants, but there are still an alarming number of individuals who struggle to gain access to the legal system.

In order to reach the underserved, the Law Center tries to understand the type of people who come into a CLARO clinic. When a visitor arrives at a CLARO clinic, a staff member goes through an extensive intake collecting relevant legal information. More importantly for the purpose of expansion, staff collect demographic material at this time. CLARO-related data tells a very powerful, meaningful story about why legal services are needed, the financial situations Western New Yorkers face, and what situations have precipitated to individuals needing legal counsel. It is through understanding the populations served that the Law Center is able to reach more people in need of legal services.

There is readily available data that conveys a bleak picture of income and poverty in Western New York, but it does not consider the stories of those facing legal matters. In many cases, those living in dire financial situations are in the situation because of a legal matter. Further, many of these individuals lack full access to the justice system for a variety of reasons. By collecting data from CLARO visitors, we are able to assess the visitor's situation and better understand conditions resulting in the legal situation. All of

Thomas Keily
Western New York Law Center
AmeriCorps VISTA
Testimony September 20th, 2015

this information helps us compile a clear picture of general types of individuals who seek legal services. Through analysis, I have been able to ascertain key data points that indicate groups of people who seek and need legal aid services. One of the most significant indicating factors for identifying this population is income. Individuals between 75%-150% of the federal poverty level visit CLARO clinics at the highest rate. Once analysis of demographic data is completed, the Law Center goes to community organizations and the court system to present the need for legal services, and how independent bodies can satisfy that need.

I combine CLARO demographic data with larger databases, such as US Census data, to identify areas where there is high potential for populations at risk of needing legal support. For example, I have been able to pinpoint areas with high concentrations of individuals at or below federal income parameters. I reexamine CLARO input data in tandem with US Census data to determine whether it would be prudent to extend community outreach efforts and clinics to specific neighborhoods. Thus, the demographic data collected at CLARO clinics is necessary to improve their impact and effectiveness.

Over the course of the last year it became clear to the Law Center that the community of Lackawanna was in need of local legal and educational services. I conducted an in depth analysis of zip codes that had high visitor volume and fell within the income parameters defined earlier. In the analysis process I developed maps and charts with relevant income and other data from each zip code CLARO serves. I then compared the data to Census data to determine if the trends observed in the CLARO data were consistent with the area's population at large. Over the past year Lackawanna is home to our third highest volume of visitors, household size was over three persons, and the income level was below \$1,200. All of these figures indicate that the Lackawanna is an area in dire need of free legal services.

Through the data collection process we also became aware of some other issues that serve as road blocks for all people in the Lackawanna community from receiving services. Many people coming to CLARO clinics from Lackawanna did not have access to cars. Thus, we know that it is very difficult for them to get to and from the clinic located in the City of Buffalo. The second issue we uncovered is a language access barrier. English is not the primary language for many living in Lackawanna, which makes it difficult for them to understand and access the legal system. When combining the hard data with the personal situation of Lackawanna residents it is clear that localized legal services are needed.

With the data in hand, the Law Center approached numerous community based organizations in the area to share our findings and begin the conversation of expanding legal and educational services. Most community groups were unaware of the legal issues the community faced. The Law Center has proposed workshops on educating the public on credit and legal process surrounding consumer related debt issue and running a CLARO clinic out of the community center's location. Without the data collected by the Law Center both the community of Lackawanna and the Law Center would have continued to underserved the people of Lackawanna. The Law Center will continue to work with the Lackawanna community to provide services in their community.

The Law Center wants to be certain that people who need our services are able to procure them. We have already approached community groups and court systems about expanding our services beyond Erie County. We are eager to begin serving these communities to help people across a broader expanse of Western New York. Our goal is to provide as much legal support to pro se litigants as possible, and we can be most effective in achieving this when we have access to and incorporate data.

John G. Roman, Jr.
Director, IT Operations & eDiscovery
Nixon Peabody LLP

Chief Judge's Fourth Department Civil Legal Services Hearing September 30, 2015



John G. Roman, Jr. CISSP
Director, IT Operations and eDiscovery Services

1300 Clinton Square • Rochester, NY 14604

Phone: 585-263-1378

E-mail: jroman@nixonpeabody.com

Website: www.nixonpeabody.com

John Roman is the director of Nixon Peabody's Information Technology Operations and Electronic Discovery teams. He is responsible for managing a multi-million dollar firm-wide IT operation as well as a team of highly experienced electronic discovery and information technology specialists.

Mr. Roman's expertise is in planning, designing and the operational management of complex network, storage, security, and computing environments. He also provides counsel to Nixon Peabody clients in terms of project managing and cost containment of complex electronic discovery matters, legal technologies, and data security. He has over 30 years of information technology experience and has held various executive management and consulting positions throughout his career. He has been published in industry publications such as "Law Technology News", "Litigation Support Today", and "The ABA Criminal Justice" newsletter. He is currently an adjunct professor at Monroe Community College and Rochester Institute of Technology where he teaches legal technology, law firm practice management and computer security.

Testimony:

I first started looking at the technology needs of legal services programs in New York through work Nixon Peabody undertook for the Empire Justice Center three years ago. As a private firm with more substantial technology infrastructure, we were able to conduct a full technology audit of their operations and to work with them on strengthening their existing technology and to bring in new technology to better serve their clients.

Given this experience, I was asked to be a member of the New York Technology Task Force Working Group. The Task Force's IT

Initiative connects private law firm's IT staff, working pro bono, with New York's civil legal services providers. The Working Group has focused initially on making these matches in New York City, Long Island and the Hudson Valley. The mission of the Working Group is to help address the technology gap by;

1. utilizing resources from participating law firms throughout the state;
2. soliciting help from outside vendors;
3. and by developing core systems that can be shared by multiple providers.

In the spring of 2015 we created, distributed, and analyzed a targeted technology assessment and made recommendations on how to either leverage the provider's existing technology or implement new legal technologies to assist in program, policy, case and document management for example.

As a result, a colleague from Wachtell, Lipton, Rosen & Katz and I were assigned to work with CAMBA Legal Services to identify opportunities for better use of technology.

Throughout my career with Nixon Peabody as well as my work with The Empire Justice and with the Task Force's IT Initiative it became clear that technology can and should be used to expand access to justice.

For providers, technology allows the legal practice to become more efficient through better collaboration internally and externally and automating processes, thus freeing up attorney time that can be used to serve current and take in additional clients. For the unrepresented, technology, such as access to e-mail and the Internet, can provide user-friendly online and mobile formats that ensure legal information is easily and readily accessible for non-lawyers.

Many legal services providers especially those with under 50 employees, generally lack the resources, including technical staff, which can ensure the identification and adoption of technology policies, programs, and improvements that could dramatically enhance client services. For example, through my work with the Empire Justice Center, there was a lack of technology direction in the form of a multi-year plan to implement technology for lawyers and non-lawyers. The organization's new three year technology plan was created based on the legal, policy, and technological requirements gathered from attorneys and staff. In fact, one of the recommendations made that is now being implemented is the design

and implementation of a document management system. We are currently in the final stages of implementing a cloud based document management system that will allow internal employees to create, store, and share documents, and will also enable attorneys and staff to collaborate on documents with others outside the organization.

Similarly, through my work with the Task Force's IT Initiative our team found two technologies that have the potential to make an immediate impact in how providers can better serve their clients; case management and document management systems with ongoing training. We are working with CAMBA's executive leadership; they have embraced the expanded use of technology and most importantly are eager to work side-by-side with our technologists.

Finally, the Initiative demonstrates the importance of public/private collaborations. Not only do the providers benefit from a wealth of information technology knowledge within law firms and the knowledge transfer that has resulted, but the Task Force members benefit by being better connected with legal needs of our community.

Clearly, there are challenges. Many providers lack technology funding. Despite the success of the IT initiative, the law firms' resources are limited as well. If legal services providers are to increase their technology capability, there is a need for increased and potentially dedicated funding streams. Such funding should not be for new cutting edge one-time projects but should be available across the board for essential technological initiatives, like replacement of personal computers that are 5 years old, developing IT policies, improving information security and the development of innovative technologies that can automate processes such as case management, document management, mobile computing, and video conferencing.

The IT Task Force can help by leveraging its vendor contacts to gain favorable pricing on behalf of legal services providers throughout New York State. Another example is to leverage the economies of scale presented through providers sharing technology services. Most software companies offer discounted pricing based on volume. Why not leverage the thousands of employees of legal service providers across the State to gain cost effective pricing for document or case management? We are presently piloting such a program for document management.

In conclusion, there is tremendous energy and commitment from participants to move technology expansion in the civil legal services community forward. Let's not squander that momentum.

Timothy C. Hunt

Principal Law Librarian

Seventh Judicial District

Biography

Tim C. Hunt has been the Principal Law Librarian for the Seventh Judicial District since 1999. Prior to being hired by the New York State Unified Court System, Mr. Hunt worked as an assistant professor for the Loyola School of Law in New Orleans. Also, Mr. Hunt was engaged in the private practice of law for over two years in Rochester, New York, where he provided counsel and representation in several areas of law in various courts. Prior to his legal career, Mr. Hunt worked on the oil rigs in the Gulf of Mexico as a field engineer. He has a B.S. in Mechanical Engineering from Rochester Institute of Technology and a J.D. from Loyola School of Law in New Orleans.

**Testimony for Chief Judge's Fourth Department Civil Legal Services Hearing
September 30, 2015
Timothy Hunt, Principal Law Librarian, Seventh Judicial District**

**How Technology Helps Deliver Legal Resources to Unrepresented Litigants
at the Seventh Judicial District Court Help Center**

The Seventh Judicial District Court Help Center was established in January 2013 to assist the growing number of unrepresented litigants in our court system. Since its opening, it has helped over 4450 people who could not afford an attorney have access to justice in the NY courts. Technology has played an integral role in the delivery of these services.

The Help Center is open 22 hours/week and is located in the Seventh Judicial District Law Library. It is staffed by court personnel, volunteer attorneys, and staff from Volunteer Legal Services Project of Monroe County ("VLSP"). These dedicated people are the lifeblood of the Help Center, and can deliver their services more efficiently through the collection of data and use of technology. When unrepresented litigants ("UL") come to the Help Center, they are asked to provide information (zip code, income range, referral source, type of help needed, veteran status, and household size) by filling out a form, either on paper or on an iPad (provided by VLSP). Volunteer attorneys also fill out their own forms, providing information about how they helped the litigant, including the nature of the legal matter, type of assistance, and referrals. This data once entered is then sent directly to spreadsheets which compile the data and create statistics for later use by staff. With this information we can determine the most frequent case types, and what services and forms are requested most—important information to increase the effectiveness of the Help Center services.

Technology also assists in recruiting, scheduling, training, and recognizing our Help Center volunteers. New volunteers view a video demonstration on the VLSP website, which gives them an introduction to the Help Center and the Law Library. Volunteers then schedule their time slots directly on the VLSP website, which is confirmed by email. Monthly email blasts are used to recruit new volunteer attorneys, and social media is used to give well-deserved pats on the back to the volunteers, with public posts on VLSP's Facebook and LinkedIn accounts.

Another important use of technology to deliver legal services is the VLSP's Family Law Remote Project, which provides electronic communication with rural clients who need guidance completing family court petitions. Potential clients sign up through VLSP's website, and after confirming income eligibility, a volunteer attorney communicates with them via webcam, helping them properly complete family court forms. This program is especially helpful reaching clients in rural and impoverished areas, where transportation is often limited.

The New York Courts website now offers many forms on-line through the "Do-It-Yourself" system. Through this website, users are able to populate petitions and other forms before printing them and filing them with court clerks. The easy-to-follow instructions walk the user through each step of filling out the forms, providing legible and correctly completed forms. Unrepresented litigants also can use the Law Library's public access computers to do legal research on their own, since each is equipped with LexisNexis and Westlaw Next.

The Help Center was established to address the gap in providing legal resources to people who could not afford an attorney. The need continues to grow. With the dedicated involvement of volunteers and staff, the Help Center provides access to justice to unrepresented litigants, and it does so efficiently with the technological tools which make it possible to do so.

Robert F. Nicolais, Esq.

Pro Bono Attorney, Volunteer Legal Services Project

UCS Help Center, Seventh Judicial District

ROBERT F. NICOLAIS

Attorney and Counselor-at-Law

148 Hillary Lane

Penfield, New York 14526

E-mail rfnicolais@gmail.com

Robert F. Nicolais

R. J. Nicolais

Legal Assistant

Tel 585.267.7841

Fax 585.267.7841

David Rifas

Of Counsel

September 12, 2015

Chief Judge's Hearing on Civil Legal
Services in the Fourth Department
Syracuse University College of Law
Dineen Hall
950 Irving Avenue
Syracuse, New York 13244

Re: Summary of Witness Testimony
September 30, 2015 Hearing

Distinguished Panel Members:

OPENING REMARKS

Thank you for allowing me this opportunity to provide you with a *pro bono practitioner's* experience with the partnership between the NYS Unified Court System's (UCS) Access to Justice Initiative Court Help Center and the Volunteer Legal Services Project of Rochester (VLSP) in the Seventh Judicial District.

BACKGROUND

I have been a practicing attorney for over 23 years. Most of my legal experience has been in the public sector, including 10 years as an attorney in the NYS Unified Court System, Ninth Judicial District, White Plains Supreme Court. As part of my various responsibilities I was assigned to the Ninth J.D. Help Center which served a population of three million in five surrounding counties. Upon leaving the court system, I relocated to Monroe County to accept a position as an adjunct faculty member with Rochester Institute of Technology (RIT) and to open a private legal practice.

RECRUITMENT/TECHNOLOGY

While utilizing the UCS web-based attorney registration program I became aware of the Attorney Emeritus Program (AEP) which seeks to provide quality pro bono legal services by experienced attorneys to New Yorkers in need. I continued to find out more about the program through this site which linked me to volunteer legal service providers in Monroe County. The site contained a comprehensive list of providers, which included *individual* links to the providers and their contact person, telephone number and e-mail.

While reviewing the kinds of services that the providers offered I saw on a *video* on the VLSP web site that VLSP partnered with UCS Access to Justice Initiative by providing attorney volunteer staffing to the Seventh Judicial District Help Center. As noted earlier in my remarks, I had a great deal of experience working in the Ninth Judicial District Help Center so I felt it was a perfect fit for me to work with VLSP and the UCS staff at the Help Center.

I contacted VLSP and spoke to the contact person regarding my interest in the Help Center and my experience in the Ninth Judicial District Help Center. I then met with members of VLSP and Court Librarian Tim Hunt at the Help Center.

Since the meeting I have volunteered approximately 60 hours of legal services to the Help Center. In my experience, I would not have been aware of the many opportunities to participate in volunteering my services but for the web-based technology that directed me from the court AEP to VLSP. The process was intuitive, easy to navigate, and simple.

CASE STUDY/TECHNOLOGY

I recently accepted a case from VLSP that involved a transgender individual that was seeking a name change with sealing order. Through the use of e-mail from VLSP I obtained all the pertinent information that I needed to commence representing this individual. Understanding that a name change was an important and pivotal part of the process the individual was undertaking, I was able to reduce the number of times that the individual would have to come to the Help Center. I contacted the individual by telephone and obtained the pertinent information I needed to prepare the necessary documents for the name change.

I then accessed the UCS web-based Do-it-Yourself (DIY) program and completed a draft of the petition, court order, RJI and related documents and saved them in the program. I contacted the individual by telephone and reviewed the draft documents. Once we were satisfied with the documents I set up an appointment to meet the individual at the Help Center for a final review of the documents which I printed out at the Center. If any changes needed to be made I could easily access the documents in the system and make the changes while the individual was present.

Upon final review, the individual signed the petition, which I notarized, and a copy of the documents was provided to the individual. In this instance, the cooperative efforts between VLSP and the Help Center provided a platform that streamlined the use of easily accessed web-based technology so that the individual had to make only *one* trip to commence this important step in the process this individual was undertaking.

Based upon the poor person status of the individual that VLSP coordinated, I filed the documents for submission to the Supreme Court for its consideration. I am pleased to inform this body that the petition for name change was granted. I contacted the individual about the name change. During my conversation the individual began to cry. However, the cry was not one of sadness, but one of joy. An important step had been taken that would complete the process that the individual was undertaking.

It is without reservation my belief that this unrepresented individual in need of legal services benefitted from the partnership between VLSP and the UCS Help Center.

CONCLUSION

I wish to again thank this panel for providing me the opportunity to share with you my professional experience with both the UCS and VLSP in providing important legal representation to unrepresented persons.

Very truly yours,

ROBERT F. NICOLAIS

Ronald Younkens, Esq.
Executive Director
NYS Office of Court Administration

Ronald Younkins is the Executive Director of the New York State Office of Court Administration. After graduating from Rutgers Law School in 1979, he practiced in the area of labor law with Poletti Freidin Prashker Feldman and Gartner in New York City. He later taught at New York University School of Law, and then entered the public sector, first with the Office of the Corporation Counsel of the City of New York, and then with the New York State Attorney General. He joined the Office of Court Administration in 1996. Mr. Younkins has also been an adjunct professor at Fordham University School of Law since 1993.

The Chief Judge's Hearing on Civil Legal Services
Appellate Division, Fourth Department
September 30, 2015

“Addressing the Unmet Need for Civil Legal Services in New York State”
Ronald P. Younkins

Good afternoon. I am Ron Younkins, Executive Director of the New York State Office of Court Administration.

Thank you for inviting me to appear before this panel. These annual hearings play an important role in assessing and addressing the civil legal needs of low-income New Yorkers. I hope that my testimony will be useful in achieving that goal. My testimony today will focus on numbers – what the statistics say about the degree to which we are reducing the unmet need for civil legal services of low-income New Yorkers.

BACKGROUND: JUDICIARY CLS FUNDING

As you know, for the past five years, we have succeeded in obtaining increasing amounts of funding in the Judiciary Budget for civil legal services for low-income New Yorkers. In Fiscal Year 2011-2012, the first year of the Judiciary Civil Legal Services Program (JCLS), the Judiciary Budget included \$27.5 million for civil legal services. That amount increased to \$40 million in the second year, \$55 million in the third year, \$70 million in the last fiscal year, and \$85 million for the current fiscal year, which ends on March 31, 2016. In each of those years, we passed on to IOLA \$15 million to help make up for a shortfall in IOLA funding caused by a reduction in interest on lawyer accounts. Each year the balance of the funds was distributed through JCLS, which is managed by a three-person Oversight Board, using a Request for Proposal (RFP) process.

In the current fiscal year, the Oversight Board allocated JCLS funding of \$70 million to 78 civil legal services providers serving low-income New Yorkers in every county in the State. The grants ranged in size from \$18,775 to \$7,911,675.

JCLS funding is designated for use only in matters involving the “essentials of life” including; housing, family matters, access to healthcare and education, and subsistence income. Eligibility for services from the funding grantees is limited to persons living at or below 200% of the federal poverty level, and the distribution of such persons living in each of the four Judicial Departments determines the geographic allocation of funding.

Direct legal services are a funding priority, collaboration among civil legal services providers is encouraged, and preventive and early-intervention legal assistance is supported;

additionally, grantees may use a portion of their award to give “other legal assistance,” which includes a variety of educational and information programs that help those who do not receive direct representation, such as seminars, trainings, workshops, clinics, help desks, helplines, and brief legal advice or referral to other providers or agencies.

Largely as a result of the additional funding in the Judiciary Budget there has been a significant increase in the total funding for civil legal services in New York. According to IOLA, total funding for civil legal services in New York State in 2010 was \$216 million. Total funding in 2014 rose to \$297 million, which represents an increase of 38 percent.

JCLS FUNDING IS HELPING TO NARROW THE ACCESS TO JUSTICE GAP

With this increased funding, we are seeing steady improvement each year in terms of the number of cases handled. Grantees of Judiciary Civil Legal Services Funding report to us on the number of cases they handle in which they provided “direct legal assistance” in an attorney-client relationship, with full or limited representation in an actual or potential action or proceeding, or specific legal advice and counsel in another type of matter. For the fiscal year ending in March 2015, civil legal services providers handled 423,676 cases involving essentials of life issues, a 10 percent increase in the number of cases handled in the prior fiscal year (384,974).

But what does this mean in terms of narrowing the access to justice gap and satisfying the unmet need for civil legal services? The benchmark for such an analysis is the study done in 2010 by the Task Force to Expand Access to Civil Legal Services in New York (the predecessor to the current Permanent Commission). The Task Force commissioned a research organization, Lake Research Partners, to conduct a survey of low-income New Yorkers. Lake Research analyzed the results of its survey along with other data, including the 2010 federal poverty data, which showed that six million New Yorkers were living below 200% of the poverty level. Lake Research found that nearly three million of the six million low-income New Yorkers experienced legal problems in the prior year. Of this group, more than 1.7 million had at least one or two legal issues while more than 1.2 million experienced three or more legal problems. Lake Research then compared the number of closed cases as reported by IOLA in 2010 (258,140) to the number of low-income New Yorkers with three or more legal problems, which it deemed to represent the population with the most pressing legal needs. Based on this survey and analysis, it was estimated only 22 percent of the need for civil legal services was being met. That is the baseline against which we measure where we are today.

In last year’s comprehensive Report, the Permanent Commission estimated that New York may now be meeting close to 30% of the need for civil legal services of low-income New Yorkers. This new estimate was based in part on caseload data collected by the Office of Court Administration as well as anecdotal feedback. Therefore, in that same report, the Permanent Commission asked the Office of Court Administration to form a committee in order to refine and confirm this 30% estimate. Former Chief Administrative Judge A. Gail Prudenti formed a

Committee consisting of members of the OCA Division of Court Research and the Division of Professional and Court Services, which administers our JCLS contracts and collects annual data from the providers. Judge Prudenti asked the Committee to address the Permanent Commission's request.

The first thing that we did in undertaking this task was to update the estimates of the scope of the need. We did so by looking at the most recent data on the number of New Yorkers living below the poverty guidelines. Unfortunately, those numbers are increasing. In 2010, at the time of the Lake Research study, 30 percent of New Yorkers (six million) lived below the poverty guidelines. According to the Kaiser Family Foundation, the Census Bureau's 2014 population survey shows that 35% of New Yorkers now live below the poverty guidelines. That represents an increase of almost 750,000 people since 2010 – a 12 percent increase. This increase in the number of people living under the poverty guidelines necessarily translates into an increase in the number of low-income New Yorkers in need of legal services. Based on the updated census data, we estimate that there are now 1.35 million low-income New Yorkers who have three or more legal issues, up from 1.2 million in 2010. We then looked to the most recent information about the numbers of cases being handled, which, as I mentioned before, is almost 424,000. Based on this data, we estimate that 31% of the need for civil legal services in New York is being met. This is up from the estimated 22% in 2010. An increase from 22% to 31% represents a 41% increase in meeting the need for civil legal services.

This is encouraging news – we are making progress in meeting the need for civil legal services. The data show that while there has been a 38 percent increase in funding for civil legal services, there has been a 41 percent increase in meeting the need for these critical service. We should be proud of this progress, especially in light of the fact that the need for civil legal services is growing as more and more New Yorkers are falling below the federal poverty guidelines.

However, the data also tell us that the job is not done, and that as many as 69% of the low-income New Yorkers with the most pressing legal needs are still unable to obtain the legal assistance they need. Keep in mind that this does not take into account the more than one million low-income New Yorkers with at least one, but fewer than three legal needs.

In sum, while we are encouraged by the progress we have made, our work is not finished. We must continue with the same sense of urgency with which we started.

Thank you again, and I would be happy to answer any questions you may have.

Colleen McElligott

Client of Volunteer Legal Services Project
Accompanied by Mary Beth Conway, Esq.

Testimony for Chief Judge's Fourth Department Hearing Panel

I am writing this letter in regards to the wonderful legal services I received from my pro bono attorney, Sharon Kelly Sayers, and her staff. None of this would have been possible if it wasn't for the Volunteer Legal Services Project. I can honestly say and do believe I would not be here today writing this if it wasn't for them. I was in an 18 year relationship with my now ex-husband. He mentally, emotionally, and physically abused me and my children for years. I left several times and had many restraining orders against him. I eventually went back to broken promises and the abuse started again. At the time, he made me feel weak and like I had no other options. I finally couldn't take it anymore and contacted Volunteer Legal Services Project. I was so desperate to get away from him that I just wanted to give up and just get divorced and let him have everything. I didn't know what rights I honestly had until the amazing staff at VLSP advised me not to do a simple uncontested divorce. That's when Sharon took my case pro bono. That was back in March of 2013. I can't even explain the journey we had together. The first few times I walked into her office, I was a shaking, nervous wreck. I had left our home with our three children due to the domestic violence that was again taking place. I was living temporarily with my parents as I had nowhere else to go. I was unemployed and my husband was contributing nothing towards my support or my children's. I admire Sharon so much and she has truly saved my life and my children's lives. She made me believe in myself and taught me to fight back and not just give up because he intimidated me every chance that he could. She helped me seek and obtain an Order of Protection, which my spouse then violated. But, the judge's threat of immediate incarceration finally had an impact on my husband and he realized he was losing control over me. I was also able, with Sharon's help, to get an Order providing for a nice amount of child support and temporary spousal support, along with continued medical insurance and exclusive use and occupancy of our home, which I was able to return to. This enabled our children to get to school regularly and have secure shelter and reliable income. Another challenge in my case was that our home was my husband's separate property, and I had no claim on it. My husband had stopped paying the mortgage so as I continued to live there the home was in foreclosure. Sharon and her staff worked with the housing council and the lender in an effort to recast the mortgage; however, my husband refused to cooperate so there was nothing further they could do and the foreclosure ultimately proceeded. Sharon also discovered that per a pre-existing Family Court Order of Child Support, my husband was in arrears in excess of \$49,000. Sharon brilliantly attempted to use a threat of judgment to leverage cooperation by my husband to sign the house over to me, but of course he still refused. In the end, Sharon was able to satisfy the arrears anyway by agreeing to payments of \$250/week over and above the child support statute guidelines for child support. This sum will ultimately be paid to me free tax free. While it is far less than the original amount of arrears, I know from Sharon that my husband's lack of assets would have resulted in a lesser sum being paid due to garnishment limits during a time I need this money the most-while raising my children. So, in the end, although I technically agreed to waive spousal support, I gained so much more than I ever expected to. Sharon also gave me the confidence to get a job, a job I love and have been at now for 2 and 1/2 years. I am no longer completely dependent on my former spouse. Sharon worked so hard on my case for two years and never gave up on me. I now have the confidence and faith to be on my own and take care of my children, without living in fear everyday. My children are happier and doing so much better knowing that I am safe. I could go on for pages and pages about my experience with Sharon and VLSP. I can't thank Mary Beth Conway and Sharon Sayers enough for saving my life and my children's lives.

Sincerely,

Colleen McElligott (formerly Colleen Walker)
195 Garfield St.
Rochester, NY 14611
(585) 764-6290

Submitted by:
Volunteer Legal Services Project
Mary Beth Conway, Esq.
1 West Main St., 5th Floor
Rochester, NY 14614
(585) 295-5707
mconway@vlsprochester.org

Liliana Alvarado-Rojo

Client of Erie County Bar Association Volunteer Lawyers Project

Accompanied by Emma Buckthal, Esq.

Testimony of Liliana Alvarado-Rojo for Chief Judge's Fourth Department
Civil Legal Services Hearing on September 30, 2015

My name is Liliana Alvarado. I'm a mother of three children, Luis, Javier, and Jadali. I suffered from domestic violence at the hands of my ex-husband for eleven years. It started back in Mexico, where I am from. It continued here in New York after Javier convinced me to come with Luis in 2004.

I never felt like I could ask for help because Luis and I were illegal. Even though I had two children here who were citizens, I never had permission to be here. My ex-husband made me more afraid. He told me that if I called the police for help, they would take me away and deport me because I didn't speak English. He also told me the police would take my kids away.

In 2008, my ex-husband and I moved to Oklahoma City. He thought he would be safer there because immigration would be less likely to catch him there. Things kept getting worse until August 2009. I remember waking up in my bed one night to see Javier holding a box cutter over me. I closed my eyes, pretended to be asleep, and prayed that he would not do anything to me or the kids. After about three minutes, he put the box cutter away and left the room.

I started making plans to leave and asking neighbors and acquaintances to help me.

In October 2009, I asked my ex-husband to let me leave him. He began crying, yelling, and throwing everything within reach. He went outside, took the battery from my car so I couldn't leave, and left the house.

He came back two hours later with some beers and some rat poison. He told me that I wasn't going to leave him. In front of me, he poured the rat poison into the beers, then told me to drink it with him. I grabbed the kids and locked myself in a bedroom for the night. I couldn't leave, because my car had no battery.

The following day when he went out, I called a friend in New York for help. I wanted to get as far away from my ex-husband as I could. My friend agreed to send me some money for a new battery and the trip.

Before I could leave, my ex-husband came back. He was very drunk and equally angry. He told me he knew I was trying to leave him. He pushed me into the kitchen, threw me against a wall, and took out a knife. He told me he wasn't going to give me the chance to leave him because that day was my last day. Fortunately for me, he started to pass out from being drunk, then went and fell asleep in a chair.

I took my opportunity. I grabbed a few things and my kids and went outside. The neighbor helped me put a battery in the car. We left the house. The next day we drove away to New York in hopes of being safe.

On the way, my ex-husband began calling me and threatening me on the phone. He told me he'd find me and kill me. I was still afraid when I arrived in New York, so I stayed at the Victim Resource Center of the Finger Lakes domestic violence shelter in Newark, New York so my location would be secret.

Testimony of Liliana Alvarado-Rojo for Chief Judge's Fourth Department
Civil Legal Services Hearing on September 30, 2015

I'm still not sure how, but my ex-husband got the number of the shelter. He started calling. I'd answer the phone and hear him laughing. He'd tell me I wasn't going to escape, his friends had found me, and it wouldn't be difficult for him. He said he'd come into the house at any moment, take the kids away, and kill me.

I couldn't sleep. I kept thinking he was standing at my side or watching me from the window of the house. It was torture. He alternated between calling to threaten me and calling asking me to forgive him and come back to him.

A day came that he called me about sixty times. He wouldn't stop. I told my Victim Resource Center advocate Cindy, who told me I had to call the police. I was very afraid, but I did it with her support. The officer from the Newark Police Department who took my report was very nice. He told me that only my ex-husband should be afraid of the police and that the police would help me. He then called my ex-husband and told him to leave me alone. I felt safer after that, because my ex-husband mostly stopped calling me.

But I still didn't have any papers. I always had to be afraid about being deported. I had no idea what to do. I eventually tried talking to a private lawyer in 2013. She told me there was nothing I could do until I had been here for 10 years. I almost gave up. I thought there was nothing I could do. I called my advocate Cindy at the Victim Resource Center and asked her what to do. She suggested I call a lawyer named Emma. She said Emma worked on domestic violence cases like mine and would know what to do.

Well, Emma helped me apply for a U visa for myself and my son Luis. She told me that it was a visa for domestic violence victims like me who helped the police. Emma asked the Newark Police Department to give me a certification paper that I had reported my ex-husband to them and that I had cooperated in their investigation of his threats. They signed the paper for me in March 2013, so then I was able to move ahead on my case.

Emma helped me through the rest of the application process. She had me write a very long story of everything that had happened in my eleven year relationship with my ex-husband. Then she translated it from Spanish to English and made it clearer so immigration would understand my story. She filled out many application forms for Luis and I, and translated our birth certificates so that I could include Luis on the case as my child. When we finally had all of the paperwork ready, Emma took care of mailing everything to immigration in April 2013.

While we were waiting for a decision, Emma made sure I went to my required fingerprints appointment. She also was there to answer any questions I had about the case and to keep me updated about any news.

In December 2013, right after Christmas, I had good news. Immigration put me on the wait list for the U visa. I was eligible for my first work permit. Emma helped me put in an application for a work permit while I waited for immigration to have more U visas. With my work permit, I got my social security number and a driver license.

Testimony of Liliana Alvarado-Rojo for Chief Judge's Fourth Department
Civil Legal Services Hearing on September 30, 2015

We waited some more. Emma helped me apply for a work permit renewal, but in the end, we did not need it because in November 2014, Luis and I received our four year U visas and work permits. We were legal to be in this country at last. I never would have been able to do it on my own. Everything was in English and needed to be done on the computer. With Emma, all I had to do was follow her directions and send her papers.

Before, when I didn't have the work permit, well, we had to always be careful and afraid. If we saw a policeman or immigration, we always felt they would send the two of us back to Mexico. We went everywhere in fear.

It was very difficult to be able to work. Now that I have the work permit, thank God, I found a good job. I'm now working in a factory where we make cables for military boats and telephones for government contracts. Before, I'd make \$7.50 at most. Now I make \$9.25 an hour. The bosses have been pleased with my work, so I direct five or six other people who work there.

Now my children and I are living better than before because I can make more money and have status. I've been able to do many things I couldn't do before. I bought myself a 2014 Dodge truck to drive. Before I couldn't have a driver license, get insurance, or register a car. I also couldn't get credit. I never drove myself anywhere if I could avoid it. Every time I wanted to go out for anything, I had to find someone to drive me and pay them. Now I have my truck, a drivers license, registration, and insurance. Everything is in order. I can go out to the store by myself if I want to. I feel free. I'm trying to build a good credit record with the loan for the truck. My dream is to be able to get a house for me and my kids. I want to give them their own space to live and a dog to play with.

I can go out in the street and feel calm. My son Luis can go out with his friends. We always were afraid that if he went out alone before, the police could stop him, detain him, and deport him to Mexico. Luis was always sad because I wouldn't let him travel with his friends. Now I know that if he goes out, he is going to come back safely to me. My kids all feel more secure.

I'm excited that I will be able to apply for my green card soon. Then I'll be able to travel to Mexico to visit my family. I haven't been home since 2004.

I also received help from LawNY in Lyons to divorce my husband. Before, when I didn't have a social security number, it was difficult to move ahead on that case. With the work permit and the social security, they helped me get a divorce so I could move on with my life. I'm very happy with that.

Timothy Shine

Client of Legal Assistance of Western New York, Inc.

Accompanied by Louis Prieto, Esq.

**TESTIMONY FOR CHIEF JUDGE'S FOURTH DEPARTMENT CIVIL LEGAL SERVICES
HEARING**

Client Testimony Transcript – Timothy W. Shine:

“My name is Timothy Shine and I am 69 years old. I currently reside in Fairport, New York with my wife and seven children, who range from 8-20 years old. I receive Social Security Retirement income, which I supplement with some part-time work in order to support my family. I also served in the US Army between the years of '66 through '68 during the Vietnam Era.

My first experience with legal services began not too long ago in June of this year when I heard that there was a free legal fair called Valor Day that was established to help veterans. The event was put on by LawNY, along with Volunteer Legal Services Corporation and the Monroe County Bar Association. I would not have found the legal services I needed had I not found this event that was intended to reach veterans in the Greater Rochester area.

What happened to me was that in 2008 I had filed for a Chapter 13 Bankruptcy in order to prevent my home from going into foreclosure. I made every single payment required to get the bankruptcy discharged, however, the mortgage company, even directly after the bankruptcy was discharged, stated that I was delinquent and behind on my mortgage.

I had contacted my mortgage company multiple times to inform them that there was a serious discrepancy regarding my account being labeled as delinquent. It was having a negative impact on my credit and I began receiving notices that I was in pre-foreclosure. While this was happening, I was making all my monthly payments and my escrow surplus was increasing until I had approximately \$20,000 in my escrow account that the mortgage company would not release to me because they stated I was delinquent. The mortgage company kept me in this situation for almost two years and nothing was being accomplished.

The whole experience was very frustrating, as the mortgage company was unable, or unwilling, to resolve the matter timely. Every month, I was receiving pre-foreclosure notices and delinquency notices when I had paid every single payment that I was supposed to.

When I met Jonathan Placito at Valor Day he explained that he was an attorney with LawNY and that he could help me with my mortgage issue. I was pleasantly surprised that I could receive legal assistance so quickly. All it took was going to the Valor Day outreach event, and LawNY opened a case and started advocating for me. He and I immediately began working together resolve the matter quickly. With his help, we were able to get my Mortgage Company to take my mortgage out of delinquent status and they provided me a portion of the escrow in the amount of \$13,297.00 that they had refused to return to me. I was able to use these funds to make necessary repairs to my home and I am very close to paying off my mortgage. This was a relief as I no longer had to be concerned about a potential foreclosure or not receiving my income that had been misappropriated by the mortgage company. Before LawNY began assisting with the case, I

had been negotiating with the mortgage servicing company. Once I had an attorney, it only took a few months to get the matter resolved.

Without legal services, even today I do not believe this matter would be resolved. I needed an attorney because the bank wasn't taking the matter seriously. Once I received representation, things moved quickly and I was able to avoid foreclosure and the mortgage servicing company corrected their errors. I felt a great weight was lifted off my shoulders once the mortgage servicing took care of the issue. At my current income level, I couldn't afford a private attorney and I was pleasantly surprised that I could have legal representation through LawNY. I wish that everyone could have access to and receive the legal services I received. The legal work done was a great comfort and relieved stress for myself and my family.

BACKGROUND INFORMATION FOR SHINE TESTIMONY

An important part of Mr. Shine's story is that he found out that legal services were available, and met his legal services attorney, through a veteran's legal assistance and support services fair called Valor Day that was held earlier this year on June 13th. Where it not for the Valor Day outreach event, Mr. Shine would not have found the legal help he needed. His story highlights the importance of community outreach to legal services delivery, without which difficult to reach populations, such as veterans, would not know that legal services are available to them.

The Valor Day legal fair was organized by LawNY and VLSP in concert with a variety of veterans' service providers and volunteers (retired County Court Judge Patricia Marks chief among them). We received financial support for the outreach campaign preceding Valor Day from the Monroe County Bar Foundation and received donated space from Monroe Community College. The legal help part of the fair was conducted by staff attorneys from LawNY and a group of twenty pro bono attorneys volunteering through VLSP. The event was a great success and generated a reservoir of goodwill on the part of veterans and service providers, the organized bar, and the public at large. The event was the first of its kind in Rochester and was modeled on a similar Valor Day event in Syracuse conducted annually by the Syracuse University College of Law Veterans Legal Clinic program. The legal providers in Rochester intend to follow up on this year's success and make the Valor Day legal fair an annual event.

Another recent example of the value of community outreach occurred two weeks ago on September 15th, when the legal services offices in Rochester participated in an annual homeless services event, called Project Homeless Connect, which is designed to connect homeless individuals and families with a vast array of services that are available to them. All four Rochester legal service providers participated: VLSP, LawNY, LAS, and EJC; plus the public defender. At that event, LawNY spoke to over 200 homeless persons for legal consultation and opened approximately 40 case files.

Valor Day and Project Homeless Connect are just two examples of efforts to bring legal services to hard-to-reach populations.

Respectfully submitted:

Louis Prieto
Managing Attorney
Legal Assistance of Western New York Rochester Office

C. Kenneth Perri, Esq.

Executive Director

Legal Assistance of Western New York, Inc.

LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.®

361 South Main Street, Geneva, New York 14456

Tele: (315)781-1465 (Voice/TDD)

1-866-781-5235 (Toll Free-Clients Only)

Fax: (315)781-2565

Website: www.lawny.org

TESTIMONY:

**THE CHIEF JUDGE'S HEARINGS
ON
CIVIL LEGAL SERVICES**

October 16, 2015

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 First Department on September 29, 2015, in the Fourth Department on September 30, 2015, in the Third Department on October 13, 2015 and in the Second Department on October 16, 2015. I thank you as well for the opportunity to share these very brief comments with regard to the manner in which LawNY[®] has been able to grow the services that we provide to low-income people in civil areas of the law concerning the essentials of life thanks to the funding which we receive through the Judiciary Civil Legal Services program.

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 Lawrence K. Marks, New York State Bar Association President David Miranda 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 Permanent Commission on Access to Justice, as well as the other distinguished members of the Permanent Commission.

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 33 years.

LawNY[®] has seven staffed offices which provide services to low-income people in 14 counties in the Third and Fourth Departments. 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. LawNY[®]'s Use of Oversight Board Judiciary Civil Legal Services Funds:

In the state fiscal year which ran from April 1, 2014 – March 31, 2015, LawNY[®] was able to expand the services available to our low-income communities throughout our service area due to a significant increase in Judiciary Civil Legal Services funding.

Together with some additional funding breakthroughs, the additional JCLS funding allowed us to grow our staff by four FTE new attorneys, four FTE new paralegals and two FTE support staff during the state fiscal year.

During that time, LawNY[®] closed a total of 8,664 cases, a 25% increase over the previous year. The number of people who benefited from LawNY[®]'s services in these closed cases totaled 18,396.

Of the closed cases, 2,541 (29.3%) involved income maintenance issues such as temporary assistance to needy families, emergency assistance, supplemental nutrition assistance program benefits, SSI benefits, social security disability benefits, unemployment insurance benefits and veterans benefits.

An additional 2,401 cases (27.7%) involved housing issues, such as public housing evictions, private housing evictions, foreclosures and housing conditions.

An additional 1,522 cases (17.6%) involved family law matters, such as child support and securing orders of protection from domestic violence.

Other areas in which LawNY[®] provided services included: health law matters - 1,047 closed cases; consumer matters – 330 closed cases; employment matters – 133 closed cases; and school law matters – 48 closed cases.

IV. **Conclusion:**

In 2016, 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 Permanent Commission 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 and the Permanent Commission's other initiatives..

I fervently urge that the Permanent Commission 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, 2016 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 Permanent Commission on Access to Justice to achieve this result.

Thank you for your time and your consideration.

John F. Boyd II

J.D. Candidate, Class of 2016
Syracuse University College of Law

John F. Boyd II
Professor Bybee
11/6/2015
Independent Study

**Explaining Why The Pro Se Litigant Is Not A Helpless Infant Looking To Suckle On The
Teat Of The Government And Exploring The Active Role A Judge Should Take In
Regards To These Litigants.**

This paper will explain the pro se problem and possible solutions with an introduction and three parts. In the introduction, this paper will explain the history and background of the pro se problem. In the first part, this paper will discuss a solution that is frequently offered to solve the pro se problem, which is the appointment of counsel. It will further explain why this solution is no solution at all because there are those that wish to represent themselves regardless of their financial ability to afford an attorney. In the second part, this paper will discuss the efforts courts have taken to assist the pro se litigant in the preparation of their case, the benefits of those efforts, and the shortcomings. In the third and final part, this paper will discuss the active role a judge should take when handling a pro se litigant and why passivity is not only bad, but also unjust.

Part i: Introduction

The pro se litigant presents a unique challenge to the American judiciary. The legal system is a complicated edifice with many evidentiary, procedural, legal, and substantive rules that would even cause a lawyer that practices in a different jurisdiction to suffer from some

disadvantage when facing a seasoned local attorney. However, the un-represented, under-represented, and self-represented suffer a far worse fate.

At the outset, it is important to note the distinction this paper makes between the un-represented under-represented and self-represented litigant. All fit under the umbrella term of the pro se litigant but the groups separate from there. The un-represented litigant does not have and generally cannot acquire an attorney for their case or issue for reasons discussed below. The under-represented, may acquire some legal assistance through limited advice or representation but still must handling some of their legal troubles independently. The self-represented choose to represent themselves regardless of their ability to acquire a lawyer, unlike the prior groups, there is more of an element of choice in their representation status. At times, this paper may refer to these groups almost interchangeably; however, there is a distinction.

Despite the distinction the pro se litigant, still face an uphill battle at acquiring justice. Failure to understand the correct way to serve papers may lead to severe consequences in some jurisdictions if the service was ineffective. While few are advocating for waiver of service of process, or other necessary but sometimes confusing legal procedure, the “problem” of the pro se litigant still is believed to causes a drain on court resources and a strain on its docket. This paper does not advocate that all pro se litigants should win regardless of the merits, instead, it suggest that reasonable judicial assistance can ensure that a pro se litigant has a meaningful hearing of their case.

Part ii: History of the Pro Se Litigant

In order to understand the “pro se problem” we must first analyze who are the people that decide to proceed pro se.

In the early twelfth century, in the country to which we owe a large portion of the model of our current legal system, England, citizens would meet before the king, un-represented and do the best they could to win their case.¹ However, with a clogged docket, that mirrors today's courts, and nearly unlimited power, the king passed this responsibility to his courtier.² Eventually, juries were established to replace clergy, and the judge was given the role to uncover the truth.³ It is from there that the law developed its ever-searching fact finding goal.⁴ Medieval courts took a slightly different approach; they chose trial by battle.⁵ That is where the law develops its adversarial nature, holding the court as a mere referee looking for a literal fair fight.⁶ With the goal of a fair fight, rules were developed over the course of the next few centuries to ensure that each fighting side had a fighting chance.⁷ The literal trial by battle did fall into disfavor but the adversarial nature of the legal "fight" did remain, it was merely replaced with a fight of words.⁸ With the creation of the goal of neutrality came the process of substituting the fighter with someone more familiar with the rules of procedure.⁹ These fighters became masters at their trade and some were asked to referee/judge bouts for the king.¹⁰ In America, during the 1640s, a desire to predict the outcome of the fight was urged and more evidentiary and procedural rules were raised to make the betting process a little easier.¹¹ The judge was restricted to a passive and neutral role.¹² The goal of remaining passive was to ensure that the fighters could fight at their own pace and the goal of neutrality ensured that no winner would be picked until the fight concluded, through either 12 rounds, Knockout, or a motion to dismiss.¹³ However, while most seasoned fighters would know that only an eight-ounce glove could be used in a welterweight fight, or that a response to a compliant must be filed within 30 days of service, a new fighter might be disqualified before throwing the first punch.¹⁴ Thus, aces' to the

ring of legal justice required specialized knowledge and training that many amateurs or regular citizens simply lacked.¹⁵

Part iii: Reasons Why People Proceed Pro Se

Not every pro se litigant does so by choice. Some are forced to proceed un-represented due to a lack of finances.¹⁶ Litigation can be expensive and the inability to afford counsel will lead some to go it alone.¹⁷ Courts have adapted to the change in circumstances by creating special courts with simpler rules of procedure and evidence.¹⁸ These “poor people courts” allow ordinary individuals to pursue their legal claims or defenses without having also to declare bankruptcy.¹⁹ Further, some claims, while meritorious, are not worth the time and effort needed for a contingent fee.²⁰ However, there is a notion that all people wish to be represented by counsel and simply cannot afford to hire an attorney.²¹

While cost may factor into a decision to go it alone, there are other reasons why one might proceed pro se regardless of their financial situation. In Drew A. Swank’s note and comment entitled *The Pro Se Phenomenon*, Swank identifies nine plausible reasons, based on survey results, why one might proceed pro se absent cost.²²

- (1) Increased literacy rates,
- (2) Increased sense of consumerism,
- (3) Increased sense of individualism and belief in one's own abilities,
- (4) An anti-lawyer sentiment,
- (5) A mistrust of the legal system,
- (6) A belief that the public defender in criminal cases is overburdened,
- (7) A belief that the court will do what is right whether the party is represented or not,
- (8) A belief that litigation has been simplified to the point that attorneys are not needed,
- (9) A trial strategy designed to gain either sympathy or a procedural advantage over represented parties.²³

Thus, people may choose to proceed pro se not only because of cost but also due to the increased idea that they can do it themselves. If the litigation is simple enough, or if the court is

more accessible, then it is entirely possible, that one could have a meaningful hearing of the merits in a pro se case.

Part iv: Breath and Diversity of the Pro Se Litigant

Even without their technical expertise, the pro se litigant still occupies a large volume of the courts dockets.²⁴ In New York, for example, “nearly 100% of borrowers in consumer debt cases, 99% of tenants in danger of eviction, and 96% of parents in child support matters are un-represented.²⁵ In foreclosure cases, where owners face the loss of their homes, 44% of the defendants are un-represented, while 100% of the plaintiffs have counsel.”²⁶ Further, federal appeals involving pro se litigants were 51% of filings in 2014.²⁷ In 2013, the number of pro se cases was 56,475; however, only 13,556 were prisoner appeals.²⁸ The vast number of non-prisoner appeals undercuts the idea that pro se prisoners are the only pro se litigants in the federal courts. Thus, the pro se problem is more than just criminals yearning to breathe free; it includes civil cases or even appeals from administrative agencies.²⁹

Part v: Perception of the Pro Se Litigant

The pro se litigant must face another hurdle, the perception that they are merely a drain on court resources, they drag on litigation, and slow down the process for everyone.³⁰ Worse, is the perception that their claims have no merit.³¹ This is sometimes caused by the idea that if a party is able to afford an attorney but proceeds pro se it must be due in part to no attorney wanting to take the case for reasons of lack of merit.³² However, represented cases typically take 78-80% longer than pro se cases and typically have more submissions and motions causing a larger drain on resources.³³ This is likely due to the represented party using more legal

gymnastics to complicate and delay the proceeding. Further, while some cases may not be worth the time and effort of hiring an attorney, others feel empowered by representing themselves.³⁴

Part vi: Pleading Standard for the Pro Se Litigant

However, the empowered pro se litigant still must meet the basic pleading test if the claim is to proceed. The rules of a short and plain statement for relief in pleading set out in the landmark case of *Conley v. Gibson* have been heightened under *Twombly* to the pleading must contain enough factual matter to state a claim for relief.³⁵ Combine that with hundreds of other strict and complicated rules, forms, and practice procedures and a pro se litigant facing a represented party will likely meet the same fate as an average citizen would facing 12 rounds with Muhammad Ali - disqualified before the match due to improper glove wrapping.

It would seem that the pro se litigant has forced the courts into a tough position, having to deal with them and hear their case. However, there are some possible solutions to the pro se problems, each with its own set of benefits and costs.³⁶

Part 1: One Possible Solution to the Pro Se Problem

Part 1(A): Ending Pro Se by Lawyering Everyone Up- Civil Gideon

Many suggest that the solution to the pro se problem is simply extinguishing the pro se litigant by providing attorneys in almost all legal situations. While we cannot force an attorney upon someone that wishes to be pro se, we can assist those that only do so without meaningful choice. However, there are problems with this principle as budgetary constraints crush the dreams of those seeking a civil right to counsel, and it still fails to address those that wish to handle things on their own.

Part 1(B): The Right to Counsel in Civil Cases

It is true that one of the major challenges to the pro se litigant is the lack of legal counsel. While the seminal case of *Gideon v. Wainwright* laid the foundation for the right of the accused to have free legal counsel in nearly all criminal prosecutions, if one cannot afford an attorney, those facing civil penalties, eviction, child custody disputes, and sometimes contempt proceedings are left to navigate the legal waters without the aid or assistance of legal guidance.³⁷ Thus, some drift aimlessly through the Bermuda triangle of forms and filings until their case is thrust upon the rocky reef of double hearsay and other legalese. In the State of New York, the people whose cases meet this terrible fate are “disposed,” like trash. To be fair all cases that reach a disposition are disposed, but to a self-represented individual, it only adds to the frustration that a lack of legal representation causes.

However, many public defender offices have massive budgetary constraints handling just the purely criminal matters. States are strapped for cash attempting to fulfill their obligations to the accused.³⁸ This is probably why the Supreme Court completely abandoned any idea and crushed any hope of a right to counsel civil cases in *Turner v. Rogers*.³⁹ In *Turner*, the Supreme Court held that there was not a fundamental right to counsel in civil cases.⁴⁰ Turner was facing civil confinement for failing to pay child support.⁴¹ The Court held that even though he was facing a significant amount of time of imprisonment he was not entitled to an attorney.⁴² The reason given was that civil confinement is different from criminal confinement, or at least it should be.⁴³ In criminal confinement, one is being deprived of liberty for past acts.⁴⁴ However, in civil confinement one is, or should be, confined only for their present behavior, their failure to do something is the cause of their own suffering.⁴⁵ The idea is that the person being confined holds the keys to their own prison.⁴⁶ They do what the court wants and they go free.⁴⁷ However, in *Turner*, there was not an effort to understand or estimate Turner’s ability to pay.⁴⁸ Thus, it

was possible he could not afford the keys to his own prison.⁴⁹ Nevertheless, the Court did not find that the right to an attorney should attach, instead, procedural safeguards, like examining someone's ability to pay, is sufficient to ensure due process.⁵⁰

Some still press on, despite the ruling in *Turner*. Many localities offer free civil legal assistance to people.⁵¹ As *Turner*, did not rule that it was unconstitutional to provide civil aid, only that there was not a right under the federal constitution, states can do more than the minimum.⁵²

Part 1(C): The Ability/Inability to Provide a Right to Counsel

While those who advocate for civil Gideon are probably noble in their goal, however the funding is unavailable. Thus, another solution is to make the appointment of counsel apply in only certain worthy cases. This is the main argument made by Benjamin Barton and Stephanos Bibas in their article entitled *Triaging Appointed –Counsel Funding and Pro Se Access to Justice*. However, there are several unavoidable problems with deciding which cases are and are not worthy of an attorney. Further, it is likely that an indigent inarticulate litigant will need an attorney to prove he needs an attorney.

Barton and Bibas believe that civil Gideon will only make scarcer the already stretched budgets of legal services for the indigent.⁵³ Barton and Bibas note, “Often ... counsel is not immediately available and defendants must wait before receiving lawyers, sometimes for months, even if they are jailed pending trial.”⁵⁴ Worse, as they believe that criminal cases are more important than civil cases, any deviation of funds will magnify the problems that the original Gideon case created.⁵⁵ The Supreme Court noted in *Gideon*, “Lawyers in criminal courts are necessities, not luxuries.”⁵⁶ However, the Court has stepped back from that principle in civil cases, even when civil confinement might take place. Thus, if the Court was not willing

to extend Gideon like procedures and rights to the civil context under the facts of Turner, it is unlikely to happen under any circumstances. Bibas represented the respondent in the Turner case, and Barton wrote an amicus brief in the Turner case for the respondent, thus it is no wonder that they celebrate the death of civil Gideon in the Turner case since they argue to kill it.⁵⁷ Instead of a civil right to counsel they argue for a more “sustainable” solution or so called “triaging” funding. They note that, “[a]ppointment of counsel in civil cases must be selective and discretionary, used only for the most complex and most meritorious cases.”⁵⁸ Their solution to the pro se problem is a combination of leaving the frivolous claims to sort themselves out and appointing counsel in only the meritorious pro se civil cases.

Part 1(D): The Ability/Need to Provide a Right to Counsel

Barton and Bibas drew some criticism for their work in the Turner case and for their article. One of the more compelling critiques of Barton and Bibas’ position came from John Pollock, the Coordinator of the National coalition for a Civil Right to Counsel, and Michael Greco, the former ABA chair and member of the ABA task force on access to civil justice.⁵⁹ In their response entitled, “It’s Not Triage If the Patient Bleeds Out,” they criticize some of the approaches and opinions expressed by Barton in Bibas.

First, they note that it is a misstatement of fact to claim that the vast majority of people advocating for civil Gideon desire something substantially similar, or even identical, to criminal Gideon.⁶⁰ They attempt to dispel the problems of giving everyone a lawyer by suggesting a more limited approach.⁶¹ They suggest only five civil proceedings that would require counsel and a mixed approach or other pro se reform for all other types of cases.⁶² The five categories the 2006 ABA policy suggests that Pollock and Greco endorse are cases involving five human

needs: “shelter, sustenance, safety, health, and child custody.”⁶³ This approach is more sustainable economically and does reach the heart of why proceeding alone can be problematic.

Another point they address is that most criminal cases or even felony cases are inherently more important than civil cases.⁶⁴ While it is true that a criminal case may involve the taking of one’s freedom, they point out that it is an “oversimplification, and incorrect to suggest that felony cases are per se ‘more important’ than civil ones.”⁶⁵ Pollock and Greco raise the point that some parents would choose incarceration before losing their child forever in a custody case.⁶⁶ In addition, imprisonment may seem substantially similar to one facing improper confinement to a mental health facility.⁶⁷ They also note that it may not inherently be true that the woman suffering from domestic violence, possibly at risk of losing her life, is less worthy of an attorney than the man facing a felony for his assaults on her.⁶⁸

Pollock and Greco also note that Barton and Bibas overlooked some of the consequences of civil proceedings and the spillover into the criminal system.⁶⁹ Pollock and Greco note that eviction, and foreclosure can all lead to joblessness, homelessness, and encounters with the criminal justice system. However, just as Pollock and Greco criticize Barton and Bibas for mischaracterizing facts, it is likely that joblessness first causes eviction and homelessness, rather than an eviction proceeding and subsequent lack of counsel causes joblessness.⁷⁰ There is a larger correlation with unemployment rates and crime than there is with eviction rates causing unemployment.⁷¹

Nonetheless, in addition to Pollock and Greco pointing to several important factors that counters Barton and Bibas’ idea that a criminal case is inherently more worthy, they also attack Barton and Bibas’ scheme to provide limited representation on a case-by-case basis.⁷² In *Betts v. Brady*, the Supreme Court provided for a right to counsel in criminal cases on a case-by-case

basis.⁷³ However, Pollock and Greco point out that by the time Gideon arose the case by case test proved unworkable.⁷⁴ Similar to criminal cases where it would be difficult for a judge, before the case even began to estimate the skills of the pro se litigant before him, to guess whether a litigant needed counsel and hope that the decision lead to the correct result, certain civil cases would lead to a similarly unworkable injustice.⁷⁵ To further complicate things, it is likely that if an indigent litigant needs an attorney to represent them in their case, it is also likely that they need an attorney to represent them in their hearing about whether they need an attorney.⁷⁶

Indeed Pollock and Greco raise several counter points and suggest a more workable alternative to the slippery slope to financial insolvency raised by Barton and Bibas yet. They still rely heavily on the right to counsel. While it is true that constitutional rights should not only be funded when it is convenient, Barton and Bibas do raise good points about the state's limited ability to provide basic Gideon rights. Thus, before agreeing to representation in civil cases there are other alternatives to discuss.

Part 2: Pro Se Do-It-Yourself

Part 2(A): How Court and Bar Programs Can Ease the Struggle of the Pro Se Litigant

Forced or not, the main hallmark of the pro se litigant is the fact that they are representing themselves. Whether this is an empowering experience or a traumatic one is something that courts have been trying to address. Many states have chosen that path of assisting pro se litigants rather than removing their pro se status by providing counsel. With that comes a host of new problems. First, what type and range of DIY solutions are available? Second, what is the cost versus the benefit? We must also analyze the overarching problems with these types of

solutions, such as providing legal information or legal advice and the possibility of criminal action for the latter, and providing inadequate legal information and advice due to the lack of full representation. Lastly, in light of these shortfalls we must again analyze DIY representation methods.

Part 2(B): The Case for Pro Se DIY Programs

As discussed earlier, many pro se litigants struggle not with the merits of their claim but with the forms and procedure. This is not to imply that all pro se cases have merit, but simply to note that cases that do have merit are typically lost on other grounds. This is the main problem with pro se representation.

While an inability to afford legal counsel may affect some decisions to proceed pro se, as discussed above, there are other reasons besides finances where one might proceed pro se. “In one survey, forty-five percent of pro se litigants stated that they chose to represent themselves because their case was simple - often involving a single, clear cut issue - and not because they could not afford an attorney. Only thirty-one percent stated they were pro se because they could not afford to retain counsel.”⁷⁷ Thus, if a case is simple enough, going alone might not be such a terrible idea. This is particularly true when the Courts provide guidance on how to proceed properly through the case.

Part 2(C): How DIY Programs Attempt to Provide Equal Access to Justice

One of the main struggles of the Courts is providing equal access to justice when a pro se litigant is forced to face a represented party. This is alleviated with Do-It-Yourself programs that allow ordinary folk to create their own complaint, answer, motion papers, etc. Consider the State of New York, which over the past few years created an internet based document assembly program to assist pro se litigants in their struggle for equal access to justice.⁷⁸ Using a

combination of software and user input, the New York program solicits information from users and then assembles the correct form and customized papers.⁷⁹ Further, the software attempts to raise all possible claims and defenses by asking users to view an extended list of general possible legal claims, defenses, counterclaims, etc., to ensure that all possible legal avenues have been addressed.⁸⁰ Each legal term is written in plain English, or language of choice, so far Spanish, Chinese, and Vietnamese are available.⁸¹ Moreover, the program is designed to ask questions and to indicate and early exit a user if the form they are seeking to use is the incorrect one.⁸² At the end of this process the user should have an accurate, proper, easy to read and understand form that is perfect for the court clerk. For the most part, these forms have been successful. In 2014, there were “129,024 assemblies from DIY programs.”⁸³ People find them easy to use and court staff enjoys having all of the initial information of procedure on the DIY program page rather than having to spend time explaining it to every pro se individual.⁸⁴

However, there are shortfalls to the program. First, it does not offer everything, while it is being expanded and more forms are added there are many forms not available. However, the solution to that problem is simple; add more forms. However, there is a reason why some forms are not there and that is because it is too complicated to attempt. Why are there only an uncontested divorce form and not a contested divorce form? Probably because a contested divorce is astronomically more complicated, and those facing a contested divorce are left stranded by the program.⁸⁵ Further, these DIY forms are already pushing the boundaries of the unlawful practice of law. While it is unlikely that John Lippmann, the Chief Judge for the Court of Appeals, will face any bar discipline for his push for equal access to justice, there have been some comments for walking the line between legal advice and information.⁸⁶ Court personnel are forbidden from giving legal advice, but they are allowed to given legal information.⁸⁷ The

distinction between the two is as elusive as it seems.⁸⁸ However, as Russell Engler notes in his article entitled *And Justice For All - Including The Unrepresented Poor: Revisiting The Roles Of The Judges, Mediators, And Clerks*, something as simple as a litigant asking what should they do with the complaint form and the clerk handing an answer form may constitute legal advice.⁸⁹ The reason is that a lawyer might go over other options such as filing a motion to dismiss first, which would be foreclosed if an answer were filed.⁹⁰ Further, by raising certain defenses from a list the litigant may forgo other defenses that may be applicable.⁹¹ Thus while the simple handing of an answer form might not generally be construed as legal advice it would steer the litigant in a way that might be to his disadvantage.

It is for the reasons above why the New York DIY system only attempts to assist in simple matters that people probably could handle themselves. This may forgo an opportunity to raise the rarely used doctrine of unclean hands, or even *affluenza* if applicable, but for the majority of people handling simple cases the DIY system is perfect. Some have suggested that instead of limiting clerks to only providing inadequate legal advice disguised as legal information, amending the unauthorized practice of law statutes to allow for immunity for court personnel.⁹² The hope is that court personnel, free from the threat of punishment, would be able to assist openly those seeking help. It would also further the interest of promoting equal access to justice. However, DIY programs raise problems with neutrality. If the court clerk assists one or both parties then it may be interpreted as the court helping one or both sides rather than remaining neutral. Nonetheless, whether neutrality is a positive goal for the court is still up for debate in Part 3 of this paper.

Part 2(D): The Service of Unbundled Legal Services

One last suggestion is the offering of unbundled legal services.⁹³ Currently if one hires an attorney for a particular matter the attorney is typically bound to represent the client entirely. There is not an avenue for merely doing research without court appearance, handling discovery, but not the writing of the briefs, or providing limited representation in court without the need for an attorney during simple matters like an adjournment.⁹⁴ Thus, the people that can afford an attorney only hire them for the most complicated cases, and for simpler cases, they are left to fill in the gaps themselves.⁹⁵

The pro se litigant is not a helpless infant looking to suckle on the teat of the government. While some are in need of counsel, others are content, if not driven to handle their own legal affairs.⁹⁶ Whether it is by limited counsel or the DIY program, the Court still has to handle these people. The next question deals with the idea of coddling pro se litigant, treating them the same as a seasoned attorney, or finding the balance in between.

Part 3: Judicial Activism or Neutrality for the Pro Se Litigant - Problems with Passivity

Several years ago, former Florida Chief Justice Major Harding recounted the following story in convening a statewide conference on self-represented litigants. A trial judge was hearing a divorce petition in which the respondent had defaulted. The wife presented the matter without counsel and failed to offer any evidence bearing on the court's jurisdiction to hear the matter. The judge told the wife that he could not grant her a divorce because she had failed to establish her entitlement to one, advising her to consult a lawyer. The woman left the courtroom in tears. In the next case, a lawyer for a wife in a defaulted divorce failed to elicit any evidence of the court's jurisdiction. The judge noted that counsel had failed to do so, and the attorney immediately recalled the client to the stand and asked her how long she had lived in the county. The judge granted the requested divorce. Suddenly aware of his double standard, the judge called his bailiff and asked him to quickly search the courthouse to find the woman whose case he had just dismissed. The bailiff succeeded. The judge reopened the case on the record, placed the woman under oath, asked how long she had lived in the county, and, after receiving an acceptable response, granted her divorce.⁹⁷

There are some that believe that pro se assistance should exceed mere DIY programs and that judges and court staff should actively assist pro se litigants through the court proceeding.⁹⁸ This can range from indicating what forms to fill out, to making *sua sponte* objections during trial.⁹⁹ This inherently creates some problems with equality as some courts may extend themselves to pro se litigants while other courts may remain stalwarts.¹⁰⁰ This can also lead to problems of inequality among courts as well because of the inequality between represented and self-represented litigants. However, as discussed below, the solution of judicial neutrality is the most dangerous of all of the recommended solutions. While judicial participation may lead to varying forms of unequal access to justice, providing no assistance provides no justice at all.

Part 3(A): The Case for Neutrality

Drew A. Swank, in his article entitled, *In Defense of Rules and Roles: The Need to Curb Extreme Forms of Pro Se Assistance and Accommodation in Litigation* notes that judicial neutrality should be the goal of the courts as different treatment is inherently unequal.¹⁰¹ His article is representative of the majority of those seeking judicial neutrality.¹⁰² First, he discusses the benefits with legal information.¹⁰³ He notes that it can be invaluable to the pro se litigant and court staff for the litigant to have a basic understanding of how the matter is to proceed in court.¹⁰⁴ He further encourages pro se assistance programs outside the courtroom because it does allow equal access to justice.¹⁰⁵ However, Swank notes that “encounters with pro se assistance materials or staff may produce only partially prepared, and often confused, pro se litigants who gain a false sense of security from such encounters.”¹⁰⁶ Thus, the DIY system may actually hinder litigants more than assist. What Swank sees as the actual solution to the pro se problem is the abandonment of the notion of judicial activism, at least in regards to the pro se litigant.¹⁰⁷

Swank finds several problems with the courts assisting pro se litigants. First, he believes that assisting based on representation status is similarly wrong as assisting on the basis of race.¹⁰⁸ Second, the constitution does not require courts to actively assist a party on the basis of their representation status.¹⁰⁹ Third, a judge cannot serve the role as both an advocate and a judge and therefore cannot assist either party and still remain impartial.¹¹⁰ Fourth, if the judge helps one side, it is a slippery slope to the judge weighing in on everything.¹¹¹ Fifth, if the judge were to weigh in it would be difficult to ensure that the amount of assistance was consistent.¹¹² Sixth, a judge that weighs in too much may actually hinder the trial strategies of the party.¹¹³ Seventh, court clerks are not trained to give competent legal advice.¹¹⁴ Lastly, eighth, the creation of different standards of procedures and rules on the basis of representation status is equivalent to Jim Crow segregation.¹¹⁵ However, there are some problems with some of his positions.

Part 3(B): Problems with Swank's notion of a Fair Trial

First, Swank notes, “the law does not require that an individual receive a perfect trial, but only a fair one.”¹¹⁶ He further urges that “[e]ither the court must aid all equally, or aid none equally - but it should not pick and choose whom to aid based on representation status, race, gender, or whom the court likes the best.”¹¹⁷ The basis for his argument rest in the position that it is “fundamentally wrong for a judge to assist” one party on the basis of his representation status or lack thereof as it would be similarly wrong to assist one party because of his race or gender.¹¹⁸ His reasoning is that because one of the fundamental principles of the court is the appearance of impartiality, if the court was to help one side, to ensure meaningful access to the courts, it should help to all parties whether represented or not.¹¹⁹ However, his analysis is somewhat flawed. For the most part, someone's race or gender has little influence on their ability to litigate their case. It is unconstitutional for women to have to file a different service of

process form, or for African Americans to be required to use a different evidence code.¹²⁰ There should be very few instances where one's race or gender is a substantial factor in the ability to have access to justice. Like income status, however, frequently race and gender does present an obstacle but not for the reasons Swank addresses.¹²¹ Taking into account a party's pro se status does not indicate that the judge is bias, instead it shows that the judge recognizes the "real differences" between a represented party and a self-represented party's ability to obtain justice.¹²²

Furthermore, simply because the law does not require a "perfect" trial does not mean we should not strive for a perfect trial. Aiming for the bare minimum is the exact type of attitude that undermines the public's confidence in the judicial system. If an ordinary person, who may only encounter the court system once or twice in his lifetime, were to experience Swank's indifferent attitude as he struggles to introduce evidence because he does not know the magic words for laying a proper foundation, then he would leave the courthouse feeling as though the system is not meant for him or any other ordinary individual.¹²³ A perfect trial may not be required but a fair trial should at least be one that is tried on the merits and not the savviness of the party when it comes to legal jargon and procedure.

Consider the case of the woman seeking the uncontested divorce. A trial judge could simply act in an "impartial" manner and dismiss her case for failing to state that she is a resident of the United States, or he could make reasonable accommodations and simply inquire himself. Whether a judge injects himself into the trial is a matter of discretion, it is the failure to exercise this discretion that causes some to feel that justice is inaccessible to those without formal legal training.

Part 3(C): While the Constitution Does Not Explicitly State that Judge's should be
Active; it is Implicit in the Administration of Due Process of Law

Swank's second point is that the constitution does not require courts to actively assist a party based on their representation status.¹²⁴ Swank believes that a self-represented litigant "does not have a constitutional right to receive personal instruction from the trial judge" and "there is nothing in the Constitution or federal law that places an explicit duty on judges, clerks, or other court staff to actively aid a party based on his or her representation status"¹²⁵ Swank is correct that the constitution does not require personal instruction explicitly, however, the notion of equal access to justice and due process does require a more active approach when dealing with pro se litigants because of their representation status. While Swank's approach may be simpler, appellate courts have frequently reversed passive trial courts that did not afford every opportunity for pro se litigants to be heard on the merits.¹²⁶

The struggle between the "no special treatment approach," that Swank espouses, and the duty to accommodate lies in the tension between the "choices" of the litigant in their representation. A self-represented litigant is sometimes forced to proceed pro se because of a variety of factors, including financial status, but there are those who choose to proceed pro se without the same economic pressures.¹²⁷ Yet, Swank would punish all pro se litigants the same because of their "choice." As a judge would not save a party to a suit on the basis of their lawyer's incompetence, he believes a judge should not save a pro se litigant for their own incompetence.¹²⁸ However, this ignores the realities of all pro se litigants as not all litigants choose to be pro se by choice.¹²⁹ It is Swank's position that those that are forced to proceed pro se have made the wrong "choice" and therefore should receive no special treatment despite their lack of a true economic choice, and while that is somewhat understandable for the pro se litigant

suing the town for the seventh time, it is difficult to apply to a defendant or respondent in a civil case or a litigant seeking a protective order from an abusive significant other.¹³⁰ Thus, while those that “choose” to proceed pro se do so at their own risk, and there is a lack of an explicit constitutional mandate for the courts to assist, the implicit notion of equal access to justice does encourage a more searching approach to pro se litigants, particularly those that lack a legitimate choice.

Part 3(D): The Trial Judge - Passivity or Impartiality

Swank’s third argument is that a judge cannot serve as both an advocate for a pro se litigant and the judge of that litigant because of issues with impartiality. Swank notes that “the only true way of ensuring that the line between judge and advocate would not be crossed would be to prohibit judges from giving advice to any party, represented or not.”¹³¹ Swank goes as far as to comment, “The U.S. Supreme Court concluded, a judge cannot effectively discharge both the role of being the judge and counsel for a party.” However, the role of the trial judge should not be that of an umpire simply calling balls and strikes, instead, the trial judge is there to ensure that the case is heard on the merits.¹³² Furthermore, Swank’s Supreme Court case only serves to highlight the importance a trial judge is active, and not passive, role can be.

Swank cites to *Carnley v. Cochran*, for the principle that “a judge cannot effectively discharge both the role of being the judge and counsel for a party.”¹³³ While it is true that the Court made that statement, it was in a context that cuts against Swank’s position.¹³⁴ In *Carnley*, an illiterate man was convicted of sexual assault against his daughter after representing himself.¹³⁵ At trial, he did not interpose a single objection; the only two witnesses against him were his daughter and a 15-year-old son; and although both he and his wife testified that they had experienced disciplinary problems with the children, and thus clearly revealed a possibly

significant avenue for impeachment of the children's testimony, there was lack of competent cross-examination.¹³⁶ Swank cites to this case for the principle that despite the trial court's assistance the defendant was unable to effectively conduct a trial and the advice the court did provide was clearly inadequate for his needs.¹³⁷ However, Swank completely misses the Supreme Court's conclusion that the defendant was deprived of a fair trial because the court took a passive approach when it failed to offer counsel and failed to seek an intelligible waiver of counsel.¹³⁸ It is because the court did not actively and searchingly ensure that justice would be done that the case was sent back for a new trial. While it is true that a judge cannot be both an advocate and a judge, passivity is not the same as impartiality; a judge can take an active role to ensure that the case is heard on the merits.¹³⁹

Part 3(E): The Slippery Slope to Justice

Fourth, Swank also argues that a slippery slope is created when judicial assistance of pro se litigants becomes widespread and questions of consistency of practice when a judge does not assist a struggling attorney.¹⁴⁰ For this principle, Swank provides an example, "if the weaker attorney cannot lay a proper foundation for the admission of evidence or asks the wrong questions on cross examination, should not the judge do it for the attorney just as some are advocating that the judge do so for pro se litigants?" While his point is relatively clever, Swank fails to realize that many judges will assist an attorney struggling to lay a proper foundation, and will generally allow improper service of process to be ignored if the opposing side still had actual notice.¹⁴¹

Excluding evidence because of a technical failure to use magic words like "same or substantially same condition" does not benefit the trier of fact, particularly when the court could simply ask the question themselves. Improper foundation arguments aid in supplying a proper

chain for the origins of a piece of evidence, but it can be used for keeping out clearly relevant and admissible evidence when facing an opponent that does not know how to lay a proper foundation. The court can presume that an attorney with legal training should have some experience with laying a proper foundation and thus may exercise its discretion in assisting or not assisting the attorney. Conversely, a court can presume a lack of knowledge on the part of the pro se litigant and therefore can exercise its discretion, possibly in favor of moving the proceeding along to get to the merits of the case. Consider the woman seeking the divorce, the trial court did not outright dismiss the attorney's case, instead he simply pointed out the flaw and the attorney promptly recalled his witness to correct the minor flaw.¹⁴² Thus, even if a slippery slope to the assistance of all parties were to be a product of assisting pro se litigants, the court already assists struggling attorneys and the system has yet to fall into shambles.

Nonetheless, Swank is of the opinion that if a judge was to assist a party in a minor part of their case it would be a slippery slope to the judge calling his own witnesses, conducting a separate longer cross examination, introducing his own evidence, and a parade of other horrors the world has never seen.¹⁴³ He argues that the logical extension of ensuring access to justice is complete active assistance, and that active assistance is very close to having a represented counsel in a black robe.¹⁴⁴ Swank points out the most egregious example as a judge participating in or even negotiating a settlement.¹⁴⁵ However, what Swank fails to realize is that judges already participate and encourage settlements between represented parties; furthermore, judges should participate in settlement negotiations or at least be more searching when choosing to accept a settlement.¹⁴⁶ Consider a tenant in an eviction proceeding who signed a one year lease, however a month into the lease the property owner quadruples the rent because the value of the building skyrockets, suppose a celebrity moves in. The tenant only pays the agreed upon amount

and the property owner seeks eviction and the difference. The pro se tenant goes to landlord-tenant court, meets with the property owner's attorney before meeting with the judge, and agrees to a settlement where he will only pay half of the increase and move out at the end of the month. Swank would argue that a judge should merely accept this unconscionable settlement because the assistance to the pro se litigant in pointing out that the property owner has no legal claim to anything would be an undue judicial interference on the rights of both parties' rights, particularly the represented.¹⁴⁷ It is precisely because of this threat that some argue that a judge should make a searching inquiry to ensure that a pro se litigant is not sleeping on any rights, such as a complete defense to a claim for rent.¹⁴⁸

A judge must exercise careful judicial discretion when choosing to assist a litigant at trial. However, it is unwise for appellate reasons and for the pursuit of justice to take a hands off approach as Swank suggest. The parade of horrors Swank suggests already occurs in many courts and thus this slippery slope is closer to a water slide to justice than a greasy slope to judicial interference.

Part 3(F): Equal Assistance Is Not Needed

Fifth, Swank argues that even if, as they already do, a judge was to assist one side it would be difficult to ensure that a different judge would provide the same amount of assistance in a similar case.¹⁴⁹ However, this partially ignores the realities of the judicial system as it currently exists. Some judges are more difficult about courtroom antics while others are fine with jokes and props, some only allow a limited number of questioning during jury selection while others allow liberal questioning, some only allow parties to speak from the lectern while others only require permission when approaching the bench or an opposing witness.¹⁵⁰ Courtroom procedure and judicial discretion varies greatly from court to court. However,

guiding principles and appellate cases ensure that the number of questions allowed is not too limiting, or the restriction upon freely moving about the courtroom does not deprive one side to a fair trial. Thus, the same could be said for pro se assistance. There are many articles, some Swank recognizes, that set out guiding principles for dealing with pro se litigants.¹⁵¹ Thus, while it may be possible that one court will be more favorable than others, it does not mean that all courts should be completely unhelpful.

Part 3(G): The Line between Judicial Assistance and Interference

Sixth, Swank argues that a judge that is too active may hinder the trial strategies of a party.¹⁵² Here, Swank does have a legitimate point as he recognizes that sometime an attorney may choose not to introduce a certain piece of evidence, or may not ask certain questions for a particular reason.¹⁵³ Further, the trial courts interference may “hurt their case” and possibly could constitute grounds for appeal.¹⁵⁴ However, Swank presumes the same savviness for not introducing certain pieces of evidence is present when the litigant is struggling to lay a proper foundation. If a pro se litigant is clearly trying to move a picture into evidence and has attempted multiple times but cannot seem to get pass the improper foundation argument because they failed to ask if the picture is a “fair and accurate representation”, the litigant is not trying to be savvy. While that sounds like something a seasoned attorney would do on purpose, one should not expect the same cleverness from a pro se litigant. Thus, a simple inquiry into whether the litigant needs assistance would address Swank’s concern of judicial interference but also promote justice.

Part 3(H): Legal Advice and the Clerks that Give It

Seventh, Swank addresses the problems with court staff giving legal advice. He notes that they are not properly trained to give legal advice and their advice is likely to be incomplete

at best and incompetent on average.¹⁵⁵ He correctly notes that even if court staff were immune from prosecution for the unlawful practice of law it would not make their advice any more competent.¹⁵⁶ The majority of Swank's assessment this paper agrees with in the DIY section above. However, Swank's solution is problematic. It is Swank's position that "Incomplete legal advice, lacking full issue analysis and presenting to the individual a range of options with attendant ramifications explained, is tantamount to no advice at all."¹⁵⁷ However, this prematurely limits the scope of the advice typically given and underestimates its helpfulness.

First, the conclusion that a range of options will not be present and full legal advice will not be given is likely to be encountered not just with court staff but with some appointed and even representing counsel that are simply attempting to move the case along.¹⁵⁸ Some cases are simply not worth the hours of analysis it may deserve. However, some cases can be resolved quickly and providing advice on how to complete an uncontested divorce can be done completely and competently.

Second, the conclusion that incomplete advice is tantamount to no advice at all is an overstatement. Incomplete advice is incomplete advice, it is more helpful because it points the litigant in the right direction and may make an entirely convoluted cause of action slightly clearer for the judge. While incomplete advice may not tell a litigant what should be in a response to a motion for summary judgment, it will put them on notice that they have to write something or their case will likely be dismissed.¹⁵⁹

Thus, while there are some problems with court staff giving advice; the solution is not to leave pro se litigants to face the legal waters alone for one man's incomplete legal advice can be another's treasure. Instead, courts and litigants should be aware that their advice is not a

substitute for an attorney and instead take it at face value. While a bicycle is not a car, it can still get you places.

Part 3(I): An Unjust Law Is No Law At All - Particularly When Having Superfluous
Rules Leads To Unjust Results.

Lastly, eighth, Swank believes that the creation of different standards of procedures and rules based on representation status is equivalent to Jim Crow segregation.¹⁶⁰ His point is that relaxing rules in certain situations but not others is fundamentally unfair, and the rule should always apply the same in every situation.¹⁶¹ Swank quotes John C. Sheldon's article *The False Idolatry of Rules-Based Law* and writes "Judgments need to be based 'on a strict, logical application of legal rules, without regard for the result.'"¹⁶² He further urges that "[t]he ability to self-represent should therefore not be a license to ignore relevant rules of procedural and substantive law."¹⁶³ He goes even further to note that "[i]n *Logan v. Zimmerman Brush Co.* the Supreme Court held that while due process grants a party the opportunity to present his case and have its merits fairly judged, if the party fails to comply with a reasonable procedural requirement, then the merits of the case do not have to be heard." However, all of these opinions are far from the mark.

First, in *Logan v. Zimmerman Brush Co.* the Supreme Court did make that statement, however the outcome of the case is entirely different from Swank's argument. In *Logan*, an employee that was discharged possibly because of his disability, in violation of federal and state law, file a grievance with the state's fair employment commission.¹⁶⁴ The state statute required the filing of a fact-finding conference within 120 days, yet through inadvertence, the commission scheduled it five days after the expiration.¹⁶⁵ At the hearing, the company argued that the failure to file within the statutory time removed jurisdiction from the commission and therefore

mandated dismissal of the case and the innocent employee's claim. However, the Supreme Court found that the employee was deprived of a valuable property interest without due process and therefore, despite the procedural misstep, the case was remanded for the case to be heard on the merits.¹⁶⁶ While the court does not that procedural impediments may be put in place by the state the paramount inquiry is if it satisfies the fourteenth amendment granting an opportunity to be heard in a "meaningful manner."¹⁶⁷

Second, strict enforcement of rules can lead to fundamentally unfair results. Worse than the perceived segregation and mistreatment that Swank hypothesizes, is the actual segregation of justice and mistreatment of litigants that results when rules are applied strictly. Consider the following example.

In a protection from abuse hearing, the pro se plaintiff seeks to introduce hospital records showing her injuries, treatment, and expenses. She fails to lay a foundation for the records' admissibility as required by the business records exception to the hearsay rule. Following the defendant's lawyer's objection, the judge rules the records inadmissible.¹⁶⁸ This type of proceeding would likely be a bench trial where a judge could simply ignore the prejudicial value or appropriate the correct weight to the evidence, and the failure to allow it complete or to direct the woman in the right direction to lay a proper foundation result in a significant miscarriage of justice. This type of passive behavior does not protect the system, as Swank believes, but merely serves to undercut the ability to have her case heard in a meaningful manner. Swank notes, "[h]aving rules that apply to some parties, but not others, will produce inequitable and unjust results."¹⁶⁹ However, "an unjust law is no law at all"¹⁷⁰ particularly when having superfluous rules apply leads to unjust results.

Part 3(J): The Need for Judicial Activism

Judicial passivity does create something similar to judicial neutrality however there are distinct differences. While those like Swank would prefer to have judicial passivity when a case involves a pro se litigant, it is precisely because the litigant is not well versed in the law that the court must be the most active. Without judicial activity, pro se litigants feel left out of the process and the courts seems increasingly inaccessible.

Furthermore, the pro se litigant is a vulnerable class not subject to the ordinary protects that the political process entails. Consider the idea that they generally only appear in court in rare instances and once their case is done, they leave. The pro se litigant lacks the type of cohesion a typical bar association would have because they are not a particularly cohesive group. What complicates it even more is that a particularly cohesive group like the bar generally is the one lobbying for rule changes to the legal system. A system built by lawyers, modified by lawyers, and operate by lawyers seems inaccessible to the pro se litigant. Thus, where the political process would normally pick up the slack, the pro se litigant is left to sort it out alone. As Swank notes that two different legal systems is equivalent to Jim Crow segregation, he fails to see his own hypocrisy and misses the point similar to the plurality in *Schuetz v. BAMN*.¹⁷¹ As Justice Sotomayor writes in her dissent:

The guarantee of equal protection of the laws ... is traditionally understood to prohibit intentional discrimination under existing laws,[but] equal protection does not end there. Another fundamental strand of our equal protection jurisprudence focuses on process, securing to all citizens the right to participate meaningfully and equally in self-government.^{172 173}

Thus, it is up to the Court, as it has so many times in the past and as it should so many times in the future, to ensure the protection of the politically weak from the tyranny of the majority. While there is not a specific formula or rule that can be determined for how much assistance should be given, a positive goal of judicial activism would likely avoid injustice

because of a litigant's lack of legal training. The less legal training the litigant has the more judicial activity is necessary. Therefore, if we strive to afford a meaningful hearing to all litigants judges should be active in assisting the most vulnerable to injustice.

Conclusion

The problems facing the pro se litigant are numerous. The lack of legal training, lack of understating of the system and process, lack of competent advice, and lack of judicial understanding all present obstacles to a meaningful hearing on the merits. Yet, despite the challenges some proceed to representing themselves, sometimes even with meaningful choice. Furthermore, the pro se litigant is a vast and diverse group. However, that same diversity keeps them from achieving any significant advantages in the political process. Worse, is that the majority see the pro se litigant as a problem, merely bogging down the court system. Yet, research and this paper reveals it is represented parties that slow down court proceeding with intentional dilatory tactics. Some court decisions have made things easier on a pro se litigant, lowering the pleading standard and taking all positive inferences despite poor draftsmanship of papers is a step in the right direction, but it does not solve the pro se problem thus this paper has presented three methods with one final solution.

First, while providing more lawyers may mitigate the pro se problem it does not address that entire wish to represent themselves nor is it a sustainable solution economically. The Supreme Court has already crushed all hopes of a court decided right to counsel and state budgets are moving in the positive direction either. Further, appointing counsel fails to address the problems facing the "self-represented" litigant, as he does not wish for counsel. While providing counsel to un-represented and under-represented groups are wonderful in their cause and effect, it is not a complete solution to the pro se problem.

Second, DIY programs aimed at preparing a pro se litigant for the intricacies of court procedures are also a wonderful step in the right direction but fall short when it comes to assisting the pro se litigant when they enter the courtroom. While DIY programs may properly assist a litigant with forms and papers, it may leave them to the mercy of the judge when they fail to those papers into evidence. Even more problematic is when the litigant wishes to do something for which no assistance form has been created. The problem for the pro se litigant is in their forms and papers as well as their court presentation. DIY programs fall short in addressing this.

Last, the argument for judicial activism rather than passivity and clearing up the confusion between those and neutrality is the key to solving the pro se problem. The first two proposed solutions make substantial steps to solving the pro se problem and probably should continue to be sought yet without judicial activism the pro se litigant will likely still fall short of having a meaningful hearing on the merits. Yet, there are those that argue for judicial neutrality, claiming that an active judge is a bias judge. However, ensuring a meaningful hearing is not bias, it is simply the judge's job. The pro se litigant is not entitled or looking for a hand out, nor do they wish to simply suckle on the teat of the government while the judge handles their entire case. They are simply seeking justice, and it is up to the judge to make sure it is given.

¹ Jona Goldschmidt, *The Pro Se Litigant's Struggle for Access to Justice: Meeting the Challenge of Bench and Bar Resistance*, 40 Fam. Ct. Rev. 36, 39 (2002).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Goldschmidt, *supra*, note 1, at 39.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 39-40.

¹⁰ Goldschmidt, *supra*, note 1, at 39-40.

¹¹ *Id.* at 40.

¹² *Id.* at 40-41.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Goldschmidt, *supra*, note 1, at 40-41.

¹⁶ Drew A. Swank, *The Pro Se Phenomenon*, 19 BYU J. Pub. L. 373, 373 (2005)

¹⁷ *Id.* at 381

¹⁸ *Id.* at 376

¹⁹ *Id.*

²⁰ Rory K. Schneider, *Illiberal Construction of Pro Se Pleadings*, 159 U. Pa. L. Rev. 585, 594 (2011)

²¹ Goldschmidt, *supra*, note 1, at 44.

²² Swank, *supra*, note 15, at 378-79.

²³ *Id.*

²⁴ Rochelle Klemptner, *Until Civil Gideon: Expanding Access To Justice: Article: The Case For Court-Based Document Assembly Programs: A Review Of The New York State Court System's "Diy" Forms*, 41 Fordham Urb. L.J. 1189 (2014)

²⁵ Klemptner, *supra*, note 23, citing Task Force To Expand Access To Civil Legal Servs. In N.Y., Report to the Chief Judge of the State of New York 4 (2010), available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>.

²⁶ *Id.*

²⁷ Judicial Business Report 2014, available at <http://www.uscourts.gov/statistics-reports/judicial-business-2014>

²⁸ U.S. Courts of Appeals Judicial Facts and Figures, available at <http://www.uscourts.gov/statistics/table/24/judicial-facts-and-figures/2013/09/30>

²⁹ *Id.*

³⁰ Swank, *supra*, note 15, at 384.

³¹ *Id.*

³² Schneider, *supra*, note 19, at 594, citing *Merritt v. Faulkner*, 823 F.2d 1150, 1155 (7th Cir. 1987) (per curiam) (Posner, J., concurring) (arguing against the appointment of counsel in a pro se suit for damages because the self-represented litigant could have hired an attorney on a contingent-fee basis, and concluding from his failure to do so that the claim lacked merit). For a fuller critique of this argument, see generally Robin Paul Malloy, *Framing the Market: Representations of Meaning and Value in Law, Markets, and Culture*, 51 Buff. L. Rev. 1 (2003).

³³ Jonathan D. Rosenbloom, *Exploring Methods To Improve Management And Fairness In Pro Se Cases: A Study Of The Pro Se Docket In The Southern District Of New York*, 30 Fordham Urb. L.J. 305, 359 (2002)

³⁴ Goldschmidt, *supra*, note 1, at 38

³⁵ *See, Conley v. Gibson*, 355 U.S. 41 (1957); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)

³⁷ Benjamin H. Barton & Stephanos Bibas, *Triaging Appointed-Counsel Funding and Pro Se Access to Justice*, 160 U. Pa. L. Rev. 967 (2012).

³⁸ Barton, *supra*, note 36, at 980.

³⁹ *Turner v. Rogers*, 131 S.Ct. 2507 (2011).

⁴⁰ *Id.* at 2520.

⁴¹ *Id.* at 2516.
⁴² *Id.* at 2520.
⁴³ *Turner*, 131 S.Ct at 2516.
⁴⁴ *Id.* at 2516-17.
⁴⁵ *Id.*
⁴⁶ *Id.*
⁴⁷ *Id.*
⁴⁸ *Turner*, 131 S.Ct at 2518.
⁴⁹ *Id.*
⁵⁰ *Id.* at 2514.
⁵¹ John Pollock & Michael S. Greco, *It's Not Triage If The Patient Bleeds Out*, 161 U. PA. L. Rev. Online 140, 148-49. (2012).
⁵² *Turner*, 131 S.Ct.
⁵³ Barton, *supra*, note 36, at 971.
⁵⁴ *Id.* at 977.
⁵⁵ *Id.* at 978.
⁵⁶ *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963).
⁵⁷ Pollock, *supra*, note 50, at 967.
⁵⁸ *Id.* at 971.
⁵⁹ Pollock, *supra*, note 50.
⁶⁰ *Id.*
⁶¹ *Id.* at 150.
⁶² *Id.*
⁶³ *Id.*
⁶⁴ *Id.* at 144.
⁶⁵ Pollock, *supra*, note 50, at 144.
⁶⁶ Pollock, *supra*, note 50, at 144.
⁶⁷ *Id.*
⁶⁸ *Id.*
⁶⁹ *Id.* at 144-45.
⁷⁰ Steven Raphael, *Identifying the Effect of Unemployment on Crime*, 44 J. Law & Econ. 259 (2001).
⁷¹ *Id.*
⁷² Pollock, *supra*, note 50 at 140-46.
⁷³ *Betts v. Brady*, 316 U.S. 455, 473 (1942).
⁷⁴ Pollock, *supra*, note 50, at 142.
⁷⁵ Pollock, *supra*, note 50, at 141-43.
⁷⁶ *Id.* at 142-43.
⁷⁷ Swank, *supra*, note 15, at 378.
⁷⁸ Rochelle Klempner, *Until Civil Gideon: Expanding Access To Justice: Article: The Case For Court-Based Document Assembly Programs: A Review Of The New York State Court System's "DIY" Forms*, 41 Fordham Urb. L.J. 1189, 1193 (2014).
⁷⁹ *Id.*
⁸⁰ Klempner, *supra*, note 77, at 1193.
⁸¹ *Id.* at 1200-01.
⁸² *Id.* at 1202.
⁸³ Report to the Chief Judge and the Chief Administrative Judge of the State of New York, *Providing New Pathways to Legal Services, Assistance and Information*, NEW YORK STATE COURTS ACCESS TO JUSTICE PROGRAM, (2014) available at http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J_2014report.pdf.
⁸⁴ *Id.*
⁸⁵ NYCourts.gov, *The Law – Divorce Resource*, NEW YORK STATE UNIFIED COURT SYSTEM (Jun. 3, 2015, 12:49 PM), https://www.nycourts.gov/divorce/divorce_withchildrenunder21.shtml.
⁸⁶ Benjamin P. Cooper, *Navigating The Practice Of Law In The Wake Of Ethics 20/20 - Globalization, New Technologies, And What It Means To Be A Lawyer In These Uncertain Times: Access To Justice Without Lawyers*, 47 Akron L. Rev. 205 (2014).

-
- ⁸⁷ Russell Engler, *And Justice For All - Including The Unrepresented Poor: Revisiting The Roles Of The Judges, Mediators, And Clerks*, 67 Fordham L. Rev. 1987, 1992-1993 (1999).
- ⁸⁸ *Id.* at 1994.
- ⁸⁹ *Id.* at 1996.
- ⁹⁰ *Id.*
- ⁹¹ *Id.*
- ⁹² The Honorable Beverly W. Snukals & Glen H. Sturtevant, Jr, *Pro Se Litigation: Best Practices From A Judge's Perspective*, 42 U. Rich. L. Rev. 93, 104 (2007).
- ⁹³ Snukals, *supra*, note 91, at 100-01
- ⁹⁴ *Id.*
- ⁹⁵ John P. Gross, *The True Benefits Of Counsel: Why "Do-It-Yourself" Lawyering Does Not Protect The Rights Of The Indigent*, 43 N.M.L. Rev. 1, 12 (2013).
- ⁹⁶ Nourit Zimerman & Tom R. Tyler, *Between Access To Counsel And Access To Justice: A Psychological Perspective*, 37 Fordham Urb. L.J. 473, 498 (2010).
- ⁹⁷ Rebecca A. Albrecht, John M. Greacen, Bonnie Rose Hough, & Richard Zorza, 42 Judges' Journal 16 (2003).
- ⁹⁸ Richard Zorza, *The Disconnect between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear Pro Se: Causes, Solutions, Recommendations, and Implications*, 17 Geo. J. Legal Ethics 423, 452-453 (2004)
- ⁹⁹ Hon. Robert Bacharach & Lyn Entzeroth, *Judicial Advocacy in Pro Se Litigation: A Return to Neutrality*, 42 Ind. L. Rev. 19, 27 (2009).
- ¹⁰⁰ *Id.*
- ¹⁰¹ Drew A. Swank, *In Defense Of Rules And Roles: The Need To Curb Extreme Forms Of Pro Se Assistance And Accommodation In Litigation*, 54 Am. U.L. Rev. 1537, 1549
- ¹⁰² *See*, Bacharach, *supra*, note 98.
- ¹⁰³ *See*, Bacharach, *supra*, note 98.
- ¹⁰⁴ Swank, *supra*, note 100, at 1549-51.
- ¹⁰⁵ *Id.*
- ¹⁰⁶ *Id.* at 1556.
- ¹⁰⁷ *Id.* at 1559.
- ¹⁰⁸ *Id.* at 1583-84.
- ¹⁰⁹ Swank, *supra*, note 100, at 1584-85.
- ¹¹⁰ *Id.* at 1585.
- ¹¹¹ *Id.* at 1586.
- ¹¹² *Id.*
- ¹¹³ Swank, *supra*, note 100, at 1586-87.
- ¹¹⁴ *Id.* at 1587-90.
- ¹¹⁵ *Id.* at 1590-93.
- ¹¹⁶ *Id.* at 1582.
- ¹¹⁷ *Id.* at 1584.
- ¹¹⁸ *Id.* at 1583-84.
- ¹¹⁹ Swank, *supra*, note 100, at 1583-84.
- ¹²⁰ U.S. Const. amend. XIV, § 1.
- ¹²¹ David Cole, *Healing The Blind Goddess: Race And Criminal Justice: , No Equal Justice: Race And Class In The American Criminal Justice System.*, 98 Mich. L. Rev. 1941 (2000).
- ¹²² Cynthia Gray, *Reaching Out Or Overreaching: Judicial Ethics And Self-Represented Litigants*, 27 J. Nat'l Ass'n L. Jud. 97, 103 (2007)
- ¹²³ Gray, *supra*, note 121, at 143.
- ¹²⁴ Swank, *supra*, note 100, at 1584-85.
- ¹²⁵ *Id.* 1585.
- ¹²⁶ Albrecht et al, *supra*, note 98.
- ¹²⁷ Swank, *supra*, note 15, at 378.
- ¹²⁸ Swank, *supra*, note 100, at 1586.
- ¹²⁹ Gray, *supra*, note 121, at 109.
- ¹³⁰ Swank, *supra*, note 100, at 1586-88, Gray, *supra*, note 121, at 110.
- ¹³¹ Swank, *supra*, note 100, at 1585.

-
- ¹³² Gray, *supra*, note 121, at 105.
- ¹³³ Swank, *supra*, note 100, at 1585.
- ¹³⁴ Swank, *supra*, note 100, at 1585; *see Carnley v. Cochran*, 369 U.S. 506, 510 (1962).
- ¹³⁵ *Carnley*, 369 U.S. at 512.
- ¹³⁶ *Id.* at 511-12.
- ¹³⁷ Swank, *supra*, note 100, at 1585.
- ¹³⁸ *Carnley*, 369 U.S. at 514-15.
- ¹³⁹ Gray, *supra*, note 121, at 105.
- ¹⁴⁰ Swank, *supra*, note 100, at 1586.
- ¹⁴¹ Gray, *supra*, note 121.
- ¹⁴² *Id.* at 121.
- ¹⁴³ Swank, *supra*, note 100, at 1586.
- ¹⁴⁴ Swank, *supra*, note 100, at 1586-87.
- ¹⁴⁵ *Id.*
- ¹⁴⁶ Gray, *supra*, note 121, at 149.
- ¹⁴⁷ Swank, *supra*, note 100, at 1586. (asking “If a judge is going to help a self-represented litigant negotiate a settlement, will he or she also help an attorney negotiate with another attorney?”)
- ¹⁴⁸ Gray, *supra*, note 121, at 149.
- ¹⁴⁹ Swank, *supra*, note 100, at 1585-87.
- ¹⁵⁰ *See*, Bacharach, *supra*, note 98.
- ¹⁵¹ *See, e.g.*, Bacharach, *supra*, note 98.
- ¹⁵² Swank, *supra*, note 100, at 1586-87.
- ¹⁵³ *Id.*
- ¹⁵⁴ Swank, *supra*, note 15, at 1587.
- ¹⁵⁵ *Id.* at 1588-89.
- ¹⁵⁶ *Id.* at 1589.
- ¹⁵⁷ *Id.* at 1589.
- ¹⁵⁸ Gray, *supra*, note 121, at 138-39.
- ¹⁵⁹ Gray, *supra*, note 121, at 139.
- ¹⁶⁰ Swank, *supra*, note 100, at 1590-93.
- ¹⁶¹ *Id.*
- ¹⁶² Swank, *supra*, note 100, at 1591 citing John C. Sheldon, *The False Idolatry of Rules-Based Law*, 56 Me. L. Rev. 299, 301 (2004).
- ¹⁶³ Swank, *supra*, note 100, at 1591.
- ¹⁶⁴ *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 424 (1982).
- ¹⁶⁵ *Id.*
- ¹⁶⁶ *Id.* at 438
- ¹⁶⁷ *Id.* at 437.
- ¹⁶⁸ Gray, *supra*, note 121, at 144-145.
- ¹⁶⁹ Swank, *supra*, note 100, at 1592
- ¹⁷⁰ Martin Luther King, Jr, *Letter from Birmingham Jail* (1963).
- ¹⁷¹ *Schuetz v. Coal. to Defend Affirmative Action*, 134 S.Ct. 1623(2014)
- ¹⁷² *Id.* at 1651.
- ¹⁷³ *Id.* at 1654-57.

David M. Katz

J.D. Candidate, Class of 2017
Syracuse University College of Law

New York's Civil Justice Gap: a Working Law Student's Perspective

David M. Katz¹

As many American states do, New York faces a civil justice gap. I am here to discuss how re-structuring New York's Student Practice Rule to broaden its scope by allowing all New York attorneys who have been admitted for three years to supervise law students after one year will help close the civil justice gap.

Currently, New York lawⁱ and New York Court Rulesⁱⁱ allow for student practice only when supervised by "a legal aid organization[, or] . . . the state or a subdivision[, including] any officer[, or] agency of the state or a subdivision." My comments today address three points: first, I briefly discuss the "lay of the land" regarding New York Federal Courts and other State Courts; then, I turn to my own experience as a law clerk for a private sole practitioner; finally, I conclude with a proposal to expand student practice so that private attorneys are encouraged to use law students to help close the civil justice gap while getting more involved themselves.

I. The New York Federal Student Practice: A Mixed Bag

New York's Federal Courts are split on the issue.

The Southern and Eastern Districts, similar to New York State Courts, allow for student practice after one year, but only if the law student works for a law school clinic or the United States Attorney's Office.ⁱⁱⁱ

Other Federal Courts, however, are more permissive. The Northern District allows student practice after two years of law school under any supervising attorney;^{iv} the Western

¹ J.D. Candidate, Syracuse University College of Law Class of 2017.
B.A., College Scholar, *Summa Cum Laude*, Distinction in All Subjects, Cornell University College of Arts and Sciences, 2014.

District after one year.^v The Second Circuit Court of Appeals allows students to argue cases after two years of law school.^{vi}

II. Other States and Student Practice: An Even More Mixed Bag

Every state has a student practice rule.

With varying levels of law school experience required prior to entering student practice, the states approach student practice two ways: by allowing any attorney to supervise a law student, what I call the “any attorney approach,” or by limiting the law students’ options to attorneys performing public interest work, what I call the “public interest approach.” A few states blend the approaches, usually allowing law students to practice earlier in clinics than they could under other attorneys. New York currently follows the “public interest approach.”

First, I would like to survey the states that allow a student to practice under any attorney who is an eligible bar member. No state allows any enrolled law student could practice under any attorney, and nor should they. After one year, two states allow students to practice under any attorney;^{vii} four states after one and a half years;^{viii} fourteen after two years.^{ix} All in all, twenty states allow students to practice under any attorney at some point in their law school career.

Next, I would like to address what I call the “public interest” approach, which only permits students to practice under certain attorneys who are often engaged in the practice of law for law school clinics, the State, or indigent clients.^x Eight states and the District of Columbia allow public interest practice after one year;^{xi} another nine after one and a half years;^{xii} and, after two years, fifteen more states allow for public interest practice.^{xiii} Thirty-two states, including

New York, and the District of Columbia thus allow for law students to practice while in law school, at least in some way.

I admit that, at first glance, it makes sense to limit law student practice to public interest practice if the goal is to close the civil legal gap. Limiting law students' avenues to student practice utilizes their self interest: candidates are constantly looking for ways to differentiate themselves in the still inundated legal job market; while *Law Review* and Moot Court competitions are both great additions to any résumé, practical legal education is, and will continue to be, the gold standard on any résumé. Additionally, limiting student practice to public interest practice encourages law schools to increase their clinical opportunities by allowing them to “corner the market.” Here, we have wonderful clinics that span from bankruptcy law to criminal defense law and even to securities arbitration law.

Yet, the civil justice gap persists. I am not here to tell you that my proposal, which would allow student practice under any attorney, will single-handedly close the civil justice gap. I am also not here to tell you that my proposal will be used solely to close the civil justice gap. I am here to tell you, though, that my proposal opens the door for many private practice attorneys to engage in more work that will help close the civil justice gap while helping law students gain practical experience.

III. Three Anecdotes: Opportunities Lost, Opportunities Gained

I would now like to share three anecdotes that I have experienced since completing my first year in law school.

The first anecdote illustrates part of the civil justice gap in New York. I have worked for a sole practitioner for four years now; first as a paralegal, then as a law clerk. My boss was under the impression that, after my first year of law school, I could practice in New York State

courts under his supervision. He was excited: he could give me experience handling pre-trial issues and routine appearances. He planned to take cases that he normally would not for economic reasons (the client's inability to pay or the case's small relative legal value) so that I could gain experience and so that he could help clients he normally would not be able to. I, who eagerly wished that I had the ability to act as a student practitioner, had to break the bad news to him: the Judiciary Law prohibited me from student practice because I was working for a sole practitioner, not a law school clinic or the State. Period. I was deflated; so was he. The economics of law practice dictated that we stop looking for those clients, and the practical consequence was that we never took one of those cases.

The second anecdote illustrates how the Northern District rule, which follows the New York State rule, dissuades private practitioners from doing pro bono work while denying law students the ability to gain practical experience that would help close the civil justice gap. Last May, just after my summer began, my boss received an email from the Northern District. The email gave attorneys notice that the Northern District was forming a pro bono panel to appoint Northern District attorneys to help with cases of public interest that otherwise would not receive legal representation. At first, my boss was excited. He called me into his office, had me read the email, and asked me if we could get involved. I told him that I was not eligible to practice under him as a student until next year; he agreed that he would only be able to join the group of lawyers working on pro bono cases once I could practice under him due to the nature of his practice.

The third anecdote illustrates how the Western District rule, which is more permissive, has given me the chance to gain practical experience. Recently, I was given the opportunity to be a student authorized to practice in the Western District of New York Bankruptcy Court. I

have been a “student authorized to practice” under my boss, an attorney. For the first time in my life, I signed a paper submitted to a Court. It was scary. My boss spent an extra hour with me. Before I submitted the complaint, I spent another hour researching issues that I had already researched. So far, I have gained the experience that can only come from actually having to sign papers that go to the Court: the nerves, the practicality, and the ethical weight that practice brings. Law students, however, rarely get to feel that before passing the bar. Most law students never know if they can stomach the pressure of being an attorney until years into their lives as attorneys.

IV. The Proposal: Student Practice Under Any Attorney After One Year and Proper Course Work

Closing the civil justice gap will take time, will from the bench and bar, and, perhaps most importantly, law students. While the “public interest” student practice rule has merit, the “any attorney” student practice rule provides a greater aid in closing the civil justice gap.

One condition that will focus the “any attorney” student practice rule to close the civil justice gap is to ensure, by rule, that the student practitioner should be allowed to practice under any attorney *only if* the student practitioner works on a specified amount of pro bono work. Inserting this condition allows the attorney to use the student practitioner on other cases, thus making the student practitioner more valuable, and also allows the attorney to defray the costs of taking cases within the civil justice gap by using the student practitioner’s services, with the client’s consent, on other cases.

Another condition that will ensure students are better prepared to practice under attorneys are ready to perform their duties is to ensure that students have completed a year and a half of classes, and, more specifically, the successful completion of evidence and professional

responsibility. A third condition that helps ensure student practitioners will perform their duties well is to ensure that any supervising attorney must have been admitted to practice in New York for at least three to five years; additionally, attorneys should not be allowed more than three student practitioners at any time. Finally, for all dispositive motions, trials, and appeals the supervising attorney's presence should be required.

Expanding student practice is timely given the fifty-hour pre-admission pro bono requirement.^{xiv} Expanding student practice will increase students' opportunities to complete fifty hours of pro bono service required prior to admission to the New York State Bar. Additionally, by opening new avenues, expanded student practice with an emphasis on closing the civil justice gap will serve the underlying principle for the requirement: to form lawyers' habits by having law students perform pro bono work "early and often."

Finally, I take this moment to note that there is currently no requirement that practicing attorneys perform pro bono work.^{xv} I understand that there has been considerable resistance to enacting such a rule. If attorneys were able to employ student practitioners to help them fulfill their pro bono hours, and if attorneys' hours were based on "closing the civil justice gap" as opposed to the more stringently understood "pro bono" standard, which usually requires an indigent or near indigent client, I think they would be much more likely to perform the hours voluntarily, and less obstinate regarding the new requirement.

Closing the civil justice gap will, above all, require determination, ingenuity, and a willingness to try new programs. However, expanded student practice offers a chance for law students to more effectively help close the civil justice gap while engaging attorneys who, for various reasons, cannot help clients that are subject to the civil justice gap, despite their desire to do so. Above all, expanded student practice, when properly administered, imbues the student

practitioner with the most poignant experience: using the law to help someone in need.

Providing law students with that experience is an important step toward breeding a legal culture that will be more committed to closing the civil justice gap.

Endnotes

ⁱ Jud. L. §§ 478, 484. Law student practice falling outside these situations is a misdemeanor. Jud. L. § 485.

ⁱⁱ See, e.g., 22 N.Y.C.R.R. 805.5 (3 Dep't) (providing for student practice consistent with the Judiciary Law).

ⁱⁱⁱ S.D.N.Y. Plan for Student Practice, available at

http://www.nysd.uscourts.gov/forms/intern/intern_plan.php; EDNY Student Practice Rule, available at https://img.nyed.uscourts.gov/files/local_rules/student%20practice%20rule.pdf.

^{iv} N.D.N.Y. L.R. 83.10 and General Order 13.

^v W.D.N.Y. LR 83.6

^{vi} Second Circuit L.R. 46.1 (e).

^{vii} California (Rules of Court Rule 9.42); Connecticut (Practice Book, Super. Ct. R., Gen'l Provs., § 3-16 (a)(2)).

^{viii} Alaska (Bar R. No. 44), Arizona (Sup. Ct. R. 38 (d)(5)(A)(i)), Indiana (R. Adm. to the Bar 2.1), Oklahoma (Oklahoma Stat. § 5-2.1 (law student license after one and a half years and the completion of: Professional Responsibility, Evidence and Civil Procedure I & II)).

^{ix} Alabama (*Legal Internship by Law Students*, Art. IV § B), Colorado (Sup. Ct. R. 205.7 (2)(a)), Idaho (R. Sup. Ct. 226 (b), (f)), Mississippi (Miss. Code Ann. § 73-3-205 (law school supervised internships) (*but see* Note 13)); Montana (Student Practice R. Art. III); Nebraska (Sup. Ct. RR. 3-702, 3-703); New Hampshire (Sup. Ct. R. 36); North Dakota (R. Limited Prac. of Law by Law Students II, III); Oregon (R. Governing Adm. of Attorneys 13.10, 13.20); South Dakota (South Dakota Code §§ 16-18-2.2, 16-18-2.9)); Texas (R. and Reg. Governing the Participation of Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas, available at:

https://www.texasbar.com/AM/Template.cfm?Section=Law_Student_Info1&Template=/CM/ContentDisplay.cfm&ContentID=30272) (*but see* Note 14); Utah (R. Prof. Prac. § 14-807); Vermont (R. for Adm. to the Bar of the Vt. Sup. Ct. § 13); (State Bar Prof. Guidelines R. 15); Washington (Adm. and Prac. R. 9); Wisconsin (Sup. Ct. R. 50.03, 50.06).

^x These rules often follow the same form, and start by reciting that the bench and bar have a duty to provide legal services to those who cannot afford it.

^{xi} Delaware (R. Sup. Ct. 56); District of Columbia (D.C. App. R. 48 (b)(2) (law school clinics)), D.C. Super. Ct. R. Civ. P. 101 (e) (1) (same)), D.C. Super. Ct. R. Crim. P. 44-I (F)(1)(A) (same)); Georgia (R. Sup. Ct. 92) (*but see* Note 14); Maryland (R. Ct. App. Adm. to the Bar 16); Massachusetts (Sup. Jud. Ct. R. 3:03 (eligibility based on taking trial practice or evidence, which can usually only be taken starting in the fall of the second year)); Michigan (Ct. Rules (Adm.) 8.120); Minnesota (Prof. R. Student Prac. R. 1.2 (indigent or state subdivision)); Nevada (Sup. R. Sup. Ct. 49.5 (4) (level one certification allows out of court actions as if an attorney)); Oklahoma (Oklahoma Stat. § 5-2.1A (“academic legal interns,” *i.e.* students in clinics).

^{xii} Illinois (R. Sup. Ct. 711); Iowa (R. Sup. Ct. Adm. to the Bar R. 31-15); Mississippi (Miss. Code Ann. § 73-3-205 (clinics) (*but see* Note 9)); Missouri (Sup. Ct. R. Governing the Missouri Bar and Judiciary 13.01, 13.02 (law clinics and indigent persons)), Nevada (Sup. R. Sup. Ct. 49.5 (5) (level two certification allows in court actions as if an attorney)); North Carolina (N.C. R. State Bar 1.0202, 1.0203); Pennsylvania (Pa. R. Bd. of Bar Examiners RR. 321-22 (indigent

or state)); Rhode Island (Sup. Ct. R. Art. II, R. 9 (governmental subdivisions and approved indigent persons)); Tennessee (R. Sup. Ct. 7 § 10.03).

^{xiii} Arkansas (R. Governing Adm. to the Bar, XV); Colorado, (Sup. Ct. R. 205.7 (1)); Florida (Sup. Ct. Bar R. 11-1.3 (b)-(c) (law school clinics)); Georgia (O.C.G.A. § 15-20-8 (law school clinics) (*but see* Note 12)); Hawai'i (R. Sup. Ct. 7.1 (a) (law school clinics)); Kansas (R. Sup. Ct. 719 (indigent persons)); Kentucky (R. Sup. Ct. 2.540); Louisiana (R. Sup. Ct. XX (indigent persons)); Maine (R. Sup. Jud. Ct. Civ. P. 90 (indigent persons) (no criminal provisions)); New Jersey (R. Ct. 1:21-3); Ohio (R. Sup. Ct. for the Gov't of the Bar of Ohio II); South Carolina (R. App. 401 (Only in state law schools, governmental subdivisions and approved clinics)); Texas (R. and Reg. Governing the Participation of Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas, available at:

https://www.texasbar.com/AM/Template.cfm?Section=Law_Student_Info1&Template=/CM/ContentDisplay.cfm&ContentID=30272) (*but see* Note 9)); West Virginia (R. for Adm. and Prac. of Law R. 10 (state or indigent persons); Wyoming (R. Governing the Wyoming State Bar and the Prac. of Law R. 9 (clinics)).

^{xiv} 22 N.Y.C.R.R. § 520.16.

^{xv} 22 N.Y.C.R.R. § 118.1.

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 13:

**Written Statements Submitted at the Third Department
Hearing Held on October 13, 2015**

NOVEMBER 2015

Written Statements Submitted at the
Third Department Hearing on October 13, 2015

The Most Reverend Edward B. Scharfenberger (*Bishop of Roman Catholic Diocese of Albany*)

Rabbi Scott L. Shpeen (*Congregation Beth Emeth*)

Elder McKinley B. Johnson, Sr. (*Pastor of St. John's Church of God in Christ; District Superintendent of the Tech Valley District, Church of God in Christ*)

Nina E. Olson (*National Taxpayer Advocate, Internal Revenue Service*)

Phillip A. Burse (*Director of Operations, In Our Own Voices*)

Professor Sarah Rogerson (*Director, Immigration Law Clinic; Director, Law Clinic & Justice Center, Albany Law School*)

Scott C. Jarzombek (*Executive Director, Albany Public Library*)

Krista Russell (*Client of Rural Law Center, accompanied by Julie Ross, Intake Coordinator*)

Maria Magdalena Ventura Lopez (*Client of Worker Justice Center of New York, accompanied by Jeremy McLean, Esq.*)

Gloria Schaffer (*Client of Empire Justice Center, accompanied by Cathy Roberts, Sr. Health Law Paralegal*)

David P. Miranda, Esq. (*President, New York State Bar Association*)

The Most Reverend
Edward B. Scharfenberger
Bishop of Roman Catholic Diocese of Albany

Bishop Edward B. Scharfenberger Bio

The Most Rev. Edward B. Scharfenberger was born May 29, 1948, in Brooklyn, N.Y. He attended Catholic schools and graduated in 1969 with a degree in English from Cathedral College of the Immaculate Conception in Douglaston, N.Y. He went on to study at North American College in Rome and earned a bachelor's degree in sacred theology from Pontifical Gregorian University in 1972. He was ordained a priest of the Roman Catholic Diocese of Brooklyn on July 2, 1973, in St. Peter's Basilica by then-Bishop James A. Hickey, who later became Cardinal-Archbishop of Washington, D.C.

Bishop Scharfenberger served as parochial vicar at St. Stanislaus Parish in Maspeth (Queens) and St. Ephrem Parish in Dyker Heights (Kings) before returning to Rome to continue his studies. He earned a licentiate in sacred theology from the Academy of St. Alphonsus in 1977, a licentiate in Canon Law from Catholic University of America in 1980, a Juris Doctor of Law degree from Fordham University in 1990, and was admitted to the New York State Bar in 1991. He was named a Prelate of Honor (monsignor) in 1995.

Bishop Scharfenberger served as Judicial Vicar for the Roman Catholic Diocese of Brooklyn from 1993 to 2002 and as pastor of St. Matthias Church in Ridgewood (Queens) from 2003 to 2014. While serving as pastor of St. Matthias, he also taught moral theology at the Diocesan Pastoral Institute in Brooklyn and was an adjunct professor at St. Joseph's College, also in Brooklyn. He also served as Promoter of Justice for the Brooklyn Diocese and was a member of the Diocesan Review Board for Sexual Abuse of Minors; as Vicar for Strategic Planning; and as Episcopal Vicar for the borough of Queens.

On February 11, 2014, he was named by Pope Francis as the tenth Bishop of the Roman Catholic Diocese of Albany, succeeding the Most Rev. Howard J. Hubbard. He was ordained to the episcopacy on April 10, 2014, at the Cathedral of the Immaculate Conception in Albany by Cardinal Timothy Dolan, Archbishop of New York. For his Episcopal Motto, Bishop Scharfenberger chose a line from the Prayer of St. Francis: "Lord, make me a channel of your peace."

BISHOP'S OFFICE
PASTORAL CENTER
40 NORTH MAIN AVENUE, ALBANY, NEW YORK 12203
FAX (518) 453-6795 • TELEPHONE (518) 453-6611

Testimony of Bishop Edward Scharfenberger

Good morning Chief Judge Jonathan Lippman, Hon. Karen Peters, Hon. Lawrence Marks, and New York State Bar Association President-Elect Claire Gutekunst. It is a privilege to have the opportunity to speak with you about a cause that we all care about deeply: justice for all New Yorkers. I am honored to join Rabbi Scott Shpeen and Superintendent McKinley Johnson in sharing with you the support of the local religious community for this cause.

Indeed, providing social justice for all, regardless of income, race, or any other difference is based in God's reminder that he wants us to help the widow, the orphan, the immigrant, the hungry and the homeless. As the Bishop of the Diocese of Albany, I know that many Catholics in the Capital District need the services that you have worked so hard to provide for the poor and needy throughout New York.

Thanks to the funding that the Judiciary has so wisely provided, the Capital District is blessed to have several civil legal services providers that ensure that the poor, the disabled and victims of domestic violence can access the legal services they need to obtain justice. Our social services organization, Catholic Charities of the Diocese of Albany, works closely with the Legal Aid Society of Northeastern New York in serving the homeless as leaders in the Albany County Homeless Coalition. Together we provide housing, social services and essential civil legal services to those who are without a home. We are also familiar with the good works of The Legal Project, the Empire Justice

Center and the Albany County Bar Association, all of whom provide much-needed civil legal services to the poor and vulnerable in Albany. We are indeed blessed here in the Capital District to have such choices to help our neighbors meet their essential legal needs. However, hearing as I do of the remaining unmet need for civil legal services from our parishioners and priests, we know that more must be done. Given the cost-effectiveness of an investment in civil legal services –\$6 return to New Yorkers for every \$1 invested – it makes great sense to work together to meet the unmet need for civil legal services.

I agree wholeheartedly with His Eminence, Cardinal Timothy Dolan, who told you some years ago that the very “core of the call to the legal profession is a call to noble service...”. Your leadership in making this noble service for low income people a reality is a gift indeed. Thank you for supporting the poor and needy of the Capital District, and, indeed, of all of New York.

Rabbi Scott L. Shpeen
Congregation Beth Emeth

Biography Rabbi Scott L. Shpeen

Rabbi Scott L. Shpeen has served Congregation Beth Emeth in Albany since 1985. In July 1992, he assumed the position of Senior Rabbi of the Congregation. He is a native of Cherry Hill, New Jersey and a product of the Reform Movement having spent many summers at the URJ Camps as well as participating in the EIE (Eisendrath International Exchange) Program spending a semester at the Leo Baeck High School in Haifa, Israel. Concurrent with his High School studies, Rabbi Shpeen was awarded a Certificate in Jewish Education from Gratz College, Philadelphia. Rabbi Shpeen was awarded a Bachelor of Arts Degree in Judaic Studies from the University of Michigan in 1979. After spending his first year at its campus in Jerusalem, Rabbi Shpeen studied at the Hebrew Union College-Jewish Institute of Religion (HUC-JIR) in Cincinnati. He received a Masters Degree in Hebrew Letters in 1983 and was ordained in June 1984. In 1988 Rabbi Shpeen completed the St. Peter's Hospital Program, Albany, NY, in Clinical Pastoral Education (CPE). In May 2009, in recognition of his 25th anniversary of rabbinic ordination, Rabbi Shpeen was awarded an honorary Doctor of Divinity degree from the Hebrew Union College-Jewish Institute of Religion.

Rabbi Shpeen presently serves on the HUC-JIR President's Rabbinic Council. Locally, he serves on the Board of the Albany Symphony Orchestra and chairs its Committee on Institutional Advancement. He is on the Advisory Committee of the Capital District Senior Issues Forum Lifetime Achievement Award. Rabbi Shpeen has been an Adjunct Professor at the College of St. Rose in Albany since 1994, teaching a course on the Holocaust. He is also a regular commentator on WMHT Public Television. Rabbi Shpeen was appointed in May, 2006 by Albany Mayor Gerald Jennings to serve on the Albany Human Rights Commission on which he served for three years until May 2009. Rabbi Shpeen is a two term Past President of the Capital District Board of Rabbis (2008-2010 & 1990-1992), past President of the Rabbinic Alumni Association of the Hebrew Union College-Jewish Institute of Religion, past President of B'nai B'rith Gideon Lodge #140, past President of the Buckingham Mews Homeowners Association, and has served on the Board of Governors of Hebrew Union College-Jewish Institute of Religion as well as Boards of the United Jewish Federation of Northeastern New York, the Daughters of Sarah Nursing Center, Park Playhouse, The Martin Luther & Coretta Scott King Lecture at Siena College, the Interfaith Partnership for the Homeless, Jewish Family Services of Northeastern New York, The Interfaith Advisory Committee of the Bethlehem Central School District, the Sidney and Beatrice Albert Lecture Board of the College of St. Rose and the Admissions Committee of the CCAR (Central

Conference of American Rabbis) and for many years was Jewish Chaplain at the Parsons School in Albany. Rabbi Shpeen was married for 31 years to the late Susan Balan, who was the Executive Director of the Sidney Albert Albany Jewish Community Center at the time of her death in November 2009. He has two adult married children and one grandchild.

THE CHIEF JUDGE'S THIRD DEPARTMENT CIVIL LEGAL SERVICES HEARING

Testimony of Rabbi Scott Shpeen

Good morning Chief Judge Jonathan Lippman, Hon. Karen Peters, Hon. Lawrence Marks, and New York State Bar Association President-Elect Claire Gutekunst. It is a privilege to have the opportunity to speak with you about a cause that we all care about deeply: justice for all New Yorkers. I am honored to join His Eminence, Bishop Scharfenberger and Superintendent McKinley Johnson in sharing with you the support of the local religious community for this cause.

My name is Rabbi Scott Shpeen, Rabbi for Congregation Beth Emeth in Albany New York. Beth Emeth is the largest reform congregation in the Capital District. Our mission is to worship God in accordance with the Tenets of Reform Judaism: to cultivate love and understanding of the Jewish heritage; stimulate fellowship in the Jewish Community, to strengthen spiritual enrichment and the bonds of loyalty with Israel and the Jewish people everywhere; and to bring near the teaching of God to the Torah by emphasis on fairness, human responsibility and social justice.

The Capital District is blessed with several civil legal services providers including the Legal Aid Society of Northeastern New York, the Empire Justice Center, The Legal Project of the Capital District Women's Bar Association, the Albany County Bar Association and Disability Rights New York. Collectively, these legal services providers help to bring justice and fairness to the lives of low income and needy residents of the Capital District. Their work in assisting the homeless and near homeless, victims of domestic violence, and the disabled is both significant and necessary for the benefit of our entire community.

For example, last year alone, the Legal Aid Society handled 13,073 cases, benefiting 27,955 people. Their legal services generated at least \$27,181,672 in economic benefits for their clients and the communities in which they live. The Legal Project represented 428 victims of domestic violence, bringing them to safety, stability and independence. I understand that, collectively, New Yorkers gain \$6 in economic benefit for every \$1 invested in civil legal services. And that millions of New Yorkers were served, thanks to the funding created by the Judiciary. These lawyers represent clients to help them increase the long term stability of their families, readying them for employment and greater success.

Congregation Beth Emeth's Social Action Network strongly supports the work of these civil legal services providers. The mission of our Network is "to spearhead the commitment of Congregation Beth Emeth to Tikkum Olam and to espouse the social justice values of Reform Judaism". Our efforts to "repair the world" include weekly operation of a soup kitchen in downtown Albany. We staff this kitchen, which is run by Catholic Charities, 52 Sundays a year, serving meals to community members who need a hot meal and a place to go. Beth Emeth's garden and ongoing food collection allows us to provide direct support to the same low-income people our local legal services providers serve. Our congregation has also provided leadership and support to all of the local legal services providers.

Congregation Beth Emeth's members honor and respect the service provided by the lawyers and volunteers of the Legal Aid Society, The Legal Project and other local providers. Their commitment to service and social justice resonates with me as a Rabbi.

I applaud your efforts in creating and preserving and increasing funding to meet the essential needs of every New Yorker. Thank you very much.

Elder McKinley B. Johnson, Sr.

Pastor of St. John's Church of God in Christ
District Superintendent of the Tech Valley District,
Church of God in Christ

Elder McKinley Johnson Bio

Elder McKinley B. Johnson, Sr., Pastor of St. Johns COGIC Albany NY. He was born on June 14, 1937 in Albany NY to the founder of St. Johns COGIC, the late Supt. John “Jack”, better known as, “Brother Jack”, and Missionary Dorothy Johnson. His parents molded his early childhood in the ways of the Lord.

As a child in the 1940’s, Elder McKinley actively participated in religious activities at the 2nd Church of God in Christ, Albany NY, pastured by the late Elder C. H. Parsons Sr. As a child he participated in a variety of community youth organizations. At the age of 14, Elder McKinley had a spiritual encounter with God. In junior and senior high schools, Elder McKinley became involved in music and oratorical pursuits. All of these activities played key roles in his later church experiences. In 1957, at a great Youth Crusade meeting, held at Wilbourne Temple COGIC, under the convicting preaching of Elder John Lawrence of Jersey City, NJ, Elder McKinley had an earth-shaking spiritual awakening, which changed his life forever. He received the Baptism in the Holy Ghost on May 10, 1957.

In the 50’s Elder McKinley was instrumental in drawing over 40 young adults to his father’s church. He organized a Gospel choir that traveled throughout the Northeast. He became the Youth Leader, and the Sunday School Superintendent at St. John’s COGIC. Later on he was appointed District Minister of Music by Bishop William Wilborne for the Upper Hudson District Churches of God In Christ for Eastern NY COGIC Jurisdiction. In the late 50’s and the 60’s, Elder McKinley Johnson became the spokesman for the The Youth Circle, (a youth organization founded by his father, Elder John Johnson), the Street Marches for Christ coordinator, and the organizer of the “Commandos For Christ”. Elder McKinley was a counselor for the “Young Life” youth organization, a street corner preacher, and a door-to-door evangelist. He has traveled for over 50 years conducting revivals and seminars. He conducted radio broadcasts in the 1960’s and the 1990’s.

In 1971, Bishop Leroy Anderson appointed Elder McKinley to be the Jurisdictional President of the Youth Activities Department, for Western NY Churches of God in Christ. In 1972 Elder McKinley organized the “Youth Explosion”, and for 34 years, it was the premiere Youth Conference east of the Mississippi river. It brought together thousands of youth annually from across America.

In 1998 Elder McKinley was appointed Northeast Regional Director for the National Youth Dept. of the Churches of God in Christ. In 2009 he was appointed Sr. Advisor to the COGIC National Youth President.

In December 2000 he was appointed Sr. Pastor of St. Johns COGIC. He founded the St. John’s Community Development Corporation. It provides free lunches for the community, after school and mentoring services for school age youngsters, a homeless prevention program, and hopefully in the future, housing for homeless and transitional persons.

In November 2004, Elder McKinley was appointed District Supt. of the Tech Valley District in Albany NY for NYW#1 COGIC.

Elder McKinley retired in 1991 at the age of 53 from NYS after 25 years as Supervisor of Volunteer Services for the Dept of Corrections, and Sr. Personal Administrator for The Division For Youth, to work full time for the Lord. He graduated from SUNYA with honors, and has completed 65 credits towards his Master of Divinity degree at Mid-America Baptist Seminary in Schenectady NY.

Supt. McKinley is a community advocate. In the early 1970's, he helped mediate the conflict between the Albany Board of Education and the Black students at Phillip Schuyler High School. He conducted Voter Registration Drives for the Urban league and the Black Churches in Albany NY. He was one of ten persons chosen to represent Albany NY at the President's Summit on Youth in Philadelphia, Pa., under the direction of President Bill Clinton. He was instrumental in establishing the Albany African-American Clergy for Empowerment organization. He is a Board member of several Community Organizations. He is the recipient of numerous community awards. In the Capitol District area he is known as "Pastor Mac", and "Mr. Church of God in Christ". Recently he was nominated for an Honorary Doctor of Divinity.

Testimony of Superintendent McKinley Johnson

Good morning Chief Judge Jonathan Lippman, Hon. Karen Peters, Hon. Lawrence Marks, and New York State Bar Association President-Elect Claire Gutekunst. It is an honor to have the opportunity to talk with you about a cause that touches me deeply as Pastor of Greater St. John's Church of God in Christ. St. John's COGIC was founded in Albany in 1952. In 2013, our Family and Community Worship Center opened at 74 Fourth Ave., in Albany's South End. From our current home, we continue to serve God and Godly serve mankind. It has been my privilege to serve as Pastor of St. John's for many years. In addition, I have also served as an advocate for the Albany community and serve on the Boards of several community organizations.

In both of my vocations, I'm well aware of the importance of providing free civil legal services to people who cannot afford an attorney. Located as we are in Albany's South End, one of the most impoverished areas of this City, our membership benefits very much from the local legal services providers: Legal Aid Society of Northeastern New York, The Legal Project, Albany County Bar Association, the Empire Justice Center. They may need advice or representation to solve the threat of homelessness due to eviction or foreclosure, a family dispute, including the threat of violence or abuse, or an unfavorable consumer contract to rent furniture or personal possessions. Poverty in the South End is about 33%. In the South End, many churches, including Greater St. John's COGIC are very active in the neighborhood, which promotes a sense of community and involves long-term residents. However, the South End also has very old building stock, difficult and costly to maintain leading to dilapidation and disrepair. Low-income housing projects also define much of the community. Almost twice the percentage of households have income of less than \$20,000 per year than in the City as a whole. The problems of lack of income or food, crime and the risk of homelessness are the types of problems our members bring to us. We can offer spiritual support, but we encourage our members to seek the services of local legal services provider such as Legal Aid. Legal Aid's Homelessness Prevention Project and its

Foreclosure Prevention Project are among the most needed services. The Legal Project's representation of victims of domestic violence are also urgently needed. Legal Aid's services to the disabled also help the most vulnerable in our church.

We know that the lawyers at Legal Aid and other providers are skilled at protecting the rights of our members. We also know that they cannot, without more resources, meet the needs of the poor people who have legal problems. Because of this urgent, unmet need for civil legal services, we hope that you will continue to provide and expand funding for civil legal services. If I can provide you with any additional information, please do not hesitate to contact me.

Nina E. Olson
National Taxpayer Advocate
Internal Revenue Service

WRITTEN STATEMENT OF

**NINA E. OLSON
NATIONAL TAXPAYER ADVOCATE**

HEARING ON

CIVIL LEGAL SERVICES

**BEFORE THE
CHIEF JUDGE'S HEARING PANEL
ON CIVIL LEGAL SERVICES
THIRD DEPARTMENT
NEW YORK STATE COURT OF APPEALS**

OCTOBER 13, 2015

Chief Judge Lippman, Presiding Justice Peters, and distinguished Members of this Committee:

Thank you for inviting me to testify today about expanding access to civil legal services.

As the National Taxpayer Advocate, I am tasked with identifying the most serious problems affecting all taxpayers, however low income individuals often face unique challenges that seldom affect the wealthy. Limited access to representation is at the core of many of those challenges. I've spent most of my legal career spotlighting issues that affect low income taxpayers. Prior to becoming the National Taxpayer Advocate, I founded the Community Tax Law Project of Richmond, Virginia in 1992 as the first independent (*i.e.*, nonacademic) Low Income Taxpayer Clinic (LITC) in the nation. Along with a cadre of lawyers I recruited to assist, we provided pro bono help for low income people in the United States Tax Court at a time when similar organizations were nearly nonexistent in most states. I've also served as chair of the Virginia State Bar Special Committee on Access to Legal Services for two years and chair of the American Bar Association (ABA) Section of Taxation's Low Income Taxpayers Committee.

I learned first-hand that a representative can have a significant impact in resolving a controversy with the IRS. The absence of representation meant not only that taxpayers sustained adverse audit and litigation outcomes, but that many of the issues they faced were never resolved in the courts. As a result, entire areas of the tax law remained relatively free of judicial interpretation. The invisibility of low income taxpayers also meant it may have been more difficult for the IRS to appreciate the consequences of its administrative practices or procedures with respect to low income taxpayers, and therefore would be less prepared to accommodate their needs.

I. Access to Representation

Access to representation can significantly impact the outcomes of tax cases. For example, in a review of the top ten most litigated issues during the period June 1, 2013, through May 31, 2014, taxpayers without representation (*pro se* taxpayers) prevailed in whole or in part 10 percent of the time, while represented taxpayers prevailed in whole or in part 26 percent of the time.¹ A 2007 Taxpayer Advocate Service (TAS) research study analyzed how taxpayers with and without representation fared after undergoing an audit of an EITC claim.² The study found that taxpayers with representation are nearly twice as likely to be found eligible for the Earned Income Tax Credit (EITC) as taxpayers without representation during the audit process and that taxpayers without representation were more likely to end up owing additional tax than taxpayers with representation.³ EITC is one of several refundable credits and social programs administered through the tax code and impacts many New York state residents. For FY

¹ National Taxpayer Advocate 2014 Annual Report to Congress 426, Table 3.0.2.

² 2007 IRS Research Conference, *The Impact of Taxpayer Representation on the Outcome of Earned Income Credit Audits*, 110 (June 2007).

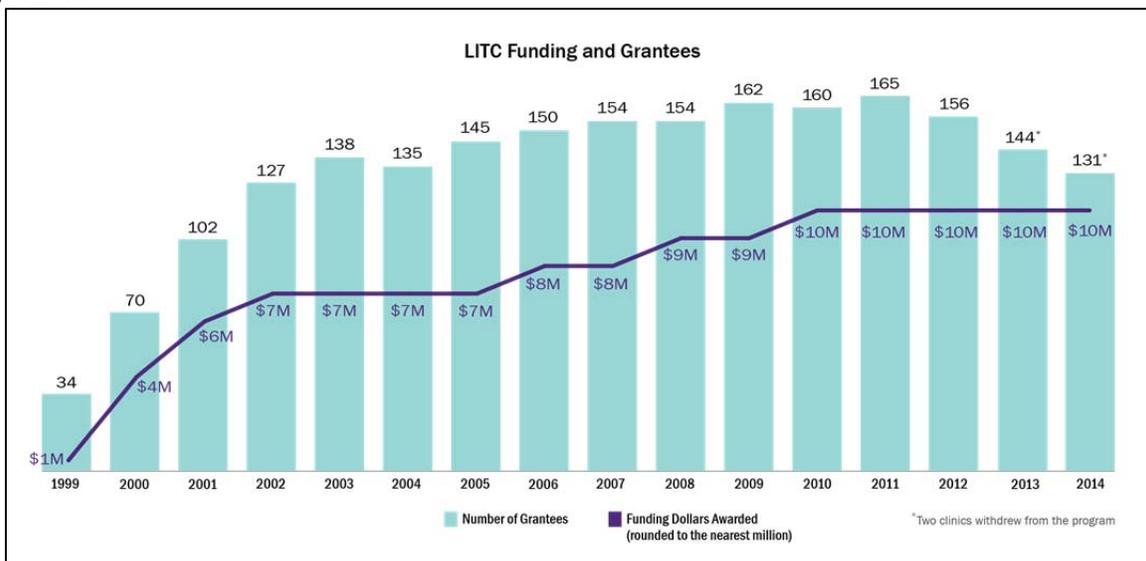
³ *Id.*

2014, over 25,000 (5.8 percent) of EITC audits were of New York state taxpayers. Over 98.5 percent of these taxpayers were unrepresented.

Another essential function of TAS is administration of the Low Income Taxpayer Clinic (LITC) Program. The LITC Program Office awards matching grants to qualifying organizations to operate clinics that represent low income taxpayers in disputes with the IRS and educate individuals for whom English is a second language (ESL) about their rights and responsibilities as U.S. taxpayers.⁴ LITCs must provide services to taxpayers for free or for no more than a nominal fee.⁵

Beginning in 1999, Congress has appropriated funds annually to provide matching grants to organizations that operate LITCs.⁶ Since that time, the LITC Program has experienced significant growth in the number of clinics, the amount of funds awarded, and the geographic area of coverage. In its initial year, the IRS awarded grants totaling less than \$1.5 million to 34 entities located in 18 states and the District of Columbia.⁷ In 2014, the IRS awarded nearly \$10 million in grants to 131 grantees located throughout the United States and Puerto Rico.⁸ Figure 1, below illustrates the growth of the LITC program from its inception through 2014.

Figure 1.



⁴ See IRC § 7526(b)(1)(A)(ii).

⁵ See IRC § 7526(b)(1)(A)(i).

⁶ IRC § 7526 authorizes the IRS to make federal matching grants of up to \$6 million per year (except if otherwise provided by specific appropriation) for the development, expansion, or continuation of qualified low income taxpayer clinics.

⁷ IR-1999-63, *IRS Encourages Growth of Low-Income Taxpayer Clinics with \$1.5 Million in Grants* (July 14, 1999).

⁸ The IRS publishes Publication 4134, *Low Income Taxpayer Clinic List*, on an annual basis. It identifies the organizations receiving a grant that year, and contains contact information and details regarding the types of services each clinic provides.

With annual appropriations available, qualified organizations could be awarded up to \$100,000 per year to establish or operate an LITC.⁹ As a result, many legal aid and legal services programs created LITCs and added tax representation, education, and advocacy as part of their poverty law practices. This development, described as “the single most helpful provision” of RRA 98,¹⁰ helped bring a more holistic approach to legal services—especially considering that in recent years, the IRS’s responsibilities have shifted and involve not only collecting tax revenues, but also distributing certain government benefits made available to U.S. citizens and residents through the tax system.

These benefits generally take the form of refundable tax credits—such as the EITC,¹¹ Additional Child Tax Credit,¹² or American Opportunity Tax Credit.¹³ The availability of these credits has created an opportunity for some unscrupulous persons to act as tax return preparers and prey upon vulnerable taxpayers. In response, the IRS has stepped up enforcement through correspondence examinations, which require taxpayers to submit documents to prove eligibility for benefits, and the use of filters to detect questionable credit claims. Consequently, the IRS’s efforts to avoid erroneous refunds may delay payments of legitimate refunds to eligible taxpayers. Because low income taxpayers may not understand notices from the IRS or may lack access to the types of documents that the IRS requests, they may be denied benefits to which they are entitled.

The Appendix contains highlights of some of the work done by LITCs. More detailed information can be found in Publication 5066, *LITC Program Report*.

II. Survey of Low Income Taxpayers

In order to better understand the needs and circumstances of taxpayers eligible for assistance from LITCs (those below 250% of the federal poverty guidelines), I commissioned a study with Russell Research.¹⁴ This telephone survey of both cell phone and landline users included more than 1,100 individuals, gathered information on eligible taxpayers’ awareness and use of LITC services, what approach would be best-suited to spread information about the clinics, and other items including demographic information.

⁹ IRC § 7526(c)(2).

¹⁰ See IRS Restructuring: Hearing Before the S. Comm. on Finance, 105th Cong. (Feb. 5, 1998) (statement of Nina E. Olson, Executive Director, The Community Tax Law Project), 1998 WL 47048 (“[F]or the vast majority of taxpayers in this country there is no conflict between taxpayer compliance and taxpayer rights. The latter enhances the former. Access to justice and representation within the tax system bring these two goals into harmony.”).

¹¹ IRC § 32.

¹² IRC § 24(d).

¹³ IRC § 25A(i)(5).

¹⁴ See National Taxpayer Advocate 2014 Annual Report to Congress, vol. 2 1-26 (Research Study, Low Income Taxpayer Clinic Program: A Look at Those Eligible to Seek Help From the Clinics).

I. Awareness of LITCs

Only about 30 percent of all eligible taxpayers were aware of an organization outside the IRS that helps taxpayers with IRS problems. Among those aware, only about ten percent knew the name of the organization is “Low Income Taxpayer Clinic.” The main sources of awareness of the outside organization were TV, word-of-mouth, and radio. Since very few LITCs advertise on TV, it is likely that eligible taxpayers were confusing for-profit tax resolution firms with LITCs.

After they were read a description of the LITCs, nearly five percent of all eligibles said they had contacted a clinic at one time or another. Over ten percent of Spanish speakers reported they had used a clinic. Conversely, about 95 percent of all eligibles and nearly 90 percent of Spanish speakers have not previously used the services of a clinic.

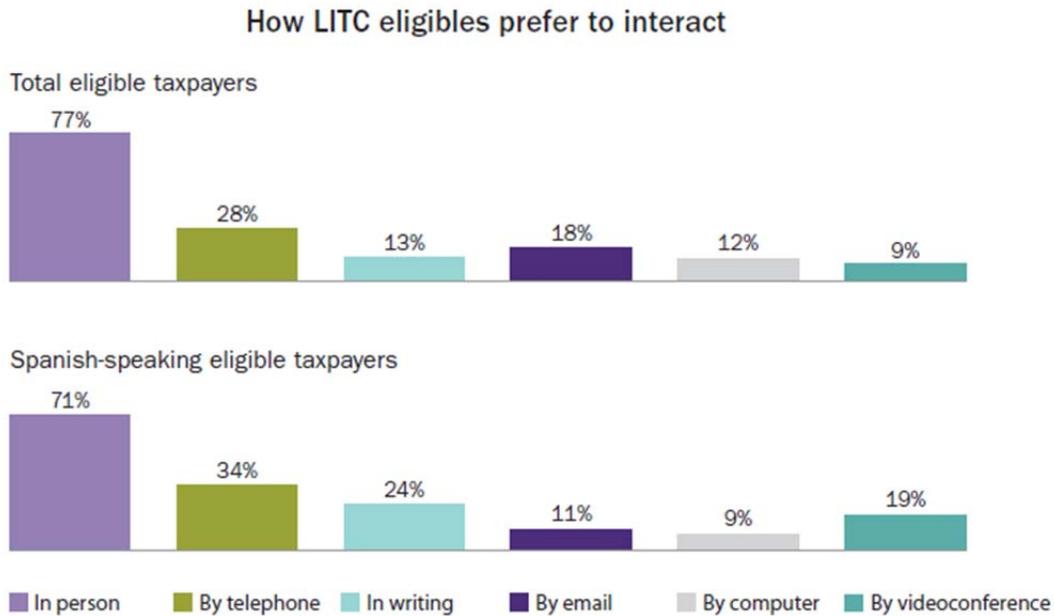
II. Use of LITCs

About two of every three LITC eligible taxpayers stated they were likely or very likely to use an LITC if they had a need for its services and they would use the LITC for a wide variety of services such as account notices or issues, or help with Appeals or court issues. Virtually all eligible taxpayers indicated that LITCs should be advertised, and in a variety of media—led by TV, radio, posters, direct mail, and online.

III. Interactions with LITCs

LITCs need to be accessible to encourage use among eligible taxpayers. Participants indicated they were willing to travel 20-30 minutes to a clinic. The survey asked about eligible taxpayers’ technological capabilities, comfort, and preferences for discussing taxes and interacting with an LITC. As detailed in Figure 2 below, both in-person meetings and meetings at a community services center were preferred by over 75 percent of all eligible taxpayers. Only about ten percent of all eligible taxpayers were willing to interact by computer, while nearly ten percent stated they prefer videoconferencing. Spanish speakers were twice as willing as the total group to videoconference. Overall, less than one in five of all eligible taxpayers were willing to communicate by email.

Figure 2.



The results of the survey indicate that increasing awareness of LITCs is paramount. Once eligible taxpayers are aware of the LITCs, the clinics need to be structured and located such that those needing assistance can use them. This means being within about 30 minutes commuting time and making services available in Spanish since three in four Spanish speakers expressed a desire to discuss their tax matters in Spanish.

Given all of the existing and evolving technologies and their associated challenges, it is important for the IRS to consider the impact of changes to its service offerings on different groups of taxpayers, particularly those with fewer options for help meeting their federal income tax obligations. Studies show preferences for services and delivery methods differ by various service users. LITCs need to know their clients' preferred communication mediums and service needs to effectively help their clients and those eligible for their services. As the IRS reduces the amount and kinds of in-person help available to taxpayers, the LITCs will likely become a more important mechanism for vulnerable taxpayers seeking help with their tax situations.

III. Meeting Taxpayers Face-to-Face

In June 2013, the Small Business/Self-Employed (SB/SE) division of the IRS Office of Chief Counsel initiated quarterly conference calls with LITC representatives to discuss ways to improve the Tax Court calendar call process. During the quarterly conference calls, participants discuss how to make the pre-trial process more efficient and strategies for encouraging more low income taxpayers to take advantage of LITC services.

Based on suggestions from the working group, IRS Office of Chief Counsel, Small Business/Self-Employed division sent letters inviting fifteen petitioners with an upcoming

trial date to attend pre-trial conferences at their Los Angeles offices on August 21, 2015. Four petitioners called in advanced to reschedule their conference. Of the remaining eleven, five attended their conference. Of those five, three resolved their Tax Court cases at the pre-trial conference. Thus, they achieved a 45% attendance rate, not counting those who rescheduled, and a 60% resolution rate in those cases where the petitioners attended the conference.

The letters informed the petitioners that three LITCs would be present to assist them during the conferences. The letters included the contact information for all four LITCs in the local area. Three Tax Compliance Officers also attended to stand ready to review substantiation documents. The feedback from the LITCs was overwhelmingly positive and there are plans to hold another such event in November for one of our January calendars.

IV. Characteristics of Low Income Taxpayers

Low income taxpayers work in a variety of professions, in all lifestyles. Analysis of data from the 2012 U.S. Census Bureau American Community Survey revealed the most common occupations for low income workers (making less than \$48,000 per year) include nurses, retail clerks, truck drivers, office workers, janitors, cooks, managers, teachers, cashiers, accountants and bookkeepers, customer service representatives, laborers, housekeepers, and child care providers.¹⁵ LITC clients include retirees or disabled individuals who live on fixed incomes. Some work in the cash economy and do not receive a Form W-2 (*Wage and Tax Statement*) or Form 1099-MISC (*Miscellaneous Income*) they can use to verify their incomes. Others are immigrants who have never before had to file a U.S. tax return. Like the general taxpayer population, low income individuals possess diverse characteristics in ethnicity, family status, living arrangements, and age.¹⁶ However, the defining trait of this population—scarcity financial resources—brings with it a myriad of hardships that present distinctive challenges for tax administration.¹⁷ Low income taxpayers are more likely to face:

- Limited English proficiency (LEP);
- Low literacy rates;
- Physical or mental disabilities;
- Lower education levels;
- Unstable job prospects;
- Substandard housing situations;

¹⁵ U.S. Census Bureau, American Community Survey, 2014 available at <http://www.census.gov/acs/www/>. NPR, *The Most Common Jobs for the Rich, Middle Class and Poor* available at <http://www.npr.org/blogs/money/2014/10/16/356176018/the-most-popular-jobs-for-the-rich-middle-class-and-poor> (Oct. 16, 2014). The sample was restricted to adults ages 25 to 65 and who worked at least three months in the last year, and was based on individual income from wages and salaries.

¹⁶ National Taxpayer Advocate 2011 Annual Report to Congress 273 (Introduction to Diversity Issues: *The IRS Should Do More to Accommodate Changing Taxpayer Demographics*).

¹⁷ National Taxpayer Advocate 2009 Annual Report to Congress 112-13 (Most Serious Problem: *Beyond EITC: The Needs of Low Income Taxpayers Are Not Being Adequately Met*).

- Lack of affordable child care;
- Unreliable transportation;
- Limited access to banks; or
- Lack of access to competent and affordable tax return preparation services.¹⁸

Moreover, the number of low income people in the United States has grown in recent years. In 2013, nearly 133 million people had incomes below 250 percent of the federal poverty level, an increase of over 16 million persons since 2007. The percentage of persons below the 250 percent threshold similarly rose from 39.2 percent to 42.5 percent over the same period.¹⁹

Many low income taxpayers speak English as a second language (ESL) or not at all. Without access to services in a language they understand, these taxpayers cannot obtain representation and consultation services, understand and exercise important rights, or comply with their responsibilities.

V. Understanding Taxpayer Rights

Taxpayer rights are central to voluntary compliance. If taxpayers believe they are being treated, or can be treated, in an arbitrary and capricious manner, they will mistrust the system and be less likely to comply of their own volition. By contrast, taxpayers will be more likely to comply if they have confidence in the fairness and integrity of the tax system.²⁰

The Internal Revenue Code (Code or IRC) provides dozens of real and substantive rights that protect taxpayers from unfair and unjust treatment and provide opportunities to challenge arbitrary and capricious government actions. However, taxpayers may not avail themselves of their rights because they are unaware of them. A 2012 survey found less than half of all U.S. taxpayers believe they have rights before the IRS, and only 11 percent said they knew what those rights are.²¹ Taxpayer knowledge and education is the best taxpayer protection there is.

Taxpayers have no simple way to identify or locate rights in the Code because they are scattered throughout its various sections. It is even more difficult for taxpayers to find “off-code” provisions in different pieces of legislation. Although Congress has passed

¹⁸ *Id.*

¹⁹ U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, *Age and Sex of All People, Family Members and Unrelated Individuals Iterated by Income-to-Poverty Ratio and Race, Below 250% of Poverty*, (2013 and 2007 poverty data, available at <http://www.census.gov/hhes/www/poverty/data/incpovhlth/2013/index.html>).

²⁰ TAS research has shown that trust in government and fairness appear to have significant influence on the compliance behavior of self-employed taxpayers. National Taxpayer Advocate 2013 Annual Report to Congress, vol. 2 33-56 (Research Study: Small Business Compliance: Further Analysis of Influential Factors).

²¹ Forrester Research Inc., *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey*, Q2/Q3 2012, 20 (Sept. 17, 2012).

multiple pieces of legislation with the title of “Taxpayer Bill of Rights,” none of these laws provide a foundational, general description of taxpayer rights.²²

In order to build awareness of taxpayer rights, I spearheaded an initiative to urge the IRS to formally adopt the Taxpayer Bill of Rights (TBOR). On June 10, 2014, the IRS adopted the TBOR,²³ detailing a list of the ten core taxpayer rights and five taxpayer responsibilities.

The TAS Tax Toolkit site now offers TBOR webpage²⁴ at www.TaxpayerAdvocate.irs.gov, which provides a central location for taxpayers to learn about all aspects of the TBOR and links to relevant IRS publications. One page, titled “What the Taxpayer Bill of Rights Means For You” helps taxpayers understand the core principles that provide the foundation for the TBOR. This site includes a “crosswalk” that provides specific examples and plain-language explanations of the different Internal Revenue Code (IRC) provisions and administrative provisions, and links to IRS publications that fall under each of the core principles. This page allows taxpayers to see how their rights apply to specific situations they might encounter with the IRS. The information can also be found in a TBOR video on YouTube²⁵ and the Toolkit.

The Toolkit also features Affordable Care Act pages, including a Premium Tax Change of Circumstances Credit estimator to help individual taxpayers understand changes to their Premium Tax Credit throughout the year.

²² See Technical and Miscellaneous Revenue Act, Pub. L. No. 100–647, § 6226, 102 Stat. 3342, 3730 (1988) (containing the “Omnibus Taxpayer Bill of Rights,” also known as TBOR 1); Taxpayer Bill of Rights 2, Pub. L. No. 104-168, 110 Stat. 1452 (1996) (also known as TBOR 2); Internal Revenue Service Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (Title III is known as “Taxpayer Bill of Rights III” or TBOR 3). These laws create specific rights in certain instances, but they do not create a thematic, principled-based list of overarching taxpayer rights.

²³ See IRS Adopts “Taxpayer Bill of Rights;” 10 Provisions to be Highlighted on IRS.gov, in Publication 1, IR-2014-72, (June 10, 2014). See IRS, Taxpayer Bill of Rights, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights#informed>.

²⁴ <http://taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights> (last visited September 30, 2015).

²⁵ <http://www.youtube.com/watch?v=FQeCox93Slw&list=UUyEATLHdngqZJx0KP9Vv0OQ> (Last visited Sept. 30, 2015).

TAXPAYER BILL OF RIGHTS

THE RIGHT TO BE INFORMED

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

THE RIGHT TO QUALITY SERVICE

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

THE RIGHT TO PAY NO MORE THAN THE CORRECT AMOUNT OF TAX

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

THE RIGHT TO CHALLENGE THE IRS'S POSITION AND BE HEARD

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

THE RIGHT TO APPEAL AN IRS DECISION IN AN INDEPENDENT FORUM

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

THE RIGHT TO FINALITY

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

THE RIGHT TO PRIVACY

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

THE RIGHT TO CONFIDENTIALITY

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

THE RIGHT TO RETAIN REPRESENTATION

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

THE RIGHT TO A FAIR AND JUST TAX SYSTEM

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Learn more at www.TaxpayerAdvocate.irs.gov/taxpayer-rights

TAXPAYER
ADVOCATE
SERVICE

YOUR VOICE AT THE IRS



VI. Conclusion

In order to secure access to justice, it is essential that government entities educate the public on their rights to protest government action, and when necessary, make pro bono representation available. Characteristic common among the low income population, including limited education and English skills, make them particularly vulnerable to violations of their rights. The trend towards centralization and automation of government functions within the IRS may lead to more taxpayers to be unfairly denied their rights. The dehumanization of government processes makes the public feel more disconnected and creates additional barriers to determining the most effective way to spend government resources. Asking the public for their opinion provides concrete data about the needs of local communities and gives them a sense that their voice is being heard. Increasing access to justice cannot be a one-sided effort. Legal aid and legal services organization must cooperate with each other as well as the communities which they are seeking to assist.

APPENDIX

Low Income Taxpayer Clinics in New York State
2014 - 2015

Low Income Taxpayer Clinics in New York State - 2015

City	Clinic Name	Website & Phone	2015 Grant	Languages	Counties Served
	<i>Address</i>				
Albany	Legal Aid Society of Northeastern New York 55 Colvin Avenue Albany, NY 12206	www.lasny.org 518-462-6765 800-462-2922	\$90,000	All languages through interpreter services	Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, St. Lawrence, Warren, and Washington
Bronx	Legal Services NYC-Bronx 349 East 149 th St. Bronx, NY 10451	www.legalservicesnyc.org 718-928-3700	\$90,000	Spanish. Other languages accessed through interpreter services	Bronx and Westchester
Brooklyn	Brooklyn Legal Services Corp A 260 Broadway Brooklyn, NY 11211	www.bka.org 718-487-2300	\$72,300	Spanish, Hebrew, Yiddish. Other languages through interpreter services	Kings
Brooklyn	Bedford-Stuyvesant Community Legal Services 1368 Fulton St. Brooklyn, NY 11216	www.legalservicesnyc.org 718-636-1156	\$55,000	English, Spanish. Other languages available through use of interpretation service.	Kings

City	Clinic Name <i>Address</i>	Website & Phone	2015 Grant	Languages	Counties Served
Brooklyn	South Brooklyn Legal Services <i>105 Court Street Brooklyn, NY 11201</i>	www.legalservicesnyc.org 718-237-5528	\$100,000	Spanish, Russian, Haitian Creole, American Sign Language. Others through phone interpretation service	Kings
Buffalo	Erie County Bar Association Volunteer Lawyers Project <i>237 Main Street Buffalo, NY 14203</i>	www.ecbavlp.com 716-847-0662 800-229-6198	\$80,000	Spanish, French	Erie, Niagara, Orleans, and Wyoming
Jamaica	Queens Legal Services <i>89-00 Sutphin Boulevard, Jamaica NY 11435</i>	www.legalservicesnyc.org 347-592- 2178	\$100,000	Spanish, Mandarin Chinese, Korean, Urdu, Russian. Interpretation service available through interpreter service.	Queens
New York	Fordham University Law School Litigation Clinic <i>150 West 62nd St. NY, NY 10023</i>	www.fordham.edu 212-636-7952	\$95,000	Spanish	New York, Bronx, Kings, Richmond, Queens, Westchester, Nassau, Suffolk and Rockland
New York	Legal Aid Society <i>230 East 106th Street NY, NY 10029</i>	www.legal-aid.org 212-426-3013	\$100,000	Spanish and Mandarin Chinese	New York, Bronx, Kings, Richmond, Queens Westchester, Nassau, Suffolk and Rockland,

City	Clinic Name	Website & Phone	2015 Grant	Languages	Counties Served
	<i>Address</i>				
Syracuse	Syracuse University College of Law Office of Clinical Education 950 Irving Ave. Syracuse, NY 13244	www.law.syr.edu 315-443-4582 888-797-5291	\$100,000	Spanish. Other languages through interpreter services.	Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Warren, Wayne, Wyoming, and Yates

Highlights of Services Provided by New York Low Income Taxpayer Clinics¹

Representation and Advice

Number of Taxpayers Represented	1,169
Number of Taxpayers Advised	1,338

LITC Controversy Case Categories

Accounts Management	13.9%
Exams	17.5%
Collection	45.9%
Appeals	3.3%
Tax Court Litigation	9.4%
Litigation in Other Federal Courts	0.7%
ID Theft	6.8%
Miscellaneous	2.5%

Closed Case Outcomes

Total Number of Cases Closed	418
Number of Taxpayers Brought Into Filing Compliance	120
Number of Taxpayers Brought Into Collection Compliance	241
Total Amount of Dollars Refunded in Cash to Taxpayers	\$289,859
Total Decrease in Corrected Tax Liabilities, Penalties, and Interest	\$2,590,440

¹ Data from 2014 LITC Program Year-End reports.

Most Frequently Worked Issues By LITCs in New York State

**Wages
Business Income
Child Tax Credit
Earned Income Tax Credit
Personal/Dependency Exemptions
Innocent Spouse Relief
Nonfiler Assistance
Installment Payment Agreements
Offers-in-Compromise
Currently Not Collectible Status
Levies**

Phillip A. Burse

Director of Operations

In Our Own Voices

Phillip A. Burse is the Director of Operations at In Our Own Voices. Phillip has worked in various capacities at In Our Own Voices for over seven years and has nearly a decade of experience working with victims and survivors of domestic violence and sexual assault. Phillip is known for his compassion for the community he serves and his empathy for the struggles of survivors of violence. In his current role as In Our Own Voices' Director of Operations, Phillip oversees grants and programs that focus on reducing barriers and increasing access for LGBT communities through direct service provision, systems level advocacy, and training and technical assistance to service providers, community organizations, and individuals to address sensitivity, cultural awareness, and the impact of violence on LGBT communities. Phillip is also on the Board of Directors of the New York State Coalition Against Sexual Assault and of the New York State Office of Victim Services Advisory Council.



In Our Own Voices

Testimony of Phillip A. Burse

Good morning Chief Judge Jonathan Lippman, Hon. Karen Peters, Hon. Lawrence Marks, and New York State Bar Association President-Elect Claire Gutekunst. It is a privilege to have the opportunity to speak with you about a cause that we all care about deeply: justice for all New Yorkers.

My name is Phillip Burse, Director of Operation, at In Our Own Voices. Our mission is to work for and ensure the physical, mental, spiritual, political, cultural and economic survival and growth of the lesbian, gay, bisexual and transgender people of color communities. We seek to develop the leadership of LGBT people of color; strengthen their voices in order to effectively communicate our perspective within the larger community and increase our capacity for combating oppression and marginalization.

For more than 10 years, we have operated a clinic to provide legal assistance to our clients. Our Ask A Lawyer Legal Clinic offers free, private and confidential legal consultations for eligible LGBT individuals on civil issues related to name changes, domestic disputes, discrimination, family law and more. With the assistance of pro bono volunteers Geri Pomerantz and Anne Reynolds Copps, we have been able to meet many people's legal needs. Both the Legal Aid Society and The Legal Project are partners in this clinic, doing extensive outreach and matching clients with pro bono volunteers. In addition, we have collaborated with the Legal Aid Society in serving LGBT victims of domestic violence. We regularly seek to deepen these partnerships by seeking collaborative funding to provide both legal and social services to our LGBT people of color clients.

In our individual interactions with all of the local legal services providers, we have been impressed by their willingness to partner with us, their respect for our staff and especially for LGBT people of color. These providers make every effort to provide culturally appropriate, LGBT-competent services to ensure our clients have access to their essential needs. Joint trainings by In Our Own Voices and Legal Aid Society staff on cultural competence have proven invaluable to local lawyers seeking to volunteer their time pro bono to serve our community.

We are very indebted to the Court for ensuring so much growth to local providers in the last few years. I want you to know that, in spite of your efforts, there is still so much unmet need; we hope that this funding continues to be robust in the years to come. Low income LGBT people need culturally competent, expert civil legal services now more than ever. Though marriage equality is now here, so many legal issues remain unresolved, including discrimination on a variety of fronts and the continued development of many civil issues stemming from marriage equality.

Thank you for your strong leadership in support of civil legal services. The LGBT community is grateful.

Board of Directors

President

Dr. Robert L. Miller, Jr.

Vice President

Dr. Christine Pluviose

Secretary

Damarise Mann, LMSW

Treasurer

Dr. Dayna Maniccia

Board Members

Daniel Charbonneau

Heide Iyok

Peter O'Brien

Dr. Sean Chappin

Brian Coffin

Advisory Board

Wes Holloway

Executive Director

Tandra LaGrone

Professor Sarah Rogerson

Director, Immigration Law Clinic

Director, Law Clinic & Justice Center

Albany Law School

Professor Sarah Rogerson
Associate Professor of Law
Director, Immigration Law Clinic
Director, Law Clinic & Justice Center
Albany Law School

BIO

Professor Rogerson joined the Albany Law School faculty in 2011 after completing a two-year Clinical Teaching Fellowship at University of Baltimore School of Law, where she taught and supervised students enrolled in the Immigrant Rights Clinic. Professor Rogerson Directs the Law Clinic & Justice Center and the Immigration Law Clinic, an experiential course through which students represent immigrant victims of crime including child abuse and neglect, domestic violence and sexual assault. Her students also regularly participate in related legislative advocacy initiatives. Professor Rogerson combines her past experience as a public interest attorney representing immigrant adults and children in cases involving torture, domestic violence, human trafficking and guardianship petitions at the Human Rights Initiative of North Texas, Inc. with her scholarly interests examining failures in legal systems. Her scholarship is focused on the intersections between domestic violence, family law, race, gender, international law and immigration law and policy. Immediately after graduation from Seton Hall Law School, Professor Rogerson worked for several years as an associate attorney at a law firm with practices in New York and New Jersey. In addition to her J.D. from Seton Hall Law School, she holds an LL.M. in international law at Southern Methodist University Dedman School of Law and a Masters in Diplomacy and International Relations from Seton Hall University.

**The Chief Judge's Third Department Hearing on Civil Legal
Services**

**NYS Court of Appeals
Albany, NY
October 13, 2015**

**Testimony of Prof. Sarah Rogerson
Associate Professor of Law
Director, Immigration Law Clinic
Director, Law Clinic & Justice Center
Albany Law School**

Submitted To:

The Permanent Commission on Access to Justice

Good morning, Chief Judge Jonathan Lippman, Hon. Karen Peters, Hon. Lawrence Marks and President-Elect Gutekunst. Thank you for the opportunity to speak to you about an issue that I face every day as the Director of the law clinics at Albany Law School – the civil legal service gap in upstate New York, and especially the 3rd Judicial Department. I am here today representing not just Albany Law School, but a dedicated consortium of service providers in the area seeking to address the legal needs of immigrant families.

In my practice, my instruction and my scholarship, which has focused on the intersection of family violence and immigration, I have seen first-hand the injustices resulting from the dearth of civil legal services available to the immigrant poor. To give you an idea of the scope of this need: Over half of New Yorkers are either immigrants or children of immigrants. Well over half a million people, over 3% of New York's population, are unauthorized immigrants. These statistics are not simply the result of New York City's long immigrant tradition. Approximately ten percent of the foreign born population in New York State has resettled in the Albany-Schenectady area and over twelve percent has resettled in Dutchess County. Attracted to the area by its reasonable cost of living and its agricultural employment opportunities, immigrants in our region are woefully underserved at both the federal and state level. Despite the efforts of Representative Paul Tonko, the federal government has not located an immigration court in Albany. There are only two immigration courts in New York located in Buffalo and Manhattan. This is reflective of a nationwide shortage in Immigration Courts across the country, but the need is desperately felt by immigrants in our area who often have to travel by night to the courts and then wait in a bus or train station until the court opens to be heard on their case. I should mention that this cost is not only born by the litigants, but is an additional barrier to any attorney or organization seeking to represent immigrants in our area – the travel costs alone are staggering.

Similar to other traditionally underserved legal areas, such as domestic violence, housing and healthcare, immigrants often face a myriad of legal issues and in some cases, additional victimization, as a result of their unsettled or undocumented status. For example, undocumented immigrants are so regularly targeted by fraudulent legal services

organizations that the New York Legislature was prompted last year to make immigration services fraud a felony. Fear of reporting crimes to law enforcement due to the constant threat of deportation is yet another barrier to justice for the immigrant poor in New York State.

Compounding these challenges is what Judge Denny Chin of the Second Circuit has identified as a “donut hole” of immigrant legal services in mid-to-upstate New York. Around the ring of the donut, there is some pro bono or low cost representation available, but in the middle of the ring, such representation is scarce. We know from the 2010 Katzman Report on New York Immigrant Representation that a lawyer makes all of the difference in immigration matters: non-detained respondents who are represented have successful outcomes 74% of the time compared to 27% of those appearing at their removal proceedings without counsel. What this tells us, is that providing civil legal services to immigrants in removal proceedings can have the largest statistically significant impact on the quality of justice that our immigrant community receives.

The Capital Region serves as a hub for the areas affected by this deficiency. A small, but dedicated, group of advocates and pro bono legal services organizations is creatively and intensely collaborating to provide holistic legal representation to immigrants in need. The Capital Region Immigration Collaborative, hosted by The Legal Project, facilitates regular coordination between Legal Aid of Northeastern New York, Albany Law School, Prisoner’s Legal Services, the New York State Office for New Americans, the Office for the Prevention of Domestic Violence, Empire Justice Center, Worker’s Justice Center in Kingston, the private immigration bar and others, to avoid duplication of efforts and to efficiently use what little resources are available to each in order to patch together a thin but mighty web of legal services to those who cannot afford private counsel.

Addressing the dearth of civil legal services for the immigrant poor in this region requires extensive collaboration between local groups and the more abundant organizations in New York City and the western part of the state dedicated to providing services to the immigrant poor. These organizations also help shape immigration law and practice in the mid-to-upstate regions by sharing their experience of immigration issues with us. However, the immigration issues encountered in our region often contain unique challenges not faced in the city or

western part of the state. The challenges you've heard identified for the rural poor (language access, restricted transportation and lack of social services) overlay the intrinsic difficulties of navigating the legal system as an immigrant – challenges that have been faced by generations past, many in our own family trees.

The lack of civil legal services available to undocumented immigrants in this Department and the interest of law students in dedicating their careers to addressing this need led Albany Law School to seek funding this year to establish, in partnership with the New York State Division of Criminal Justice Services, an Immigration Law Clinic. The new clinic, formerly housed within the Family Violence Litigation Clinic as the Immigration Project, collaborates regularly with organizations in the Capital Region dedicated to providing legal services to the immigrant poor. Our mission is not only to expand access to legal services, in collaboration with other legal service providers, but to connect the work of attorneys on the ground with stakeholders in the legislature and Congress, as well as partners in the judiciary, who have the power to make systemic commitments to this population to both fund legal services and make critical adjustments to the justice system that litigants navigate on the path to citizenship.

For example, in the Spring of 2013, the clinic worked with Empire Justice Center on the New York State Reuniting Families Act. This bill, championed by Senator Kevin Parker, Assemblyman Marcos Crespo and others, was passed unanimously twice by the Assembly but stalled in the Senate; it seeks to address the problems encountered when immigration enforcement and the child welfare system intersects, and to prioritize keeping children with their families and out of the public child welfare system whenever possible. The Law School has also collaborated with The Legal Project to develop the Katz Fellowship. Funded in part by the New York State Office of Court Administration, this fellowship places current students and recent graduates of Albany Law School in internships and staff attorney position at The Legal Project. These fellows provide legal services to victims of domestic violence, including immigrants. This past summer, through donations from Albany Law alumni, Albany Law School was also able to place a student in an immigration internship housed within The Legal Project and supervised by an immigration attorney from Empire Justice Center. The student worked on immigration cases and conducted research for both organizations to aid them in their advocacy efforts on behalf of immigrants. The Law School,

through our collaboration with the New York Chapter of the American Immigration Lawyers Association, which connects us with the private bar, has also partnered with Sherriff Apple of

Albany County to create a program wherein law students, legal service attorneys, and private practitioners screen individuals held in the Albany County Jail to determine their immigration-related needs and help find service providers for those facing immigration issues. These programs are examples of partnerships between public, private, and academic entities that builds on the strengths of each to bolster the delivery of civil legal services to immigrants in the area.

Our regional immigration collaborative also engages in a number of training opportunities regarding issues facing immigrants. We have led numerous trainings on the various immigration relief available to children and certain crime victims. A few recent examples include: (1) trainings in Binghamton, Lake Placid and Latham regarding special immigration concerns for Attorneys for Children in the 3rd Division's family courts and (2) a continuing legal education program in Kingston on Special Immigrant Juveniles that our Clinic put together with Workers Justice Center – these trainings reached over 200 attorneys. In collaboration with the downstate New York Immigration Coalition, the Capital Region Immigration Coalition is also hosting a continuing legal education program on providing civil legal services to immigrants in our region later this fall, held at The Legal Project.

Our region has been weaving together a fabric of goodwill to provide what legal services we can offer to the immigrants in our communities. We do so creatively, pulling together public and private partnerships, and literally building a legal service infrastructure that is ripe for a long-term commitment of state funds to both academia and non-profits which are experts in the field and particularly attuned to the unique regional challenges. With the federal government in an apparent stand-off regarding immigration reform, New York State can serve as a shining example of welcome and integration, as it has for hundreds of years, but it can only do so with the steadfast financial commitment of those with the power to do so. Thank you.

Scott C. Jarzombek

Executive Director
Albany Public Library

Scott C. Jarzombek

50 Kakely St. Albany, NY 12208
Sjarzombek@gmail.com | 518.369.8759

BIO

Scott Jarzombek grew up as a loyal patron of his local public library, spending the bulk of his childhood pouring over history books and attending comic book club. During high school, Scott combined his penchant for skateboarding and music with his interest in multimedia and photography as a member of the school library's audiovisual club. During his junior year of college he became a "jack of all trades" for his college library director, which led him to apply to SUNY Albany's Library Science Program. During his second semester in library school, Scott was hired at Albany Public Library where he worked as branch librarian for 9 years. After leaving the organization in 2009 to develop his career, he returned to Albany in 2014 as the executive director.

PERSONAL INFORMATION

Marital Status: Married

Home Town: Baiting Hollow, NY

Current Town: Albany, NY

Children: Silas (5) and Eli (3)

Date of Birth: November 3, 1975

HOBBIES AND INTERESTS

Self-sufficiency, mixed martial arts, functional strength training, hiking, baseball and American history

CURRENT POSITION

Albany Public Library

Executive Director

2014- Present

Key Accomplishments

- Spearheaded the organization's first successful budget vote in 3 years.
- Oversaw multiple building projects and rebranding of the Washington Ave. Branch, creating a friendlier and safer atmosphere.
- Identified multiple inefficiencies in the libraries staffing and purchasing procedures that helped reduce operational costs.

LIBRARY EXPERIENCE

North Castle Public Library

2013 - 2014

Library Director

Key Accomplishments

- Coordinated a series of building projects that expanded public space and access.
- Developed a marketing plan for the library that included a new logo, graphics standard and newsletter.

Pawling Free Library, Pawling, NY

2011 - 2013

Library Director

Key Accomplishments

- Coordinated a series of building projects that expanded program and public space.
- Created a mobile computer lab for digital literacy instruction on and off site.

Poughkeepsie Public Library District, Poughkeepsie, NY

2009 - 2011

Head of Youth Services

Key Accomplishments

- Managed the opening of a 7,000-square-foot youth services floor encompassing a large children's room, a teen room, a teen study room, two program rooms, and a collection of 24,000 items.
- Developed a homework-tutoring program in partnership with the SUNY New Paltz Department of Education.

Albany Public Library, Albany, NY

2000 - 2009

Branch Librarian, Branch Services

Key Accomplishments

- Consulted in the design and master plan for an award winning branch renovation.
- Oversaw the closing of a community branch for construction and established a temporary satellite branch.

EDUCATION

State University of New York at Albany, Albany, NY

Masters in Library Science

- Internship with the NY State Attorney General's Office, Technology Department.

University of Hartford, Hartford, CT

B.A., History and Secondary Education; Graduated Magna Cum Laude

- Vice President of the Kappa Phi Educational Honor Society. 1998 - 1999
- Recipient of the University of Hartford Humanities Fellowship. 1997
- Volunteer Coordinator for Educational Main Street. 1997-1999

PROFESSIONAL AFFILIATIONS

New York Library Association

- IFRT Board member 2015
- IFRT Programmer for the 2014 NYLA Conference 2013 - 2014
- Member of the New York State Digital Literacy Advisory Committee 2012 - 2013

AWARDS of NOTE

Pied Piper Award (NYLA/YSS) 2009

Computer Camp, Albany Public Library

The President' Youth Service Award for Outstanding Community Service 1999

Educational Main Street, University of Hartford

COMMUNITY SERVICE

Friends of Schuyler Manson Board

- Member 2015
- Treasurer 2008-2009

Pawling Rotary

- Scholarship Committee 2011-2012

Hudson / Park Neighborhood Association

- Web Master 2007-2009

PUBLICATIONS

"On and Off the Shelves" Times Union Blog, <http://blog.timesunion.com/scottj/>

"Pawling Library: The Library as Community Safety Net" Journal of the Library Leadership and Management Section, Fall 2015.

"Youth in Libraries: Policies and Procedures in Action," Journal of the Library Leadership and Management Section, Spring 2012.

PROFESSIONAL PRESENTATIONS

"Trustee Responsibility for Intellectual Freedom: Questions You Didn't Know You Should Ask!" (panelist), Library Trustee Association Institute, Tarrytown, New York, May 2014.

"Striking the Balance: Youth Policies and Procedures in Action," Connecticut Library Association Annual Conference, Hartford, Connecticut, April 2014.

"Meeting the Demand for Street Lit," Public Library Association Annual Conference, Philadelphia, Pennsylvania, February 2012.

"Promoting the Library to Non-Readers," New York Library Association Annual Conference, November 2010.

"Subcultures and Sub Genres: Make Your Library Service Truly Multicultural," Westchester Library Association Annual Conference, Tarrytown, New York, May 2010.



AlbanyPublicLibrary

www.albanypubliclibrary.org

161 Washington Avenue
Albany, New York 12210

P: 518.427.4300

F: 518.449.3386

*The Chief Judge's Third Department Civil Legal Services
Hearing*
NYS Court of Appeals
Albany, NY
October 13, 2015

Testimony by Scott C. Jarzombek, Executive Director
Albany Public Library

Submitted To:

The Permanent Commission on Access to Justice

I would like to thank the Permanent Commission on Access to Justice for inviting me to testify before you. I am honored to speak on behalf of such an integral part of the regional community. Within the first few days of taking my position, staff informed me of the how important The Legal Project is to our organization and the citizens we serve. To quote one of my librarians, Meg Maurer, “They are simply wonderful.” The free monthly consultations to the public, for which we provide space, have helped low-income families with numerous legal and life decisions. These crucial situations require legal representation, even though it is simply unaffordable for so many. The Legal Project attorneys provide assistance with investing, estate planning, and citizenship, just to name a few. The consultations, which are provided free of charge, not only affect the lives of these individuals and families, but also help relieve pressure on the local and state court system.

The city of Albany has become home to refugees and their families, adding an incredible new texture to the tapestry of our neighborhoods. The library serves as a destination and resource to these future citizens through the strong relationship between the library, Literacy NY, and The Legal Project. Our organizations provide much needed resources and services to help with matters of language, job readiness, and citizenship. I cannot imagine such an endeavor would succeed without The Legal Project. I consider public libraries to be greenhouses for the seedlings of new businesses. The Legal Project has, yet again, added to this mission. The group presents workshops at the library on starting small businesses, as well as how to handle taxes and copyright law. These are lessons from which local performers and artists also benefit. As a former music performer, I have to admit that I wish this program happened 10 years ago.

The Legal Project is also working with the library system in the Capital Region, which contains 29 members including Albany Public Library, to implement a new outreach program to reach people in

need of civil legal information or assistance who may have difficulty accessing this help. The organization has found that there are people who have trouble coming to their offices to meet with attorneys. This is especially true for people who live in rural areas, lack transportation, or have physical limitations, for example.

The library has successfully used computer technology and applications to provide service to residents in outlying communities who cannot come to our buildings. Using library provided technology that allows for remote access, The Legal Project has developed a way for those in need to speak with and see attorneys. Clients can also share documents, via their own smart phones or computers, if they have them, or using iPads or computers at their local libraries. As the former director of a rural library in Dutchess County, I cannot say enough how important a resource like this will be to communities that often feel left out. There is a growing dependence on legal resources provided through the digital domain, which will only increase the demand and benefit to citizens.

Providing the network and computers for remote access consultations with attorneys is a creative way to build on our library's relationship with The Legal Project, and to expand our ability to connect patrons with critical resources, such as legal help and information, in our community. This will allow libraries in diverse locations to be part of this important outreach initiative in a way that is cost-effective and can reach even more people in need.

I know that our patrons and our elected Board of Trustees are very proud that Albany Public Library is here to testify on behalf of such a great community asset. We hope this partnership grows to have an even greater impact on the communities in which we live and work.

Krista Russell

Client of Rural Law Center

Accompanied by Julie Ross, Intake Coordinator

Testimony of
KRISTA RUSSELL

Client of
THE RURAL LAW CENTER OF
NEW YORK

Submitted to
HON. CHIEF JUDGE JONATHAN LIPPMAN

THIRD DEPARTMENT CIVIL LEGAL SERVICES HEARING

October 13, 2015

NYS Court of Appeals

Albany, New York

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

After we learned there had been an emergency removal of two boys, and that the mother was expecting a third child. The boys were removed from their mother's home as a result of serious allegations and the youngest boy, who was just 6 months old, required hospitalization and then continued treatment for his serious brain injuries. He is still regularly has doctor's appointments for those injuries. We were concerned and wanted to help the boys however we could. We filed a custody petition at the family court and at the same time contacted the Clinton County Department of Social Services to request that we be considered for custody, during the abuse and neglect proceedings. Based on conversations with the social workers, we decided to withdraw our petition for custody, and be considered as a custodial resource as part of the Abuse/Neglect proceedings.

In the beginning, the boys were in foster care, but after many interviews, background checks and a home study, the boys were placed in our care. We followed all of DSS's recommendations for medical treatment and therapy. During the first year that they lived with us, the boys mother had a third baby, and he was placed in our home, from the hospital.. Our lives had changed a lot in that year. I had been working full time, but I stopped working so that we could give the boys the loving support that they needed, and be available to take them to their doctor and therapy treatments. That turned out to be great for the boys, but it was a challenge to live on just one income.

After it became clear that the boys would not be returning to their mother soon, and that DSS strongly opposed placing the boys with either of their fathers, we knew that this was not going to be a short term situation. As the boys became familiar with us, and developed strong ties to my

husband and me, we wanted to do as much as we could to provide them with a stable, nurturing home. As the proceedings dragged on, and DSS filed a petition to terminate the parents' parental rights, we decided to again file a petition for custody. We could not afford an attorney and we were told we were not entitled to a free attorney. So we completed the custody petition on our own, so that it was also to be considered as the case went forward.

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

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

Once I contacted the Rural Law Center, I was interviewed by Julie Ross. She listened closely to our story and told us she would talk to an attorney to see if the RLC could help us with our case. When my husband and I came in for our first appointment, we brought all of the court documents, including our petition for custody. During our meeting, we felt as if the staff at the Rural Law Center cared about us and understood our situation. We met with the attorney, Susan Patnode, who said she wanted to help us make our best case for custody. After we met with Susan, we understood that if we were not natural parents, we had to show that extraordinary circumstances existed about why we were filing for custody, before the our case would be heard by the judge. We learned that those specific extraordinary facts had to be in a new, amended petition, or the case could be dismissed.

There was a court conference already scheduled that would include our custody petition, and we were afraid our petition would be dismissed. After we understood what was necessary for us to go forward, we worked with Susan to amend the petition and replace it with one that detailed the extraordinary circumstances of the case, and we also provided more information about why it would be in the boys best interest to have them placed in our home permanently. . The Rural Law Center staff helped us file the amended petition, and serve all the parties. We also learned what to expect at the conference. Throughout all of this, we felt like we were being prepared and assured that if we had questions we should could contact Julie or Susan.

Before the conference, we also needed to complete the Judge's Scheduling Order, which we really did not understand. So Susan took time and went through each part of that Order and helped us prepare for the Conference.

When we went to the conference, it was clear that the mother, and her boyfriend, who was now determined to be the father of the youngest child, opposed our Petition. They seemed to know that DSS would oppose the children being returned to the mother, but still they did not want us to have custody. So that meant there was going to be a trial, so the judge scheduled one.

When we told Julie that there was going to be a trial, she scheduled an appointment with Susan, who had helped us amend our petition. She told us she would work with us every step of the way through the trial, and we began that day to prepare our case. We created a list of witnesses and developed questions for each one, who would support our efforts. We talked about each part of our case that we wanted to prove, and then we determined which witnesses we would call, and what questions we would ask witnesses if there was a hearing.

We were prepared for the conference, and our petition was not dismissed, however the mother and father of the baby did not want us to have custody. So the case was scheduled for a trial.

We met with Susan again and she gave us very clear written information about what to expect at the hearing. She even explained the most basic information that would make us more at ease, including where to sit, what to wear. She also told us how to question a witness, and how to stay on track with our case. By the time of the hearing we had folders, notebooks and all our documents in order, and we were ready to have our case be heard. I won't go through these, but just to show you how prepared we were, I have in front of me all the materials we had ready if we were to go to trial.

When we got to the Court house, arriving with our very organized materials, we sat and waited for our case to be heard. We were not allowed in the inner offices of the Family Court where the lawyers were gathering so we weren't aware of the discussions going on inside. After several hours someone came out and announced that the mother and the children's fathers had agreed not oppose our custody petition, and so we went into court, and before the judge, it was put on the record.

The wonderful news is that it's been 3 years, and all three boys are doing very well. The boy, who had serious injuries, is getting better and better, Now the five of us are a family, and while we have tried to nurture and love these boys, the truth is, they have brought great joy to our lives.

The other truth is, that without the help of legal services, these boys might still be in an unstable situation. The staff at the Rural Law Center told us how great it was that we'd stepped up to help these boys, and that they would do everything they could to help us be successful. They kept their promise!

Maria Magdalena Ventura Lopez

Client of Worker Justice Center of New York

Accompanied by Jeremy McLean, Esq.

Testimony to be given by Maria Magdalena Ventura Lopez, client of the worker Justice Center of New York, at the Chief Judge's Third Department Hearing, October 13, 2015, Albany, New York.

Maria Magdalena Ventura Lopez is a native of the state of Tabasco in southern Mexico. At age 16 she was abducted by a man who subsequently forced her into prostitution in Mexico and in New York. Maria had a son who was kidnapped by her trafficker's family in order to assure Maria's cooperation. After seven years of compelled sex work, Maria escaped. The Worker Justice Center of New York has helped Maria submit a petition for a visa, secure the custody of her son in Mexico, and explore civil remedies against her trafficker.

English translation of statement:

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

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

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

I want to share my experience with young women and other people who might be victims as I was. Speak out, and do not be afraid to break the silence. Open your eyes, do not let yourself be deceived and abused by those who speak of a rose-colored world that will never exist if you stay at the side of the wrong person who will try to dazzle you with sweet talk and promises that will

never, ever be fulfilled. Please take care in whom you choose to give the best part of your lives to. Because nobody, absolutely nobody, has the right to beat or abuse another, or force another to do something that they do not wish to do.

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

Statement in Spanish:

Hola, mi nombre es María Magdalena Ventura López. Soy una víctima de trata de personas, solo quiero hablar sobre lo que yo viví en mi pasado. Hace dos años mi vida era totalmente diferente a la de ahora. Antes mi vida era llena de miedos, temores, preocupaciones, y maltratos físicos y verbales. Estos fueron causados por una persona llamada Fernando Gonzales. Él era mi pareja, el padre de mi hijo. Usaba mi hijo para obligarme a trabajar en la prostitución y me quitó todo, mi hijo, el dinero, y mi libertad. Estuve así por alrededor de 7 años desde que tenía 16 años.

Yo conocí a esta persona en mi ciudad que es Cárdenas, Tabasco. A los pocos días él me trajo con él para empezar su gran plan de lo que significaba para él un negocio. Al cabo de 7 años ya cansada de maltratos y abusos por parte de él y de la gente que abusaba de mí sexualmente, decidí abandonarlo e irme lejos y denunciar a esta persona. Con mucha fuerza y valor lo conseguí y aquí estoy ahora con una nueva vida lejos de toda aquella vida y empezando a recuperar mi vida después de tanto sufrimiento. Ahora tengo mis hijos conmigo y tengo a mi lado una persona que me quiere y valora como la mujer que soy.

Tengo principalmente el apoyo de mis abogados del Worker Justice Center of New York y del International Institute of Buffalo que me han ayudado a salir adelante apoyándome con todo, desde una casa donde vivir y comida, y estudiar inglés, y hasta la recuperación de mi hijo que no lo he visto desde hacía 4 años y tengo dos años sin saber de él. Gracias a dios y a estas personas ya lo puedo ver por fotografías y hablar por teléfono con él mientras espero que él llegue acá a mi lado.

Por eso yo quiero compartir mi experiencia con otras niñas y personas que sean víctimas como yo lo fui, que hablen y no tengan miedo al romper el silencio y abrir los ojos y no dejarse engañar y abusar por personas que le hablan de un mundo color de rosa el cual nunca llega estando al lado de la persona equivocada y que deslumbran con palabras y promesas que nunca pero nunca serán cumplidas. Por eso fíjense en quien y a quien quieren darle lo mejor de sus

vidas, porque nadie absolutamente nadie tiene el derecho de pegar, maltratar u obligar a alguien más a hacer algo en contra de su voluntad.

Por eso agradezco mucho al gobierno de este país, porque gracias a todo su apoyo estoy donde estoy con una vida mejor. Gracias por toda la ayuda tanto de servicios legales como tranquilidad mental que me han dado. Y así mismo espero que sigan ayudando a muchas personas que realmente necesitamos salir de un mundo totalmente equivocado por la falta de conocimiento u oportunidades. Gracias realmente por su apoyo.

Gloria Schaffer

Client of Empire Justice Center

Accompanied by Cathy Roberts, Sr. Health Law Paralegal

Testimony of
GLORIA SCHAFFER
Client of
EMPIRE JUSTICE CENTER

Submitted to
HON. CHIEF JUDGE JONATHAN LIPPMAN

THIRD DEPARTMENT
CIVIL LEGAL SERVICES HEARING

October 13, 2015

NYS Court of Appeals

Albany, New York

Background

Gloria Schaffer came to legal services through a referral from a local community-based HIICAP – Health Insurance Counseling and Assistance Program. She is a 65-year-old Schenectady County resident who had been getting Medicaid through the Marketplace.

She does not have enough of a work history (work quarters) to receive Social Security retirement benefits or free Medicare Part A. She is working to try to build up additional SSA quarters.

Her case highlighted a number of the complications clients are having under the ever-changing health coverage systems nationally and in New York. Much of the interactions between the NY Health Exchange (created under the Affordable Care Act), Medicaid and the various components of Social Security/Medicare (Parts A and B) have yet to be ironed out.

We helped her transition to non-MAGI (Modified Adjusted Gross Income) coverage (rather than stay in MAGI for the remainder of her continuous coverage period). This allowed her to have her Medicare Part B premiums paid directly through the Medicare Savings Program (as Qualified Medicare Beneficiary), rather than having to pay these premiums and wait to these reimbursed by Medicaid. It also allowed her to have QMB enroll her into, and pay for, Medicare Part A.

There is not (yet) a smooth process to transition early from MAGI to non-MAGI so we contacted the NYS Department of Health to help process the needed changes for Ms. Schaffer and we worked with DOH and the Local Department of Social Services (LDSS) to ensure she transitioned smoothly between the various programs and payment structures.

Statement of Gloria Schaffer

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

I was raised by my Grandmother in upstate New York. When she passed away I went to live with my Aunt and Uncle who were like parents to me. My Aunt got cancer and most of my life was spent taking care of her and then helping my Uncle after my Aunt passed away. We all lived together in their home and while I took care of them, they took care of me too. When my Uncle passed away I inherited the home, but now had to take care of all the expenses of living alone.

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

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

I went to HIICAP and they connected me to the Empire Justice Center and Cathy Roberts came right out to my house. She went through all the papers and helped figure everything out. She worked with social services and Medicare and Medicaid and she actually got me the coverage I needed with Zero payments.

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

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

David P. Miranda, Esq.
President, New York State Bar Association



DAVID P. MIRANDA

President, New York State Bar Association

Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, NY 12203
518/452-5600
FAX 518/452-5579
dpm@hrfmlaw.com

October 16, 2015

The Honorable Jonathan Lippman
Chief Judge of the State of New York
230 Park Avenue
Suite 826
New York, New York 10169

Chief Judge Lippman:

Thank you for the opportunity to share our plans for the State Bar to assist New York's lawyers to provide pro bono legal services to the indigent.

We appreciate your leadership as Chief Judge to shine a light on providing access to justice and address the unmet legal needs of indigent New Yorkers.

The increase in funding available to meet the legal needs of our needy clearly is having an impact. But despite these efforts, there remains an estimated 1.8 million unrepresented civil litigants in this state. This still staggering number has dropped by roughly a half-million since 2009, due in large part to the efforts undertaken by you and the Permanent Commission on Access to Justice.

In testimony given at the Fourth Department Hearing on September 20 we heard that based on a recent analysis by the Office of Court Administration the "Justice Gap" in New York has been reduced to 69 percent. However, the number of unrepresented civil litigants in New York courts is still too high. Many of these cases were impaired because of the failure to follow proper procedure, complete a requisite form or pleading, or simply because the plaintiff or defendant in a particular matter failed to appear in a given court on time or without important documentation and/or information.

The work of New York's network of professional civil legal services providers and their pro bono volunteers deserve a great deal of credit for the reduction in the number of unrepresented litigants. Through the help of these New York based non-profit organizations, in 2013, 384,974 litigants gained needed access to our courts and received the benefit of legal representation and assistance. And while this is an astounding number of New York citizens who have benefited from pro bono legal assistance, the need for more pro bono volunteers and legal assistance remains staggering.

I write today because I believe that the New York State Bar Association is in a unique position to address this problem head-on and make a real difference. It is our hope to leverage new sources of funding; utilize technology; and expand the number pro bono volunteers from our pool of 74,000 members to assist an even greater number of indigent New Yorkers gain the access to justice they so desperately need and deserve.

We believe that we need a statewide Center for Justice in Albany focused on enhancing and enlarging the current state-wide pro bono network. We are creating a Task Force to study the issues and how this can best be accomplished. Moreover, by providing easily accessible technology and tools that reduce some of the current barriers and/or reluctance preventing potential pro bono volunteers from contributing their “time, talent and treasure,” our goal is to increase the volunteer opportunities for more lawyers to assist an even greater number of indigent New Yorkers with their legal issues and, thereby, increase the pool of pro bono volunteers across the state and further narrow the justice gap.

Here is how we plan to accomplish these goals:

- 1) **Enlarge the Pool of Pro Bono Volunteers:** The State Bar intends to further collaborate with our network of New York pro bono providers, the Office of Court Administration, and private contributors, to build a state-wide data base whereby pro bono volunteers can access and sign up for pro bono clinics and other pro bono volunteer opportunities in their local communities. Volunteers will also be able to create a personal “pro bono profile” listing their areas of legal expertise, their geographic preferences and the times they are available to volunteer and assist pro bono clients. Ideally, the system will match the volunteers profile with potential pro bono client needs and chances to assist indigent clients.
- 2) **Enhance the Pro Bono Volunteer Experience :** In addition to the state-wide pro bono matching database proposed above, another effort to utilize technology and further enhance the pro bono opportunities available to NYSBA members will involve partnering with the American Bar Association in offering to potential attorney volunteers an e-mail based pro bono system. Utilizing a “limited scope representation model,” indigent New York clients will post legal questions on a system where volunteer attorneys can review the questions sorted by specific practice areas. Volunteers can then reply to the e-mail question with their legal advice and solutions. For this particular pro bono opportunity, volunteer lawyers engage in simply answering questions, but there is no actual court room representation involved. This particular system could also allow law students to work with licensed attorney mentors and learn from real life issues and fact patterns. The goal is to partner students with experienced practitioners to provide both the student and mentor a rewarding chance to assist indigent New Yorkers in a controlled environment that can be easily accessed anytime and at any location. This flexibility allows pro bono volunteers to work around their schedules and connect from the comfort of their home or office.
- 3) **Engage a Larger Donor Pool and Raise Additional Funds to Support State-wide Pro Bono Activities :** Working in partnership with the New York State Bar Foundation, we have created a joint committee with members from both The Foundation and the New York State Bar Association to raise additional funds in support of these proposed initiatives above. There are significant private, corporate and government donors and

grant moneys we hope to attract and engage in further funding our efforts to bridge the justice gap here in New York. This funding would be in addition to those funds already allocated to the current pro bono providers in New York.

As cornerstones of the legal profession, access to justice and one's right to participate in our court system are fundamental to protecting our liberties. As members of a proud and dedicated legal community, we can ill-afford to either delay or deny justice to those that need it the most.

We hope to be able to partner in some way with the court system to provide access to justice to the thousands of indigent New Yorkers who on a daily basis simply cannot get meaningful access to justice because they do not have legal representation. I request that you include this submission in the official record for the 2015 hearings on civil legal services and that the Permanent Commission consider these proposals as it prepares its report.

Thank you, again for allowing me to describe some of the efforts the New York State Bar Association will be taking to assist in narrowing the "Justice Gap".

Respectfully,

A handwritten signature in cursive script, appearing to read "David P. Miranda".

David P. Miranda

c: The Permanent Commission on Access to Justice

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 14:

**Written Statements Submitted at the Second Department
Hearing Held on October 16, 2015**

NOVEMBER 2015

Written Statements Submitted at the
Second Department Hearing on October 16, 2015

Hon. Thomas P. Zugibe (*District Attorney, Rockland County*)

Edward J. Sebold, Esq. (*Vice President & Assistant General Counsel, IBM*)

Shawn A. Miles, Esq. (*Executive Vice President and Associate General Counsel, Global Public Policy, MasterCard Worldwide*)

David Yawman, Esq. (*Senior Vice President & General Counsel, PepsiCo North America Beverages & Quaker Foods North America*)

Linson Bailey (*Executive Director, HELP USA's Supportive Services for Veterans Families*)

Kiron Dawkins (*Regional Director of Employment, Training & Community Services, WestCOP [Westchester Community Opportunity Program]*)

Rogerlyn Velez, Esq. (*Founder & Chief Executive Officer, Angels for Warriors*)

George Harris (*Client of Legal Services of the Hudson Valley, accompanied by Rachel Halperin, Esq.*)

Irma Silva (*Client of Pace Women's Justice Center, accompanied by Bertha Rodriguez, Esq.*)

De Ping Song (*Client of The Legal Aid Society, accompanied by Karen Cacace, Esq.*)

Djibril Cisse (*Client of The Family Center*)

Andrea F. Composto, Esq. (*President, Women's Bar Association of the State of New York*)

Catherine M. Wilson, C.M.A. (*Sensible Legal Procedures, Inc.*)

Unemployment Action Center, Brooklyn Law School Chapter

Hon. Thomas P. Zugibe
District Attorney, Rockland County

Thomas P. Zugibe
Rockland County District Attorney

Tom Zugibe was elected Rockland County District Attorney in 2007. He leads a staff of thirty prosecutors and two dozen criminal investigators. Since taking office in January 2008, Tom has been instrumental in implementing many innovative initiatives in the Rockland District Attorney's Office that have primarily emphasized prevention, intervention and diversion for youth. For instance, he has embraced Community Prosecution as a philosophical change in the functioning of his entire office. He was invited to present his community prosecution model in September 2009 before a plenary session of the Association of Prosecuting Attorneys (APA) Community Prosecution Conference held in Los Angeles and again in 2010 at the APA's Community Prosecution Conference held in Washington D.C. where he received the APA's Innovative Community Engagement (I.C.E.) Award, a national award recognizing individuals and prosecution offices that have demonstrated creative leadership in community prosecution. In 2011, the United States Department of Justice awarded a \$500,000 grant to the International Association of Chiefs of Police (IACP) to replicate Rockland's Community Prosecution model in three initial U.S. cities.

More recently, Tom has spearheaded an exciting new collaboration between his office, Rockland BOCES and the Rockland County Departments of Probation, Mental Health and Social Services entitled the Multi-Agency Collaborative for Safe and Healthy Youth. This collaborative resulted in the launch of the Rockland County Partnership for Safe Youth, a ground breaking initiative that enhances the effectiveness and productivity of services for youth and their families. This co-location center streamlines and coordinates the work of the individual agencies to identify at-risk youth and coordinate an effective response to address issues related to their safety.

Prior to his election, Zugibe worked for two decades in private practice and served as the West Haverstraw Village Justice for a period of eighteen years. He resigned from that position to run for District Attorney. Between 1981 and 1987, Tom served as a prosecutor in the Rockland County District Attorney's Office, where he was promoted to Executive Assistant District Attorney. His tenure in the District Attorney's Office included directing the Narcotics Division and Major Offenses Division. During this period, Tom investigated and tried a vast array of both violent crimes and complex "white collar" cases.

District Attorney Zugibe began his legal career as a Special Assistant Attorney General in the Office of the New York State Deputy Attorney General for Medicaid Fraud Control. Tom is a 1975 graduate of Manhattan College and received his Juris Doctor degree from St. John's University School of Law in 1979. He is admitted to the New York Bar and the Federal District Courts for the Southern and Eastern Districts of New York.

Testimony by the
Hon. Thomas P. Zugibe
District Attorney, Rockland County



For the Chief Judge's Hearings on Civil Legal Services

Presented Before

Hon. Jonathan Lippman,
Chief Judge of the State of New York

Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department

Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York

Claire Gutekunst
President - Elect of the New York State Bar Association

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

Thank you. Good morning Chief Judge Lippman, and members of this distinguished panel. I thank you for allowing me the opportunity to appear this morning to speak to you about the importance of civil legal services and the critical need for counsel for those less fortunate than ourselves. I am the District Attorney of Rockland County. Rockland County has a population of approximately 320,000 and combines suburban, urban and rural geography with an economically, racially and ethnically diverse population of residents.

I understand that this may be the last in a series of hearings on the need for access to lawyers in civil cases. I want to personally thank the Chief Judge for his efforts in increasing funding for civil legal services, providing keen focus and awareness of the desperate need for civil legal service programs and for addressing the need for civil counsel in many cases before the courts, whether it be privately retained, government provided, or volunteered. I know that other District Attorneys have testified during prior hearings, and I echo their calls that there is more to be done to increase the opportunities for counsel in civil arenas in our state. And, that funding civil legal services is important to law enforcement and a civil society.

The continued need for more resources for civil legal services and the need for counsel in civil cases extends from the single mother who has been forcibly evicted from her home -without due process of law in a local city or justice court to the domestic violence victim who cannot imagine leaving an abusive spouse because, quote, "I can't afford to leave" to the family that must sue in Supreme Court to obtain the benefits they deserve because one governmental office or another has unjustly denied the benefits. Access to competent advocates who will speak for the poor to obtain the help they deserve and desperately need remains an important mandate for our state.

The Chief Judge has invited District Attorneys to these hearings to ask what we believe is the importance of civil legal services.. The unfortunate truth is as District Attorneys we cannot do much to provide counsel in civil cases; our jurisdiction limits our responses in this arena. We can, however, and do, vigorously enforce the criminal laws in many areas where the civil and criminal lines intersect. Because of this intersection, we understand the impact and importance of both funding civil legal services and fostering partnerships and collaborations to create programs and opportunities to provide support for the needs of legal services and their clients.

For example, soon after I took office, I was approached by the Legal Aid Society and apprised of an ongoing problem. While most residential landlords appeared to be law abiding, some landlords were engaging in self help by forcefully and unlawfully evicting tenants without the due process the law affords them. In many of these cases, landlords were taking advantage of our most vulnerable residents including; the elderly and domestic violence victims. Section 235 of the Real Property Law makes it a criminal offense for a landlord to withhold willfully necessary services such as utilities or to lockout a tenant without a warrant of eviction, but the law was rarely enforced. Through the intervention of my office, we were able to protect these victims from further victimization. Without the vigilance of civil legal services providers in our community, the information needed to properly prosecute these cases might not have been reported.

Another example concerns victims of domestic violence. As every member of this panel is well aware, the biggest obstacle that prevents the effective prosecution of domestic violence victims is the unwillingness or inability of victims to cooperate in the process. And we know that this inability is the product of this cycle of violence and control that defines this scourge.

In addition to vigorously developing evidence-based cases that minimize and often eliminate the prosecution's reliance on the victim's cooperation, my office has begun a pilot program that amounts to a victim support network, to support them through what in many cases is the most difficult time in their lives. Our Special Victim's Center, built through the generosity of local businesses and donated union and private labor, provides a safe environment for these victims. There, and in home visits with victims, specially trained detectives and my special victims prosecutors meet with these vulnerable victims to provide the support they need to follow through on their complaints. The preliminary results of this pilot program are very encouraging, demonstrating thus far a significant increase in the number of victims who follow through with their cases.

Yet the problem of access to counsel persists in these and other vulnerable populations. There is no doubt in my mind that in the above examples an attorney's presence, legal expertise and guiding hand would most certainly increase successful outcomes. In fact, we are working with one of Rockland County's Family Court Judges to recreate the concept of our Special Victims Center, with its concomitant support structures, in the Family Court setting. This will allow "civil victims" the same access to counseling and attorneys that we currently provide to criminal victims. These and other very admirable pilot programs statewide demonstrate how a holistic approach to the problem of access to counsel and support services leads to better outcomes for many people in New York.

But there is more that can be done. Having read portions of prior testimony before this Commission, I am aware of Chief Judge Lippman's concerns regarding a potential right to counsel in civil cases. And I am pleased to see that the Legislature, because of the Judiciary's advocacy, has adopted a resolution declaring that the "fair administration of justice" obligates the state to ensure that all New York residents have "adequate" and "effective" legal representation

for matters pertaining to the essentials of life.

Your Honor mentioned Gideon v. Wainright, a United States Supreme Court case that guaranteed, for the right time, the right to counsel in criminal cases. There is no such right in "civil" cases. In fact, the Supreme Court has stated, as recently as 2011 that the Fourteenth Amendment's due process right to counsel only is implicated in civil cases where there is a possibility of incarceration as a remedy, and even then it does not exist in all such cases.¹ New York has also recognized that at least some civil cases require counsel. For example, the Second Department has found that a person facing a hearing pursuant to the Sex Offender Registration Act, popularly known as a "SORA Hearing," has the right to effective counsel at that proceeding.²

There is one other consideration that uniquely falls within the purview of the legislature and the courts. Courts in New York have never shied away from applying more broadly the protections embodied in the New York Constitution. In fact, the Court has consistently ruled, in both criminal and the appropriate civil cases, that the Due Process Clause embodied in New York's Constitution provide greater protections than its counterpart in the United States Constitution.³ Perhaps the time has come for the courts and the legislature to closely examine the need for guaranteed counsel in areas that have not before been known to require such representation. At a minimum, I would advocate for such counsel in domestic violence cases that have a civil

¹ Turner v. Rogers, 131 S. Ct. 2507, 2516 (2011)

² People v. Bowles, 89 A.D.3d 171 (2d Dep't 2011); see Matter of Richard N., 45 Misc. 3d 632, 640-44 (Sup. Ct. 2014) (discussing right to counsel for juror facing civil or criminal contempt proceedings for claiming medical reason for non-service but instead going to teaching job at college).

³ People v. LaValle, 3 N.Y.3d 88, 127 (2004); Sharrock v. Dell Buick-Cadillac, Inc., 45 N.Y.2d 152, 159-60 (1978)

component to them, such as concomitant child support or divorce proceedings. This would result in significantly better outcome in both the civil and criminal cases, and, most importantly, lead to better outcomes for victims and abusers alike.

The United States Constitution sets forth the basic laws and rules that guide our society in order to, as the Preamble states, "Form a more perfect union." That preamble also announces to the world that the Constitution was devised to "insure domestic Tranquility." While these three words most certainly do not allude to the scourge of domestic violence in this country, they could.

Another founding document strongly reflects the work of the Permanent Commission on Access to Justice and the purpose of these hearings. The Declaration of Independence states that it is "self evident ... that [all people] are endowed ... with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The language and spirit of the Declaration of Independence, the Constitution and the New York State Constitution combine to provide an umbrella of safety over the people who make up the United States of America and live in the great state of New York. The application of these great principles has resulted in a country and state that embodies the freedoms our country. Throughout the two-and-a-half centuries of our existence, we have established and expanded the rights of our residents for the better. I know that going forward we will continue to advocate for our most vulnerable citizens. I am proud to be a part of the system in the greatest state and the greatest country the world has ever known. Supporting civil legal services, the right to counsel and providing poor people with legal assistance is a critical part of how we continue to make sure the words of the founding

documents remain alive and continue to apply to our present society and the reality of the day to day lives of people in our state. Thank you very much.

Edward J. Sebold, Esq.

Vice President & Assistant General Counsel, IBM

Ed Sebold is Vice President and Assistant General Counsel for IBM Corporation. He oversees IBM's litigation globally, including litigation involving intellectual property, antitrust/competition, employment, securities, class actions, and commercial matters. Ed is a member of the Constitutional and Administrative Law Committee for the US Chamber of Commerce's National Chamber Litigation Center.

Before joining IBM in 2012, Ed was a partner with the Jones Day law firm in its Cleveland and Houston offices. In his more than 20 years of practice as a trial lawyer, Ed tried a variety of complex cases in state and federal courts across the country. Ed also handled complex arbitration matters in the U.S. and internationally.

Ed is committed to pro bono service. As a trial lawyer in private practice, he handled several significant pro bono matters, including a high profile death penalty case in which the defendant ultimately won his release from death row. Ed served on the Board of Trustees for Project: Learn -- an adult literacy organization. He was the pro bono coordinator for the Jones Day Houston Office. He is currently on the board of the Pro Bono Partnership in New York.

Ed received his B.A. from John Carroll University, and his J.D. from the University of Michigan. He clerked for Judge J. Harvie Wilkinson III of the United States Court of Appeals for the Fourth Circuit.

Testimony by

Ed Sebold, Assistant General Counsel at IBM

Corporation

For the Chief Judge's Hearings on Civil Legal Services

Presented Before

**Hon. Jonathan Lippman,
Chief Judge of the State of New York**

**Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department**

**Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York**

**Claire Gutekunst
President - Elect of the New York State Bar Association**

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

Remarks of Edward J. Sebold

For Chief Judge Jonathan Lippman's Hearings on Civil Legal Services

October 16, 2015

My name is Ed Sebold, and I am an Assistant General Counsel at IBM Corporation responsible for IBM's litigation worldwide and the leader of our Legal Department's global pro bono program. Thank you for this opportunity to testify today on these important issues.

Before delving into my remarks, I wanted to provide some brief background on my career because I think it informs my approach to the provision of civil legal services to the neediest members of our community. Before joining IBM in 2012, I was a partner with large international law firm. In that capacity, I represented some of the major companies in America in litigation matters touching on banking, healthcare and real estate. Some of the "toughest" cases for me, my clients and the court systems were cases involving pro se plaintiffs. By tough I do not mean on the merits – I can still assure my clients that I'm undefeated against pro se plaintiffs. Rather, I mean challenging because unrepresented plaintiffs are often unrealistic in their expectations about the legal system and the merits of their cases. That can make cases more difficult to resolve than they would be if the same plaintiffs were represented by attorneys -- attorneys who could help their clients navigate the legal system and could provide their clients with a realistic assessment of their cases.

I also started doing pro bono work almost from the moment I joined a law firm. And I can tell you that this work has been, and remains, some of the most satisfying legal work that I handled in my career. I know that sentiment is shared by many of my colleagues and many others at this hearing.

At IBM, I lead the Legal Department's pro bono efforts. While my day job focuses on litigation, my pro bono responsibilities require me to find pro bono opportunities for attorneys most of whom have more of a background in transactional and intellectual property law than in litigation. This shift in focus has forced me to think differently about how to motivate my colleagues to do the good work associated with pro bono representation.

With that background in mind, my remarks will focus on two main areas: 1. The importance to the business community of ensuring that civil legal services are available in matters involving the "essentials of life"; and 2. Expanding the availability of pro bono legal services by private attorneys.

I'm very pleased to present to this Panel, but I will confess that as I sat down to draft my remarks, I started to think that perhaps I was the wrong person from the wrong company to address the business community's views on ensuring that legal services are available in key areas such as housing, domestic relations, access to health care and education. My concern sprang partially from the nature of IBM's business. For the most part, we are not selling directly to consumers, rather our customers tend to be large enterprises in the public and private sector. And, traditionally, we do not directly provide housing, health care or education. Instead, we supply key information technology and services to businesses, governments and schools who then provide those critical goods and services.

As I thought about it more, however, I realized that we at IBM are actually in a wonderful position to address this topic for several reasons. First of all, the services that we provide touch all of these areas: housing, health care, education, the court system, the provision of government benefits,

and the list goes on. For example, we provide main frame computers to most of the major banks in America. But those computers cannot be fully utilized by our banking customers to handle mortgage transactions, for example, if the courts are so clogged with foreclosure cases that neither the banks nor their customers can get a fair and speedy hearing. Likewise, the greatest technology systems for processing government benefits cannot function fully if there is not an efficient legal system with adequate representation available to those who claim they have been denied benefits improperly.

In addition, as our business and pro bono efforts continue to evolve, we at IBM are becoming more directly involved in essential services such as healthcare and education. For instance, IBM's Watson Healthcare unit is helping doctors at prominent medical institutions find better ways to treat cancer. In the educational arena, IBM has been a pioneer in advancing educational opportunities for students in the STEM fields through our P-TECH initiative. P-TECH, which started in New York, is a great example of IBM giving back to the community. While this novel educational program does not directly involve legal services, many of my colleagues in the Legal Department have contributed their efforts to educate P-TECH students about the legal system.

So, my initial concern turned to a sense of relief; I and my colleagues at IBM do actually know something about the topic on which I was asked to speak. The importance we place in the United States on the Rule of Law sets us apart from most other countries in the world, and respect for the law is a cornerstone of our capitalist economy. Respect for and confidence in our legal system helps to promote social cohesion and public trust. Without these essential ingredients, business cannot function effectively. Unfortunately, our country seems to be facing a situation where public trust in our governmental institutions, including our court systems, is declining. I'm not a sociologist or a political scientist, and I would not begin to try to list all the reasons for the decline of public trust.

It is not hard to understand, however, that those citizens who cannot access the legal system because they are unrepresented by counsel may well lack respect for a system that seems alien to them. Not only does providing civil legal services promote respect for the law but it also makes the court systems operate more efficiently for everyone involved, including the business community.

Turning to the second of my two topics, I would like to provide some thoughts, and I hope insights, on ways to expand the provision of pro bono legal services by private attorneys. In terms of expanding services, I believe it is critical to find the right incentives and the right motivators to encourage our colleagues to give their time for pro bono work.

When it comes to pro bono motivators, we embrace what the corporate world refers to as "Tone from the Top." For pro bono to thrive, General Counsels have to endorse pro bono, promote it and support it. And the GC's deputies have to lead the charge in the field. In our company, we have achieved significant participation in pro bono matters when our Assistant and Associate General Counsels have served as executive sponsors for projects. For example, we have participated in two recent projects, one involving immigration issues and the other securing benefits for veterans, led by two of our senior lawyers. With those leaders as sponsors and models, other lawyers within the company rallied to the cause.

As a further means of encouraging pro bono participation by those in corporate legal departments, we should focus on the benefits to our lawyers of providing civil legal services. These

benefits including gaining experience, generating exposure and demonstrating leadership abilities. What's more, representing pro bono clients provides a lifetime of fulfilling memories. Indeed, when someone asked me recently at my 25th law school reunion about my most interesting cases over a career, pro bono matters were at the top of the list.

As a final suggestion for expanding the provision of legal services, we should continue to encourage partnerships between in-house lawyers and their outside counsel. In my experience, law firms are eager to pair with their in-house clients to provide civil legal services for those in need. This creates a win-win situation: law firms build bridges with their clients and this combination provides legal services to members of our community who otherwise lack access to those services.

IBM lawyers recognize how important it is to ensure that civil legal services are available here in New York. And, we are committed to that mission. In 2009, for example, Judge Lippman presented the IBM Legal Department with the New York State Bar Association President's Pro Bono Service Award. Our commitment has been ongoing. In 2014, IBM was honored by the New York City Bar Association for our commitment to pro bono. We appreciate the opportunity afforded by the Panel to discuss these vital issues and we look forward to engaging in a continuing dialogue.

Shawn A. Miles, Esq.

Executive Vice President

Associate General Counsel, Global Public Policy

MasterCard Worldwide

Biography



Shawn A. Miles

*Executive Vice President
Associate General Counsel
Global Public Policy*

Shawn A. Miles has worked for MasterCard for over 23 years, amassing a wide range of experience across both business, public policy and legal areas of the company. In his current role, Mr. Miles has responsibility for MasterCard's public policy and community affairs matters globally.

Prior to this role, Shawn was responsible for the public policy efforts in North America and Europe and community affairs, regulatory and litigation matters globally. Shawn previously served in the Law Department with increasing levels of responsibility as lead counsel for various business units (e.g., Global Product, Co-branding, Marketing, Commerce Development, US Member Relations, Canada Region). Prior to joining the Law Department, he worked for eight years in various business units including, Interchange, Franchise Management, Global Research and Analysis and Product and Service Delivery. From 1988 to 1991, he was an intern in the Inroads program and conducted rotations within the Marketing and Finance areas.

In addition to his public policy and legal work, Mr. Miles is on the Northeastern Board of Directors for Operation Hope. He also serves on the Board of the ProBono Partnership. As a demonstration of his commitment to diversity and the community at large, he led the initial creation of diversity programs for the Law Department, including a mentorship program with minority law students at Pace University's Law School and a pro bono program to provide legal support to local nonprofit organizations that serve the poor and disadvantaged.

Mr. Miles is a recipient of the 2005 Black Achievers in Industry Award presented by the Harlem YMCA, won the 2005 Business Council of Westchester County's "40 Under 40 Rising Stars" Award, MasterCard's CFO Award in 2011 and the MasterCard General Counsel's Award of Distinction in 2007 and 2004.

Mr. Miles received a Bachelor of Science degree from Hampton University, and a Doctor of Jurisprudence degree from Brooklyn Law School. He was an evening student at Brooklyn Law School, while working at MasterCard and served as member of the Journal of Law and Policy and the Moot Court Honor Society.

Mr. Miles is admitted to the bars of the State of New York and Connecticut.

Testimony by

Shawn Miles, Executive Vice President and Associate
General Counsel, Global Public Policy

The Chief Judge's Hearings on Civil Legal Services

Presented Before

Hon. Jonathan Lippman,
Chief Judge of the State of New York

Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department

Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York

Claire Gutekunst
President - Elect of the New York State Bar Association

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

Testimony of Shawn A. Miles
Chief Judge Jonathan Lippman's Hearings on Civil Legal Services
October 16, 2015

Good morning, my name is Shawn Miles, and I am the Executive Vice President and Associate General Counsel, Global Public Policy at MasterCard Worldwide. I would like to thank the panel for the opportunity to speak today on the importance of civil legal services.

First, I would like to offer a brief background on MasterCard. MasterCard is a technology company in the global payments industry. We operate the world's fastest payments processing network, connecting consumers, financial institutions, merchants, governments and businesses in more than 210 countries and territories. MasterCard's products and solutions make everyday commerce activities—such as shopping, traveling, running a business and managing finances—easier, more secure and more efficient for everyone, through our family of well-known brands, including MasterCard, Maestro and Cirrus. We are proud to call Westchester County home with approximately 1500 employees at our corporate headquarters in Purchase.

The mission statement for our organization's Community Steering Committee, which oversees pro bono legal activities, is to create a simple and clear volunteerism plan that is institutionalized and focused towards our corporate philanthropic priorities: (1) youth and education, (2) encouraging entrepreneurs, and (3) financial inclusion for underserved consumers, including education. As a business, we value access to justice and the rule of law. We also understand the role civil legal services play in ensuring fairness for all in the justice system, including the most vulnerable members of the community, many of whom we interact with everyday. We also recognize that solving the problem of the unmet civil legal needs of disadvantaged and low income New Yorkers is a societal problem that needs to be dealt with by all segments of society, including both the public and private sectors.

Our pro bono mandate permeates our organization but is an especially prominent part of the culture at our Purchase headquarters where we work with two legal flagship partners, Legal Services of the Hudson Valley (LSHV) and the Legal Aid Society, on a variety of civil legal service matters. I would like to focus on one particular matter that MasterCard recently

undertook together with LSHV as representative of our dedication to ensuring access to civil legal services. LSHV receives public funding from the judiciary and, as a result, is able to provide free civil legal services in Westchester County to those who cannot afford an attorney where basic human needs are at stake. On June 1, 2015, MasterCard and LSHV held a joint consumer debt clinic at the YMCA in White Plains in the interest of serving the many LSHV clients who face the all-too-common problem of dealing with consumer debt. To prepare for the clinic, over twenty employees of MasterCard attended a training conducted by a staff attorney from LSHV and a pro bono attorney with experience in consumer debt. Topics included consumer and student loan debt, obtaining and understanding a credit report and personal budgeting. MasterCard's staff learned about LSHV's clients and the challenges they face on a daily basis. At the clinic, clients were paired with MasterCard staff who addressed their specific issues regarding consumer debt. The clients were grateful for the assistance of the volunteer attorneys and staff who helped them make sense of their complicated situations. We look forward to partnering with LSHV in the future on other matters to serve the local community and convey to the panel the importance that public funding provides to an organization such as LSHV.

Protection of such core principles of our justice system, such as fair access to legal services and equal protection under the law, is not the sole responsibility of the government. Private institutions benefit from social cohesion, public trust and economic stability, all of which are fostered by ensuring widespread access to civil legal services. This underscores the need for the private sector to be engaged in offering civil legal services to the underprivileged. Getting involved is not difficult, thanks to organizations such as Pro Bono Partnership (Partnership) on whose board of directors I serve. The Partnership provides business and transactional legal services to nonprofit entities serving the disadvantaged or enhancing the quality of life in Westchester County and throughout the Tri-State area. The Partnership's client list in Westchester County alone ranges from The Food Bank of Westchester, My Sisters' Place and Neighbors Link to the Westchester Land Trust, Jacob Burns Film Center and the Emelin Theatre, just to name a few. The Partnership creates volunteer opportunities which are uniquely structured to suit the talents and needs of in-house counsel and law firm attorneys specializing in non-litigation practice areas. In 2016, the Partnership anticipates working on 180 to 200 legal matters for 110 to 120 Westchester nonprofit organizations. The Partnership is able to provide

nearly all of its services without charge through the generosity of individual and institution donors, its experienced legal staff, and the volunteer participation of the broader legal community.

In closing, on behalf of MasterCard, I would like to emphasize the significance of ensuring civil legal services are available to underprivileged New Yorkers. We encourage the judiciary to continue to promote access to such crucial services by renewing funding for those that are dedicated to providing them. MasterCard also plans to continue our commitment to pro bono legal services as part of a larger effort by the private sector to provide outreach to the community in which we live and work.

We appreciate the opportunity to provide our written testimony, and please feel free to contact Shawn Miles at 914- 249-5061 if we can answer any questions that you may have.

David Yawman, Esq.

Senior Vice President & General Counsel

PepsiCo North America Beverages

Quaker Foods North America

**Sixth Annual Hearings on Civil Legal Services
Second Department
NYS Chief Judge, Jonathan Lippman
Presiding Justice Second Department, Randall T. Eng
NYS Chief Administrative Judge, Lawrence Marks
NYS Bar Association President-Elect, Claire Gutekunst**

**Friday, October 16, 2015 10:00am – 12:00pm
NYS Judicial Institute, 84 North Broadway, White Plains**

**Testimony of:
David Yawman, SVP & General Counsel
PepsiCo North America Beverages / Quaker Foods North America**

Good morning. My name is David Yawman. I am testifying today on behalf of PepsiCo, where I have been an employee for nearly 17 years and where I currently serve as the General Counsel of two of PepsiCo's operating divisions – PepsiCo North America Beverages and Quaker Foods North America. I've been an attorney for 20 years and a member of the New York State Bar Association for almost my entire legal career.

Before providing comments on the importance of civil legal services to PepsiCo and the business community, I would like to personally express my thanks to the Chief Judge, and the other members of the judiciary and the bar for bringing much needed attention to the issue of civil legal services. I was born and raised in Rochester, where my father is a career-long social worker, working with those in need and on the margins, and I have been a resident of Westchester County for more than 15 years. For most of my adult life, I have been active in pro bono legal services as well as other community-based organizations, such as the United Way. Over the course of my life in New York, I have witnessed the unmet need for civil legal services and, for that reason, I personally support the purpose of today's hearing and your Honor's leadership and efforts to advance access to justice and civil legal services in New York State.

As mentioned, I work at PepsiCo and New York State is the longtime home of PepsiCo's worldwide headquarters, as well as the headquarters for its largest operating division – the beverages business in North America. Of PepsiCo's nearly 275,000 employees worldwide, roughly 6,500 of our employees work in New York State. And, while PepsiCo's business is global and very large in scale, we operate day in and day out at a very local level. Indeed, our products are either made, warehoused, delivered, or sold in nearly every community in New York State. And, I would hazard to guess that virtually every person has enjoyed a PepsiCo product – be it a Pepsi, Gatorade, Aquafina, Tropicana, Lays potato chip, Sabra hummus, Quaker oatmeal or one of many others.

PepsiCo (along with the other members of the business community) have a great interest in the overall health and well-being of our broader society. At PepsiCo, we operate our business under the mantra of "Performance with Purpose" . . . the idea that we can do good (from a business perspective) by doing good (by caring for the broader community in which we conduct our business). In essence, Performance with Purpose is our way of emphasizing the symbiotic relationship between business and the broader society. And, because PepsiCo products are ubiquitous and our business reaches into every community and touches almost everyone, we believe we have an even greater interest, if not a responsibility, to support the infrastructure of our society . . . not just by giving back to the community, but by engaging in it.

At PepsiCo, we view civil legal services and access to justice as critical infrastructure elements in ensuring a strong society and a sustainable business environment and our in-house lawyers volunteer their time to pro bono legal services. Moreover, I would highlight two important ways in which our business is impacted by civil legal services.

First, our employees. As I mentioned, PepsiCo employs many New Yorkers and we have a great interest in enabling a better life for our employees. Notably, many of our employees work on the frontline of our business – from loading products in our warehouses . . . to driving trucks to deliver our products . . . to merchandising our products on store shelves. They work long and hard . . . and they earn a living . . . but their resources are limited and they can't necessarily afford to hire an attorney to help them with a civil legal matter. And, when faced with a foreclosure, a divorce, child support, or other civil legal issue, they can easily be

intimidated or overwhelmed. Ultimately, they can be consumed by both the substance and process of a legal proceeding, and they're often forced to take time off from work. For hourly employees, taking time off from work to deal with a legal matter reduces their overall pay and can have sequential negative impact on their life and the lives of those around them. Their absence from work, in turn, impacts the productivity of business. By way of example in one recent, extreme case, a PepsiCo employee in another state who was jailed for 3 days for failure to pay child support. On the day he was jailed, PepsiCo had no idea why the employee had not shown up for work and had to unexpectedly make up for his absence by hiring temporary labor. After confirming his whereabouts and knowing some of the background, the employee's manager at PepsiCo took the time to assist the jailed employee. The PepsiCo manager learned that the employee had not intended to avoid his child support responsibilities, but had simply failed to fully implement the proper administration of his child support payments (which, in turn, resulted in non-payment). The complexity of the legal process, rather than the employee's ill will, had ultimately led to his imprisonment. In these situations, the impact to both the individual and PepsiCo combine to negatively impact our community and our business. Through greater access to civil legal services, our employees would be able to more effectively and efficiently manage legal issues and minimize the disruption to their lives. And, the negative impact on our employees and our business would certainly be decreased.

Second, our customers. PepsiCo's customers include many small businesses – from convenience stores, to pizza shops and delis, to gas stations. Many of these businesses are sole proprietorships or family owned and operated . . . frequently with one individual who is the core of the business. The owners put in long hours and the business survives largely as a result of one individual's sweat equity. Some owners live in an apartment that is in the same building as the store, and some live hand to mouth for a period of time as they start and try to build their businesses. For a sole proprietor, a civil legal matter can drain the business of critical resources and disrupt their business, their life and their families. Capable, affordable legal assistance can be the difference between quickly reaching an amicable solution and engaging in prolonged, expensive litigation. Litigation at the nascent phase of a business (or for any small business) can bring a premature end to that business, resulting in the termination of

employees, an empty store front and one less customer for PepsiCo. Greater access to civil legal services would only help to avoid these potential outcomes and, for those matters that reach the court system, would undoubtedly ease the additional burden on the courts that can come with inexperienced, pro-se litigants.

As any business leader knows, resource allocation is one of the toughest decisions he or she has to make. Businesses try to invest resources in areas or projects that will produce the greatest return on the investment. In the broadest sense, investments are intended to either increase revenue or decrease costs. Investments that drive revenue are seemingly always attractive, but investments that advance efficiency and lower costs are equally valuable to a business as lower costs improve the overall profitability of the business.

It seems clear that inadequate civil legal services and unequal access to justice result in great costs to society -- unwitting individuals can lose their homes or property rights, business productivity and the economy overall suffers, and the Court system operates less efficiently. Thus, from a business perspective, the question does not appear to be whether an investment in civil legal services would render a positive return on that investment, but rather how large the return would be.

Your Honor, PepsiCo supports your efforts to advance this resource allocation analysis in New York State and to promote investment in civil legal services. We thank you for your service as Chief Judge and we appreciate the opportunity to participate in the hearing today.

Linson Bailey

Executive Director

HELP USA's Supportive Services for Veterans Families

Testimony by

**Linson Bailey, Executive Director, HELP USA's Supportive
Services for Veterans Families**

The Chief Judge's Hearings on Civil Legal Services

Presented Before

**Hon. Jonathan Lippman,
Chief Judge of the State of New York**

**Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department**

**Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York**

**Claire Gutekunst
President - Elect of the New York State Bar Association**

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

My name is Linson Bailey and I am the Executive Director of Help USA's Supportive Services for Veterans Families Program. Thank you for inviting me to testify today regarding the need to provide legal services to veterans. HELP USA believes that no person, especially not someone who has served their country, deserves to be homeless.

HELP USA was founded in 1986 with the goal of better serving homeless families in New York City. We built our first building in the East New York section of Brooklyn, and with its completion, changed the way people thought about homeless service. Our success and innovative thinking in New York has helped us grow into a national organization, but our headquarters, and the bulk of our programming, remains in New York State.

HELP USA operates thirty residences and programs across five cities in New York State. Since 1986, HELP has invested more than \$175,000,000 in capital projects in the state, and built 3,200 units of housing for homeless and low-income New Yorkers.

HELP's holistic approach of providing safe, quality housing, on-site professional case management, and employment and counseling services is a proven resource for homeless and at-risk veterans, male or female. For the past 25 years, HELP USA has developed and implemented new and innovative approaches to helping the homeless and other populations in need, playing a leadership role in homelessness prevention and family stabilization. HELP's program model for veterans' services reflects our ongoing commitment to build better lives. We use our model to encourage veterans to rebuild their lives and gain self-sufficiency for their families.

HELP operates a Supportive Services for Veteran Families (SSVF) program that provides homelessness prevention services to individual veterans and veteran families throughout New York City and in Las Vegas. SSVF is a pioneering program funded by the Veterans Administration; the program's goals are to stabilize and support veteran families, keep younger veterans from becoming homeless, and help veterans who have experienced homelessness exit shelter and return to the community.

The employment training, support services, and life skills programs that HELP provides to assist veterans and their families with the transition back from war

includes financial literacy, employment services and job training, job placement and retention, family stabilization services, case management, educational and psychological counseling, health service coordination, and day care and mentoring programs for children. The programs assist returned or returning military personnel as they face the challenging task of reintegrating into civilian life.

One of the most important and sought after services for veterans is civil legal services. When veterans come into contact with HELP USA they frequently need legal services to help with life altering issues involving eviction, homelessness, family law, and consumer law matters.

Since 2013, our SSVF program has partnered with Legal Services NYC's Veterans Justice Project to provide more comprehensive services to the veterans we assist. The Veterans Justice Project's attorneys and paralegals have become an integral part of how we provide services to veterans. Their paralegals staff weekly clinics at three of our sites where they meet with our staff and veterans and screen for legal issues. After screening, the Veterans Justice Project attorneys provide full representation for veterans with a variety of legal needs. As the SSVF program focuses on housing issues, the bulk of the legal issues presented are housing related. The Veteran Justice Project attorneys represent our veterans in housing

court and other forums in order to ensure that our veterans do not face eviction.

Beyond eviction prevention, many of our veterans face other legal issues which are a barrier to self-sufficiency and family stabilization. These issues include access to benefits from the Social Security Administration, the Veterans Administration, public assistance and food stamps. Veterans are also assisted with consumer debt, defaulted student loans, family law issues and a variety of other legal needs.

In addition to direct counsel and representation of veteran clients, the Veterans Justice Project provides technical assistance to and training for our front line staff.

Our partnership with the Veterans Justice Project recognizes the import role that attorneys and especially free legal services must play in addressing the problem of veteran homelessness and poverty. It is encouraging to be here to tell you about our program and to encourage the legal community to follow the example of our partners at Legal Services NYC in providing legal assistance to New York's veteran community.

Kiron Dawkins

Regional Director of Employment, Training & Community Services
WestCOP [Westchester Community Opportunity Program]

Kiron Dawkins Bio

Kiron R. Dawkins stands at the forefront of the rapidly changing Non-Profit industry through services innovation. He's spent the last four years evangelizing an industry-wide shift of community based collaboration to service returning Veterans and has helped position WestCOP as a leader in the space of critical time interventions with Veterans in housing crisis.

Throughout his 12-year tenure with WestCOP, Kiron has built a reputation for developing business strategies, incubating new program models, and building out programs in key areas. He also developed and manages the largest Supportive Services for Veterans and their Families Program (SSVF) and has brought nearly four million dollars to the region over the last three years with another near two million in year four to serve Veterans under this initiative.

Embracing the core values of integrity, innovation, and growth, Kiron consistently ranks among the top 5% of WestCOP employees. Starting as a transportations liason for a State Funded Wheels for Work initiative Dawkins quickly achieved targets and exceeding organizational expectations. He has been promoted five times since 2003 and continues on the fast track of career development.

Kiron holds a Bachelor of Arts Degree from the College of New Rochelle with a concentration in Communications. He has a certification in Trauma Response and Crisis Intervention from Rutgers University, a Certificate in Leading Strategic Innovations in Organizations from Vanderbilt University, and a Master Certification in Project Leadership and Systems Design from the School of Engineering at Cornell University. Kiron is a valued speaker on program design, presenting regularly at conferences and other industry events. Kiron lives in New Rochelle, NY is the husband of a beautiful wife and has four lovely daughters.

Testimony by

**Kiron Dawkins
Hudson Valley Regional Director of WESTCOP**

Chief Judge's Hearings on Civil Legal Services

Presented Before

**Hon. Jonathan Lippman,
Chief Judge of the State of New York**

**Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department**

**Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York**

**Claire Gutekunst
President - Elect of the New York State Bar Association**

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

Testimony

Kiron Dawkins, Hudson Valley Regional Director of WestCOP

Good morning. My name is Kiron Dawkins and I am the Hudson Valley Regional Director of the Westchester Community Opportunity Program or WestCOP. I want to thank you for providing me with an opportunity to testify today about the importance of civil legal services for veterans. WestCOP is a private not-for-profit, multipurpose social service agency that for the last 50 years, has worked to combat poverty and its adverse effects throughout the Hudson Valley. We serve approximately 30,000 individuals each year with an extensive menu of supportive services. We collaborate with more than 600 social service agencies operating in the Hudson Valley. In my role at WestCOP, I developed and manage the largest Supportive Services for Veterans and their Families Program (or SSVF) in the Hudson Valley region.

Our SSVF Program combats veteran homelessness through innovative models of service delivery that promote housing stability among very low-income Veteran families who reside in or are transitioning to permanent housing. While we are determined to improve and expand veterans services for returning troops, many of whom have sustained physical and psychological injuries, we also must improve the effectiveness of informing veterans and their family members about

the full range of available community based resources. So many of our younger and women veterans do not self-identify as veterans and methods need to be improved to discover an individual's military service history.

Low-income veterans often face a multitude of complex issues including housing insecurity, mental and physical health problems, income instability, and family issues. Data shows that among these varying needs, three of their highest ranked needs involve civil legal assistance. Specifically, low-income veterans facing eviction or foreclosure rely on legal representation to ensure that their rights are being asserted and that if possible, their housing is being preserved. In the event that they cannot maintain their housing, legal assistance can delay the eviction or foreclosure – thus, providing time for the veteran to apply for benefits or find subsidized housing to prevent them from becoming homeless.

Additionally, there is a high need for veterans for legal services to assist them with child support issues. Child support orders that are set fairly in amounts that are proportionate to the veteran's income can increase the reliability of payments for children and support healthy co-parenting relationships and responsible fatherhood. Moreover, veterans may also face outstanding warrants or fines that can compound other financial obligations such as child support. Legal assistance can help veterans navigate conflicting civil and criminal obligations, improve manageability

and efficiency of collections, and where possible, prioritize child support and restitution.

In addition to these top three concerns, there are a multitude of other legal needs for low-income veterans as well that include: assistance securing a divorce or child custody arrangement; credit counseling; fair credit reporting act problems; and veteran and other government benefits issues. Attorneys can help veterans navigate through complicated systems and bureaucracies so that they can apply for a wide array of benefits for which they may be eligible. Legal assistance can include ensuring that applications are filled out correctly and records of service are compiled accurately; as well as representing veterans whose benefits are erroneously cut off so that their benefits can be reinstated.

Part of WestCOP's innovative SSVF Program is partnering with Legal Services of the Hudson Valley to provide our veteran clients with the legal assistance they require on issues that impact the essentials of life. These issues such as eviction, foreclosure, child support, custody, disability, and benefits further destabilize veterans who are already teetering on the edge. Without the assistance of lawyers, veterans are left on their own to steer through complex legal issues that can have dire consequences on their lives. Since 2013, WestCOP and Legal Services of the Hudson Valley have established a streamlined referral process so that veterans can receive high-quality, free, civil legal assistance in these matters

that impact a veterans' ability to maintain stability and safety in their lives. Clients feel such a relief to know that specialized attorneys are available to provide them with advice and counsel and extended representation in matters that can prevent homelessness; obtain or maintain essential benefits; allow them to spend meaningful time with their children; or resolve outstanding debt. Legal Services of the Hudson Valley has always been there for clients we refer.

WestCOP values its partnership with Legal Services of the Hudson Valley because it enables our SSVF program to truly provide comprehensive and holistic services to veterans that are tailored to the unique and complex needs of this population. Without meaningful access to justice, the very people who served our country and protected us would be left vulnerable and unprotected. This is not acceptable in a just and moral society. Access to civil legal services is integral in allowing low-income veterans to maintain housing and economic stability; foster healthy family relationships and restore the dignity they deserve.

Rogerlyn Velez, Esq.
Founder & Chief Executive Officer
Angels for Warriors

Testimony by

Rogerlyn Velez, Esq., CEO, Angels for Warriors

The Chief Judge's Hearings on Civil Legal Services

Presented Before

**Hon. Jonathan Lippman,
Chief Judge of the State of New York**

**Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department**

**Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York**

**Claire Gutekunst
President - Elect of the New York State Bar Association**

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

Testimony of Rogerlyn Velez Esq.
Founder & CEO Angels For Warriors
The Chief Judge's Hearings on Civil Legal Services
October 16, 2015

Opening: My name is Rogerlyn Velez. I was admitted to practice law in New York in 1993, and am admitted to both the United States Southern and Eastern District Courts. I maintain a small solo practice in East Islip, N.Y. and am an Adjunct Professor At Molloy College. I am also the Founder and CEO of Angels for Warriors a grassroots 501 (c) (3) charitable organization, resource and advocacy center on Long Island for Veterans and their families.

I founded Angels For Warriors in late 2012 as a result of my experience advocating for my brother, Sgt. Angel Velez, who was severely injured during a mission in Afghanistan. I traveled from one military hospital to another while my brother was treated for his many injuries. Seeing that my brother's condition was worsening while under the care of the military, I made arrangements to have my brother transferred to N.Y.U. hospital. However, his transfer request was denied. I was not willing to let my brother, who had served 2 tours of duty, die in a VA hospital, so I went up the chain of command and continued my advocacy until I received a phone call from the Colonel in charge who told me that he had signed the transfer orders to have my brother transferred to N.Y.U hospital and that Military would cover his care.

Similar roadblocks continued throughout my brother's recovery. Fortunately my legal background helped me navigate through the roadblocks. Today, while my brother relies

on a cane to ambulate, he is alive and a thriving member of society. This experience prompted me to create Angels For Warriors as a way to ensure that our returning warriors could more easily access the benefits and critical programs to which they are entitled.

Legal Assistance is one of the most critical services that veterans need.

During the past three years, I have noticed a shift in the legal needs of our Warriors. They have contacted our offices and we have provided them with legal assistance in the areas of matrimonial/ family law, landlord/ tenant, foreclosure, debt consolidation, drivers license reinstatement, traffic and motor vehicle infractions, and disability. AFW provides assistance with the generosity of volunteer attorneys and attorneys willing to reduce their fees. We take on the representation of veterans regardless of discharge or income guidelines. While there is currently a concerted effort to address medical care and homelessness among veterans, our veterans legal issues are not being addressed as well as they should be. I believe our Warriors' next battle is legal rights. According to the 2013 Census, Long Island had close to 150,000 veterans. Per capita, we have the largest population of veterans within the State of New York.

We are facing a call to action on Long Island. Our veterans are in desperate need of help. Angels for Warriors is a small organization and the civil legal needs of returning are great.

Over 22 veterans a day commit suicide which is double the suicide rate of the civilian population. I recently had a young veteran come to my office. He had been a sharp shooter in Iraq. He was sleeping on his parents couch while trying to finish a training

program so that he could find a job. He told me that his wife had left and taken the kids. He was behind in child support payments, had not seen his kids in over 4 months and could not afford to hire an attorney. During our intake process he began to cry and seemed to be unraveling. He kept asking, "How can our government just expect us to come back and become regular civilians with no support?" At that point, I stepped out of the room and contacted the O.E.F. / O.I.F (Operation Enduring Freedom/Operation Iraqi Freedom) director at the VA. The young veteran agreed to go to the VA Hospital for evaluation. I drove him in my car while my paralegal drove the veteran's car to the VA Hospital. I believe we saved a life that day. He is currently receiving treatment and when he is done with his treatment we have an attorney prepared to help him with his legal issues.

Currently there are only four organizations on Long Island, including AFW, that offer some form of legal assistance to our veterans. One of these organizations is Nassau Suffolk Law Services. Historically they have provided free legal services to veterans who are under 200% of the Federal Poverty level within their existing projects, in the areas of landlord/tenant, Medicaid, consumer debt, foreclosure defense, public and disability benefits and pro bono matrimonial referrals. They currently have a new Veterans Rights Project that will continue to provide assistance in these same areas with a specific focus to veterans' needs such as VA benefit appeals and discharge upgrades. Other programs on Long Island provide legal assistance, such as Touro's Veterans Clinic, but there is a much greater need for veterans' legal services than can be provided by these existing programs.

VA studies show that there is a distinct correlation between, unresolved legal issues,

financial pressure, and homelessness. This should not be our legacy. We need the funds to provide our veterans the services they so desperately need.

Our Warriors Stood up and Volunteered to protect our Freedoms

It is our turn to stand up to protect their rights.

George Harris

Client of Legal Services of the Hudson Valley

Accompanied by Rachel Halperin, Esq.

Testimony by

George Harris

**The Chief Judge's Hearings on Civil Legal Services
Presented Before**

**Hon. Jonathan Lippman,
Chief Judge of the State of New York**

**Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department**

**Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York**

**Claire Gutekunst
President - Elect of the New York State Bar Association**

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

Good morning. My name is George Harris and I am a veteran of the United States Armed Forces. I want to thank you for the opportunity to speak to you today about how important access to high-quality, free civil legal services is for low-income veterans to ensure that we are able to protect the basic necessities of life - including housing and benefits.

I served in the military for six years – including time in the National Guard, Army, and Navy. After being honorably discharged, my health deteriorated. I suffer from PTSD. I also have two dislocated shoulders; diabetes; and was diagnosed with prostate cancer one year ago. In addition to my health problems, I have experienced housing instability for decades. On three occasions, I found myself homeless – having to turn to the VA facility in Montrose for emergency and transitional shelter.

Eight years ago, I was lucky enough to be awarded a Veterans Affairs Supportive Housing voucher from HUD. I found a nice apartment in Peekskill and felt such a relief to have my own apartment. Despite my low income – I live on only disability and food stamps – I was able to pay the rent and feel stable. Having stable housing enabled me to focus on improving my health and gave me a sense of peace.

That security was threatened when my landlord served a Petition on me trying to evict me. This happened right at the time that I was diagnosed with prostate cancer and starting treatments. The Petition claimed that I had violated my lease by having too many guests over and making too much noise. I was shocked and upset. I live alone and rarely have guests to my apartment and I knew that the allegations in the petition were not true. I also knew that without an attorney to assist me, I could very well be evicted. I had once before been to

housing court when I fell behind on my rent and I didn't understand the court process and was very stressed out. I didn't know my legal rights and I didn't know how to fight this Petition.

I knew that Legal Services of the Hudson Valley had an office right down the street from my apartment in Peekskill. I walked into the office with my Petition and completed an intake. My case was assigned to an attorney – Mihaela Petrescu. She met with me and went through the allegations in the petition. She also met with and interviewed other tenants in the building and confirmed that the noise and guests were not coming from my apartment, but from other tenants in the building. Additionally, she got a copy of police reports that included noise complaints for other units. With this information, she filed an Answer to the Petition. The next thing I heard from Mihaela was that the landlord had dismissed the Petition against me! I was thrilled to be able to keep my apartment.

Having Legal Services of the Hudson Valley represent me relieved me of so much stress and pressure. I know that I would not have been able to fight and win this case without Mihaela's assistance. If I had lost my apartment and VASH voucher, I know that both my physical and mental health would have seriously deteriorated. I am glad that I served my country and that agencies like Legal Services of the Hudson Valley are available to help veterans ensure that they are able to maintain the basic necessities of life. I continue to work with Mihaela on other issues and I am so grateful to have this wonderful organization in my neighborhood. Thank you.

Irma Silva

Client of Pace Women's Justice Center
Accompanied by Bertha Rodriguez, Esq.

Testimony by

Irma Silva

The Chief Judge's Hearings on Civil Legal Services

Presented Before

**Hon. Jonathan Lippman,
Chief Judge of the State of New York**

**Hon. Justice Randall T. Eng,
Presiding Justice of the Second Department**

**Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York**

**Claire Gutekunst
President - Elect of the New York State Bar Association**

October 16, 2015,
NYS Judicial Institute
84 North Broadway
White Plains, New York

My name is Irma Silva and I live in Mahopac New York in Putnam County. I would like to talk about how much the Pace Women's Justice Center helped me and my children from the horrible situation of domestic violence which we had been living with for many years.

For years, my husband made me think I was not worthy of anything and I would be nothing without him. So I thought if we get married, he'll change, after all he is only like that when he drinks. But, he didn't stop. Yes, we got married and had a couple of kids, but his drinking and his behavior did not change. He had terrible mood swings. He would call me bad names and always want to know where I was, and accuse me of being with other men, even when I was out with our children. He would raise his hand, as if to hit me, but then hit and break things in the house, and once put his fist through the wall. And no, he never actually hit me, but he threatened to do so, and always remind me that I had no worth in his eyes.

The worst was the next day, when he would get up, did not say a word about the night before, but come and hug me as if nothing had happened. I would forgive and forget it, but deep inside I knew things would never change. I knew I had to leave him for good when I saw him treating our son in the same mean and derogatory way. But I didn't know how to do it because he told me I could never leave him and that he would take the kids from me.

I have always wanted my children to do well in school, and one day when we were at the library, I found the card for the Women's Resource Center, a domestic violence agency in Mahopac. After speaking to a Social Worker there, I knew I had to take my children away from this abusive relationship but I still needed the courage to do it and didn't know where to start. I also couldn't afford a lawyer. My case worker told me I could get free, legal help from the Pace Women's Justice Center and she helped me get an appointment with Bertha Rodriguez. When I met Bertha, I could see right away that she understood what I was going through, and was even

able to explain things in Spanish and English. She clearly explained my rights and the legal process for getting a divorce and keeping my children. She assured me that my husband's threats to take the children were just threats. She kept in touch with me every step of the way and was always only a phone call away. For example, when my husband was served with the divorce papers, he tore up the papers as soon as he received them. I felt panic and immediately contacted Bertha and she told me that even though he did not read the papers, he was still on notice and should appear in the case and it would not prevent me from getting a divorce. Even though it was so uncomfortable for me to live with my husband during this time, I felt stronger knowing that Bertha was helping me.

After Bertha submitted the divorce documents to the court, she explained that the judge scheduled my case for an inquest. When the court date arrived, I was shaking. I didn't know if he would show up. When I saw Bertha at the courthouse, I felt immediate relief. As we waited for my name to be called I anxiously peered around the corner watching the elevator doors open and close wondering if my husband would appear. My name was finally called and we proceeded into the courtroom. We started the inquest and as Bertha asked me some questions under oath the door to the courtroom opened and my husband walked in. He was called up to bench and the judge asked him if he had any objections to being divorced from me. He responded that he was sorry and that he still loved me and that he has tried to change. He started telling lies about why I wanted to get divorces and I burst into tears and I just couldn't stop crying, I was so confused and didn't understand what was happening and thought I would never be able to get away from him. My attorney continued to press for a divorce to be granted immediately. I know if she wasn't with me there was no way I could have continued. The judge granted my divorce.

My attorney helped me to obtain sole legal custody of my children, child support and allowed me and my children to stay in our home. Most importantly, she saved us from the ongoing cycle of abuse that we had been living through.

I am very grateful to The Pace Legal Team for their help navigating this process. They helped me change my life. Thank you

De Ping Song

Client of The Legal Aid Society
Accompanied by Karen Cacace, Esq.

Testimony of De Ping Song

Chief Judge's Hearing on Civil Legal Services

Good morning. My name is De Ping Song. I am here to support continued and increased funding for civil legal services in New York. I am one of six nail salon workers who filed a lawsuit against the owners of the Babi Nail salons because they did not pay us the minimum wage or overtime pay that the law required. We first worked with The Chinese Staff and Workers Association who referred us to the Legal Aid Society. The Legal Aid Society filed a lawsuit in federal court on our behalf in 2009 and we were all fired. The case went to trial in 2012 and we were awarded a judgment of \$474,000.

I had worked at the nail salons for over three years without being paid the wages I was entitled to. I routinely worked more than 40 hours per week and was never paid any overtime compensation. At some points, I was not even paid the minimum wage. Then after we filed the lawsuit, my employers fired me. The Legal Aid Society did an excellent job of representing us and after a trial we were awarded unpaid wages, damages for retaliation and liquidated damages. We have collected some of the money owed and The Legal Aid Society is continuing to try to collect the rest. Recovering the money is important but our case is also important because it exposed the exploitation that is rampant in the nail salon industry. What happened to us is typical of how many nail salon workers are cheated out of the wages they are owed.

Our case has impacted the industry and has led to a change in the laws protecting nail salon workers.

I am grateful that The Legal Aid Society agreed to represent us in this case and is continuing to help us collect the money that we are owed. We did not have money to hire lawyers and would not have been able to pursue our claims without The Legal Aid Society. We are grateful for the excellent representation that we have received. Our lawyers have always made every effort to understand our situation, to explain the laws to us, and to advocate for us.

I know that there are many other low-income workers that also need this type of representation. It is very important to fund The Legal Aid Society and other civil legal services programs. This will allow workers who are being exploited to challenge their employers' illegal practices. Without civil legal aid , we would not have been able to stand up for our rights and force our employers to pay us the money they owed us for our hard work. And we would not have been able to expose the wage theft that so many nail salon workers are subjected to.

Thank you.

Djibril Cisse
Client of The Family Center

THE FAMILY CENTER

**Written Comments of
Djibril Cisse, Client of The Family Center
Adam J. Halper, Esq. and Elsa Cruz Pearson, Esq.**

**Submitted to the
The Permanent Commission on Access to Justice
Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. Randall T. Eng, Presiding Justice, Second Department
Hon. Lawrence K. Marks, Chief Administrative Judge
David P. Miranda, President, New York State Bar Association**

**October 16th, 2015
NYS Judicial Institute
White Plains, New York**

Comments of Djibril Cisse:

My name is Djibril Cisse. I live in Harlem with my wife, Seynabou and our four children, two of whom are in college. I drive a cab for a living and have done so since 1987. My wife does not work but she was a babysitter. She is too sick to work, now.

Sometime ago, my wife was diagnosed with breast cancer. After many treatments, it spread to other parts of her body including her brain. When she became sick, we lost her income which was very bad for our family. Also, she couldn't take care of our younger children. We began to have very serious money problems. Each month, we fell more and more into debt and we could not pay our rent. Our landlord brought us to Housing Court. In late 2014, we owed close to eight thousand dollars. We had other debts and we were worried all the time about money. This also caused my wife a lot of stress, which is bad for her when she is sick.

I learned about The Family Center through Ms. Alexandra Russo, a social worker at the hospital where my wife receives treatment (Mt. Sinai).¹ I called them and quickly, Ms. Erica Gomez (Staff Attorney) met me in my home and she began working on the Housing Court matter. The situation was very bad. Both I and my wife assumed that we would be evicted. We owed so much money. By the time anything began to happen in court, we owed over ten thousand dollars.

Ms. Gomez was hard-working and creative. She filed an answer to the Housing Court complaint and helped us file for a "one shot deal." My wife and I came from Senegal three decades ago. All of our children were born here. All of us are US citizens. Still, I did not know that we qualified for any kind of assistance or that such programs existed to help us. I was spending so much time taking care of my wife, driving a taxi, dealing with the hospital and taking care of the children that it would have been very difficult to do anything in court without Ms. Gomez's help. She suggested, among other things, that we take on a boarder to supplement our income and we did, a young man from Senegal studying in the U.S. Without her help, I know me, my wife and my family would have been evicted.

Later, with my wife still sick, there was another problem – with Medicaid. Earlier this year, Ms. Russo submitted a "recertification" package for my wife's Medicaid. Without Medicaid, there is no care for her

¹ Ms. Alexandra Russo, LMSW, was formerly a Social Worker at The Family Center.

– nothing we can afford. After our recertification we received word that we had a \$240.50 a month spend-down. My wife was very, very sick then. She had long-term care and we were living month to month. This made the housing problem seem small. When we found out about it, it was again Ms. Russo who helped us, first by filing for a fair hearing and then immediately placing us in touch with The Family Center, again.

This time, we were represented by Ms. Elsa Cruz Pearson (Staff Attorney). She represented us in a fair hearing, but the matter was taking a long time and the judge seemed unclear as to how he would rule on the denial of the Medicaid. The issue was very complicated because of my income is somewhat low – but constantly changes. Because of the way the taxi company keeps records for its drivers, it was hard for me to show how much I made month-to-month. In any given year, I make just enough to cover my family’s expenses. Ms. Pearson began speaking directly with a Medicaid worker and tried to get them to re-calculate our income because the numbers they were using were wrong. Also, she tried to have them use a different way of budgeting for Medicaid called MAGI budgeting.² This was something else that we did not know about.

Medicaid recalculated our budget and found that Seynabou was eligible for Medicaid long-term care without a spend-down based on the new numbers and Ms. Cruz Pearson’s advocacy. Debt collection letters from the HMO stopped, as did my worry that she wouldn’t get medical care. My wife is still unwell and her condition is uncertain, but she has excellent medical care. The children are holding up well. Our oldest daughter will graduate college at the end of this school year. She will be the first in our family to get a college degree.

Here’s what would have happened had Ms. Russo not called TFC for us. My family and I would have been evicted. We would have gone into a shelter or we discussed moving back to Senegal. After 28 years here, we still struggle. Keeping my wife’s very serious medical care would have been impossible. We would have had more problems understanding the spend-down and certifications. In addition to the debt, we would have owed the HMO. We would have had the Medicaid turned off and it would not have come back on. I would have tried to take care of it and I would have failed. I don’t know how we would have cared for my wife.

When The Family Center approached me to write this letter, I did not wait. I thank Ms. Gomez, Ms. Cruz Pearson and The Family Center for helping me.

Ms. Cruz Pearson has explained to me what the Commission does and how it is connected to The Family Center and their work.

For my wife, my children and me, thank you.

Djibril Cisse

Thank you to Judge Lippman and to the Commission for receiving these comments. I am the Director of Legal Services at The Family Center (TFC), a multidisciplinary agency in New York City serving individuals and families affected severe illness. The Family Center’s Department of Legal Services assists clients with a range of civil legal problems all connected to “essentials of life.” Families and individuals

² New York State Department of Health, 13ADM-03 - Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, September 25, 2013. http://www.health.ny.gov/health_care/medicaid/publications/adm/13adm3.htm

who come to us are in the midst of extreme personal crisis and their cases and concerns are many. Today, I submit comments with one of our former clients, Djibril Cisse. He and his family are direct beneficiaries of the work of the Commission and funding through JCLS monies.

The Family Center:

Founded in 1994, The Family Center (TFC) provides legal and social services to New York City individuals whose lives are marked by the intertwined challenges of poverty and illness. We address numerous socio-economic, health and legal problems so that clients may devote their energy to getting well and planning for the future. During the year ending March 31st, 2015, the Legal Services Department served **1,316** clients (representing over **2,332** individual household members). On their behalf, we won **\$2,192,852** representing back awards and ongoing monthly benefits. We saved taxpayers **\$4,416,088**. Our total economic impact for the last IOLA, JCLS year was **\$6,634,940**. We closed **1,480** cases. We successfully resolved **192** court proceedings in all five boroughs. We conducted **26** consumer and provider clinics and workshops, reaching an additional **745** people. These numbers were delivered by a full-time Legal Department staff of seven as well as a volunteer army of Public Interest Law Fellows, Law Student Interns, Graduates and pro bono attorneys.

Funding for this work comes from a number of places including the state. Those funds support civil legal services work for NYC's most marginalized residents. We serve a variety of populations in the city all of whom are affected by serious illness, such as cancer. Additionally, clients' lives are often woven with the terrible threads of incarceration, mental health problems, substance abuse and histories of domestic violence. They live on subsistence incomes and come from the most disadvantaged and under-served areas of the city including northern Manhattan, the South Bronx, Mott Haven, St. George, Stapleton, Bedford Stuyvesant, the Rockaways, Brownsville and East New York. Our clients have high unmet needs for quality social and legal services and tremendous difficulties accessing public benefits, health insurance and maintaining shelter security. They are also those most likely to have significant legal issues and little means to access services, such as Djibril.

As a final note, as of the submission of this testimony, Djibril has been summoned to Housing Court again. Without discussing the merits of that matter, it is fair to say that the costs and hardships of his wife's illness continue. The Family Center will be there to assist him.

When working with clients who are indigent and survive with severe illness against improbable odds, outcomes are not always final. Still, in the case of Djibril and his wife, civil legal services provide more than just assistance with problems involving the essentials of life. Access to civil legal services provides for life, itself. The need for legal assistance, for many, is on-going and vital.

Thank you.

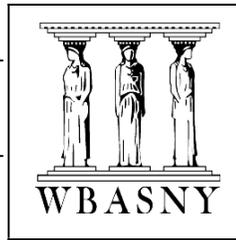
Djibril Cisse
143 West 111th Street, 4B
New York, New York 10026
[917.930.0020](tel:917.930.0020) (Tel)

Elsa Cruz Pearson, Esq.
Staff Attorney
The Family Center
493 Nostrand Avenue,
3rd Floor
Brooklyn, New York 11216
[718.789.3841](tel:718.789.3841) (Tel)
[718.638.1628](tel:718.638.1628) (Fax)
epearson@thefamilycenter.org
www.thefamilycenter.org

Adam J. Halper, Esq.
Director of Legal Services
The Family Center
493 Nostrand Avenue,
3rd Floor
Brooklyn, New York 11216
[718.789.3841](tel:718.789.3841) (Tel)
[718.638.1628](tel:718.638.1628) (Fax)
ahalper@thefamilycenter.org
www.thefamilycenter.org

Andrea F. Composto, Esq.

President, Women's Bar Association of the State of New York

Women's Bar**Association**

OF THE STATE

OF NEW YORK

PRESIDENT

Andrea F. Composto

Post Office Box 936
Planetarium Station
New York, NY 10024-0546(212) 362-4445
(212) 721-1620 (FAX)
info@wbasny.org (e-mail)
www.wbasny.org**PRESIDENT-ELECT**

Jacqueline P. Flug

VICE PRESIDENTSGreta K. Kolcon
Amy Baldwin Littman
Amy Saltzman**TREASURER**

Leyla Kiosse

**CORRESPONDING
SECRETARY**

Anne E. Joynt

RECORDING SECRETARY

Deirdre Hay

IMMEDIATE**PAST PRESIDENT**

Donna E. Froscio

CHAPTER PRESIDENTS**Adirondack**

Francine R. Vero

Bronx

Beth A.T. Krause

Brooklyn

Helene E. Blank

Capital District

Linda B. Johnson

Central New York

Julia J. Martin

Finger Lakes

Sujata Sidhu Gibson

Mid-Hudson

Lindsey Goldstein

Mid-York

John E. McNichol

Nassau

Simone M. Freeman

New York

Jennifer P. Brown

Orange-Sullivan

Elizabeth K. Cassidy

Queens

Lourdes M. Ventura

Rochester

Jill L. Paperno

Rockland

Susan G. Yellen

Staten Island

Brooke T. Skolnik

Suffolk

Melissa Negrin-Wiener

Westchester

Robin D. Carton

Western New York

Jennifer R. Scharf

EXECUTIVE DIRECTOR

Linda A. Chiaverini

**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
Andrea F. Composto, Esq., WBASNY President**

The Women's Bar Association of the State of New York ("WBASNY"), thanks you on behalf of its approximately 4,300 members for the opportunity to submit this testimony regarding access to civil legal services. We congratulate the Chief Judge's Task Force on becoming the Permanent Commission on Access to Justice and feel confident regarding its continuation of the vital mandate of the Task Force.

WBASNY's membership is diverse and is distributed throughout the State of New York. Our members are private practitioners, law professors, public interest attorneys, and State and Federal judges and legal staff. Since our formation in 1980, the mission of our association continues to be the advancement of women in the legal profession and of women in society, and support for the equal administration of justice.

For the thousands of clients served annually by members of WBASNY, civil legal services 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 (CLS) provides not only avenues to representation and to alternative dispute resolution, but also provides access to services that unlock gateways to a safety net that the least able among us, many of them women and children, would never otherwise find.

A significant number of WBASNY members work in organizations where funding raised by the Chief Judge's Task Force has helped to provide or expand civil legal services. For example, The Legal Project is a private, not-for-profit organization that was founded by the Capital District Women's Bar Association in 1995. It provides a variety of free and low cost legal services to the working poor, victims of domestic violence and other underserved individuals in the Capital District of New York State. The Legal Project reports that support from the Judiciary Budget has made a tremendous difference in their ability to serve their target clients in the Capital Region. The number of clients assisted since the Judiciary funding began in 2011 has increased by approximately 26%, and the civil legal services provided have broadened to include bankruptcy, foreclosure, affording housing, wills and end of life planning, immigration and veterans' services clinics. The Project assisted 71 victims of domestic abuse in 1999, but assisted 1,013 such individuals in 2013.

Another organization, the Legal Services Funding Alliance was formed to enhance advocacy for increased civil legal services funding. Its members are the primary providers of civil legal services in rural, urban and suburban communities of New York State. They provide a full range of civil legal services to low-income and disadvantaged people and communities throughout Upstate New York and Long Island.

In addition to the large number of WBASNY members who work for organizations that provide civil legal services, there is a much more significant number of women who provide pro bono services at these and other organizations. Many WBASNY members volunteer for organizations providing civil legal services such as CLARO (Civil Legal Advice and Resource Office) and the Volunteer Lawyer for a Day program co-sponsored by the NY State Access to Justice Program and organizations such as the New York Legal Assistance Group. These programs provide *pro bono* representation to *pro se* litigants throughout New York in various disciplines such as consumer debt, housing, uncontested divorce proceedings, and family court proceedings. Just this year, with the help of the Staten Island Women's Bar Association, an Uncontested Divorce Clinic was offered for the first time in Richmond County. In addition to the services provided to the litigants, such volunteer programs provide beneficial training for law students, law graduates, and early-career attorneys. Volunteer attorneys and student interns have the opportunity to represent clients in Court, negotiate with opposing counsel, and argue before a judge. Student volunteers gain invaluable, hands-on experience in lawyering, while seasoned attorneys gain stimulating pro bono experience as they help some of New York's most disadvantaged civil litigants obtain due process of law. The Access to Justice Program collaborates with Law Schools and partners with Bar Associations to provide these opportunities.

The increase in funding for civil legal services is not felt equally in all sectors, however. While WBASNY supports and commends the Chief Judge's leadership and the work of the Task Force to Expand Access to Civil Legal Services, and while we recognize the extreme effort that succeeded in obtaining so many millions for the provision of Civil Legal Services for the current Fiscal Year, members of the civil legal services provider community still reach out to us regarding the need for funding. For example, a practitioner in Suffolk County states:

Although Nassau Suffolk Legal Services does the best they can with tenants, often there are people in the lower income brackets who do not qualify. This can be a problem when they ask for an adjournment to go find an attorney, and invariably come back saying they couldn't find one (or couldn't afford one), but it delays the cases significantly. If a mediator or two (or more in Hempstead) could be utilized, maybe the cases which are delayed can be sped up and wouldn't languish in the system to the detriment of both parties.

This view is seconded by another CLS provider:

Many people in and out of the court system remain unaware of mediation as an option to resolve their disputes, hence more cases proceed through an already burdened court system. Slashing the number of hours the courts are open for business has limited the number of cases we are able to mediate which in turn affects our case numbers required from our funders. We are also severely limited in our abilities to offer our services to non-English speaking clients as we do not have funding for interpreters.

A provider of civil legal services for children reports, surprisingly, that no funding is received from the Judiciary Budget. The provider comments that:

We need more funding and to look at the needs that are not currently being met. For example, in the areas of youth who are re-homed or no longer with their adopted families, but not over 18 or 21, they are an invisible population that are reentering foster care, the homeless system, the prison system and there are people who are being paid to care for them who do not have to answer to anyone about why these children are no longer in their care.

Additionally, while the achievement of funding is of paramount importance, funding is, in itself, not the only issue. Policy and planning regarding the directing of funds are also important. WBASNY commends Chief Judge Lippman and the Governor for their commitment to funding for civil legal services and for creating a Permanent Commission, but we believe that the legal profession shares an equal responsibility to participate in seeing that the funding is directed so that it does the most good in the most efficient manner.

It is wonderful to see that the Court System has strengthened its staff by adding staff with experience in administering programs that might be tailored to offer broad support for strengthening the provision of civil legal services using a competitive grant application process along with support for other components such as disaster planning and preparedness. Business institutions and State and local government entities are much more cognizant now of the need for preparedness for disasters of all types. For the myriad non-profit organizations that provide access to civil legal services for the citizens of New York State, however, disaster planning may not be a line item on the funding application, and thus, not a fully funded concern, as it should be. It is important that disaster preparedness be a mandatory component of any state-wide plan for funding of both criminal and civil legal services in the future.

Using technology to enhance access to justice is another very important initiative. It should be noted, however, that smaller programs with less administrative and support staff, such as the afore-mentioned Legal Project created by the Capital District Women's Bar Association, may have some unique needs to address in order to make the most effective use of alternative ways to provide service. The Legal Project suggests that smaller programs with less infrastructure be provided technical assistance and funding to develop more internal support, which will enable them to use innovations in technology more effectively. These programs generally do not have technology personnel on staff, for example, thus managing social media or developing web-based outreach, training or services can, unfortunately, be very challenging. We believe that it is important to use the funds for technology to increase the capacity of smaller programs to develop their technology infrastructure in order to encourage innovative responses and programs across the state. A provider states that:

At its core getting cases to more timely resolutions require people with the knowledge of the law – if being self-represented is the norm we need technology to alleviate the tremendous burden that self-representation puts on the court. We need technology to be the cornerstone of all the improvements we do in civil legal services from information gathering, to intake, to actual case handling.

Some programs take the position that the choice is between installing technology or adding staff members. This was the conundrum voiced by Legal Services-NY in 2014. The Executive Director felt that after Hurricane Sandy the need of Staten Islanders for legal consultation was so great that it would be a crime to devote time and attention to the purchase and installation of technological components. Of course, however, if a grant was provided that paid for an expert to examine the work of the organization and recommend technology that would improve the client outcomes and make the work of the legal service providers more effective, they would, of course, be all for it, especially if the expert were to then select the technology and supervise its installation and the training of all parties to efficiently make use of the new resource. This type of needs analysis is often carried out by consultants for various government functions, so there is no reason why it could not be done here with the correct funding and oversight.

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.

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. This issue, reported in 2013, remains a priority.

A representative of the mediation community said that:

In addition to funding for our current programs, we are interested in funding for new and different programs. We have provided Peer Mediation Trainings to several schools on Staten Island, which we would like to continue to do so. Additionally, we would like funding to bring Restorative Practices to several different environments, such as the schools and police programs. Lastly, we recently went to an Urban Agricultural Conference and we are excited about the prospect of bringing our mediation skills to the widespread urban-agricultural community in NYC.

Perhaps alternative dispute resolution models could be developed that would assist in providing civil legal services to rural and agricultural communities throughout the State. For example, the use of technology combined with alternative dispute resolution would offer access to parties on rural areas that may not have established alternative dispute resolution programs. WBASNY commends the Permanent Commission on Access to Justice for its continuing efforts to address the need for expanded access to civil legal services, and offers its continued support for adequate and stable funding to achieve the fundamental ideal of justice for all.

Catherine M. Wilson, C.M.A.
Sensible Legal Procedures, Inc.

CATHERINE M. WILSON, C.M.A.

A forensic accountant, Ms. Wilson has over 35 years of professional experience. She conducted operational and financial audits worldwide and served as the Global Budget Manager for Reader's Digest. Catherine was the financial manager for its flagship magazine when it was the most widely read periodical in the world. She has consulted in the development of local small businesses, revamped systems for government agencies and MWBE's, and established financial and operational controls for non-profits.

Ms. Wilson has authored a weekly investigative column on financial and advocacy issues, and has spoken on these issues before governmental commission hearings, national conventions, and local media. Catherine has testified on financial abuse of mentally disabled individuals in the legal system before the New York State Senate Judiciary Committee and Governor Cuomo's Moreland Commission on Public Corruption.

As an advocate, Catherine has lobbied representatives of the United States Senate and Congress for the National Alzheimer's Association on behalf of Alzheimer's victims. She was invited to speak at U.S. Senator Hillary Rodham Clinton's conference on the economic impact of caregiving for disabled individuals and dementia victims. Catherine assisted the New York State Alzheimer's Association in successfully lobbying the state legislature to adopt a "Silver Alert" system for missing Alzheimer's/Autistic individuals. In 2014, she individually achieved a change to Delta Airline's global passenger booking system that accommodates disabled individuals travelling with caregivers.

Combining her professional expertise, her passion for advocacy, her insider knowledge of court operations (gleaned over two decades while married to a court employee), and personal experience of the court process, Ms. Wilson now serves as a financial consultant for matrimonial, surrogate's, and guardianship accountings.

Ms. Wilson holds a B.S. in Accounting, a dual M.B.A. in Finance and Marketing and is a Certified Management Accountant. She has conducted programs for local colleges, served as a panelist on management topics for local law schools and bar associations, and has been listed in "Who's Who in Finance". She is currently authoring a series of straight-forward, self-help guides designed to help litigants, and legal professionals alike, navigate complex financial issues.

Catherine was raised in Ireland and the U.S. and is a dual citizen of the United States and the European Union. She is the proud mother of two adult children. When not writing, advocating, or consulting, Catherine can be found cruising in her kayak.

Permanent Commission on Access to Justice

Public Hearings – “Meeting the Challenge: Unmet Legal Services Needs”

Application to Testify at October 16, 2015 Hearing

Judicial Institute, Pace University

White Plains, New York

To: Ms. Jessica Klein, Esq. Sullivan & Cromwell, LLP
125 Broad Street, 32nd Floor
New York, NY, 10004-2498

Re: Testimony to be provided by Catherine M. Wilson, C.M.A., Sensible Legal Procedures, Inc.
Operational & Logistical procedures, Technology Applications, Streamlining Financial Issues

Key points to be addressed in my testimony:

- 1. Investment in Judiciary Legal Services funding on delivery of civil legal services: (30 sec.):**
 - a. Not all matters before the court involve issues of law, lawyers are not trained for these other issues
 - b. Need to provide financial experts to handle the financial aspects of civil legal issues
 - c. Match the experts to the issue – engineers in Housing Court, Social workers in Family Court, Accountants for child support and Surrogate’s SNT’s and court accountings, etc.

- 2. Unmet need for civil legal services for “essentials of life” (30 sec.):**
 - a. Expand the definition of individuals to all those in need of civil legal services – the struggling middle class in addition to lower income individuals
 - b. Expand the definition of the “essentials of life” issues to include child support, elderly, caregivers, and disability issues. Prioritize the provision of services accordingly

- 3. Economic and social consequences of lack of sufficient legal services (1 1/2 min.):**
 - a. DSS provides financial aid to offset uncollected or insufficient child support
 - b. DSS, non-profits, agencies provide shelter for disabled who cannot navigate Surrogate’s and/or benefit from their SNTs
 - c. State grants and aid awarded to college students when recalcitrant parents fail to pay
 - d. Loss of tax revenue when caregivers/parents cannot work – lost time for hearings, etc.
 - e. Loss of sales tax income, sales revenues, when caregivers/parents/individuals have less income to spend due to lost wages and legal expenses; unemployment payments by the State when individuals lose their jobs due to the time involved in court matters

4. Costs and benefits of providing civil legal services for essentials of life issues (1 min.):

- a. Eliminates “double-dipping” – one agency (NYS Courts) solves the matter, eliminating the need for DSS or other agency involvement
- b. Streamlined procedures, rules, and systems eliminates confusion, speeds process, and reduces stress for individuals
 - i. Check lists and audit trails for all procedures will enable the production of exception reports for inconsistencies and identification of procedural difficulties
- c. Streamlined procedures produce consistent results allowing individuals to plan and anticipate accordingly
- d. Technology provides information/court access to individuals reducing or eliminating the need for attorney fees, and reduces court costs
- e. Use conferencing systems to eliminate in-court hearings (already in place for criminal matters) – reduces need for court personal and facilities and 3rd party court reporters
 - i. Voice recognition systems provide automatic court reporting – eliminates cost of transcripts (real-time transcript to run as a banner along bottom of screen)
 - ii. Translator systems can assist in language translations, identify mistranslations
- f. Technology enables individuals to pursue court matters after hours – no loss of income
- g. Less loss of income and lower legal costs results in more disposable funds for the individual – higher tax revenues for the state and more sales revenues for businesses

5. Availability of legal services in rural communities (30 sec.):

- a. Expand definition to include availability to disabled/caregiving communities
- b. Online services to allow for 24/7 access for routine matters

6. Prevention and early intervention services and use of technology (5 mins.):

- a. Make the courts “user-friendly” - revamp legal procedures and systems
 - i. Eliminate confusing titles (plenary vs motions, petitions, etc.) – call everything an application, give simple names to all issues and procedures
 - ii. Eliminate Latin words and phrases – use 4th grade English and simple and direct language (no terms like ‘voir dire’ or ‘bootstrapping’!)
 - iii. Reformat all documents to Word program – eliminate Word Perfect
 - iv. Provide scheduling links for all hearings to Outlook and Google calendars
 - v. Use apps for notices, intake, and links to routine issues, forms, etc.
 - vi. Automatic notices of changes/delays – text messages, cell phone alerts, emails
- b. Change procedures to address issues earlier (college plans during High School years)
- c. Online forms, webinars, instructions, procedures, policies, court rules, and laws
 - i. Full set of all official court forms in fillable format with line by line instructions and examples, hyperlinks to related C.P.L.R. and court rules where applicable
 - ii. Full set of the C.P.L.R., reformatted in table format and large font with links to major decisions/forms/etc. For each rule, include search field for easy searches

- iii. Full set of the Laws of the State of New York, reformatted in large font and table format for vision impaired, include search field for easy searches
- iv. Eliminates fees to 3rd parties (Blumberg) for government forms, rules, and laws
- v. Online webinars offering line-by-line instructions for forms, detailed information on court rules and procedures, etc.
- d. Man a state-wide/court-wide help-desk for after hours and weekends
 - i. Hire recent law school graduates and members of the disabled community (Asperger's, physically disabled)
 - ii. Specialized staffing – one group answers questions related to housing, etc.
 - iii. Establish call center/home centers in impoverished area of state to provide jobs
- e. Use recent law graduates to conduct preliminary conferences online after hours and weekends
 - i. Eliminates unproductive court hearings and costs/loss of earnings to individuals
 - ii. Eliminates cancellations of court hearings due to unprepared individuals and unavailable information, aggravating rescheduling of work shifts, child care, etc.
 - iii. Reduces costs of court personnel and facilities
- f. Hire accountants on court staff to handle financial matters
 - i. Set up escrow accounts for child support add-ons - submit bills to the assigned court staff accountant handling the case
 - 1. Eliminates fights of bills and who pays
 - ii. Chief accountant of the court sets "Controller's Standards" each fiscal year
 - 1. Set transportation reimbursement rates for college costs squabbles
 - 2. Provide information/training to judges on financial issues and tax laws
 - iii. Have court accountants calculate child support, college payments, disability trust distributions, etc.
 - 1. Eliminates incorrect decisions (confusing HELOCs with mortgages)
 - 2. Frees courts for critical issues and matters of law**
- g. Assign Separate cloud storage (and app link) by case, secure authorized access
 - i. Forms, filings, supporting documents uploaded for full 24/7 access by all parties
 - 1. Eliminates time and expense to access County Court records
 - 2. Eliminates delays (bank/investment statements instantly uploaded)
 - 3. Reduces uncooperative tactics by parties (claims they can't get documents)
 - ii. Sync online court record with third-party programs (Quickbooks, Lexis, TimeSlips, etc.)
 - 1. Provides full access to attorney billable records and time sheets
 - a. Allows for thorough financial audit of legal fees and reduces billing errors
 - b. Allows for internal court audit checks of time sheets for all matters

- iii. Full set of forms, rules, and procedures for the court/chambers – preferably with apps and webinar links explaining them in detail and with full examples
- iv. 24/7 access to online webinars detailing any changes in forms, policies, etc.

7. Court Navigator Program (1 min.):

- a. If a court system or procedure requires “navigation”, then concentrate on removing the obstacles that necessitate assistance first
- b. Court should navigate system at administrative level
 - i. Have auditors conduct a full internal operational audit of each court
 - ii. Do a “zero-based” analysis of each procedure, system, policy, and regulation
 - 1. Why is this needed?
 - 2. Is this still needed?
 - 3. Is there a better way to do this?
 - 4. Is this being done elsewhere? Are we duplicating efforts?
 - 5. Does this address the true needs of the individual?
 - 6. What are we really trying to achieve here?
 - 7. When in doubt, apply the K.I.S.S. method

Attachment: Bio for Catherine Wilson, C.M.A. – Owner, Sensible Legal Procedures, Inc.

Personal Financial Impact of Prolonged Divorce Action

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	
AGI	37,620	52,955	37,152	34,927	28,302	\$ 190,956
NYS tax*	409	578	-	209	83	1,279
Credits:						
Child	330	330	330	-	-	990
EIC	10	-	729	331	769	1,839
College	-	200	200	400	604	1,404
Total credits:	\$ 340	\$ 530	\$ 1,259	\$ 731	\$ 1,373	\$ 4,233
Tax paid	\$ 69	\$ 48	-	-	-	\$ 117
Total received from NYS:						
Credits	340	530	1,259	731	1,373	4,233
TAP	-	2,053	3,974	4,334	5,085	15,445
Total:	\$ 340	\$ 2,583	\$ 5,233	\$ 5,065	\$ 6,458	\$ 19,678

* Low NYS income allowed me to exceed the 7.5% threshold for medical expenses, reducing taxable income, and taxes, significantly.

What I should have earned/taxes I should have paid:

Earnings	120,000	120,000	120,000	120,000	120,000	\$ 600,000
Deductions	(18,000)	(18,000)	(18,000)	(18,000)	(18,000)	\$ (90,000)
Exemptions	(2,000)	(2,000)	(2,000)	(2,000)	(2,000)	\$ (10,000)
AGI	\$ 100,000	\$ 500,000				
NYS tax:	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 30,000
Credits:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TAP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals:	\$ 6,000	\$ 30,000				
Difference	\$ 6,340	\$ 8,583	\$ 11,233	\$ 11,065	\$ 12,458	\$ 49,678

Additional costs:

Lost disposable income available to spend locally, loss of sales tax revenues.
Costs to taxpayers of court time, personnel, and facilities.

Comments:

I lost two jobs due to all of the court hearings and conferences. Had the court denied my ex's shenanigans, I would have continued to earn my career income and would have paid taxes to NYS of \$30,000 for the five-year period. Instead, I could only get part-time, work from home, employment, paid no taxes, and qualified for tax credits and deductions for medical expenses, and received tuition aid for my son.

Individual Impact to NYS:

I received an average of \$10,000 a year in reduced taxes, tax credits, and tuition aid. The state also lost the economic benefit of approximately \$300,000 from my lost earnings, or an additional "cost" of \$60,000 a year (without factoring in a multiplier impact).

Statewide financial impact for all prolonged/complicated court matters:

Lost sales/income tax revenues: \$1.5 billion
Lost wages: \$15 billion

Assumptions:

2.3 million civil, family, & surrogate's cases in NYS in 2013.
Assume 1/3 were multiple cases per individual. Thus 1.5 million unique filings.
Average lost wages per filer - \$10,000 annually. Lost wages of \$15 billion annually.
Lost income tax revenues to NYS on lost wages = \$450 million.
Assume half of filings incurred legal fees.
Assume legal bills averaged \$10,000 annually. Total of \$7.5 billion.
Total lost disposable income (lost wages and income used for legal fees) = \$22.5 billion.
Lost sales tax revenue = \$1 billion.

Unemployment Action Center

Brooklyn Law School Chapter

Unemployment Action Center, Inc.

Central Office: 240 Mercer Street • New York, NY 10012-1507
Brooklyn Chapter: 250 Joralemon Street • c/o Public Service Office • Brooklyn, NY 11201
(212) 998-6568 • Fax: (212) 995-4079

WRITTEN SUBMISSION OF THE UNEMPLOYMENT ACTION CENTER, BROOKLYN LAW SCHOOL CHAPTER

CHIEF JUDGE LIPPMAN AND MEMBERS OF THE HEARING PANEL:

We are law students at Brooklyn Law School, and we are actively involved in providing direct legal services to indigent clients through participation in our law school's chapter of the Unemployment Action Center ("UAC")—a student-run, nonprofit organization dedicated to representing unemployment insurance claimants at evidentiary hearings before administrative law judges, and in administrative appeals to the state Unemployment Insurance Appeal Board. We respectfully offer this submission on behalf of our members and the many other student advocates who have taken up this vital pursuit, to comment on the great value of law student provision of legal services in a wide variety of areas of law. We further propose that, to encourage student participation, the 50-hour pro bono requirement for bar admission be amended to allow students to fulfill it through student-supervised pro bono advocacy.

In one sense, the value of law student pro bono participation is obvious. If a law student represents an individual who otherwise would go unaided in some legal matter, a gap in the provision of legal services, even if a small one, is filled. It is further obvious that, multiplying this by the multiple clients each advocate might serve and the dozens or even hundreds of student advocates throughout New York State, the degree of service provided grows considerably. And, if such service by law students is encouraged, as we suggest in this submission it should be, it will continue to grow.

What is often overlooked is just how capable law student advocates are at providing high-quality legal service, even without supervision by admitted attorneys. Some student pro bono organizations, including most UAC chapters, have no attorney supervisors, advocates being taught and aided by other students, and largely working independently. And, in some organizations that have "supervisors," the attorneys advise students, but allow students to act independently at significant stages of representation, such as at hearings.

Under such arrangements, students have proven and continue to prove to be staunch and skillful advocates. The stakes of the proceedings in which law students participate range from an adult's livelihood to a child's education, and the cases involve principles of law from administrative rules and procedures to civil liberties and Constitutional rights. Student success in representing clients in such cases speaks for itself. For example, in the 2013-2014 school year, UAC advocates prevailed in 74% of cases citywide, and have historically prevailed in 66%, compared to a rate of only 33% for unrepresented litigants. It is undeniable that law students possess the ability and dedication to independently play a crucial role in filling the gap in civil legal services to the indigent.

Aside from the direct benefit to clients of having legal services provided them, promoting law student pro bono representation has the additional salutary effect of improving the quality of our

State's civil legal services long-term. Exposing law students to public service early in their careers sets them on a path to continue serving the public once admitted to the bar, creating a larger pool of public interest lawyers.

Furthermore, for those law students who will grow into public interest lawyers, the experience to be gained by providing service to disadvantaged clients will be of inestimable value. They will end up more capable, clever, ethical and tenacious advocates, more comfortable with the rigors peculiar to public interest work. Pro bono representation teaches the tools of our trade—how to interview and counsel clients; how to investigate, research and plan; and how to try a case in court, and write for an appeal. Plus, learning to fight for people who, all too often, are the underdogs will yield lawyers who never shy away from an uphill battle when their clients' welfare calls upon them to fight one. This is especially true where students are permitted to learn and practice independently, by their own labors.

In recent years, our Courts have made great strides in encouraging law students to provide legal services, through the advent of the Pro Bono Scholars Program and the 50-hour pro bono requirement for bar admission. This latter development has been a particularly powerful inducement for students to become involved in pro bono organizations. When considering whether to join a particular organization, many students ask, "Will this count towards my 50 hours?" And, if told it will not, many of these students will decline to participate.

This is particularly problematic for student-run organizations. For some, whose work cannot count towards the 50-hour requirement for lack of attorney supervision, membership will suffer, as many students will decline to participate in them, choosing instead to take on roles supervised by attorneys. For other organizations, which expend the resources to secure attorney supervisors, students who wish to avail themselves of the ability to receive pro bono hours will be forced to cede a measure of their independence—the very cornerstone of the practical education such organizations provide—while also unnecessarily duplicating efforts on each case.

As noted above, student-led pro bono organizations provide services that lawyers typically do not provide—and do so highly effectively—while giving law students a unique opportunity to learn autonomously how to be lawyers. But, rather than encouraging law students to provide the broadest possible array of indigent legal services and freeing up attorneys to do the same, the supervision requirement in its current form channels students into just a few areas of practice that can satisfy the requirement, occupies the time of both students and attorneys with unneeded supervisory tasks, and dilutes the educational value of pro bono work to would-be public interest lawyers.

It additionally seems unfair that, should a student take on a case for a student-run pro bono group; meet a client and gain the client's trust; investigate facts, research the law and develop a case theory; and finally conduct real litigation before a real tribunal, all on his/her own, that work will be regarded as less worthy of recognition by the courts than attorney-supervised work, solely because the student did it without help. At a time when we face a great crisis in the provision of indigent civil legal services, we cannot afford to treat any service as inferior.

For these reasons, it is our strong belief that law student participation in providing real service to indigent clients is a key component of filling the gap in provision of civil legal services in New York State, both immediately, and for a long time to come. We further hope that the Hearing Panel will consider recommending that the supervision requirement of the 50-hour pro bono rule for bar admission be amended to allow students to receive credit under the rule for time spent working for student-run pro bono providers. We believe that a rule in this form will further encourage law students to participate in providing direct legal services, thus achieving the goals we have mentioned.

We thank Chief Judge Lippman and the Hearing Panel for their time and attention to this weighty matter.

Sincerely,

Andrew Goodman
Chief Advocate
Class of 2016

David Jacobson
Executive Advocate
Class of 2016

Naoufal Zouak
Hearings Deputy
Class of 2017

Dylan Weeks
Advocate
Class of 2017

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 15:

**Report of the Permanent Commission's Working Group on
Law School Involvement**

NOVEMBER 2015

NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE
REPORT OF THE LAW SCHOOL INVOLVEMENT WORKING GROUP

FOURTH ANNUAL CONFERENCE
ACCESS TO JUSTICE:
THE ROLE OF 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
NOW KNOWN AS THE
NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE
AT FORDHAM UNIVERSITY SCHOOL OF LAW ON MAY 11, 2015



HELAINÉ M. BARNETT

CHAIR, NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE

MATTHEW DILLER

*DEAN, FORDHAM UNIVERSITY SCHOOL OF LAW;
FORMER DEAN, BENJAMIN N. CARDOZO SCHOOL OF LAW;
CHAIR, LAW SCHOOL INVOLVEMENT WORKING GROUP,
NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE*

NOVEMBER 30, 2015

New York State Permanent Commission on Access to Justice
Report of the Law School Involvement Working Group
on the
Fourth 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
on
May 11, 2015

CONTENTS

	<u>Page</u>
2015 KEY RECOMMENDATIONS TO THE PERMANENT COMMISSION.....	1
1. Annual Law School Conference	1
2. Statewide Law School Access to Justice Council	1
3. Educating Students to Be Culturally Competent Lawyers.....	1
4. Infusing Access to Justice in the Doctrinal Curriculum	1
5. Best Practices of Supervising Law Student Pro Bono Work: Developing the Handbook of Best Practices for Supervision of Law Student Pro Bono Work.....	1
6. Law Schools Should Be Supportive of Non-Lawyers Working to Help Narrow the Justice Gap	2
7. Limited-Scope Legal Assistance as a Means to Narrow the Justice Gap	2
8. Developing Transactional Skills to Serve Low-Income Communities.....	2
OVERVIEW OF THE FOURTH ANNUAL LAW SCHOOL CONFERENCE	3
Morning Plenary Sessions	5
Innovations That Expand Opportunities for Access-to-Justice Work	5
I. Public/Private Partnerships and Other Collaborative Models for Closing the Justice Gap	6
II. Pro Bono Scholars Program and the 50 Hour Pro Bono Bar Admission Rule	7
Afternoon Work Groups: Report Summaries of the Sessions	9
Educating Students to Be Culturally Competent Lawyers.....	9
Overview	9
Recommendations from the Work Group	9
Synopsis of Discussion	10
1. Learning to Be Culturally and Linguistically Competent	10

CONTENTS

(continued)

	<u>Page</u>
2. Developing Vocabulary for a New Paradigm.....	10
3. Teaching Cultural Competence.....	11
4. Connecting Language Access and Cultural Competency	12
Infusing Access to Justice in the Doctrinal Curriculum	12
Overview	12
Recommendations from the Work Group	12
Synopsis of Discussion	13
Best Practices of Supervising Law Student Pro Bono Work: Workshop on Developing the Handbook of Best Practices for Supervision of Law Student Pro Bono Work	15
Overview	15
Recommendation from the Work Group.....	15
Synopsis of Work Group Session	15
Role of Law Schools in Training Non-Lawyer Advocates to Help Narrow the Justice Gap.....	16
Overview	16
Consensus of the Work Group.....	17
Synopsis of Discussion	17
Limited-Scope Legal Assistance as a Means to Narrow the Justice Gap	18
Overview	18
Recommendations of the Work Group	19
Synopsis of Discussion	19
Developing Transactional Skills to Serve Low-Income Communities.....	22
Overview	22
Conclusions of the Work Group	22

CONTENTS

(continued)

	<u>Page</u>
Synopsis of Discussion	23
Closing Plenary Session	24
Exhibit 1	26

2015 KEY RECOMMENDATIONS TO THE PERMANENT COMMISSION

1. Annual Law School Conference

The Commission should continue to convene the Annual Law School Conference to encourage and promote communication and collaboration among New York's 15 law schools and legal services providers, law firm pro bono coordinators, bar associations and the courts, on collective efforts to help meet the essential civil legal needs of low income New Yorkers, and to discuss how to instill in law students the value and impact that their pro bono work will have in bridging the justice gap.

2. Statewide Law School Access to Justice Council

The Statewide Law School Access to Justice Council, composed of deans, administrative deans and representatives from all 15 schools, several legal services providers and members of the Commission and court system, should continue its collaborative work on student pro bono activities, including development of an online Handbook of Best Practices for Supervising Law Student Pro Bono Work and a web portal to share educational materials to enhance the access-to-justice curriculum and the Pro Bono Scholars Program, and other matters of mutual interest that promote law school efforts to narrow the justice gap.

3. Educating Students to Be Culturally Competent Lawyers

All New York law schools should establish and publish learning outcomes that, in addition to those required by the ABA, contribute to the development of culturally competent lawyers and incorporate multicultural concepts, skills and values.

4. Infusing Access to Justice in the Doctrinal Curriculum

Integrating access to justice across the curriculum continues to be an important priority for law schools and faculty. Law schools, institutionally, and faculty, in individual courses, should provide opportunities for students to discuss access to justice throughout the traditional doctrinal curriculum beginning in the first year of law school and continuing across a broad range of upper-level electives.

5. Best Practices of Supervising Law Student Pro Bono Work: The Handbook of Best Practices for Supervision of Law Student Pro Bono Work Will Be Produced

Under the auspices of the Statewide Law School Access to Justice Council, the Handbook of Best Practices for Supervision of Law Student Pro Bono

Work will be presented at the Fifth Annual Law School Conference on Access to Justice in 2016 and be published on the web for use as a community resource.

6. Law Schools Should Be Supportive of Non-Lawyers Working to Help Narrow the Justice Gap

In keeping with their stated educational missions and institutional values, law schools should consider how to best support non-lawyers with due regard to ABA accreditation standards, New York State licensing issues and the impact on law schools' mission, administration, including career services offices, and J.D. students. Law schools need to consider ways to educate and train law students to engage with non-lawyers to expand access to justice, e.g. discussing this issue in class; training to law students to think about working in conjunction with non-lawyers to better serve clients; including non-lawyers in clinical and other pro bono law school efforts. In addition, law schools need to consider developing courses or other academic offerings for non-lawyers to ensure their understanding of basic legal concepts. The economic costs to both the law schools and prospective non-lawyer participants should be explored.

7. Law Schools Should Expose Students to Limited-Scope Assistance as a Way to Expand Access to Justice

Limited-scope assistance has emerged as an established and institutionalized service delivery method for assisting unrepresented litigants in civil legal matters and as a means to narrow the justice gap. Appropriate training for law students engaged in supervised limited-scope assistance is of paramount importance and should cover the key areas of confidentiality, competence, informed consent, cultural competence and disclosure to the tribunal.

8. Developing Transactional Skills to Serve Low-Income Communities

In addition to traditional advocacy and litigation-related courses, there should be increased offerings of practical, skills-based transactional classes and clinics in law school, pertaining to, for example, contracts, leases and corporate governance matters, to enable students to provide, and to educate them about the need for, transactional legal services to low-income individuals and communities, as well as the organizations that serve them.

OVERVIEW OF THE FOURTH ANNUAL LAW SCHOOL CONFERENCE

The Law School Conference is convened annually in accordance with a recommendation from the Inaugural Conference, adopted by the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice) in its 2012 Annual Report to the Chief Judge, to encourage and promote communication and collaboration among New York's 15 law schools and legal services providers, law firm pro bono coordinators, bar associations and the courts, on collective efforts to help meet the essential civil legal needs of low income New Yorkers.¹ Based on the significant role New York's 15 law schools play in Chief Judge Jonathan Lippman's efforts to narrow the justice gap, the Annual Conference has become a forum to discuss and consider how law schools can best impart the value of pro bono service for every lawyer's professional development, the continuing duty lawyers have to engage in pro bono work, and how to broaden the impact of our collective pro bono work in narrowing the justice gap. The Annual Law School Conferences have generated recommendations instrumental in advancing how access to justice is integrated into law school, across the curriculum and in clinical and experiential settings.

This year, the Fourth Annual Law School Conference was held on May 11, 2015 at Fordham University School of Law. Task Force Chair Helaine M. Barnett welcomed 206 participants to the May 11 Conference. As in past years, the participants included law school deans and vice deans, professors and administrative representatives and law students from all 15 New York law schools; representatives of the judiciary and Office of Court Administration; representatives of city government; members of the Board of

¹ Reports from the Annual Law School Conferences are contained in Appendix 15 to the respective Annual Task Force Reports from 2012-2014, available on the Task Force website at <http://www.nycourts.gov/ip/access-civil-legal-services/index.shtml>. The history of the Law School Conference is recounted in Appendix 15 to the 2013 Task Force Report to the Chief Judge, available at <http://www.nycourts.gov/IP/access-civil-legal-services/PDF/2013CLS-Appendices.pdf>. As noted there, 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 five 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.

Law Examiners; executive directors and attorneys from legal services providers and bar leaders, including law firm pro bono counsel. In addition, this year's Conference included new lawyers from the first class of Pro Bono Scholars and supervisors of Scholars, both from the law schools and providers, as well as Pro Bono Innovators. Ms. Barnett noted that this year there would be two morning plenary sessions, and six afternoon work group sessions.² Ms. Barnett acknowledged the significance of the ideas and suggestions of the participants, who each year offer a broad spectrum of perspectives to the discussions, generating recommendations to the Task Force. Ms. Barnett thanked the attendees for their continuing involvement and contributions, which form an important component of the Task Force's Annual Report to the Chief Judge, and then invited Dean Michael Martin to the podium.

Dean Martin remarked that "in service to others" is Fordham's motto, and this Conference embodies that credo. Calling Chief Judge Lippman a pioneer who has reinvigorated the Access-to-Justice movement, Dean Martin hailed the law schools for their contributions through scholarly research, experiential education and pro bono work and encouraged expansion of these endeavors. In closing, Dean Martin extended Fordham's welcome to Dean Matthew Diller, who will succeed Dean Martin in August as Fordham's Dean.

Next, Ms. Barnett introduced Chief Judge Lippman, lauding his leadership and unequivocal commitment to the Access-to-Justice movement. Ms. Barnett stated that Chief Judge Lippman's commitment to access to justice has positioned New York as a national leader and model in broadening the reach of civil legal services. Ms. Barnett's pointed to the \$85 million in state funding the Chief Judge has earmarked for civil legal services, the most of any state in the country, and the myriad initiatives he has spearheaded to expand access to justice, including the 50-hour pro bono bar admission requirement, the Pro Bono Scholars Program, and the use of non-lawyer advocates.

Chief Judge Lippman thanked Ms. Barnett for her inspired leadership of the Task Force. Chief Judge Lippman underscored the importance of the academy to the Access-to-Justice movement and the significance of the partnership with the judiciary, the law schools, the providers and legal practitioners. He explained that the \$85 million in the judiciary budget ensures that equal justice is not tangential but is central to the profession's constitutional mission and we are close to our goal of \$100 million by next year and the extraordinary voluntary efforts of the bar supplement the public funding. He stated that the 50-hour pro bono bar admission rule instills the obligation to help fellow citizens, a core value of the profession, in the DNA of future lawyers; noting that students have embraced this rule and many perform in excess of 50 hours, citing personal and professional development as motivating factors. Chief Judge Lippman noted that other states are considering adoption of this rule and that there is pending legislation in California, a harbinger of a national trend. The Pro Bono Scholars

² The program from the Fourth Annual Law School Conference is attached as Exhibit 1.

Program, he remarked, gives students an opportunity to engage in immersive pro bono work during their last semester, after they take the February bar exam, giving them a jump start on employment. The success of the Pro Bono Scholars Program is already measurable by the 85% bar passage rate achieved by the inaugural 2015 class. The Chief Judge described a collaboration jointly funded by the Robin Hood Foundation and NYCHRA, where selected scholars continue working in their housing placements through a two-year fellowship program, known as Poverty Justice Solutions, established to increase access to representation in housing matters. The Chief Judge described New York's adoption of the Uniform Bar Examination (UBE) as a significant step in the Access-to-Justice movement, giving lawyers a "portable" license, valid in all states that use the UBE. The Chief Judge praised the New York bar for its vigorous pro bono work, noting that the reporting on biennial registrations is the best in the country. He recognized the significant contributions of attorney emeriti and non-lawyers in narrowing the justice gap. With respect to the latter, the Chief Judge declared that a trained non-lawyer is better than no lawyer, and that appropriately supervised and trained non-lawyers provide effective assistance to low-income individuals confronting civil legal challenges. Further, he pointed to the leadership of the academy as integral to all of these advances, which would be impossible without their efforts and partnerships. By being proactive in the Access-to-Justice movement, "we are moving towards a 'Civil Gideon' or at the very least, a policy of effective assistance," the Chief Judge stated, "to ensure that equal justice, a constitutional imperative, is a reality. The roof over one's head is just as important as loss of physical liberty and now, 50 years after *Gideon v. Wainwright*, we continue to strive to provide equal access."

On behalf of New York's 15 law schools, Dean Matthew Diller expressed appreciation to the Chief Judge for his commitment to Access to Justice. Dean Diller acknowledged the prominent role the Chief Judge accords the law schools—to collaborate with the courts, legal services providers and bar in our collective efforts to narrow the justice gap. In recognition of the Chief Judge's support, and his role in the Annual Law School Conference over the last four years, Dean Diller presented a video tribute comprised of clips from each law school that featured students, including members of the inaugural class of Pro Bono Scholars, discussing the impact of their pro bono work on their clients and themselves.

Morning Plenary Sessions

Innovations That Expand Opportunities for Access-to-Justice Work

Funding, from public and private sources, earmarked for civil legal services has markedly increased since the First Annual Law School Conference in 2012. The salutary benefits of this funding extend well beyond the numbers of individuals who now have legal representation in matters involving the essentials of life and the improved circumstances of their lives that derived from effective counsel and assistance. The visible expansion of opportunities for law schools, law students and practitioners to serve people in need and the collaborative spirit that has built enduring public/private

partnerships to maximize the delivery and effectiveness of civil legal services are emblematic of the long-reaching multiplier effect of the increased funding. In recognition of the plethora of new and innovative initiatives and collaborations in the public and private sectors, the two morning plenary sessions were dedicated to exploration of how the law schools can harness the talent of the energetic and enthusiastic law student population to serve the immediate and great need for civil legal assistance in appropriate settings. The Chief Judge's initiatives have underscored the power the law schools' mission and curricula have to shape the profession and values of its practitioners.

I. Public/Private Partnerships and Other Collaborative Models for Closing the Justice Gap

In opening the First Plenary Session, Fordham Law School Professor Jennifer Gordon pointed to the irony that there are innumerable economically disadvantaged people who are in need of civil legal assistance and there are too many law students graduating without jobs. Professor Gordon touched on a recurring theme of the law school conferences: how to align demand for legal services with the supply of newly minted lawyers and what can the law schools do to achieve a balance. The assembled panel, Nisha Agarwal, Commissioner of the New York City Mayor's Office of Immigrant Affairs (MOIA), Keith McCafferty, Managing Attorney of Legal Assistance of Western New York, Inc. (LAWNY), Molly Murphy, Special Counsel to the New York City Human Resources Administration (NYCHRA) Commissioner; and Eric Weingartner, Managing Director at the Robin Hood Foundation, discussed their access-to-justice programs and how the resources of a supervised pool of law students can be integrated to help meet the need.

Commissioner Agarwal stated that New York City's resources must be leveraged to improve access to justice for the immigrant community, which represents 60% of the city's population. Commissioner Agarwal identified access to justice as MOIA's number one priority and it is her mission to promote programs and policies that will enhance access to justice for immigrants. To this end, Commissioner Agarwal emphasized that access to legal services is critical for immigrants to gain legal status which leads to access to health care, education and employment stabilizing tenuous situations.

Mr. Weingartner highlighted the great dividends Robin Hood—and by extension the city itself—has reaped from its multi-million dollar investment in civil legal services. Mr. Weingartner stressed that Robin Hood's goal is to maximize outcomes and that funding for effective legal representation for people in need consistently yields high returns. Mr. Weingartner noted that there are always myriad intertwined issues confronting an individual faced with civil related troubles—requiring assistance from a skilled lawyer -- or well-trained, supervised student -- and resolution of these issues creates a productive New Yorker.

The Poverty Justice Solutions fellowships are an innovative public/private partnership between Robin Hood and NYCHRA, spearheaded by the Chief Judge, which enable Pro Bono Scholars to continue their placements and offer recent law school graduates placements with civil legal services providers to help combat homelessness and poverty in New York City.

Ms. Murphy indicated that NYCHRA assists New York City residents confronting housing issues by offering a medley of legal services, and works with MOIA to assist immigrants. The current NYCHR Commissioner has streamlined civil legal services to broaden the reach of resources and has enlisted civil legal services providers and law schools to maximize the number of individuals served.

Similarly, Mr. McCafferty stated that LAWNY has served more clients, many in remote areas of Western New York, as a result of the infusion of new civil legal services funding. Mr. McCafferty described the successes of the AmeriCorps programs for law school and college graduates, noting the deep imprint access-to-justice work has on recent graduates evidenced by how many AmeriCorps candidates pursue careers in legal services. In fact, Mr. McCafferty pointed to LAWNY's current managing directors who were initially AmeriCorps paralegals who returned to work as lawyers upon graduation.

In concluding the session, Professor Gordon and the panelists underscored the importance of experiential learning for students to ensure an immersive look at access-to-justice work and the impact they can make. This training, under watchful supervision, is key to the law schools' efforts to help narrow the justice gap and to imbue law students with the professional ethic to perform pro bono work.

II. Pro Bono Scholars Program and the 50 Hour Pro Bono Bar Admission Rule

Over the last three years, the Law School Conference has followed an impactful announcement by the Chief Judge in his Law Day speech. In 2013, in accord with the Chief Judge's proposal, the New York Court of Appeals adopted Rule 520.16 mandating every candidate to the New York State Bar perform 50 hours of pro bono work as a prerequisite to bar admission. In 2014, the Chief Judge launched the Pro Bono Scholars Program (PBSP) for sixth-semester law students enabling them to take the February bar exam in exchange for full-time pro bono placements during their final law school semester assisting low-income people to resolve their legal issues. The 106 scholars from the 2015 inaugural class who took the February 2015 bar exam achieved an 85% pass rate. This year, the Chief Judge announced that New York would administer the uniform bar examination beginning in 2016 to maximize the portability of a law license. The Second Morning Plenary Session offered a forum to consider the two student pro bono initiatives from the perspective of the law school, a legal services provider and a pro bono scholar.

Court of Appeals Associate Judge Jenny Rivera opened the session by noting that applicants to the bar in calendar year 2015 will be permitted to submit affidavits for pro bono work completed prior to May 2012. Judge Rivera remarked that the definition of pro bono for purposes of the bar admission rule is broadly construed and the primary objective is to serve individuals in need.

Buffalo Law School Professor Kim Diana Connolly aptly characterized the Chief Judge's pro bono law school initiatives as efforts to increase awareness of the Access-to-Justice Movement and the persistent need for services and resources. Professor Connolly and fellow panelist Hofstra Professor Jennifer Gundlach, remarked that law schools will need additional resources to ensure the longevity of the PBSP, including the involvement of faculty not typically assigned to clinical or public-interest endeavors. Professors Connolly and Gundlach stressed the value of engaging students in pro bono work and that many students perform in excess of the required 50 hours. To this end, formal tracking of the total number of hours of pro bono work performed by law students and assessments/reflections from students about their experiences are encouraged as matters of policy.

Professor Gundlach observed that a notable benefit of the PBSP—and the annual law school conferences—is the increased dialogue between law schools, courts and legal services providers. Professor Connolly announced that she intends to engage in a longitudinal study of how the PBSP impacts students and communities.

Lauren Donnelly, Housing Help Program Supervisor at the Legal Aid Society and an Adjunct Professor at Cardozo Law School, where she instructs students in the PBSP, offered an account of the eviction-prevention efforts undertaken by her student-scholars made possible by the funding from NYCHRA and Robin Hood. Ms. Donnelly read from several journal entries her students recorded to illustrate the impact the work had on the students and the positive results achieved for the clients. Ms. Donnelly noted that the addition of the Scholars and the quality of their work allowed the Legal Aid Society to handle additional cases.

Leigh Ellis, a Pro Bono Scholar from Pace Law School who has been hired by her PBSP placement, Legal Services of the Hudson Valley, lauded the PBSP and expressed her hope that future students will avail themselves of the tremendous opportunity it offers. She emphasized the value of practical skills she learned during her placement which she could not have gained by being in the classroom, and the significance of the community of mentors she cultivated by working in a legal services organization.

The open discussion subsequent to the panel presentations raised the issue of the importance of supervision of all types of law student pro bono work. An online Handbook of Best Practices for Supervising Law Student Pro Bono Work is under development by one of the Conference Work Groups and the Council as a community resource. A note of caution was sounded for measured expansion of the PBSP and

maximizing the diversity of candidates, perhaps broadening the reach of the applicant pool by increasing academic support.

Afternoon Work Groups: Report Summaries of the Sessions

As detailed in the Conference Program annexed to the Report, this year six Work Group sessions ran concurrently during the afternoon. Each of the Work Groups continued the dialogue from the sessions at the prior three Conferences. The Work Group Reports and Recommendations derived from the discussions in the Work Group sessions and summarized below demonstrate how fruitful it is to continue the conversation on the role of law schools in helping meet the essential civil legal needs of low-income New Yorkers.

Educating Students to Be Culturally Competent Lawyers

Overview

As several previous work groups from this conference have recommended, cultural competency should be considered an important student learning outcome for graduates of New York law schools. The Work Group, led by CUNY Law School Professor Susan Bryant, addressed these issues with presentations and teaching demonstrations at the Conference by Albany Law School Professor Mary Lynch; Lillian Moy, Executive Director of the Legal Aid Society of Northeastern New York; and Aditi Shah, Staff Attorney and Language Access Coordinator for New York Lawyers for the Public Interest.

Recommendations from the Work Group

1. All New York law schools should establish and publish learning outcomes that contribute to the development of culturally competent lawyers and incorporate multicultural concepts, skills and values.
2. All New York law schools should establish and publish learning outcomes that develop law graduates who can ask and discover their client's goals and, as well, identify, learn and tell persuasively "their client's story."
3. Law schools and the courts should recognize that in-house clinics are most transformative in facilitating cultural competence education in the context of real cases while also developing client-centered lawyers.
4. Providers and law clinics should create standard office procedures for providing interpretation, translation, and other communication accommodations.
5. All New York law schools should establish and publish learning outcomes that include acquiring knowledge, skills and values to provide competent, ethical representation of clients needing communication accommodations.

Synopsis of Discussion

For those concerned with both access to justice and educating culturally competent lawyers, the new requirements imposed upon law schools by the American Bar Association (ABA) can be viewed as an opportunity to create more space for and more conversation about the development of culturally competent lawyers within law schools. Recently, the ABA created standards requiring law schools to establish and publish learning outcomes that prepare students for “effective, ethical, and responsible participation as members of the legal profession.”³ In addition, law schools now are required to develop processes “to measure the degree to which students have attained competency in the school’s student learning outcomes.”⁴

1. Learning to Be Culturally and Linguistically Competent

Learning to be culturally competent includes knowledge, skill and attitudinal/value components. The knowledge component includes understanding similarities and differences between client and lawyer, awareness generally of cultural nuances as well as the need to learn about a client’s specific culture, and sensitivity to the differences in values between individual versus collective cultures. The knowledge component also includes understanding of implicit bias and how privilege surfaces and achieves dominance through our legal systems. In developing cross-cultural skills, law students need to develop the ability to navigate similarities and differences, exercise parallel universe thinking and critically evaluate laws, culture and societal systems from a variety of cultural perspectives and lenses. Finally, law students need to absorb professional values and attitudes such as openness, curiosity, and respect for differences in cultures and beliefs, as well as commitment to developing habits that improve cultural sensibility.

To build cultural competence, lawyers should understand both how their implicit biases can affect their decisions and how unconscious bias can affect the decision-makers before whom they appear. Unconscious biases can operate to distort accuracy and, at times, to thwart justice. Developing awareness of unconscious mental processing is essential to becoming a more culturally competent law student, law graduate and lawyer. Awareness alone is not enough; lawyers need to know how to decrease their own biased thinking and how to challenge it in others.

2. Developing Vocabulary for a New Paradigm

Defining culturally competent practice involves defining and learning ideas. There is a new vocabulary for this paradigm—the critical component is to raise

³ 2014-2015 Standards and Rules of Procedure for Approval of Law Schools, Standard 301 http://www.americanbar.org/groups/legal_education/resources/standards.html.

⁴ *Id.*, Standard 315.

awareness and increase understanding. As lawyers, we should develop cultural humility and cultural competence in order to be better lawyers. One way lawyers can accomplish this is through “parallel universe thinking”: suspending conclusions and judgments and generating multiple possible explanations to explain what may initially seem inexplicable. Parallel universe thinking helps lawyers avoid judging the actions of clients, and promotes greater understanding of clients’ actions. This requires that cross-cultural communication skills, including deep listening focused on content, not style. Similarly, creating awareness of the importance of non-verbal behavior, as well as the ability to adapt conversation management behaviors and style to an individual client are critical components of this paradigm. In addition, the lawyers’ capacity to consistently use a trust-promoting method of inquiry, advice and counsel with diverse clients should be encouraged.

It is imperative that professors, practitioners and law students understand the role of “cultural guides” in this setting.

3. Teaching Cultural Competence

To teach law students and lawyers how to be culturally competent lawyers, we must increase awareness of their roles as cultural beings. The aim is to assess through a clear lens, free of implicit biases, value judgments and mental shortcuts, to reveal how ethnocentrism casts shadows on, even obstructs, impartiality.

Recently, this learning has been connected to our justice system,⁵ especially with respect to policing. In both the criminal justice and education system, implicit bias affects sentencing and school discipline outcomes for African-Americans and Latinos. In the employment setting, it often affects job interviews and call-backs. Culturally competent lawyers must strive to stop implicit biases from obstructing justice.

The Work Group engaged in a short experiential exercise designed to teach students how our world-view shapes how we fill-in details to explain and attribute meaning to behavior. The group used this exercise as a simple illustration of how our own cultural lens shapes our judgments, assumptions and thoughts about a complicated world and how such biases may lead to misinterpretation, inaccurate conclusions and injustice.⁶ Following the presentation and discussion, the group

⁵ Seeing Black: Race, Crime and Visual Processing, Eberhardt, Goff, and Purdie & Davies. <http://fairandimpartialpolicing.com/docs/pob5.pdf>.

⁶ One way to raise awareness of implicit biases is to introduce students to the implicit association test, <https://implicit.harvard.edu/implicit/takeatest.html>. The work group suggests that law students take the race test and a number of other that look for different biases. In teaching about biased thinking generally, law schools should introduce the concept of confirmation bias, a process that causes us to note and remember the facts and observations that confirm our prior understandings.

identified in-house clinics as uniquely suited to teach cultural competence. In the faculty-supervised learning that students receive in these settings, students are assisted in learning from experience to build cultural competence, to develop cultural humility and to challenge bias and injustice in the justice system.

4. Connecting Language Access and Cultural Competency

Legal services providers face increasing diversity in their client populations. Law students should expect that they will work with clients who are limited English proficient (LEP) or who present other communication differences based on deafness or disability. Law students should recognize their legal and ethical obligations to accommodate client communication needs. As with other processes that providers and clinics maintain to establish and conduct client representation, providers and clinics should proactively create standard office procedures for providing interpretation, translation, and other accommodations. Law students should recognize that communication accommodations should be a basic aspect of case planning, not a challenge to be dealt with on an *ad hoc* basis.

Infusing Access to Justice in the Doctrinal Curriculum

Overview

This year's Work Group featured examples of how access to justice is integrated into core curricular offerings. Fordham Law School Professor Nestor A. Davidson highlighted how he integrates access-to-justice issues into his property class; New York University Law School Professor Helen Hershkoff discussed how she infuses access to justice into the civil procedure syllabus; and Touro Law Center's Professor Deseriee Kennedy described how she integrates access-to-justice issues into family law courses.

Recommendations from the Work Group

1. Faculty, in individual courses, and law schools, institutionally, should provide opportunities for students to engage with questions of access to justice throughout the traditional doctrinal curriculum—in the first year, but also across a broad range of upper-level electives.
2. Faculty should consider creative pedagogical techniques beyond Socratic dialogue to bring access-to-justice issues to life, including court visits, student reflections, and engagement with litigation materials.
3. Faculty should understand that they do not need to be expert in questions of access to justice to frame a constructive conversation about how these issues relate to their own areas of expertise.
4. Recognizing the vital need to respect individual faculty pedagogical autonomy, law schools can take steps to foster a discourse across their

faculty about how access-to-justice questions might be addressed. These steps can include charges to faculty committees responsible for curriculum and teaching, school-support colloquia or “themes” that can cross topical areas, and outside speakers who can bridge sections, among other supports.

Synopsis of Discussion

The Work Group began with a panel that offered three perspectives on experiences with access to justice in traditional doctrinal courses. Professor Davidson began with first-year Property, where he addresses access-to-justice questions at several points. Landlord-tenant law provides a fertile field for engaging with these issues, and Professor Davidson gave the example of the implied warranty of habitability, a doctrine that appears to provide robust protection for tenants from substandard housing conditions. There is a literature—which is referenced in the casebook Professor Davidson uses—that illustrates the many ways in which this right can be illusory absent adequate representation, and the representational disparities that exist in many housing courts. To grapple with this material, students have to shift from doctrine to social context, but in his experience, most students can do so.

Next, Professor Hershkoff discussed access to justice in first-year Civil Procedure, which she argued should be the easiest of the courses in which these issues can be raised. Professor Hershkoff tied access to justice with the teaching goal of getting her students to understand—and be involved in—the democratic process. A challenge Professor Hershkoff noted for civil procedure is that professors want students to think about procedure as separate from substance, while students often come in thinking that procedure is neutral and litigants all get the same treatment. Access to justice helps lay a conceptual foundation for students to understand that there is nothing natural or universal about procedure. Part of Professor Hershkoff’s aim, then, is to show students that the substantive implications of rules are highly contingent, and part of their job as lawyers is to use those rules on their client’s behalf in a way that will also inform their role as democratic participants. Professor Hershkoff illustrates this through one or two contemporary issues where poverty and procedure are particularly salient.

Finally, Professor Kennedy shifted the focus from staples of the first-year curriculum to the particular challenges of engaging upper-level students in questions of access to justice. In her Family Law course, Professor Kennedy requires students to attend child support proceedings, exposing them first to the underlying child-support doctrine. Students are often struck by the informality of the small room in which the hearings take place, and students are sensitized to the fact that about 90% of the litigants in this setting are not represented. Professor Kennedy strives to have students grapple with the tensions that child support raises—what happens when people don’t pay; for those who can pay, *should* they pay; what are the practicalities of how to pay and how much to pay? What should the state do in these situations? What penalties

are appropriate? Professor Kennedy finds that student reflections about how representational absences influence outcomes can be quite effective.

After these opening observations, the Work Group collectively discussed several themes. One member observed that students often organically bring up questions of representation and can be guided to think more deeply about doctrines that impact access, such as the ability to obtain attorneys' fees in some contexts. Another member offered ideas for bringing trial-level access issues into the classroom, such as reviewing real litigation documents and working through the lawyering decisions that framed them. And one member reflected that regular faculty should not feel intimidated about bringing up questions of access to justice—that even taking a few minutes to talk about these or related issues involving poverty, race, and power and reacting as a person, even if not an expert, can be powerful for students.

One challenge that was noted is that the doctrines introduced in the classroom are complex enough without further confusing students with the added dimension of whether litigants have access to counsel. One suggested answer to this dilemma is that students should be guided to understand that they have some responsibility of their own to face the uncertainty of decisional rules by influencing the outcome. This prompting to individual agency can illustrate how much harder navigating litigation contexts are without adequate representation.

The Work Group discussion then shifted from individual faculty efforts to broader questions of institutional responsibility for infusing access to justice across the curriculum. One work group member suggested that law school administration or faculty as a whole can develop school-wide projects to foster a dialogue about access to justice across courses. These can include "themes" that can involve the entire law school, reading groups or seminars, and one member noted that her law school has a "slow" colloquium, that unfolds over time, with faculty involved, for which students can earn credit. The group also discussed the potential value of signaling the importance of these issues in institutional structures, such as teaching evaluations.

The Work Group discussed some challenges and important caveats in an active administration effort to direct this from the top down. As one member noted, there are widely varying views amongst faculty and students, and another member raised the fact that law schools operate with legitimate and deeply held norms of faculty autonomy that must be considered.

In response, it was noted that one of the ways that law schools can accomplish these goals without mandatory structures that infringe on faculty autonomy might involve bringing speakers to the law school and mandating student attendance. One Work Group member noted that her law school has 1L convocations that all students are required to attend, and these sometimes have a specific topical theme. While this is a role law schools can play, it also requires that students reflect and really think about how they can make a difference.

Best Practices of Supervising Law Student Pro Bono Work: Workshop on Developing the Handbook of Best Practices for Supervision of Law Student Pro Bono Work

Overview

The Best Practices for Supervising Law Student Pro Bono Work Group builds on work previously done toward the creation of a new guidebook for supervisors of law student pro bono service that will support the 50-hour bar admission rule, Pro Bono Scholars Program and other pro bono structures and initiatives in New York State, at the 2014 Law School Conference and in the period between the Conferences. As conceived by Ellen Chapnick, Dean for Social Justice Initiatives at Columbia Law School, the session began with a plenary meeting to orient and educate the participants about how to draft a web-based publication and the technology that will be used throughout the creative process. Mike Grunenwald of Pro Bono Net gave a presentation on best practices for writing content designed for web publication, and Laren Spierer, Director of Pro Bono Programs at Columbia Law School and a Work Group Chair, gave a short tutorial on Google Docs, which the chapter teams will utilize for cloud-based collaboration. The Work Group participants included Conference registrants who selected the Work Group, as well as individuals who had been recruited previously.

Recommendation from the Work Group

Under the auspices of the Statewide Law School Access to Justice Council, the Handbook of Best Practices for Supervision of Law Student Pro Bono Work will be published on the web and “unveiled” at the Fifth Annual Law School Conference on Access to Justice in 2016.

Synopsis of Work Group Session

The 2014 Law School Conference provided a unique opportunity for meaningful discussion about the supervision of law student pro bono during which multiple stakeholders in the law student pro bono service matrix (law schools, not-for profit organizations, courts, law firms, bar associations, etc.) met in person and were able to brainstorm about various aspects of supervision of law student pro bono:

1. What are best practices for developing an access-to-justice pro bono project for law students that has significant impact?
2. What are best practices for providing orientation and training to a student about the project at its outset?
3. What best practices are most suited for assuring competent performance, responding to questions, giving feedback, and evaluating the student during the project?

4. What are best practices for informing law students about professional responsibility and ethics relevant to their pro bono project?
5. What are best practices for supervising students in the Pro Bono Scholars Program, including each of the above topics?
6. What are best practices for the division of responsibility among law school professors and host organizations (not for profits, courts, law firms, etc.)?

After the 2014 Conference, the Chairs of the Work Group analyzed the information collected at the Conference and distilled it into a detailed outline that will serve as the foundation for a Handbook of Best Practices for Supervision of Law Student Pro Bono. They also recruited lawyers at law schools, public interest and government organizations, judicial bodies and law firms to lead and serve on work groups that would be responsible for the individual Handbook chapters. A "Chapter Chair" has been selected for each chapter; s/he is responsible for ensuring that each group produces their portion of the Handbook according to the production timeline outlined by the Work Group Chairs. The Work Group chairs also decided that the Handbook will be published on the web, rather than in hard copy, to facilitate widespread distribution and updates. It is projected that the handbook for supervisors will ultimately be part of a larger body of work that includes a handbook on best practices for students engaging in pro bono work and one for law school faculty and administrators involved in managing law student pro bono programs.

The majority of the 2015 Work Group session was a working meeting. The participants were divided into subgroups according to the chapters they had been assigned. Discussions relevant to their drafting sections of the Handbook of Best Practices for Supervision of Law Student Pro Bono Work ensued, building on the themes raised at last year's conference and the outline formulated thereafter. The subgroups brainstormed on content and a plan for producing content going forward.

The Work Group Chairs have posted relevant materials online for the Chapter Chairs to share with their individual groups and will hold monthly calls to keep the drafting process moving forward. The drafts will be read and edited by an additional panel of experts and the Chairs will work with them to compile the chapters into the final, web-based product.

Role of Law Schools in Training Non-Lawyer Advocates to Help Narrow the Justice Gap

Overview

The Work Group panel was assembled to reflect on the advances in using non-lawyers as a resource to improve access to justice since last year's Conference, with particular attention to the Navigator Program in Brooklyn Civil Court's Housing Parts and Bronx Civil Court's Consumer Credit Parts, Washington State's Limited License Legal

Technician (LLLT) program and the implications for New York law schools. Thomas Maligno, Executive Director of the Public Advocacy Center and Public Interest at Touro Law Center, led the discussion with panel members Katherine Chang, Program Coordinator of the Navigator Pilot in Brooklyn Housing Court from University Settlement; Patricia Kuszler, Vice Dean of the University of Washington School of Law (via Skype); Paula Littlewood, Executive Director of the Washington State Bar Association (via Skype); Patricia Salkin, Dean and Professor of Law, Touro Law Center (via telephone); Fern Schair, Co-Chair of the Committee on Non-Lawyers and the Justice Gap and Chair of the Feerick Center for Social Justice at Fordham University School of Law; and David Udell, Executive Director of the National Center for Access to Justice and Visiting Professor from Practice at Benjamin N. Cardozo School of Law.

Consensus of the Work Group

Law schools should be supportive of non-lawyers working to help close the justice gap. Law schools should consider how to best support non-lawyers with due regard to ABA accreditation standards, New York State licensing issues and the impact on law schools' mission, administration, including career services offices, and J.D. students. There also needs to be consideration given to the financial aspects of a law school offering this support. Consideration of the costs to both the law school and the prospective non-lawyer participant needs to be explored. Law schools need to also consider the ways to train law students to engage with non-lawyers to help diminish the justice gap.

Synopsis of Discussion

In 2014, Chief Judge Lippman created the Court Navigator Program, noting that an unrepresented litigant stands to benefit from the assistance of an appropriately trained and supervised non-lawyer when faced with a housing matter or consumer credit issue that ultimately can impact that individual's -- and family's—civil liberties and due process rights. The practice of law is regulated to protect individuals from fraud, and the use of non-lawyers—their education, field training and supervision—must similarly be regulated to guard against the unauthorized practice of law. Presently, Navigators work closely with lawyers from non-profits already assisting people in need by, e.g., aiding in filling out forms or answering factual questions posed by the court, but Navigators are prohibited from advocating for litigants. A legislative proposal is under consideration to “carve out” an exception to the unauthorized practice of law statute for proscribed activities by non-lawyers that would give legal services organizations increased discretion to send an approved person to court with a client.

By contrast, a Limited License Legal Technician in Washington State is licensed to practice law albeit of limited scope, presently “siloes” family law, and is subject to the Rules of Professional Conduct for LLLTs. On the day of the conference, May 11, 2015, the first class of 15 LLLT candidates was taking the initial practice exam. The interest in -- and demand for -- LLLTs has increased dramatically—the current class has

78 students, and there are over 100 students enrolled in the core education classes for the LLLT program. Generally, the students have strong ideas about their career paths and are seeking an affordable, accessible education. The core curriculum is offered by a community college, and the practice area curriculum, which must be designed by a law school, is offered by the University Of Washington School Of Law. There is a synchronized online component to ensure accessibility for students outside of Seattle. In addition to exams, candidates must perform 3000 hours of work supervised by a lawyer. The candidate can be compensated for this work experience, and the cost of the LLLT program is less than half of the cost of the average New York law school.

Interestingly, the Washington State panelists remarked that lawyers are recognizing that LLLTs are not competition but a business opportunity. Apart from cultivating a new client base, LLLTs can handle parts of a case for a lower rate and then refer the matter to a lawyer when it exceeds the scope of the LLLTs' practice area.

The Washington State experience is instructive for New York. It was encouraging to hear of the support from the law school and bar. The positive impact in New York of navigators for litigants, even before entering the courtroom and in the courtroom, indicates that there is a role for non-lawyers in improving access to justice and the law schools should develop policies with regard to non-lawyers.

Limited-Scope Legal Assistance as a Means to Narrow the Justice Gap

Overview

Limited-scope assistance has emerged as an established and institutionalized service delivery method for assisting unrepresented litigants in civil legal matters and addressing the access-to-justice crisis. In the 2014 Annual Report to the Chief Judge, the Task Force recognized the importance of limited-scope assistance as a way to address the continuing need for civil legal assistance. This year's adoption of the resolution by the New York State Legislature supporting the need for effective legal assistance for New Yorkers living at or under 200 percent of poverty underscores the imperative role of law schools in continuing to educate and engage students in limited-scope representation.

Dora Galacatos, Executive Director of the Feerick Center for Social Justice at Fordham Law School, led a discussion with the Work Group Panel, which included Carolyn E. Coffey, Supervising Attorney at MFY Legal Services, Inc. and Adjunct Professor at N. Cardozo Law School; Laurie Milder, Special Counsel to the New York State Courts Access to Justice Programs; Christopher Schwartz, Deputy Director of the Legal Hotline & Legal Assistance for the Self-Represented at the City Bar Justice Center; and Marcella Silverman, Clinical Associate Professor of Law at Fordham Law School and the Supervising Attorney for Lincoln Square Legal Services, Inc., that explored how law schools can further engage in limited-scope assistance to expand access to justice for low-and moderate-income people in clinical and other experiential learning settings.

The Work Group identified best practices for limited-scope assistance in these settings as a way to close the justice gap and focused, in particular, on training and supervision.

Recommendations of the Work Group

1. Clinical seminars and seminars in connection with other experiential learning courses, such as externships, should include discussion of access to justice and should cover limited-scope legal services.
2. Clinical and other experiential learning courses should include observation of court proceedings in which significant numbers of litigants are unrepresented.
3. Training for law students engaged in supervised limited-scope assistance is of paramount importance and should cover the key areas of confidentiality, competence, informed consent, cultural competence, and disclosure to the tribunal. Specific suggestions include:
 - Training law students to be aware of clients with potential issues of limited English capacity and limited literacy, and the need for plain language in describing the scope of representation.
 - Training law students to handle confidentiality issues in settings with limited space or privacy.
 - Training law students to assess when cases are too complex for limited-scope representation.
4. Additional research and evaluation regarding limited-scope assistance and its efficacy would be helpful to identify best practices and evidence-based policies and procedures for those providing such services.

Synopsis of Discussion

The session began with the sharing of information from two surveys distributed in advance of the conference to New York State law school faculty and administrators, which asked questions about involvement with limited-scope assistance.⁷ The survey results suggest that limited-scope assistance is being included in both doctrinal and experiential courses by clinical faculty and administrators. For example, over 60% of respondents who have a seminar component for externships cover access-to-justice

⁷ Two surveys were distributed prior to the Conference. One survey targeted faculty and administrators involved with externships, Pro Bono Scholars programs, and law student pro bono placements; 43 respondents completed part or all of this survey. A second survey targeted clinical faculty; 16 respondents completed part or all of that survey.

issues and, of those, 45% also cover limited-scope legal services. Fifty percent of respondents reported that externship placements routinely involve students in limited-scope assistance. With regard to clinical programs, which involved a smaller group of respondents, nearly 70% include access-to-justice issues in the seminar component of the course (but only 29% also cover limited-scope assistance). Notably, six out of fifteen respondents (or 40%) taught a clinic that provided some limited-scope assistance, mostly as part of intake, but also in connection with clinics.

Given the prevalence of limited-legal services—in the nonprofit legal services sector and as a pro bono opportunity in the courts and through bar associations—students benefit from exposure to and experience with this modality while in law school. The survey results show that law school faculty and administrators already include access-to-justice issues in seminars, but more of them could include discussion of unbundled legal services as well. Clinical and experiential learning and supervised pro bono programs can provide a structured setting for students to engage in high-quality, limited-scope services; notably, clinics can do this while primarily focusing on full-scope representation, as this form of holistic lawyering is fundamental to clinical pedagogy. In this way, faculty and administrators can follow best practices for unbundled services and explore with law students the policy issues and challenges presented by this service modality. Some of the concerns raised included the inability of students to serve clients holistically—particularly the limitations presented both with regard to the nature and scope of learning by the students, as well as the depth of assistance and engagement in the legal issues presented by clients—and the time and effort that limited-scope assistance may take away from other important efforts, such as law reform work, appeals, and late intervention cases. Another concern voiced related to the challenge in assessing cases to ensure that they are appropriate for limited-scope assistance. These concerns were countered by the imperative to provide assistance to unrepresented litigants in cases amenable to brief advice. A number of participants mentioned evaluation and research of limited-scope programs to improve the knowledge in the field and to identify best practices.

The Work Group recognizes that many states have adopted professional responsibility rules to enable pro bono and other programs to engage in limited-scope assistance;⁸ that bar associations operate clinics and hotlines (some staffed with pro bono lawyers); that funders routinely fund nonprofit legal services providers to

⁸ See, e.g., N.Y. Rule of Professional Conduct 6.5; Rochelle Klempner, *Unbundled Legal Services in New York State Litigated Matters: A Proposal to Test the Efficacy Through Law School Clinics*, 30 N.Y.U. Rev. L. & Soc. Change 653 (2006). See also ABA Standing Committee on the Delivery of Legal Services, *Pro Se Unbundling Resource Center*.

expressly provide such services;⁹ that courts throughout the country have integrated limited-scope programs in an array of practice areas; and, that the use of limited-scope representation is a viable and effective means to improve access to justice.

The Work Group discussed a number of key topics related to best practices for delivery of unbundled services.

Informed Consent: Work Group participants discussed retainer agreements for limited-scope services and guidelines as to what should be in a retainer agreement. The persons who access limited-scope services may be non-English speakers, have literacy issues, and need plain-language documents. As a general practice, the importance of explaining or reading the document out loud to the client was emphasized.

Confidentiality: The Work Group spoke at some length about the need to ensure confidentiality for limited-scope clients because of the less-than-optimal settings where client engagement often takes place. For example, advocates conduct interviews in crowded courtrooms, clinics, hallways, side rooms, and stairwells. Some programs, like the New York State Unified Court System's Volunteer Lawyer for the Day Program, have offices in the courts to meet with clients with appointments, but even then, some clients are met for the first time in the courtroom after the calendar is called.

Competency, Training and Supervision: The discussion on competency focused on the critical need for law students to be closely supervised by faculty and other experienced attorneys. For limited-scope representation engagements, law students need legal and courtroom skills training and the supervisor should be closely involved with and available in every aspect of the representation. Work Group participants stressed that "supervision is key." Additionally, diverse training for law students involved in unbundled legal services is also important, such as simulations, role playing, and extensive skills-based instruction. The Work Group also discussed the fact that not all cases are appropriate for limited-scope services and those involved need to exercise as much care as possible in screening and triaging of cases.

Disclosure to Tribunal: The Work Group concluded that, although not required, the better practice is to disclose that court documents have been prepared with assistance of counsel.

⁹ According to the Interest on Lawyer Account Fund of the State of New York (IOLA), in Fiscal Year 2013-2014, IOLA grantees provided "pro se assistance" to 37,154 individuals through clinics and to 30,056 individuals in court.

Developing Transactional Skills to Serve Low-Income Communities

Overview

Marcia Levy, Executive Director of Pro Bono Partnership, moderated the Work Group panel discussion, featuring Erin Correale, Vice President and Compliance Director at JPMorgan Chase; Sean Delany, Executive Director of the Lawyers Alliance for NY and NYU Adjunct Professor; Brian Glick, Clinical Associate Professor of Law at Fordham; Alison King, Pro Bono Counsel at Kaye Scholer LLP; and Barbara Schatz, Columbia Law School Professor. The Work Group explored current law school training in transactional law and legal skills, including, e.g., efforts to expand clinical and externship opportunities focused on transactional practice, and the significant impact of the service of pro bono lawyers to non-profit organizations based in underserved communities. The group discussed whether law schools prepare students to be transactional lawyers and how law schools can motivate students to seek out or experience a transactional practice or skill-set.

Conclusions of the Work Group

1. Access to transactional legal services fundamentally transforms communities and lives and is an access-to-justice issue.

Without access to pro bono or low-cost legal representation, many non-profits providing critical services to underserved communities and many community-based small businesses and social enterprises would fail or fail to thrive. The benefit of legal services to non-profits, social enterprises, and community-based small businesses has a broad and positive community-wide impact, multiplied through the efficient and increased delivery of their services and the strengthening of local economies and communities.

2. There should be an increased offering of practical, skills-based transactional classes in law school and a connection to pro bono experiential learning.

Students are not “practice ready” from a transactional perspective if they are not exposed to the discipline in the classroom or experiential learning during law school. Much of this training falls to the law firms to provide “on the job.” The work group observed that the transactional curriculum offering has increased over the past decade, with clinical offerings leading the way. However, clinical and classroom teaching focused on transactional skills and practices is still not widespread. Law school faculty teaching through the lens of litigation and the case method misses an opportunity to highlight the transactional nature of subjects like intellectual property, real estate transactions, contracts, governance and labor and employment. Similarly, opportunities to learn through clinical and pro bono legal work for non-profit organizations, which have the same

transactional legal needs as commercial companies, should be augmented and highlighted. Faculty and advisers should have a heightened awareness of transactional practice and communicate with students early and often through the curriculum and in the advisory process about opportunities to engage in pro bono transactional legal work.

3. Transactional legal concepts should be incorporated into the New York bar examination.

Many students treat law school as a three-year bar preparation course, and law schools feel the pressure of student bar passage rates. Adding transactional subjects to the bar examination would encourage a reprioritization of the required course of study and augmentation of a transactional skills-and practice-based law school curriculum. The promulgation of the 50-hour rule and the advent of the Pro Bono Scholars program have highlighted and prioritized the commitment to pro bono service by law students and candidates for the New York State Bar. The obligation to complete pro bono legal services as a qualification for eligibility to the New York State Bar must include a broad range of practice disciplines and corresponding pro bono opportunities, including transactional legal services.

4. Collaborations among law students, law firms and corporations for capacity-building with respect to transactional pro bono legal service delivery should be encouraged.

Partnerships between law schools and law students on the one hand, and law firms and corporations regularly engaged in transactional legal practices on the other, can build needed capacity for underserved groups like micro-entrepreneurs and nonprofit organizations.

5. The Pro Bono Scholars Program should include transactional opportunities.

The Pro Bono Scholars Program offers an opportunity for law students to develop public-service lawyering skills before graduating from law school, while providing meaningful work on behalf of low-income communities. The Program should be expanded to encompass transactional representation of non-profit organizations based in low-income communities.

Synopsis of Discussion

The Work Group recognized that there is tremendous need in the low-income community for assistance by transactional lawyers. Whether it is from a nonprofit representing the disadvantaged, a small business that is helping to revitalize a community or a social entrepreneur who is making an impact in areas such as the environment, there is a critical need for pro bono transactional lawyers who can draft

contracts and advise on incorporation or corporate governance, labor and employment, real estate and tax issues.

The current law school curriculum often does not foster the development of transactional skills, and if it does teach those skills, there are limited opportunities to experience the link between those skills and public service. The curriculum is litigation-focused in everything from the way doctrinal courses are taught to the number of transactional versus litigation clinical offerings. It was noted that at one school there are over 15 clinics, but only one has a transactional focus. Most skills courses are trial advocacy oriented, and even externships tend to be in the litigation, individual representation realm.

Students who are interested in transactional work often do not have an opportunity to engage in skills-based transactional work while in law school. There are few to no opportunities for them to learn that as transactional lawyers they can use those skills to help low-income communities, particularly through representation of organizations or small businesses. As a result, students interested in transactional work who plan to go to firms and, eventually, in-house, are not given opportunities to experience public service and will not see the value of transactional practice in that context or generally may not view public service as important. Similarly, very few public-service-oriented students will choose a transactional practice, as they do not realize that one can serve the community through nonprofit or social impact lawyering.

The group agreed that it is critical to provide opportunities for students to experience transactional practice that serves low-income communities by work with nonprofits, small businesses and social impact programs. The exposure can be through clinics, externships, practical skills courses and doctrinal courses that give some practical skills exercises.

Closing Plenary Session

Dean Diller welcomed the participants back for the concluding session, highlighting the recurrent themes from the annual conferences. Law school education shapes students and ultimately, the profession, so it is incumbent upon law schools to impart that law is about justice. The present-day irony, as pointed out by Professor Gordon during the morning plenary session, is the imbalance in the demand for civil legal services by persons in need and the supply of energetic but unskilled law students. Harnessing the talent and tremendous resources of law students requires a balance of appropriate training, education and supervision. Over the past four years, tremendous resources have been deployed to help respond to the persistent need for civil-need legal services—millions of dollars in state and city funding, public/private collaborations and related funding initiatives, the pro bono bar admission rule, the Pro Bono Scholars Program – which collectively expand access to justice. The discussions and recommendations generated from this conference and the six afternoon work

groups will continue to advance the law schools' efforts and partnerships to narrow the justice gap.

Following brief reports from the facilitators of the afternoon work groups, Ms. Barnett closed the Conference with words of appreciation to all the participants and the request for suggestions for next year's Conference.

EXHIBIT 1

FOURTH ANNUAL LAW SCHOOL CONFERENCE ON
ACCESS TO JUSTICE

THE ROLE OF NEW YORK'S 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**

FORDHAM UNIVERSITY SCHOOL OF LAW, NEW YORK

May 11, 2015



FOURTH ANNUAL LAW SCHOOL CONFERENCE ON ACCESS TO JUSTICE

THE ROLE OF NEW YORK'S LAW SCHOOLS IN HELPING MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW-INCOME NEW YORKERS

MAY 11, 2015 • FORDHAM UNIVERSITY SCHOOL OF LAW, NEW YORK

9:00–9:30 A.M. REGISTRATION AND CHECK IN - LIGHT REFRESHMENTS SODEN LOUNGE - SECOND FLOOR

9:30–10:00 A.M. WELCOME AND INTRODUCTION COSTANTINO ROOM

HELAIINE M. BARNETT CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

MICHAEL M. MARTIN DEAN AND DISTINGUISHED PROFESSOR OF LAW, FORDHAM UNIVERSITY SCHOOL OF LAW

OPENING REMARKS

HON. JONATHAN LIPPMAN CHIEF JUDGE OF THE STATE OF NEW YORK

10:00 A.M.–12:00 P.M. MORNING PLENARY SESSIONS COSTANTINO ROOM

INNOVATIONS THAT EXPAND OPPORTUNITIES FOR ACCESS-TO-JUSTICE WORK

10:00–11:00 A.M. PUBLIC/PRIVATE PARTNERSHIPS AND OTHER COLLABORATIVE MODELS
FOR CLOSING THE JUSTICE GAP

MODERATOR: JENNIFER GORDON PROFESSOR OF LAW, FORDHAM UNIVERSITY SCHOOL OF LAW

PANELISTS: NISHA AGARWAL COMMISSIONER, NEW YORK CITY MAYOR'S OFFICE OF IMMIGRANT AFFAIRS

STEVEN BANKS COMMISSIONER, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

C. KENNETH PERRI EXECUTIVE DIRECTOR, LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.

ERIC WEINGARTNER MANAGING DIRECTOR, ROBIN HOOD FOUNDATION

11:00 A.M.–12:00 P.M. PRO BONO SCHOLARS PROGRAM AND THE 50 HOUR PRO BONO BAR ADMISSION RULE

MODERATOR: HON. JENNY RIVERA ASSOCIATE JUDGE, NEW YORK STATE COURT OF APPEALS

PANELISTS: KIM DIANA CONNOLLY PROFESSOR OF LAW; VICE DEAN FOR LEGAL SKILLS; DIRECTOR, CLINICAL LEGAL EDUCATION,
SUNY BUFFALO LAW SCHOOL

LAUREN DONNELLY SUPERVISING ATTORNEY, HOUSING HELP PROGRAM, THE LEGAL AID SOCIETY;
ADJUNCT PROFESSOR, PRO BONO SCHOLARS PROGRAM, BENJAMIN N. CARDOZO SCHOOL OF LAW

LEIGH ELLIS PRO BONO SCHOLAR, LEGAL SERVICES OF THE HUDSON VALLEY; PACE LAW SCHOOL, J.D. CANDIDATE 2015

JENNIFER A. GUNDLACH SENIOR ASSOCIATE DEAN FOR EXPERIENTIAL EDUCATION & CLINICAL PROFESSOR OF LAW,
MAURICE A. DEANE SCHOOL OF LAW, HOFSTRA UNIVERSITY

12:00–12:40 P.M. BOX LUNCH COSTANTINO HALLWAY

1:00–2:30 P.M. AFTERNOON WORK GROUP SESSIONS SIX CONCURRENT SESSIONS

EDUCATING STUDENTS TO BE CULTURALLY COMPETENT LAWYERS ROOM 4-07

FACILITATOR: SUSAN BRYANT PROFESSOR OF LAW, CUNY SCHOOL OF LAW

PANELISTS: MARY A. LYNCH PROFESSOR OF LAW; DIRECTOR, CENTER FOR EXCELLENCE IN LAW TEACHING;
DIRECTOR, DOMESTIC VIOLENCE PROSECUTION HYBRID CLINIC
ALBANY LAW SCHOOL

LILLIAN M. MOY EXECUTIVE DIRECTOR, LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK

ADITI K. SHAH STAFF ATTORNEY AND LANGUAGE ACCESS COORDINATOR, NEW YORK LAWYERS FOR THE PUBLIC INTEREST

The Work Group will:

1. Identify learning outcomes: what should law students know and what skills should graduates possess to serve as culturally competent lawyers?
2. Discuss how to teach cultural competence and impart skills and values to law students and graduates.
3. Examine models of collaborative learning: how law school faculty and students can learn from legal services providers, e.g. disability justice and advocacy, language access, managing diverse legal aid offices, serving the rural poor.

INFUSING ACCESS TO JUSTICE IN THE DOCTRINAL CURRICULUM

ROOM 3-09

- FACILITATOR:** NESTOR A. DAVIDSON *ASSOCIATE DEAN FOR ACADEMIC AFFAIRS; PROFESSOR OF LAW; DIRECTOR, FORDHAM URBAN LAW CENTER, FORDHAM UNIVERSITY SCHOOL OF LAW*
- PANELISTS:** HELEN HERSHKOFF *HERBERT & SVETLANA WACHTELL PROFESSOR OF CONSTITUTIONAL LAW AND CIVIL LIBERTIES NEW YORK UNIVERSITY SCHOOL OF LAW; CO-DIRECTOR, ARTHUR GARFIELD HAYS CIVIL LIBERTIES PROGRAM, NEW YORK UNIVERSITY SCHOOL OF LAW*
- DESERIEE KENNEDY *KERMIT GITENSTEIN DISTINGUISHED PROFESSOR OF HEALTH LAW & POLICY TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*

The Work Group panel will discuss the experience and challenges of infusing questions of access to justice into doctrinal courses. The panel will present examples from civil procedure, family law and property as models that can be replicated to offer students an understanding of how access-to-justice concerns are important across the curriculum. Work Group participants will be invited to offer ideas and models to expand such curricular offerings.

BEST PRACTICES FOR SUPERVISING LAW STUDENT PRO BONO WORK: WORKSHOP ON DEVELOPING THE HANDBOOK OF BEST PRACTICES FOR SUPERVISING LAW STUDENT PRO BONO WORK

ROOM 7-119

- FACILITATOR:** ELLEN P. CHAPNICK *DEAN FOR SOCIAL JUSTICE INITIATIVES, COLUMBIA LAW SCHOOL*
- PANELISTS:** LAREN E. SPIRER *DIRECTOR OF PRO BONO PROGRAMS, COLUMBIA LAW SCHOOL*
- MIKE GRUNENWALD *PROGRAM COORDINATOR, PRO BONO NET*

The brief plenary session will include a presentation about a web platform for the Handbook of Best Practices for Supervising Law Student Pro Bono Work, as well as a discussion of its goals and general contents. After the plenary session, the captains for each chapter will work with their teams on a production plan. The working titles of the Handbook chapters are:

Chapter 1: Introduction

Chapter 2: Translating An Access-To-Justice Organization's Need For Help Into A Pro Bono Project For Law Students and Deciding What Form The Project Should Take

Chapter 3: Providing Orientation and Training

Chapter 4: Assuring Competent Performance By and Meaningful Experience for Students

Chapter 5: Evaluating the Project: Lessons for the Future

Chapter 6: Providing a Nondiscriminatory, Accessible and Safe Workplace

Chapter 7: Identifying Relationships and Contacts: Law School Faculty and Administrators

Chapter 8: Special Issues of Pro Bono Scholars Program Field Components

ROLE OF LAW SCHOOLS IN TRAINING NON-LAWYER ADVOCATES TO HELP NARROW THE JUSTICE GAP

TRIAL COURTROOM 1-03

- FACILITATOR:** THOMAS MALIGNO *EXECUTIVE DIRECTOR, PUBLIC ADVOCACY CENTER; DIRECTOR OF PUBLIC INTEREST; TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*
- PANELISTS:** KATHERINE CHANG *PROGRAM COORDINATOR OF NAVIGATOR PILOT IN BROOKLYN HOUSING COURT, UNIVERSITY SETTLEMENT*
- PATRICIA KUSZLER *VICE DEAN, UNIVERSITY OF WASHINGTON SCHOOL OF LAW (VIA SKYPE)*
- PAULA LITTLEWOOD *EXECUTIVE DIRECTOR, WASHINGTON STATE BAR ASSOCIATION (VIA SKYPE)*
- PATRICIA SALKIN *DEAN AND PROFESSOR OF LAW, TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*
- FERN SCHAIR *CO-CHAIR, COMMITTEE ON NON-LAWYERS AND THE JUSTICE GAP; CHAIR, FEERICK CENTER FOR SOCIAL JUSTICE, FORDHAM UNIVERSITY SCHOOL OF LAW*
- DAVID UDELL *EXECUTIVE DIRECTOR, NATIONAL CENTER FOR ACCESS TO JUSTICE; VISITING PROFESSOR FROM PRACTICE, BENJAMIN N. CARDOZO SCHOOL OF LAW*

The panel will initiate the Work Group discussion by addressing:

1. The Experience in Washington State
 - A. Limited License Legal Technicians: year one reflections
 - B. University of Washington School of Law: academic standards
2. The Experience in New York
 - A. Navigator Model
 - i. Non-Lawyers in Housing and Consumer Debt Court Parts
 - ii. A Navigator's Perspective: Housing Court in Brooklyn

- B. Court Advocates: A Legislative Proposal
 - i. Impact on the practice of law
- 3. Role of Law Schools
 - A. Non-Lawyer Programs in Connecticut, Massachusetts and Pennsylvania
 - B. Perspectives from a New York Law School Dean

LIMITED-SCOPE LEGAL ASSISTANCE AS A MEANS TO NARROW THE JUSTICE GAP COSTANTINO ROOM

FACILITATOR: DORA GALACATOS *EXECUTIVE DIRECTOR, FEERICK CENTER FOR SOCIAL JUSTICE, FORDHAM UNIVERSITY SCHOOL OF LAW*

PANELISTS: CAROLYN E. COFFEY *SUPERVISING ATTORNEY, MFY LEGAL SERVICES, INC.; ADJUNCT PROFESSOR, BENJAMIN N. CARDOZO SCHOOL OF LAW*

LAURIE MILDER *SPECIAL COUNSEL, NEW YORK STATE COURTS ACCESS TO JUSTICE PROGRAMS*

CHRISTOPHER SCHWARTZ *DEPUTY DIRECTOR, LEGAL HOTLINE & LEGAL ASSISTANCE FOR THE SELF-REPRESENTED, CITY BAR JUSTICE CENTER*

MARCELLA SILVERMAN *CLINICAL ASSOCIATE PROFESSOR OF LAW, FORDHAM UNIVERSITY SCHOOL OF LAW; SUPERVISING ATTORNEY, LINCOLN SQUARE LEGAL SERVICES, INC.*

The Work Group will:

1. Highlight and examine models of how law schools engage in limited-scope assistance to expand access to justice for low-and moderate-income people:
 - A. In clinical, in-classroom seminars and field practice components; and
 - B. In other experiential learning settings, such as externships, pro bono scholar placements and supervised pro bono work, including court-based programs;
2. Identify best practices, including training and supervision, for the integration of limited-scope assistance in clinical education, other experiential learning settings, and pro bono programs, as a way to help close the justice gap.

DEVELOPING TRANSACTIONAL SKILLS TO SERVE LOW-INCOME COMMUNITIES ROOM 4-09

FACILITATOR: MARCIA LEVY *EXECUTIVE DIRECTOR, PRO BONO PARTNERSHIP*

PANELISTS: ERIN CORREALE *VICE PRESIDENT, JP MORGAN CHASE*

SEAN DELANY *EXECUTIVE DIRECTOR, LAWYERS ALLIANCE FOR NEW YORK; ADJUNCT PROFESSOR OF LAW, BUSINESS LAW TRANSACTIONS CLINIC, NEW YORK UNIVERSITY SCHOOL OF LAW*

BRIAN GLICK *CLINICAL ASSOCIATE PROFESSOR OF LAW, DIRECTOR, COMMUNITY ECONOMIC DEVELOPMENT CLINIC, FORDHAM UNIVERSITY SCHOOL OF LAW*

ALISON KING *PRO BONO COUNSEL, KAYE SCHOLER LLP*

BARBARA SCHATZ *CLINICAL PROFESSOR OF LAW, COLUMBIA LAW SCHOOL*

The Work Group panel will consider the following questions:

1. How can law schools help students develop transactional skills to serve low income communities in
 - A. doctrinal classes
 - B. clinics
 - C. externships
 - D. Pro Bono Scholars Program.
2. How can law schools work with organizations, law firms and in-house lawyers to develop a culture of pro bono transactional oriented work for law students and newly admitted lawyers to serve low-income communities?
3. What opportunities currently exist for recent law graduates to use transactional skills to serve low-income communities and how can these opportunities be expanded?
4. Have law students had opportunities to perform transactional work for low-income communities in satisfaction of the 50 hour pro bono bar admission rule?

2:30–3:30 P.M. CLOSING PLENARY SESSION COSTANTINO ROOM

MATTHEW DILLER *DEAN AND PROFESSOR OF LAW, BENJAMIN N. CARDOZO SCHOOL OF LAW; CHAIR, LAW SCHOOL INVOLVEMENT WORKING GROUP, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK*

Reports from Work Group Sessions and Conference Recap

CONCLUDING REMARKS

HELAINÉ M. BARNETT *CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK*

PARTICIPANTS

NISHA AGARWAL

Commissioner,
New York City Mayor's
Office of Immigrant Affairs

LIBERTY ALDRICH

Center for Court Innovation

NICHOLAS ALLARD

Dean and President,
Brooklyn Law School

AMMA A. ANAMAN

Sullivan & Cromwell LLP

MICHELLE ANDERSON

Dean and Professor of Law,
CUNY School of Law

PENELOPE ANDREWS

President, Albany Law School

SUSAN ANTOS

Senior Staff Attorney,
Public Benefits
Advocacy & Litigation
Empire Justice Center

DEBORAH ARCHER

Associate Dean
for Academic Affairs,
New York Law School

AKIRA ARROYO

Director of the Neighborhood
Entrepreneur Law Project,
City Bar Justice Center

HANNAH R. ARTERIAN

Dean and Professor of Law,
Syracuse University
College of Law

GLORIA HERRON ARTHUR

Director, Department of
Pro Bono Affairs
New York State Bar Association

STEVEN BANKS

Commissioner, New York City
Human Resources
Administration

HELAINE M. BARNETT

Chair, Task Force to Expand
Access to Civil Legal Services
in New York

PATRICK BARNETT-MULLIGAN

Pro Bono Coordinator,
Albany Law School

TODD A. BERGER

Assistant Professor of Law Director,
Criminal Defense Clinic
Syracuse University
College of Law

MARNIE BERK

Director, Pro Bono Programs
New York Lawyers for
Public Interest

ADELE BERNHARD

Adjunct Professor and
Supervising Attorney,
Post-Conviction Innocence Clinic
New York Law School

CAROL BOCKNER

Director, Pro Bono Initiatives
City Bar Justice Center

DIANE F. BOSSE

Chair, State Board of Law
Examiners, Hurwitz & Fine, P.C.

SUSAN BRYANT

Professor of Law, CUNY School of Law

CAROL BUCKLER

Professor of Law,
New York Law School

MIRIAM BUHL

Pro Bono Counsel,
Weil, Gotshal & Manges LLP

PATRICIA BUCKLIN

Executive Director of
Pro Bono Affairs,
Office of Court Administration

KAREN CACACE

Supervising Attorney,
Employment Law Unit
Legal Aid Society

PARDIS GAMARDA

Pro Bono Scholar,
St. John's University School of Law,
J.D. Candidate 2015

ANN GAMMETT

Professor of Law,
CUNY School of Law

KATHERINE CHANG

Program Coordinator of
Navigator Pilot in Brooklyn
Housing Court
University Settlement

SO YEON CHANG

Pro Bono Scholar,
City Bar Justice Center
Cornell Law School,
J.D. Candidate 2015

ELLEN P. CHAPNICK

Dean for Social Justice Initiatives,
Columbia Law School

JACQUELINE CHENEY

Brooklyn Law School
Associate Director,
Public Service Office

SIDNEY CHERUBIN

Director of Legal Services,
Brooklyn Bar Association
Volunteer Lawyers Project

CAROLYN E. COFFEY

Supervising Attorney
MFY Legal Services, Inc.;
Adjunct Professor, Benjamin N.
Cardozo School of Law

SARALYN COHEN

Pro Bono Counsel & Director of
Pro Bono, Shearman & Sterling

MICHAEL COLODNER

Member, New York State Board of
Law Examiners

KAREN V. COMSTOCK

Assistant Dean for Public Service,
Cornell Law School

KIM DIANA CONNOLLY

Professor of Law; Vice Dean for
Legal Skills; Director, Clinical Legal
Education, SUNY Buffalo Law School

ELIZABETH B. COOPER

Associate Professor of Law
Fordham Law School

ERIN CORREALE

Vice President, JPMorgan Chase & Co

KEVIN M. CREMIN

Director of Litigation for
Disability and Aging Rights
MFY Legal Services, Inc.

ANTHONY W. CROWELL

Dean and President,
New York Law School

MELANIE CUEVAS-RODRIGUEZ

Associate Director,
Office of Career Services
Syracuse University, College of Law

PAUL B. CURTIN

Joint Chief Attorney, Civil Legal Services,
The Legal Aid Bureau of Buffalo, Inc.

COURTNEY DARTS

Senior Staff Attorney,
Pro Bono Partnership

CHARLOTTE DAVIDSON

Counsel to Chief Judge
Jonathan Lippman

NESTOR DAVIDSON

Associate Dean for Academic
Affairs; Professor of Law;
Director, Fordham Urban Law Center,
Fordham University School of Law

HEATHER DAVIS

Pro Bono Scholar, Albany Law School,
J.D. Candidate 2015

EDWARD W. DEBARBIERI

Assistant Professor of Clinical Law,
Brooklyn Law School

SEAN DELANY

Executive Director,
Lawyers Alliance for New York;
Adjunct Professor of Law
Business Law Transactions Clinic,
New York University School of Law

BRENNA K. DEVANEY

Pro Bono Counsel, Skadden, Arps,
Slate, Meagher & Flom LLP;
Chair, City Bar Pro Bono &
Legal Services Committee

MATTHEW DILLER

Dean and Professor of Law,
Benjamin N. Cardozo School of Law

MARIETOU DIOUF

Pro Bono Scholar,
New York University School of Law,
J.D. Candidate 2015

LAUREN DONNELLY

Supervising Attorney
Housing Help Program,
The Legal Aid Society;
Adjunct Professor,
Pro Bono Scholars Program,
Benjamin N. Cardozo School of Law

SHELLEY J. DROPKIN

Managing Director,
Deputy Corporate Secretary;
General Counsel, Corporate
Governance, Citigroup Inc.

LEIGH ELLIS

Pro Bono Scholar Intern,
Children's Unit
Legal Services of the Hudson Valley;
Pace Law School,
J.D. Candidate 2015

STEPHEN ELLMANN

Professor of Law;
Director, Office of Clinical and
Experiential Learning
New York Law School

HARVEY EPSTEIN

Associate Director,
Urban Justice Center

ERIKA EWING

Pro Bono Scholar
Fordham University School of Law,
J.D. Candidate 2015

STACEY O'HAIRE FAHEY

Director of Pro Bono,
Proskauer Rose LLP

BARBARA FINKELSTEIN

Chief Executive Officer,
Legal Services of the
Hudson Valley

BARRY FITZGERALD

Pro Bono Scholar
Albany School,
J.D. Candidate 2015

GRETCHEN FLINT

Professor of Law
Executive Director,
John J. Legal Services
Pace Law School

ALEXANDER D. FORGER

Special Counsel, Milbank Tweed,
Hadley & McCloy

KRIS FRANKLIN

Professor of Law,
New York Law School

JENNIFER C. FRIEDMAN

Executive Director,
Pace Community Law Practice
Director, Public Interest Law Center,
Pace Law School

ELISE FRIELLO

Albany Law School
J.D. Candidate 2015

SHELIA A. GADDIS

Executive Director,
Volunteer Legal Services
Project of Monroe County, Inc.
Hiscock & Barclay LLP

DORA GALACATOS

Executive Director,
Feerick Center for Social Justice
Fordham University School of Law

MARIAN GENIO

Pro Bono Director,
Legal Services of the Hudson Valley

PARTICIPANTS *continued*

JOSEPH S. GENOVA

Director of Public Service,
Milbank, Tweed, Hadley &
McCloy LLP

BRIAN GLICK

Clinical Associate
Professor of Law
Director, Community Economic
Development Clinic
Fordham University School of Law

JONATHAN E. GOLDIN

General Counsel,
Goldin Associates LLC

BETH GOLDMAN

President and Attorney-in-Charge,
New York Legal Assistance Group

JULIE GOLDSCHIED

Professor of Law,
CUNY School of Law

ANN L. GOLDWEBER

Professor of Clinical Legal Education,
St. John's University
School of Law

NATALIE GOMEZ-VELEZ

Professor of Law,
CUNY School of Law

TOMAS A. GONZALEZ

Senior Assistant Dean for Student Life,
Syracuse University, College of Law

JENNIFER GORDON

Professor of Law,
Fordham University School of Law

MELISSA GREENBERGER

Pro Bono Innovator,
Nassau/Suffolk Law Services
Committee, Inc

JAMAL GREENE

Vice Dean and Professor of Law
Columbia Law School.

JOHN GREINER

President, Just-Tech, LLC

MIKE GRUNENWALD

Program Coordinator,
Pro Bono Net

MARTIN GUGGENHEIM

Fiorello LaGuardia
Professor of Clinical Law
New York University School of Law

JENNIFER GUNDLACH

Senior Associate Dean for
Experiential Education &
Clinical Professor of Law,
Maurice A. Deane School of Law,
Hofstra University

SUSAN HAZELDEAN

Assistant Clinical Professor of Law;
Director, Advocacy for LGBT
Communities Clinic, Cornell Law School

PROFESSOR HELEN HERSHKOFF

Herbert M. and Svetlana Wachtell
Professor of Constitutional Law and
Civil Liberties, New York University
School of Law; Co-Director,
Arthur Garfield Hays Civil Liberties
Program, New York University
School of Law

PROFESSOR LEAH HILL

Clinical Associate
Professor of Law,
Fordham University School of Law

ADRIENE HOLDER

Attorney-in-Charge of Civil Practice,
The Legal Aid Society

CHEYENNE JAMES

Pro Bono Innovator/Staff Attorney,
Legal Aid Society of
Northeastern New York

SEYMOUR W. JAMES, JR.

Attorney-in-Chief,
The Legal Aid Society

RANDAL S. JEFFREY

Director, General Legal Services Unit
New York Legal Assistance Group

CONRAD JOHNSON

Clinical Professor of Law,
Columbia Law School

OLATUNDE JOHNSON

Professor, Columbia Law School

DIANE JOHNSTON

Pro Bono Scholar
New York University School of Law,
J.D. Candidate 2015

LAUREN KANFER

Assistant Deputy Counsel
to the Chief Judge

HARLENE KATZMAN

Pro Bono Counsel,
Simpson, Thacher & Bartlett LLP

LYNN M. KELLY

Executive Director,
City Bar Justice Center

KEVIN KELLY

Staff Attorney, LawNY

DESERIEE KENNEDY

Kermit Gitenstein Distinguished
Professor of Health Law & Policy,
Touro College, Jacob D.
Fuchsberg Law Center

ALISON KING

Pro Bono Counsel, Kaye Scholer LLP

JESSICA M. KLEIN

Pro Bono Counsel,
Sullivan & Cromwell LLP

ROCHELLE KLEMPNER

Chief Counsel, New York State
Courts Access to Justice Program

MATT KNECHT

Supervising Attorney,
Neighborhood Defender Services

CYNTHIA KNOX

Deputy Executive Director,
Legal Services of the Hudson Valley

MADELEINE KURTZ

Director, Public Interest
Professional Development
Columbia Law School

PATRICIA KUSZLER

Vice Dean, University of Washington
School of Law (via Skype)

MATTHEW LEBOWITZ

Pro Bono Scholar
Fordham University School of Law,
J.D. Candidate 2015

DEGNA P. LEVISTER

Assistant Dean of Admissions,
Clinical Professor of Law
CUNY School of Law

MARCIA LEVY

Executive Director,
Pro Bono Partnership

BILL LIENHARD

Executive Director,
Volunteers of Legal Services

HON. JONATHAN LIPPMAN

Chief Judge,
New York State Court of Appeals

PAULA LITTLEWOOD

Executive Director, Washington State
Bar Association (via Skype)

LARA LOYD

Sullivan & Cromwell LLP

MARY A. LYNCH

Professor of Law;
Director, Center for Excellence in
Teaching Law; Director, Domestic
Violence, Prosecution Hybrid Clinic,
Albany Law School

CHIANSAN MA

Sullivan & Cromwell LLP

THOMAS MALIGNO

Executive Director,
Public Advocacy Center;
Director of Public Interest;
Touro College, Jacob D. Fuchsberg
Law Center

LEAH MARGULIES

Project Director, LawHelp NY
City Bar Justice Center

MICHAEL M. MARTIN

Dean and Distinguished
Professor of Law,
Fordham University School of Law

NANCY M. MAURER

Clinical Professor of Law
Co-Director, Law Clinic & Justice Center;
Director, Field Placement Clinic,
Albany Law School

CONNIE MAYER

Associate Dean for Academic Affairs,
Raymond and Ella Smith
Distinguished Professor of Law,
Albany Law School

ANDREA McARDLE

Professor of Law, CUNY Law School

KEITH J. McCAFFERTY

Managing Attorney, Legal Assistance of
Western New York, Inc.

CHRISTINE McMENAMIN

Pro Bono Innovator/Staff Attorney,
Neighborhood Legal Services

ALEXANDRA MENEZES

Pro Bono Scholar
Fordham University School of Law,
J.D. Candidate 2015

PHILIP MERCADANTE

Pro Bono Scholar
Cornell Law School,
J.D. Candidate 2015

VANESSA H. MERTON

Professor & Faculty Supervisor,
Immigration Justice Clinic
John Jay Legal Services, Inc.
Pace University School of Law

BARBARA MICHALSKA

Supervising Attorney, Housing Unit,
CAMBA Legal Services, Inc.

LAURIE MILDER

Special Counsel
New York State Courts
Access to Justice Program

MEREDITH R. MILLER

Associate Professor of Law,
Touro College, Jacob D.
Fuchsberg Law Center

RADHIKA SINGH MILLER

Senior Manager,
Law School Engagement
& Advocacy, Equal Justice Works

EILEEN D. MILLETT

Co-Chair, NYSBA Committee
on Legal Education and
Admission to the Bar,
Epstein Becker & Green, P.C.

MARY C. MONE

Advisor to Task Force to
Expand Access to Civil Legal
Services in New York

NANCY MORAWETZ

Professor of Clinical Law
New York University School of Law

TREVOR W. MORRISON

Dean and Eric M. and
Laurie B. Roth Professor of Law,
New York University School of Law

LILLIAN M. MOY

Executive Director, Legal Aid
Society of Northeastern New York

BARBARA MULÉ

Chief of Staff,
New York State Judicial Institute

GAYLE MURPHY

Pro Bono Coordinator,
Erie County Bar Association
Volunteer Lawyers Project, Inc.

CAROL NEIDITCH

Pro Bono Innovator,
Pro Bono Coordinator,
Legal Services of the Hudson Valley

ALIZABETH NEWMAN

Clinical Professor of Law,
CUNY School of Law

MARK O'BRIEN

Executive Director,
Pro Bono Net

LAURENCE B. OPPENHEIMER

Hiscock & Barclay LLP

ALICIA OUELLETTE

Dean and Professor of Law,
Albany Law School

SWATI PARIKH
Director of Public Service Careers,
New York Law School

MATTHEW POE
Pro Bono Program Coordinator,
Columbia Law School

C. KENNETH PERRI
Executive Director, Legal
Assistance of Western New York, Inc.

ANN PFEIFFER
Practitioner in Residence
Coordinator of the Externship
Program, Syracuse University
College of Law

HON. A. GAIL PRUDENTI
Chief Administrative Judge,
New York State Unified Court System

RAUN J. RASMUSSEN
Executive Director
Legal Services NYC

LISA REINER
Associate Director,
Community Legal Resource Network
CUNY School of Law

ALEXANDER A. REINERT
Professor of Law,
Benjamin N. Cardozo School of Law

MICHAEL RHODES
Pro Bono Scholar,
Columbia Law School,
J.D. Candidate 2015

HON. JENNY RIVERA
Associate Judge,
New York State Court of Appeals

XOCHITL J. RODRIGUEZ
Pro Bono Scholar
Columbia Law School,
J.D. Candidate 2015

ROBERT R. ROMAKER
Managing Attorney,
Legal Aid Society of Northeastern NY

FRED ROONEY
Director, International Justice Center
for Postgraduate Development,
Touro College, Jacob D. Fuchsberg
Law Center

JOSEPH ROSENBERG
Associate Dean
for Clinical Programs,
CUNY School of Law

REBECCA ROSENFELD
Director of Externships,
Benjamin N. Cardozo School of Law

LEIF RUBINSTEIN
Acting Director of Clinical Programs,
Touro College, Jacob D. Fuchsberg
Law Center

AGATA RUMPRECHT-BEHRENS
Supervising Attorney
CAMBA Legal Services

LORELEI SALAS
Director of Legal Services
Catholic Migration Services

PATRICIA SALKIN
Dean and Professor of Law,
Touro College, Jacob D. Fuchsberg
Law Center

VANESSA SALAZAR
Pro Bono Scholar
Fordham University School of Law,
J.D. Candidate 2015

LESLIE SALZMAN
Clinical Professor of Law Director,
Cardozo Bet Tzedek Legal Services
Benjamin N. Cardozo School of Law

RODRIGO SANCHEZ-CAMUS
Supervising Attorney,
Northern Manhattan Improvement Corp.

ARLENE SANDERS
Managing Attorney,
Pro Bono Unit
Legal Aid Society of Mid-NY

LOU SARTORI
Director, Pro Bono Practice
The Legal Aid Society

FERN SCHAIR
Co-Chair, Committee on Non-Lawyers
and the Justice Gap;
Chair, Feerick Center for Social Justice,
Fordham University School of Law

BARBARA SCHATZ
Clinical Professor of Law
Columbia Law School

LOIS SCHWAEBER
Director of Legal Services,
The Safe Center LI

THOMAS J. SCHOENHERR
Assistant Dean,
Public Interest Resource Center
Fordham University School of Law

BETH SCHWARTZ
Clinical Professor of Law &
Director of Professional Skills,
Fordham University School of Law

CHRISTOPHER SCHWARTZ
Deputy Director,
Legal Hotline & Legal Assistance
for the Self-Represented,
City Bar Justice Center

NICOLE SCIALABBA
Staff Attorney, Legal Assistance of
Western New York

ROBERTA D. SCOLL
Staff Attorney & Coordinator of
Attorney of the Day Project,
Nassau/Suffolk Law Services
Committee, Inc.

JEFFREY A. SEIGEL
Executive Director
Nassau Suffolk Law Services

MAURICE SEGALL
Director, NY/CT Program
Pro Bono Partnership

ADITI K. SHAH
Staff Attorney and Language
Access Coordinator,
New York Lawyers for the Public Interest

AMI SHAH
Pro Bono Scholar
Columbia Law School,
J.D. Expected 2015

CAROLYN SILVER
Chief Program Officer,
Lenox Hill Neighborhood House

MARJORIE A. SILVER
Professor of Law, Touro College,
Jacob D. Fuchsberg Law Center

MARCELLA SILVERMAN
Clinical Associate Professor of Law,
Fordham University School of Law;
Supervising Attorney,
Lincoln Square Legal Services, Inc.

MICHAEL A. SIMONS
Dean and John V. Brennan
Professor of Law & Ethics,
St. John's University School of Law

J. MCGREGOR SMYTH
Executive Director,
New York Lawyers
for the Public Interest

DANIELLE SORKEN
Director, Office of Public Service,
Brooklyn Law School

JANE M. SPINAK
Edward Ross Aranow
Clinical Professor of Law,
Columbia Law School

LAREN E. SPIRER
Director of Pro Bono Programs,
Columbia Law School

AARON SUSSMAN
Staff Attorney,
National Center for Access to Justice

RONALD J. TABAK
Firmwide Pro Bono Coordinator,
Skadden, Arps, Slate,
Meagher & Flom LLP

KYRA THORNTON
Pro Bono Scholar,
Albany Law School,
J.D. Candidate 2015

LESLIE THROPE
Director,
Center for Public Service Law,
Benjamin N. Cardozo School of Law

KAREN HOCHBERG TOMMER
Deputy Chief Clerk,
Supreme Court, Appellate Division,
Second Judicial Department

LINDA TVRDY
Research Coordinator,
Center on Civil Justice of New York
University School of Law

DAVID UDELL
Executive Director,
National Center for Access to Justice;
Visiting Professor from Practice,
Benjamin N. Cardozo School of Law

ANA LUCIA URIZAR
Syracuse University College of Law,
J.D. Candidate 2016

SARAH VALENTINE
Associate Academic Dean & Professor,
CUNY School of Law

JENNIFER VALLONE
Senior Program Director,
University Settlement

ADRIENNE WARRELL
Pro Bono Scholar
New York University School of Law,
J.D. Candidate 2015

ERIC WEINGARTNER
Managing Director, Robin Hood
Foundation

IAN WEINSTEIN
Associate Dean for Clinical and
Experiential Programs &
Professor of Law,
Fordham University School of Law

ANDREW W. WILLIAMS
Director, Lawyering Program,
New York University School of Law

DIANE WITHIAM
Managing Attorney,
Citizens Concerned for Children, Inc.

HELEN WRABEL
Supervising Attorney and Coordinator,
New York State Access to Justice
Program, St. John's University
School of Law

DAVID YASSKY
Dean,
Pace University School of Law

JEANETTE ZELHOF
Executive Director,
MFY Legal Services, Inc.

BARBARA ZAHLER-GRINGER
Counsel for Administration,
New York State Office of
Court Administration

MARY MARSH ZULACK
Clinical Professor,
Columbia Law School



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

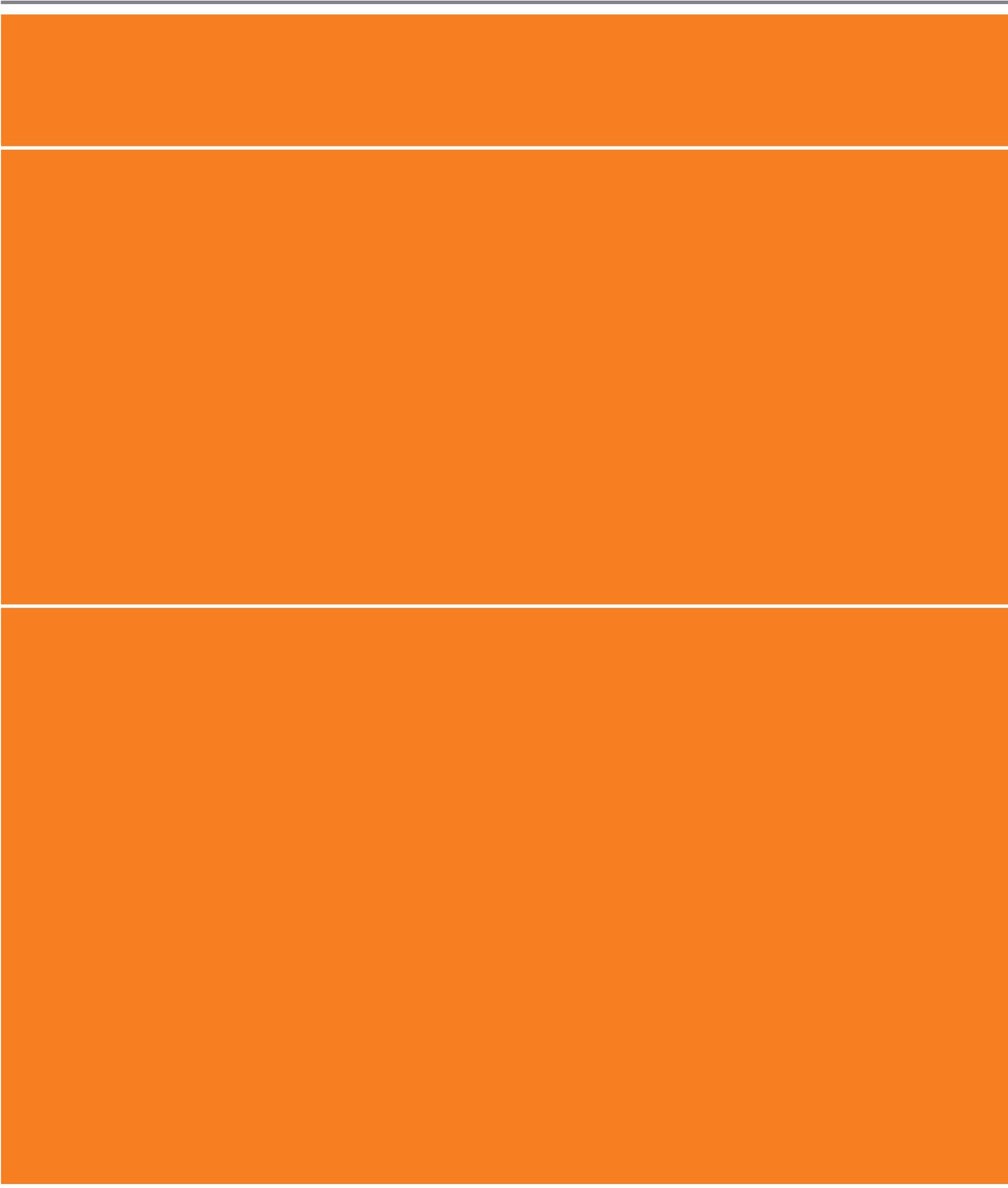
ACKNOWLEDGMENTS

LAW SCHOOL CONFERENCE PLANNING COMMITTEE

HELAINÉ M. BARNETT	Chair, Task Force to Expand Access to Civil Legal Services in New York
ELLEN P. CHAPNICK	Dean for Social Justice Initiatives, Columbia Law School
NESTOR DAVIDSON	Associate Dean for Academic Affairs; Professor of Law; Director, Fordham Urban Law Center, Fordham University School of Law
MATTHEW DILLER	Dean and Professor of Law, Benjamin N. Cardozo School of Law; Chair, Law School Involvement Working Group, Task Force to Expand Access to Civil Legal Services in New York
SHELLEY J. DROPKIN	Managing Director, Deputy Corporate Secretary and General Counsel, Corporate Governance, Citigroup Inc.
JENNIFER FRIEDMAN	Executive Director, Pace Community Law Practice; Director, Public Interest Law Center, Pace Law School
DORA GALACATOS	Executive Director, Feerick Center for Social Justice, Fordham University School of Law
LAUREN KANFER	Assistant Deputy Counsel to the Chief Judge, NYS Unified Court System
MARCIA LEVY	Executive Director, Pro Bono Partnership
THOMAS MALIGNO	Executive Director, Public Advocacy Center; Director of Public Interest; Touro College, Jacob D. Fuchsberg Law Center
CONNIE MAYER	Associate Dean of Academic Affairs and Raymond and Ella Smith Distinguished Professor of Law, Albany Law School
LILLIAN M. MOY	Executive Director, Legal Aid Society of Northeastern New York
JOSEPH ROSENBERG	Associate Dean for Clinical Programs, CUNY School of Law
THOMAS J. SCHOENHERR	Assistant Dean, Public Interest Resource Center, Fordham University School of Law
LAREN E. SPIRER	Director of Pro Bono Programs, Columbia Law School

The Law School Conference Planning Committee gratefully acknowledges the generosity of Skadden, Arps, Slate, Meagher & Flom LLP for the Conference refreshments.

The Law School Conference Planning Committee extends its appreciation to Fordham University School of Law staff members Carrie Johnson, Kimberly Chin, Rebecca Gruia, Helen Herman, Bryan Knoelk, Michelle Lee and Wilma Tamayo-Abreu for their assistance in preparing for the Conference. The Committee recognizes Mana Ghaemmaghami, Elizabeth Satarov and Devin Wright of Skadden, Arps and Madeline Jenks and Richard Rosen of Sullivan and Cromwell LLP for recording notes during the Conference.



PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 16:

**Report of the Permanent Commission's Working Group on
Technology**

NOVEMBER 2015

THE PERMANENT COMMISSION ON ACCESS TO JUSTICE

**REPORT OF THE PERMANENT COMMISSION'S WORKING GROUP
ON TECHNOLOGY**

OCTOBER 2015

MEMBERS OF THE WORKING GROUP ON TECHNOLOGY

Permanent Commission Members

Deborah L. Wright, Chair of the Working Group on Technology
Anne Erickson
Barbara Finkelstein
Sheila Gaddis
Lillian Moy

Permanent Commission Staff

Barbara Mulé
Barbara Zahler-Gringer

Volunteer Assistance

Christine Fecko
IOLA Fund of the State of New York

John Greiner
Just-Tech

Jeff Hogue
LegalServer

Report of the Working Group on Technology

Executive Summary

This year, building on the research conducted over the last two years, the Working Group on Technology (“Working Group”) sought to advance programs and initiatives that would further the integration of technology into client service delivery. The Working Group launched a Pro Bono Law Firm IT Initiative that is harnessing the expertise of law firm IT staff to assess the technology needs of individual civil legal aid providers and make recommendations for enhancing and improving technology. The Working Group also encouraged the development of pilot projects to create two online portals for the coordinated online screening and intake of low-income New Yorkers in western New York and New York City within the area of consumer credit law. Finally, the Working Group, along with NYSTech and Columbia Law School, sponsored the inaugural, day-long Statewide Technology Conference, an event that brought together directors and technology staff from civil legal aid providers, law firms, law schools, legal funders and technology service providers to share innovative ideas that can improve the delivery of civil legal services and the efficiency of provider operations.

Key Recommendations for Adoption by the Permanent Commission on Access to Justice

1. Pro Bono Law Firm IT Initiative

The Pro Bono IT Initiative, having proven successful in assisting legal services providers, should continue and be expanded beyond the initial five providers so that additional civil legal aid providers throughout the state may participate. Expansion should include recruiting additional pro bono IT professionals from more firms, engaging law school communities, and systemizing the assessment process. The pro bono IT professionals should continue to work with directors and technology experts from civil legal aid providers to improve the use, functionality, training and cost of technologies critical to the delivery of civil legal aid.

2. Online Intake Portals

The developers of the two online intake portals should work together in planning and implementing their projects so that data standards are developed and adopted that will move New York State toward having compatible systems that would address the full range of legal problems that low-income people commonly face.

3. Annual Technology Conference

The inaugural technology conference, having achieved its goal of bringing together civil legal service providers from throughout the state to join with their colleagues and technology professionals from law firms, universities, the business community and related professions, should be convened on an annual basis to continue to foster collaboration and critical analysis of the uses and benefits of technology and its implementation.

4. Sustained Collaboration, Sharing and Planning for Technological Improvements

The Permanent Commission encourages civil legal aid providers to collaborate through thoughtful, regional or statewide technology planning and pro bono programs. The provider community should consider business process analysis; input from technology system users including clients; law school resources and best practices, including security and other recommendations that may arise from the Pro Bono Law Firm IT Initiative and the Online Intake Portals Projects.

5. Dedicated Funding

Based upon the research conducted by the Permanent Commission, as well as the discussion and findings of the Technology Conference, it is clear that there is a need for dedicated funding to enable civil legal aid providers to effectively integrate technology into their operations and client service delivery. In order to help meet that need, the Permanent Commission recommends that funding for technology enhancements and innovations be considered an eligible activity for Judiciary Civil Legal Services funding. In addition, the Permanent Commission should continue to support civil legal aid providers in their efforts to identify other funds and dedicated funding streams that will support technology expansion and innovation to improve the civil legal aid delivery system.

Pro Bono Law Firm IT Initiative¹

A group of Chief Information Officers from private law firms and other senior information technology (“IT”) leaders developed a Tech Assessment Project to provide technology-related assistance to the state’s civil legal aid providers on a pro bono basis. The goal of the project is to use the expertise of pro bono IT professionals to evaluate and identify improvements to the internal technology infrastructure of individual nonprofit providers.

First, they developed an Assessment Tool (in the form of a Survey Monkey survey), modeled after a survey developed by John Roman of Nixon-Peabody in conjunction with pro bono work provided to the Empire Justice Center. The Assessment Tool included dozens of detailed questions that gathered information from each participating civil legal aid provider about its existing technology infrastructure, including:

- Mobile devices, PCs, laptops and other hardware
- Email and remote access
- Network and server infrastructure
- Phone systems

¹ This initiative was led by Michael Donnelly, Simpson Thacher & Bartlett LLP and included the involvement of Jeff Franchetti, Cravath, Swaine & Moore LLP; Peter Kaomea, Sullivan & Cromwell LLP; Peter Lesser, Skadden, Arps, Slate Meagher & Flom LLP; Curt Meltzer, Chadbourne & Parke LLP; Tara McGloin, Proskauer Rose LLP; John Roman, Nixon Peabody LLP; and Sean Sullivan, Wachtell, Lipton, Rosen & Katz. Others involved in the initiative included Ed Braunstein, The Legal Aid Society; John Greiner, Just-Tech; Christine Fecko, IOLA Fund of the State of New York; and Deborah Wright, United Auto Workers, Local 2325.

- Social media and websites
- Technology policies and security

Next, teams were assembled. Five representative civil legal aid providers agreed to participate in the pilot of this program: CAMBA, Legal Services of the Hudson Valley, MFY Legal Services, Nassau Suffolk Law Services, and Urban Justice Center. Each was assigned to a team of two or three pro bono IT professionals who worked with that provider on an ongoing basis. The teams scheduled introductory conference calls to explain the program, describe the Assessment Tool and address any questions.

The teams worked independently of each other, but followed the same path. The providers took the first step of completing the Assessment Tool. The pro bono IT professionals reviewed the survey results and formed preliminary impressions of where to focus their attentions. Conference calls and on-site visits were conducted to review the Assessment Tool and gather more information. The teams then determined which areas of information technology required attention and the IT professionals offered recommendations with regard to improvements with products, services, protocols, vendors, etc.

The pro bono IT professionals reviewed the collective results and identified several technology needs that exist throughout the civil legal aid community. First, all of the providers lacked proper information security measures and so received various information security recommendations, such as complex password usage, mobile device management, anti-virus software and security awareness programs. In addition, many lacked sufficient technology policies in certain areas, including acceptable use, information security, data classification and mobile device usage policies. Second, matter and case management is a key function for all the providers, but the tools they use lack standardization and many functions are not leveraged. While case management tools have some document management capabilities, the providers need to better manage and centrally store client documents. Currently, documents are spread out on PC hard drives, network shares and email. Lastly, civil legal aid staff need mobile devices and more technology training. Smartphones are essential tools that legal staff need to support their clients effectively. Many providers need additional training for their staff, especially with case management, word processing and security awareness.

In light of the common technology needs that exist across all five programs, such as training or document management, the pro bono IT professionals are now working to identify which vendors' products would best meet the technological needs of the programs. The IT professionals are also using their leverage in assisting the programs to negotiate pricing for such products, either for free or at discounted pricing.

Recommendations

The Permanent Commission recommends that the Initiative be continued and expanded beyond the initial five providers so that additional civil legal aid providers throughout the state may participate. Expansion should include recruiting more pro bono IT professionals from more firms, including those from outside New York City, engaging law school communities, and systemizing the assessment process. The pro bono IT professionals should continue to work with directors and

technology experts from civil legal aid providers to improve the use, functionality, training and cost of technologies critical to the delivery of civil legal aid.

Online Intake Portals²

In 2014 and continuing into 2015, the Working Group researched efforts in other states to integrate and coordinate technology with respect to the delivery of civil legal aid, focusing on LSC's 2013 Report of the Summit on the Use of Technology to Expand Access to Justice (the "Summit Report"). The Summit Report highlighted statewide "portals" as one of the five components to improve civil legal aid delivery systems.

Illinois, Washington and New Mexico, among others, have embraced the Summit Report's concept of a statewide portal and are developing comprehensive systems for online screening and intake across multiple providers.³ Typically, the goal is to assign high priority inquiries to the appropriate provider faster while transferring low priority inquiries to self-help or other resources. Providers set their client eligibility rules and design questions about the nature of the legal problems, which information can be automatically integrated into the providers' case management systems. Providers report reduced time on intakes, increased time spent delivering legal services, and an increase in the total number of inquiries handled.

To understand more about current efforts in New York to develop online portals, the Working Group reviewed its 2013 Technology Survey results and followed up with approximately 20 providers that had indicated the use of any online screening or intake tools. Only three providers were developing integrated, portal-type systems, none of which served clients in New York City.⁴ Another six providers reported the use of links on their websites that allow people to request assistance, but the mechanisms do not utilize branch logic and are not integrated with the providers' case management systems.⁵ Rather, the requests generate simple emails to staff members who then reach out to schedule intakes in the usual manner.⁶

² This sub-committee consisted of: Deborah Wright, United Auto Workers, Local 2325 (Coordinator); Anne Erickson, Empire Justice Center; Christine M. Fecko, IOLA Fund of the State of New York; Barbara Finkelstein, Legal Services of the Hudson Valley; Sheila Gaddis, Volunteer Legal Services of Monroe County; Lillian Moy, Legal Aid Society of Northeastern New York; Jeff Hogue, LegalServer; John Greiner, Just-Tech; Barbara Mulé, New York State Judicial Institute; and Barbara Zahler-Gringer, Office of Court Administration.

³ According to a recent survey of legal funders, 21 states offer some form of online screening or intake, not all of which constitute an integrated and comprehensive online portal (attached as Exhibit A).

⁴ Legal Assistance of Western New York, Legal Services of the Hudson Valley and Volunteer Legal Services Program of Monroe County.

⁵ City Bar Justice Center, Her Justice, Legal Aid Society of Mid-New York, The Family Center, Pace Women's Justice Center and the Rural Law Center.

⁶ See Technology Working Group, "Use of Online Intake Tools by Civil Legal Aid Providers: An Update to the 2013 Technology Survey" (May 2015) (attached as Exhibit B).

Following the recommendations of the Permanent Commission in its 2014 Report and with encouragement from the Working Group, two groups of providers recently secured funding to develop online portals for low-income New Yorkers seeking legal services and information on consumer matters. The Upstate group⁷ will use funding from the Legal Services Corporation's Technology Innovation Grant program and the New York City group⁸ has a grant from the New York Community Trust. In the coming year, the groups plan to engage in thorough planning processes, develop standardized screening and intake questions, and establish protocols for transferring potential clients to the appropriate assistance. Both groups have expressed their intention to collaborate with each other and their understanding of the need for compatible data standards that will facilitate statewide expansion.

Recommendations

The Permanent Commission recommends that the developers of the two online intake portals work together in planning and implementing their projects so that data standards are developed and adopted that will move New York State toward having compatible systems that would address the full range of legal problems that low-income people commonly face.

Technology Conference⁹

In its 2014 Report, the Permanent Commission recommended convening a technology conference to educate stakeholders from around the state and promote collaborative and sustainable use and support of technology among civil legal services providers. The Conference was planned by the Permanent Commission's Working Group on Technology with the assistance of NYSTech and other justice community partners. A comprehensive agenda was developed with the goal of bringing together stakeholders to learn about the latest technological initiatives, how those could be leveraged to maximize efficiency and increase service population, and the resources available to assist in implementation.

On July 23, 2015, Columbia Law School hosted the inaugural Statewide Civil Legal Aid Technology Conference which included approximately 135 people from around the state and beyond in the full-day event. Attendees included over 80 Executive Directors, technology managers and other staff, representing more than 50 civil legal aid providers. In addition, there were technology directors and staff from law firms, technology leaders from law schools, administrators from the

⁷ Legal Assistance of Western New York, Neighborhood Legal Services, the Legal Aid Society of Mid-New York and Pro Bono Net have partnered on the Upstate consumer intake pilot.

⁸ CAMBA, MFY, Urban Justice Center, City Bar Justice Center, Fordham Law School Feerick Center for Social Justice and LegalServer have partnered on the NYC consumer intake pilot. Taken together, these providers represent approximately half of the consumer law capacity for low-income clients in New York City.

⁹ Members of this sub-committee included: Deborah Wright, United Auto Workers, Local 2325 (Coordinator); Michael Donnelly, Simpson Thacher & Bartlett LLP; Christine M. Fecko, NYS IOLA Fund; John Greiner, Just-Tech; Jeff Hogue, Legal Server; Conrad Johnson, Columbia Law School; Mark O'Brien, Pro Bono Net; Glenn Rawdon, Legal Services Corporation; Ron Staudt, Chicago-Kent College of Law; Barbara Mulé, New York State Judicial Institute; Barbara Zahler-Gringer, Office of Court Administration; and Mary Zulak, Columbia Law School.

NYS Unified Court System, major funders and technology service providers. Presenters included directors and technology experts from civil legal service providers, technology directors from major law firms, leading academics in the legal/technology field and other technology experts. The agenda boasted three plenary panels, as well as three, distinct break-out sessions, offering a total of six panel options.¹⁰

Recommendations

The Permanent Commission should convene an annual technology conference, with the goal of encouraging the civil legal aid community to engage in sustained collaboration, critical analysis and revolutionary thinking around the improved use of technology to increase access to effective legal assistance by low-income New Yorkers.

The Permanent Commission should encourage civil legal aid providers and pro bono programs to collaborate through thoughtful, regional or statewide technology planning. The provider community should consider business process analysis, input from technology system users including clients, law school resources and best practices, including security and other recommendations that may arise from the Pro Bono Law Firm IT Initiative and the online intake portals pilot projects.

Expanding Technology Funding

Based on the research conducted by the Commission over the last two years and discussion during the Technology Conference, it has been consistently demonstrated that civil legal aid providers are not able to integrate technology into their operations or delivery system due to extreme funding constraints. The Commission's recommendations have sought to address this reality by focusing attention on the need for expanded and targeted resources to help providers fill technology gaps and address urgent need; the Pro Bono Law Firm IT Initiative is an example of this approach. But the Commission also has recognized the need for additional stable funding for statewide technology resources.

The Commission's recent experience in seeking to implement its technology recommendations, most specifically the online screening and intake pilot, as well as continued feedback from civil legal aid providers, particularly at the Technology Conference, has confirmed that targeted resources alone cannot address the gap in technology and that a dedicated, stable funding stream is needed for technology expansion and innovation.

One possible source of dedicated funding is through the Judiciary Civil Legal Services (JCLS) grants, overseen by the JCLS Oversight Board. These funds, which have been awarded for the past five years primarily for direct services, have grown to be the largest single source of funding for civil legal aid in New York. Given the potential of technology to create a more cost-effective and efficient delivery system that can provide assistance to a greater number of low-income individuals, the use of JCLS funds for technology enhancements and innovations would greatly increase direct services and expand access to justice.

¹⁰ Detailed summaries and findings from the Conference sessions are set forth in full in the Conference Report (attached as Exhibit C).

Recommendations

The Permanent Commission has recognized that effective technology initiatives can increase access to justice and further leverage resources for civil legal assistance for low-income New Yorkers. Based upon the research conducted by the Permanent Commission, as well as the discussion and findings of the Technology Conference, it is clear that there is a need for dedicated funding to enable civil legal aid providers to effectively integrate technology into their operations and client service delivery. In order to help meet that need, the Permanent Commission recommends that technology enhancements and innovations be considered an eligible activity for JCLS funding.

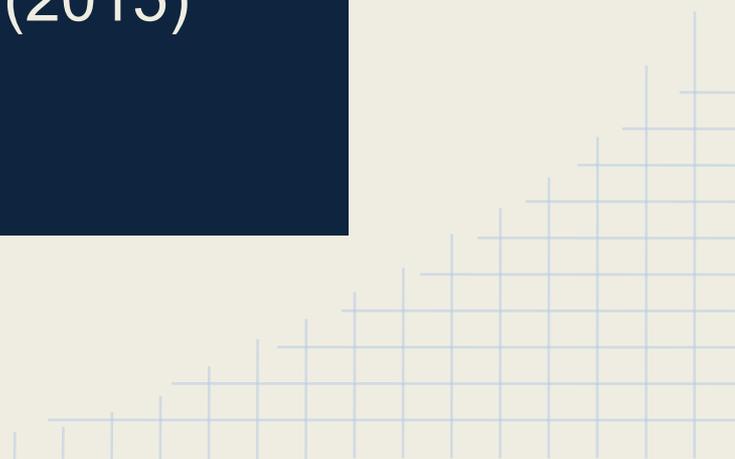
Additionally, the Permanent Commission should continue to support civil legal services providers in their efforts to identify other funds and dedicated funding streams that will support technology expansion and innovation to improve the system for delivery of civil legal aid.

EXHIBIT A TO THE WORKING GROUP REPORT
NATIONAL IOLTA SURVEY
TECHNOLOGY SUPPORT & COORDINATION 2015

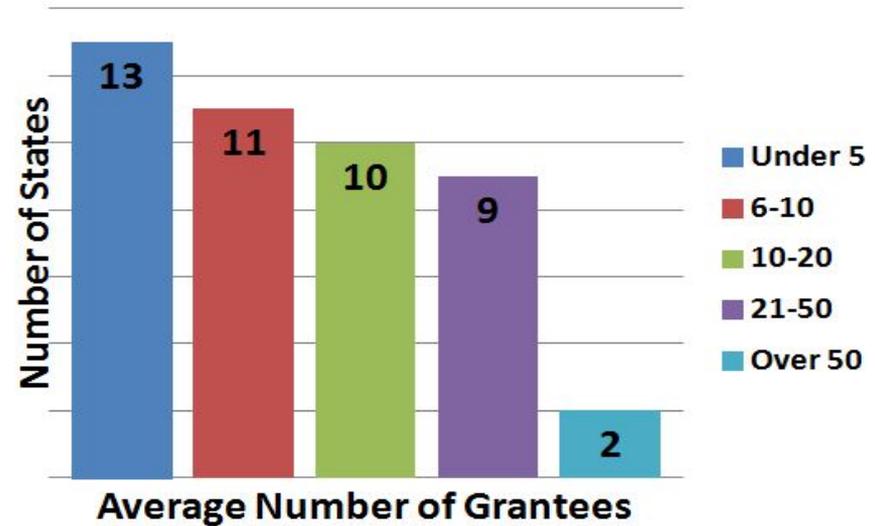
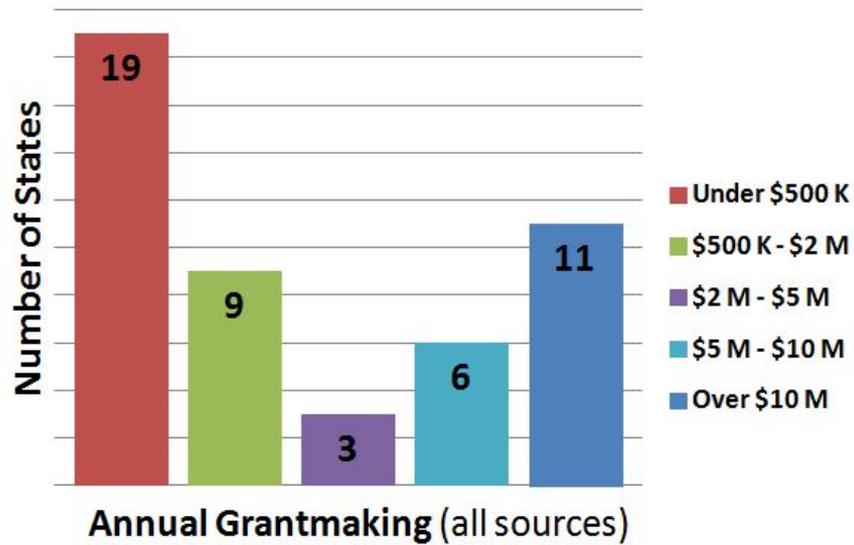


National IOLTA Survey

Technology Support & Coordination (2015)

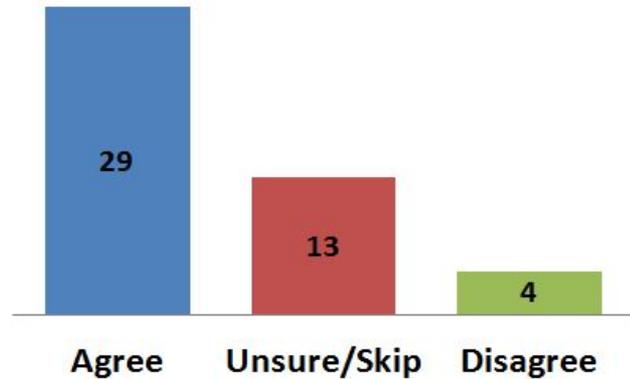


46 Participants

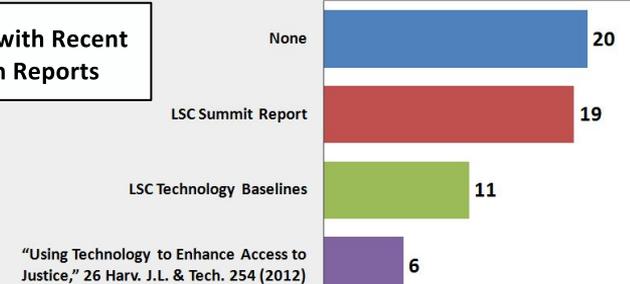


Current Attitude toward Tech

"My state's Civil legal aid providers (or the delivery system) could significantly increase their efficiency with better technology use."

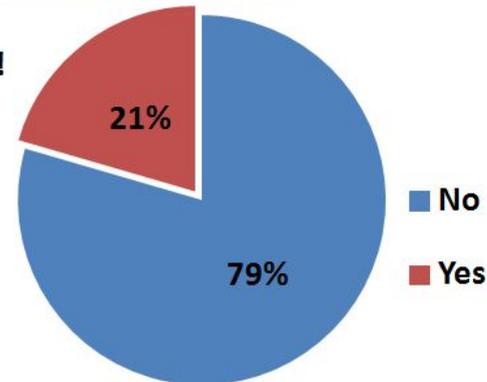


States Familiar with Recent National Tech Reports



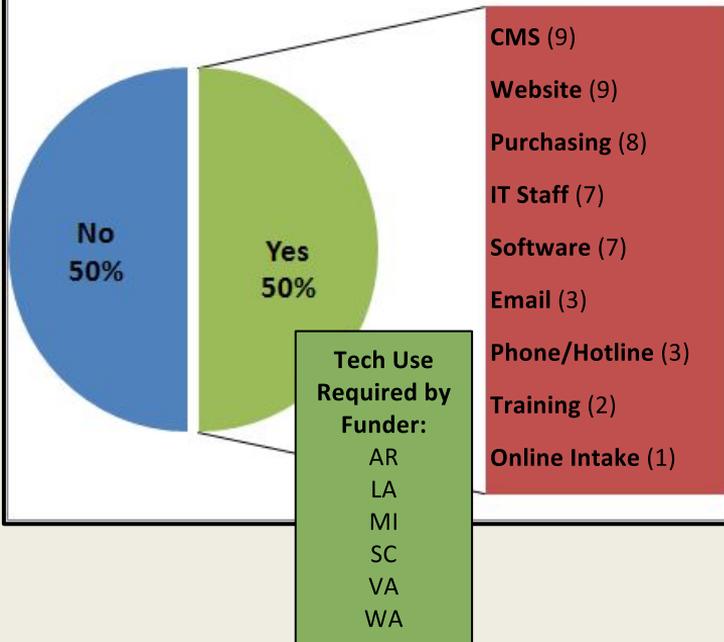
Q: Current tech earmarks ?

A: NO!

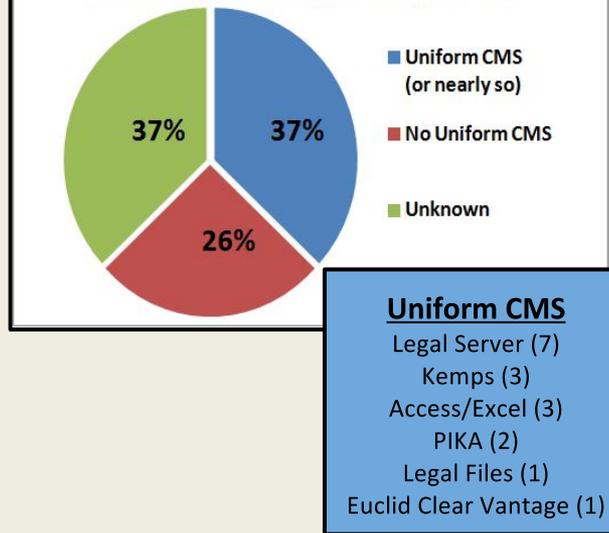


Centralized Technology

Access to Centralized Technology?



States with Statewide Uniform CMS



“Our foundation holds **quarterly technology meetings** with all three entities to share lists of vendors and service providers. The foundation also writes and oversees all statewide TIG initiatives.” --**Arizona**

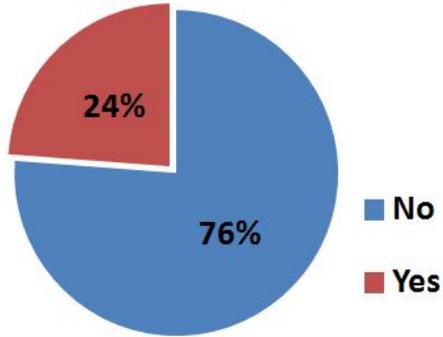
“Statewide hotline number that georoutes to the appropriate program based on the caller’s area code; statewide website with **online intake** mechanism that **integrates** into provider **case management system.**” --**Arkansas**

“IOLTA grant conditions require cooperation with **statewide technology plans**. Participation is required to benefit from Foundation funded projects (e.g., [CMS]). ... All advocates have access to **online virtual training** through a central subscription through the Foundation.” --**Michigan**

Technology Priority Setting

Q: Statewide Priority Setting?

A: NO!



YES!

AZ, CT, LA, MA, MI, NJ, NY, UT, VA, WA

YES, but...

In many states with priority setting, it is loosely organized. IOLTA programs are providing input, but not exercising strong influence or control.

VA

IOLTA "coordinates technology and sets technology standards through consultation with grantees."

LA

Committee of providers, bar associations, & IOLTA sets standards. IOLTA provides money & enforcement.

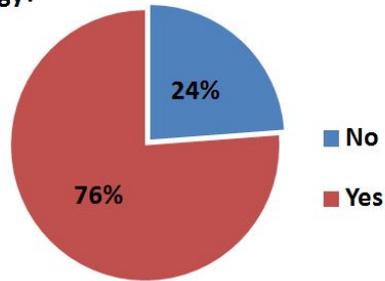
MI

Since 1994, committee of providers and IOLTA sets and publishes guidelines, protocols, project priorities. IOLTA is "very influential!"

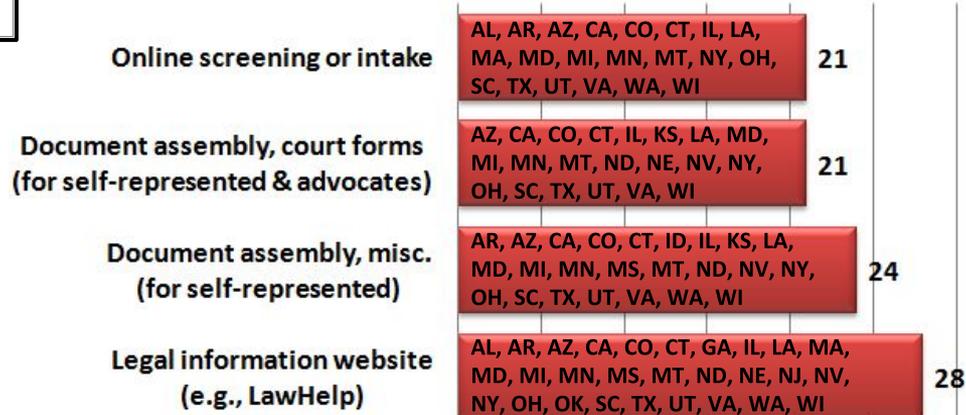
Legal Service via Technology

Q: Deliver legal services via technology?

A: YES!



Technology Used to Deliver Legal Services

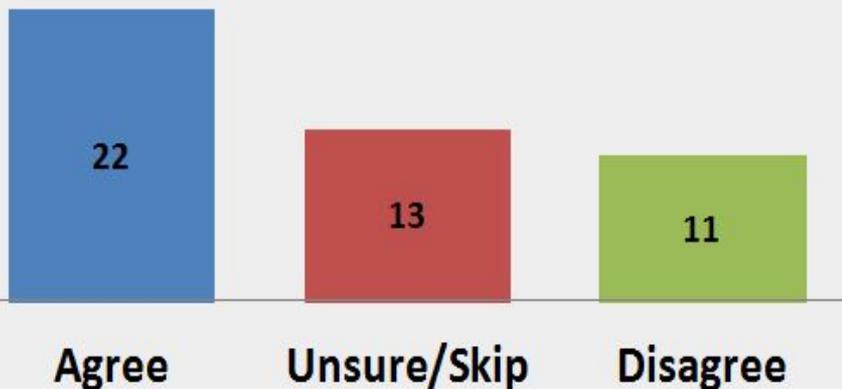


Other Tools

- *Skype to reach remote clients
- *Website to submit legal questions
- *Legal education videos

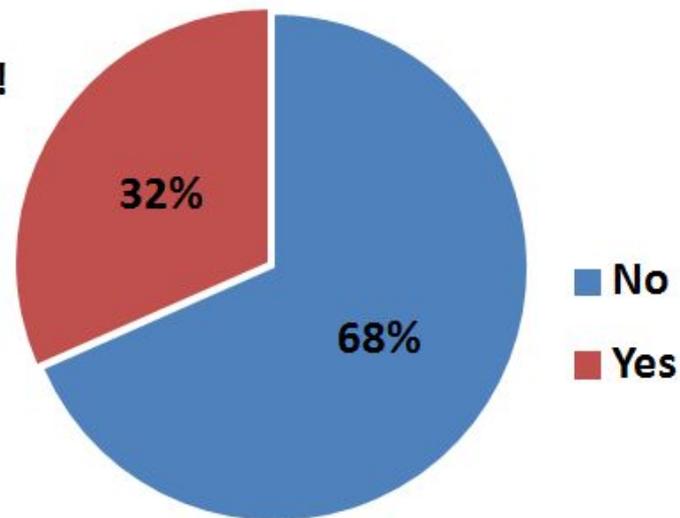
Future Planning

"Increasing technology effectiveness and efficiency of the civil legal aid providers (or the system) in my state is a top priority for me."



Q: Plans to increase tech funding?

A: NO!



Future Plans

- CO:** “The Colorado Supreme Court has proposed an Equal Access Center ... which would be responsible for ... the maintenance of a ‘hub website’ for the coordination of online resources, legal information, referrals, etc.”
- FL:** “The entire Florida legal services community is on the cusp of making significant changes throughout the delivery system through the use of technology. The establishment of the Florida Justice Technology Center has as its mission ‘to increase access to justice to Floridians through the use of innovative technology and to train and support legal aid providers and pro bono attorneys in its use.’” The Florida Bar Foundation will be investing \$2M in 2015-2016.
- IL:** “From 1990 to 1998 we spent between \$500k and \$1m per year to ‘computerize’ legal aid throughout the state. We were lead investors in Illinois Legal Aid Online [“ILAO”] and have been that organization’s largest funder since it was created in 2000. We have purchased LegalServer for many of our largest grantees, have made incentive grants to encourage programs to make full use automated document systems. We took the initiative to provide a special grant to ILAO to automate newly approved statewide standardized forms for use by self-represented litigants.”
- LA:** “[G]oals for next three years include addition of kiosks/self-help centers.”
- MA:** “We intend to solicit the input of a consultant to review our current technology, compare that to usage around the country, and make recommendations of how we can migrate to preferably a single CMS.”
- MI & MN:** Creating statewide “portals” for triage & delivery of legal services.
- NY:** In 2015, the Chief Judge intends to convene the first statewide technology conference for providers and other stakeholders.
- VA:** “Expanding our JusticeServer pro bono portal statewide.”

Looking for other ideas? See recent technology surveys by: **FL, IL, NY, TX** (DC coming soon) www.IOLTA.org.

For more information

Christine Fecko, General Counsel
IOLA Fund of the State of New York
646-865-1541
cfecko@iola.org

Thank you to Tracy Daniel, John Greiner, Jeff Hogue, Tobey Johnson, Christopher B. O'Malley, Lonnie Powers, Linda Rexer, and Betty Balli Torres for their generous assistance in developing the survey.

Thank you to the entire IOLTA community for their overwhelming participation as well as to the National Association of IOLTA Programs, the ABA Commission on IOLTA and Beverly Groudine for their support of this effort.

EXHIBIT B TO WORKING GROUP REPORT

**TECHNOLOGY WORKING GROUP “USE OF
ONLINE INTAKE TOOLS BY CIVIL LEGAL AID
PROVIDERS: AN UPDATE TO THE 2013 TECHNOLOGY
SURVEY”**

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

Technology Working Group

Use of Online Intake Tools by Civil Legal Aid Providers:
An Update to the 2013 Technology Survey
Prepared by Deborah Wright & Christine Fecko (May 2015)

Updating Process

- Reviewed 2013 Survey for online intake issues
 - 14 providers for follow-up
 - Posed general & specific written questions
 - Little interviewing
-

General Follow-up Questions

Overview

1. Provide a concise summary and the updated status of the project. (1-2 paragraphs)
2. How was the start up of this project funded and how is it funded in an ongoing way?
3. How long has this program been in use?
4. What's the breadth of subject matters and the volume of client use?
5. Any planned expansion within your program or with other providers? Your opinion as to whether your program could be replicated?
6. Pros/cons/lessons learned? For example, what challenges have you dealt with in your work processes or the technology itself? What impact is the system specifically having for your program? Any systematic feedback from clients? Do you know if it has erected or eliminated any barriers for applicants (tech literacy, language access)? Have you seen an increase in people screened, served briefly, fully represented? Have you seen any reduced time/resources on making referrals?

Mechanics

1. How do you handle conflict checks? How much data do you collect before running a conflict check? Flag any conflict related issues and solutions.
2. How does your system minimize false positives (processing intake for those who are financially ineligible) and false negatives (inadvertently dropping potentially eligible clients)?
3. Can the data you collect be transferred to partner providers (as an automatic referral)?
4. What is your current CMS?
5. Does your online intake system do any automated analysis of the intake to help casehandlers decide how to proceed?

Collaboration

1. How do you know and keep updated on what referrals partner providers are accepting?
 2. Is there a provider or subject matter task force or committee where your project has been/is being discussed?
 3. How critical is the choice of CMS to your system and to potentially broadening your system to include other providers.
 4. Are you integrating referrals and third-party self-help tools into your online intake? Future plans?
-

Overview of Current Online Intake

1. High Volume Hotlines
 2. Website Email
 3. Substantive Online Intake
 4. New Mexico Online Triage Project (update)
-

High Volume Hotlines

1. single point of entry for internal referrals
2. standardized scripts
3. typically, integrated with CMS

- The Bronx Defenders
 - City Bar Justice Center (25k calls, 13k assisted per yr)
 - The Legal Aid Society
 - Legal Services-NYC
-

Website Email

1. link on website triggers email to intake
2. simple/open ended inquiry; no maintenance
3. follow up via phone or in person
4. typically, not integrated with CMS

- City Bar Justice Center
- The Family Center
- Her Justice

- LASMNY
 - Pace Women's Justice Ctr
 - Rural Law Center (30%)
-

Substantive Online Intake

1. relatively recent; low volume
2. initial collaborations supported by TIG funding; now independent
3. online tools identify legal issue & eligibility
4. refers to LawHelp, NYSBA Referral Service
5. follow up intake via phone or in person

LawNY

LSHV

VLSP of Monroe County

New Mexico Online Triage Project

Neota Logic-powered 'expert system' interview drives online triage interview.

Developing an 'Agency Portal' that providers can use to review cases referred through the triage tool, the level of priority, and red flag issues identified in the interview (e.g., deadlines or responses to clarify). If a provider accepts a case for intake, it can export information from the Agency Portal to CMS.

Depending on circumstances, eligibility, location and other factors, individuals will be referred to specific direct services, self-help resources or social services based on an agreed upon set of referral and case prioritization criteria.

Currently covers: **family, consumer, housing, and public benefits**

New Mexico Online Triage Project

Timing

- June 2015: Beta launch & initial staff training
- June-Dec 2015:
 - analyze usage and advocate and user feedback,
 - refine interview logic and language (including for plain language),
 - provide additional staff training,
 - institute processes to maintain and update the referral rules,
 - improve data capture mechanisms (e.g., collect anonymous interview data, ie., age, zip code, and number of referrals to each provider).
- Late 2015: Anticipated full-scale, statewide launch

Considerations

- potential online volume
 - efficiencies for maintaining referral info
 - exit referrals to LawHelp & Legal Referrals
 - evolution of hotlines to online intake
 - applicability of ABA Guidelines for Hotlines (or other guides)
 - how to launch a NYC pilot
-

EXHIBIT C TO WORKING GROUP REPORT
REPORT ON THE INAUGURAL STATEWIDE
CONFERENCE ON TECHNOLOGY

NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE
REPORT TO THE WORKING GROUP ON TECHNOLOGY

INAUGURAL STATEWIDE CIVIL LEGAL AID TECHNOLOGY CONFERENCE

THE ROLE OF TECHNOLOGY IN PROMOTING
ACCESS TO JUSTICE AND COLLABORATION
IN THE DELIVERY OF LEGAL SERVICES

BASED ON A CONFERENCE CONVENED BY THE

NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE
AT COLUMBIA LAW SCHOOL ON JULY 23, 2015



HELAINÉ M. BARNETT

CHAIR, NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE

OCTOBER 2015

NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE WORKING GROUP ON TECHNOLOGY

INAUGURAL STATEWIDE CIVIL LEGAL AID TECHNOLOGY CONFERENCE:

**THE ROLE OF TECHNOLOGY IN PROMOTING ACCESS TO JUSTICE AND
COLLABORATION IN THE DELIVERY OF LEGAL SERVICES**

**Based on a Conference Convened by the
New York State Permanent Commission on Access to Justice
at Columbia Law School on July 23, 2015**

INAUGURAL STATEWIDE CIVIL LEGAL AID TECHNOLOGY CONFERENCE

Overview of the Technology Conference

Since 2013, the Permanent Commission on Access to Justice (then known as the Task Force to Expand Access to Civil Legal Services) has focused on the role of technology in increasing access to justice in New York. Guided by the recognition that technology can transform the delivery of civil legal services, but aware of the severe resource limitations facing legal aid providers, the Commission initially conducted a comprehensive technology survey of legal services providers assisting low-income New Yorkers. Approximately 70 providers, from around the state, responded. The results of the survey indicated, overwhelmingly, that most legal services providers have not been able to integrate technology effectively into either their day-to-day internal operations or their client service delivery. And, it was clear that the inability to meet today's technological requirements was not because of a lack of desire, but, rather, due to fiscal constraints and the need for greater knowledge, expertise and understanding. As a result of the survey, the Permanent Commission was able to identify a number of key needs for assisting providers in order to maximize the use of technology for internal efficiencies and the enhanced delivery of services, including staffing, policy development and training.

Accordingly, in its 2013 Report, the Permanent Commission recommended that the civil legal services community prioritize the need for technology in order to improve access to justice for low-income New Yorkers. And, in its 2014 Report, the Permanent Commission recommended convening a technology conference, in order to educate stakeholders from around the state, promote collaborative and sustainable use and support of technology among civil legal services providers, and address the lack of dedicated funding to meet technology needs. To promote collaboration, it was further recommended that the conference be planned in partnership with NYSTech,¹ and include participation of CIOs from major law firms, as well as law school faculty and technology administrators.

Conference planning began in early 2015, spearheaded by a sub-group comprised of members of the Permanent Commission's Working Group on Technology and NYSTech, as well as other justice community partners. A comprehensive agenda was developed with the goal of bringing together stakeholders to learn about the latest technological initiatives, how those could be leveraged to maximize efficiency and increase service population, and the resources available to assist in implementation.

¹ NYSTech is a voluntary collaboration of legal services providers from across New York that convenes technology leaders regularly for information sharing and training.

On July 23, 2015, the inaugural Statewide Civil Legal Aid Technology Conference, entitled “The Role of Technology in Promoting Access to Justice and Collaboration in the Delivery of Legal Services,” was held at Columbia Law School. Helaine M. Barnett, Chair of the Permanent Commission on Access to Justice, offered opening remarks to the approximately 135 people who came from around the state and beyond to participate in the full-day conference and thanked Columbia Law School and the many people involved in putting the conference together. Avery W. Katz, Vice Dean and Milton Handler Professor of Law at Columbia Law School, welcomed the conference attendees and described the law school’s significant work on law and technology. Helaine Barnett then introduced New York State Chief Judge Jonathan Lippman, who delivered the keynote address. Judge Lippman applauded the efforts to bring about the inaugural conference, noted a number of significant, relevant technological accomplishments, and encouraged the participants to focus on finding additional ways that technology could expand access to justice.

Presenters included directors and technology experts from civil legal service providers, technology directors from major law firms, leading academics in the legal/technology field and other technology experts. Attendees included over 80 Executive Directors, technology managers and other staff, representing more than 50 civil legal aid providers. In addition, there were technology directors and staff from law firms, technology leaders from law schools, administrators from the New York State Unified Court System, major funders and technology service providers. The agenda included three plenary panels, as well as three, distinct, break-out sessions, offering a total of six panel options.²

Morning Plenary - Inspiring Examples of Technology Innovation

Summary of Panel Discussion

This session was led by Jeff Hogue, Community Relations & Operations, Legal Server, and provided an overview of a number of existing technology-related projects in New York, followed by a national view of the direction of technology in the provision of civil legal services. New York justice community partners highlighted projects and technologies currently in use. Merritt Birnbaum, Chief Administrative Officer, NYLAG, spoke about data visualization. Mike Williams, Clerk of Court, Bronx County Family Court, explained how online court forms are making use of guided interviews. Mark O’Brien, Executive Director, Pro Bono Net, explored online self-help and virtual consultations. Adriene Holder, Attorney-in-Charge, Civil Practice, The Legal Aid Society, highlighted LawHelpNY and mobile/SMS outreach, and Brian Donnelly, Lecturer in Law & Director of Educational Technology, Columbia Law School, spoke about law student technology projects.

² The Conference program, including a list of participants, is attached as Exhibit 1. Conference materials are available at <http://www.nycourts.gov/accesstojusticecommission/tech-conference.shtml>.

Panelists with significant expertise and experience outside New York then shared a global and systemic perspective on the technologies in place in New York and suggested paths forward for future technology development in the legal services community, including use of Business Process/Analysis to reduce costs, increase efficiency and improve processes. Glenn Rawdon, Program Counsel for Technology, Legal Services Corporation, challenged the participants to think anew because we “can’t keep doing that which we’ve been doing,” if the aim is to use technology to move toward providing some form of effective assistance to 100% of persons with legal needs. Ron Staudt, Professor of Law & Director, Center of Access to Justice & Technology, Chicago-Kent College of Law, emphasized the importance of collaborations, particularly with the law schools, and asked the participants to think about possible additional funding streams by involving for-profit entities in the collaboration.

The overall message to the community was that the landscape for legal services delivery is changing. Civil legal aid providers should be prepared for accelerating convergence of services and information, and the coordination that will be required to build a tech-enabled framework of services. Methodical process analysis is crucial to finding efficiencies, informs better management and resource decisions, and will help prevent the expensive automation of undesirable systems. Parts of the legal landscape long considered separate silos are getting a public-facing, technology treatment, such as online dispute resolution in conjunction with, or as an alternative to, traditional court cases.

Findings

Civil legal aid providers should be encouraged to engage in critical analysis and revolutionary thinking in their efforts to reach the goal of giving 100% of low-income New Yorkers access to effective legal assistance.

The civil legal aid community should be encouraged to engage in sustained collaboration around the improved use of technology to increase access to effective legal assistance by low-income New Yorkers, including through an annual technology conference.

Executive Director Breakout

Summary of Panel Discussion

This session, moderated by Lillian Moy, Executive Director, Legal Aid Society of Northeastern NY, included five Executive Directors who reported on technology innovations in their organizations. Ken Perri, Executive Director, Legal Assistance of Western New York, spoke about a single point of entry consumer portal. William Hawkes, Executive Director, Neighborhood Legal Services, explained the role of Voice Over Internet Protocol (VOIP) in Intake. Raun Rasmussen, Executive Director, Legal Services NYC, spoke about the benefits of an integrated Financial, Human Resources and Case Management System. Sally Curran,

Executive Director, Volunteer Lawyers Project of Onondaga County, explained how her organization implemented a SharePoint/Knowledge Management system. And, Joe Keleman, Executive Director, Western New York Law Center, spoke about the value of on-line training. Discussion focused on the presenters' vision for the innovation, financial hurdles and other challenges faced and the approaches used to create staff buy-in, to accept new ways of operating through the use of technology.

In addition, Peter Lesser, Chief Information Officer (CIO), Skadden, discussed the Pro Bono Law Firm IT Initiative, which taps into the expertise and experience of large-firm CIOs to assist civil legal aid providers with their technology needs. Lesser emphasized that providers cannot think in terms of technology projects but, rather, should focus on projects that better serve clients and then make those processes more efficient for staff with technology as the necessary underpinning.

The panelists urged directors and other program leaders to think of the use of technology as being integral to their efforts to increase access to civil legal aid. A great place to start thinking about implementing a vision, including how to find funding, is by consulting with peers, other directors and program leaders. Directors were reminded to always involve staff; those who are faced with the actual workflow, whose participation can result in the creation of a better product; and to “zoom out” to get the big picture.

Finding

Executive Directors should be encouraged to view technology as the baseline for delivery of civil legal services to clients. Executive Directors should include discussions regarding technology from the beginning in developing and expanding projects, and should identify key partners both internally and externally to optimize service delivery.

Technology Managers and Chief Information Officers Breakout

Summary of Panel Discussion

This panel consisted of three CIOs from large law firms and was moderated by John Greiner, President, Just-Tech LLC. Michael Donnelly, Chief Information Officer, Simpson, Thacher & Bartlett, began the discussion by reporting on the initial work of the Pro Bono Law Firm IT Initiative, which paired five civil legal services providers with large firm CIOs in order to assess the providers' current use of technology and provide guidance on addressing technology needs. Donnelly indicated that the providers had been open and eager to participate, providing detailed information about the state of their existing technology. Initial findings of the assessment include: (1) case management is the key technology function for civil legal aid providers; and (2) IT policies, information security, training and document management are essential areas that providers need to address.

Jeff Franchetti, CIO, Cravath, Swaine & Moore LLP, provided an overview of document management systems (“DMS”) and their value to law firms. Franchetti outlined some of the challenges firms without DMS face in finding, reusing, sharing, and securing their documents. He also discussed some recommendations to help ensure a successful rollout and user adoption. John Attinger, Director of Training, Capensys, discussed the impact of insufficient technology training for advocates and program staff. Recognizing the challenges faced by providers, particularly resource limitations and employee turnover, Attinger also explained how training and minimum skill proficiencies can be a strategic benefit to programs in grant sourcing and better serving their mission. He further discussed the benefits for individual employee growth, development and morale as well as key elements of a successful training initiative. And, he urged participants to consider outsourcing training, and to explore implementing existing standard legal technology core competencies.

This session included a significant amount of discussion among the session participants. They were supportive of expanding the IT Initiative as a mechanism for individual providers to improve their internal technology systems. Participants were also interested in continuing the conversation regarding IT management, in particular through participation in NYSTech and in future statewide technology conferences.

There was significant discussion concerning particular technologies that the IT Initiative had identified for improvement. The group was eager to educate the broader community on the benefits of DMS and supported continued efforts to develop a statewide DMS solution that civil legal services providers could take advantage of economically. Providers are familiar with case management systems (“CMS”); however, session participants noted the need to increase collaboration regarding CMS innovations (including the technical details), to improve the consistent use of their CMS (e.g., through training), and to expand CMS’ functionality. Finally, session participants acknowledged the need for improved technology training and supported working together to address the need. It was suggested that a pilot training program be developed, with initial sessions focused on security awareness and Microsoft Word.

Findings

The IT Assistance Initiative should continue and, where possible, expand to include additional law firms, to engage members of law school communities, and to serve additional civil legal aid providers throughout the state.

The members of the IT Assistance Initiative, along with directors and technology experts from civil legal service providers, should continue to work together on improving the use, functionality, training and cost of technologies critical to the civil legal aid delivery system.

Single Point of Entry: Online Coordination, Triage & Intake

Summary of Panel Discussion

Deborah Wright, President, Local 2325, United Auto Workers, moderated this session, which began with an overview of the work that the Technology Working Group, a subcommittee of the Permanent Commission, carried out over the past two years, which led to its interest in online single point of entry service delivery. Wright reported that the Working Group initially focused on the findings and recommendations from the Legal Services Corporation's December 2013 Summit Report,³ the product of a two-year effort by national civil legal aid and technology leaders, who examined the ways in which technology could help narrow the justice gap. The Working Group recommended, in its 2014 report, that New York adopt the approach advocated in the LSC Summit Report and support the creation of two single point of entry portals in New York City and Western New York that would coordinate online screening, intake and referral in the consumer law area. It has subsequently focused on obtaining necessary funding for the two pilots, without which the pilots would not be able to move forward.

Next, the panel reviewed the different types of online intake tools already being utilized by civil legal services providers throughout New York State and discussed other examples of expansive on-line intake systems in other states. Although their funding applications were still pending at the time, the civil legal aid providers who would be participating in the two pilots were announced. The Western New York pilot includes Neighborhood Legal Services, Inc., Legal Aid Society of Mid-New York, Inc. and Legal Assistance of Western New York. The New York City pilot includes The City Bar Justice Center, CAMBA, MFY Legal Services, Inc., The Urban Justice Center and Fordham Law Center. A robust discussion amongst attendees covered the potential for the two pilots, possible pitfalls, and lessons learned from the experiences in other states. Particular concerns raised included interface compatibility, accessibility and ease of use for clients; accessibility for non-English speakers; and sufficiency of funding to support expanding and sustaining the provision of services through technology.

Finding

The developers of the pilots should work together as they plan and implement the two single point of entry portals so that data standards are developed and adopted that will move New York State toward having compatible systems that would address the full range of legal problems that low-income people commonly face.

³ Legal Services Corporation, Report of The Summit on the Use of Technology to Expand Access to Justice (December 2013), available at <http://archive.lsc.gov/media/in-the-spotlight/report-summit-use-technology-expand-access-justice>.

Technologies that Support Pro Bono & Remote Delivery

Summary of Panel Discussion

At this session, moderated by Sally Curran, the discussion focused on how technology is, and can, assist with recruiting, training, managing and delivering pro bono programs. Presenters, including Joe Keleman, Bryan Babcock, IT/Administrator, Volunteer Legal Services Project of Monroe County, and Leah Margulies, Project Director, LawHelpNY, showcased several technologies that programs are currently using to support and facilitate pro bono engagement. Topics covered included volunteer recruitment and screening, online training and support of lawyers and law students, document assembly in limited scope pro bono clinics, online questionnaires for case building, and the use of online chatting and video conferencing in the remote delivery of services. The showcase demonstrated that there are many different technologies being used to do similar things, and each raises its own challenges and questions regarding confidentiality, training, supervision, support and cost.

Finding

Pro bono stakeholders should continue to discuss best practices in the use of technology in pro bono programs and to explore collaboration and replication of successful programs throughout the state, including through existing networks and committees.

Collaboration, Sharing, & Planning for Technology Improvements

Summary of Panel Discussion

This session, presented by Anna Hine, Technology Coordinator, Legal Assistance of Western New York, and Darrin Lawson, IT Manager, Hiscock Legal Aid Society, highlighted the importance of collaboration when initiating and completing technology projects. The presenters reviewed resources available to the legal services technology community and discussed opportunities for collaboration, as well as realized projects that have successfully utilized collaboration to reach a common goal. Also discussed was the importance of evaluating internal process, the needs of clients, data availability and dedicated funding streams, before starting a new technology process or automating an existing one. The presenters encouraged participants to reach out to colleagues in the community who have undertaken similar projects, or are facing the same challenges with technology. The goal should be to strengthen the network of experts who are willing to share their insight gained from past technology projects, even from those that have not succeeded.

Finding

Technology staff, executive directors and managers should all be encouraged to join NYSTech to discuss technology projects, training and collaboration opportunities. This community should continue to foster collaboration through thoughtful, regional or statewide technology planning.

Sharing resources and expertise across the State will lift the burdens (financial and otherwise) on individual programs, while still ensuring that service delivery and internal process are enhanced through the introduction or enhancement of technology.

Gathering and Using Data

Summary of Panel Discussion

This panel, moderated by Merritt Birnbaum, introduced methods for gathering and using the myriad data that providers collect to evaluate and increase services, including how funders drive data collection, as well as how programs use data to inform service delivery and the supervision of legal services. Veyom Bahl, Senior Program Officer, The Robin Hood Foundation, discussed the funders' perspective, outlining the data points that interest his foundation most (i.e., case volume; case outcome; and cost/hours per case), and the impact of the data on grant-making. Laura Haring, Grant Writer & Data Analyst, NYLAG, discussed the various elements her organization measures (i.e., caseloads, caseload per handler; hours; where cases are from or tend to be from) and the low-cost technology tools that it has used to provide data visualization and management (Excel-based dashboards and pivot tables). Wilneida Negron, a Fellow at the Data & Society Research Institute, discussed the broader impact of data collection and offered three strategies for using legal services data to raise awareness about broader social issues and support civil rights. These include developing standards for measurement of delivery and services, data mining and prediction, and data-driven advocacy.

Closing Plenary

Summary of Panel Discussion

Moderated by Christine Fecko, General Counsel, NYS IOLA Fund, this panel first provided the facilitators from the earlier panels an opportunity to briefly report out the key points from their sessions. One overriding issue that was discussed throughout the conference was the need for dedicated funding to support technology initiatives.

Next, panel members Michael Mills, Co-Founder and Chief Strategy Officer, Neota Logic Inc., Rajat Basu, PhD, Senior Principal Scientist (Ret'd.), Honeywell, and Jeff Hogue, reflected on how the New York civil legal services community could move forward to implement the ideas that had been generated, to benefit providers and ensure that the state is at the forefront of providing civil legal services. Hogue and Mills encouraged future efforts to set appropriate technology standards as a way of encouraging an environment where innovation can thrive. From a practical perspective, Mills bluntly challenged the community as a whole to be more efficient with its limited financial and other related resources by sharing responsibility for non-mission technology infrastructure and by moving much of it to the Cloud. Basu's description of

Business Process Analysis (or Six Sigma) captured the audience's attention as a method for improving the efficiency of existing or new technologies used in the delivery of civil legal services. Finally, the panel recommended that clients participate in future discussions so that their perspectives can be integrated into client-facing technology enhancements and innovations.

Conference Evaluation and Feedback

According to a detailed, post-conference survey sent to all attendees, the conference was an overwhelming success. "Excellent," "well organized," "informative," "insightful," "important," "inspiring," and "fantastic" were some of the comments offered. The topics that attendees found the most useful included document management systems, integration of technology systems within a program and in collaboration with colleagues, online intake, technology tools for self-represented litigants, and data visualization for fundraising and management. Information security was one of the topics identified for future attention. Virtually everyone who responded indicated that they would attend a similar conference next year, and many urged that the conference be extended for a longer time period with more time allocated for breakout sessions, demonstrations, brainstorming and networking. It was suggested that consideration be given to allocating more time for the discussion of innovative ideas and technology standards and integration. As a practical matter, the conference also spurred over 25 people to join NYSTech, which will serve as an important vehicle for ongoing collaboration within the civil legal aid community on technology issues until any future conference can be held.

EXHIBIT 1 TO THE TECHNOLOGY CONFERENCE REPORT

**STATEWIDE CIVIL LEGAL AID TECHNOLOGY
CONFERENCE – PROGRAM**

INAUGURAL

**STATEWIDE CIVIL LEGAL AID
TECHNOLOGY CONFERENCE**

**THE ROLE OF TECHNOLOGY IN
PROMOTING ACCESS TO JUSTICE AND
COLLABORATION IN THE
DELIVERY OF LEGAL SERVICES**



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

COLUMBIA LAW SCHOOL, NEW YORK

July 23, 2015



STATEWIDE CIVIL LEGAL AID TECHNOLOGY CONFERENCE

THE ROLE OF TECHNOLOGY IN PROMOTING ACCESS TO JUSTICE AND
COLLABORATION IN THE DELIVERY OF LEGAL SERVICES

JULY 23, 2015 • COLUMBIA LAW SCHOOL • NEW YORK

AGENDA

8:30–9:00 A.M. REGISTRATION AND LIGHT REFRESHMENTS

9:00–9:30 A.M. WELCOME AND INTRODUCTION

ROOM 106

Helaine M. Barnett *Chair, Task Force to Expand Access to Civil Legal Services in New York*
Avery W. Katz *Vice Dean and Milton Handler Professor of Law, Columbia Law School*

OPENING REMARKS

Hon. Jonathan Lippman *Chief Judge of the State of New York*

9:30–11:00 A.M. MORNING PLENARY:

ROOM 106

INSPIRING EXAMPLES OF TECHNOLOGY INNOVATION

Jeff Hogue *Co-Chair, NLADA Technology Section*

This series of presentations will provide an overview of exciting technologies currently in use or within reach of the New York civil legal aid community.

9:30–10:15 A.M.

NEW YORK TECHNOLOGY INITIATIVES

- Data Visualization & Dashboards (*Merritt Birnbaum, NYLAG*)
- Online Self-Help: DIY Court Forms, LHI & E-Filing (*Mike Williams, Bronx County Family Court*)
- Rich Self-Help and Virtual Consultations (*Mark O'Brien, Pro Bono Net*)
- Mobile/SMS Outreach with the Self-Represented (*Adriene Holder, The Legal Aid Society*)
- Lawyering in the Digital Age (*Conrad Johnson, Columbia Law School*)

10:15–11:00 A.M.

NATIONAL TECHNOLOGY INITIATIVES

- Business Process Analysis and Expert Systems (*Rajat Basu, PhD, Honeywell [Ret.]*);
Examples from Other States (*Glenn Rawdon, LSC*)
- Rechtwijzer Project & Online Dispute Resolution (*Glenn Rawdon*)
- Convergence - Reaching 100% by Scaling the Successes - Public/Private Partnerships to Tap the Latent Market and Leverage Start-Up Investments (*Ron Staudt, Chicago-Kent*)
- Law School Apps for Justice - Teaching 21st Century Core Competencies by Building Content and Tools for Statewide Legal Aid Websites (*Ron Staudt*)
- Convergence Gaps and Coordination (*Glenn Rawdon*)
- Statewide Planning - Highly Coordinated Examples (*Glenn Rawdon*)

11:00–11:15 A.M. BREAK

11:15 A.M.–12:30 P.M. BREAKOUT SESSION ONE

1.A EXECUTIVE DIRECTOR BREAKOUT

ROOM 106

Lillian Moy *Executive Director, Legal Aid Society of Northeastern New York and Member, Task Force*

Peter Lesser *CIO, Skadden Arps*

Executive Directors from civil legal aid providers and a CIO from a major law firm will discuss what they are doing and what they can realistically envision. What does technology offer to improve client services, program management and the efficiency of legal services? Panelists will discuss creating a cohesive vision for integrating technology into various aspects of organizational missions.

- Unified Consumer Portal (*Ken Perri, LawNY*)
- VoIP (Voice over Internet Protocol) in Intake (*Bill Hawkes, NLS*)
- Document Assembly (*Joe Kelemen, WNYLC*)
- Case Management (*Raun Rasmussen, LSNYC*)
- Sharepoint/Knowledge Management (*Sally Curran, Volunteer Lawyers Project of Onondaga County*)
- Pro Bono Tech Assessment (*Peter Lesser, Skadden Arps*)

1.B TECHNOLOGY MANAGERS & CIO BREAKOUT

ROOM 107

John Greiner *President, Just-Tech, LLC (Former CIO, Legal Services NYC)*

Technology managers, both accidental and intentional, come together to discuss the state of technology in their programs, including shared challenges, innovative projects, resources and purchasing.

- Pro Bono Tech Assessments (*Michael Donnelly, Simpson Thacher*)
- Document Management Systems (*Jeff Franchetti, Cravath, Swaine & Moore, LLP*)
- Technology Training (*John Attinger, Capensys*)
- Shared Technology Challenges (*Open Discussion*)
 - Change Management and Innovative Projects
 - Identifying the Right Free and Low-Cost Resources
 - Justifying, Measuring and Critiquing Tech Initiatives
 - Procuring IT Hardware, Services and Systems

12:30-1:15 P.M. LUNCH & NETWORKING

1:15-2:15 P.M. BREAKOUT SESSION TWO

2.A SINGLE POINT OF ENTRY: ONLINE COORDINATION, TRIAGE & INTAKE

ROOM 107

Deborah Wright *President, Local 2325, UAW; Chair, Task Force Technology Working Group*

An overview of the LSC Summit Report vision for “single point of entry” with highly coordinated intake, referral services and resources will be presented, along with a look at how New York is incorporating these ideas.

- Overview of LSC Summit Report and the Vision for Intelligent Seamless Routing of People and Problems Extending Beyond Online Intake (*Glenn Rawdon, LSC*)
- Use of Online Intake Tools in NYS: An Update to the 2013 Technology Survey (*Christine Fecko, IOLA Fund*)
- Examples of Online Triage/Intake Projects (*Anna Hineline, LawNY*)
- Bakersfield, CA Project (*Brian Donnelly, Columbia Law School*)

2.B TECHNOLOGIES THAT SUPPORT PRO BONO AND REMOTE DELIVERY

ROOM 106

Sally Curran *Executive Director, Volunteer Lawyers Project of Onondaga County*

How technology can assist with recruiting, training, managing and delivery of pro bono programs, including the remote delivery of legal services.

- Volunteer Recruitment and Screening
 - Built-in Salesforce: Pro Bono Volunteer Applicant Screening (*Adam Heintz, Legal Services-NYC*)
- Online Training and Support of Pro Bono Attorneys and Law Students
 - CLARO Project (*Joe Keleman, WNYLC & Conrad Johnson, Columbia Law School*)
 - Online Training
 - Document Assembly on the Spot for Clients
 - Law Student Pro Bono: Fair Hearing Bank (*Conrad Johnson*)
 - Online Training: Surge Docket Training for Immigration Court (*Conrad Johnson*)
- Online Intake and Case Development or Document Drafting
 - Pro Bono Online Questionnaires for Case Building (*Bryan Babcock, VLSP*)
 - Bankruptcy Preparation (*John Greiner, Just-Tech*)
- Remote Delivery of Pro Bono Service
 - LiveHelp - Law Student Pro Bono (*Leah Margulies, LawHelpNY*)
 - Reaching Rural Clients with Video Conferencing and Remote Document Drafting (*Sally Curran, Bryan Babcock*)

2:15-2:30 P.M. BREAK

2:30-3:30 P.M. BREAKOUT SESSION THREE

3.A COLLABORATION, SHARING AND PLANNING FOR TECHNOLOGY IMPROVEMENTS

ROOM 107

Anna Hineline *Technology Coordinator, LawNY*

Darrin Lawson *Technology Manager, Hiscock Legal Aid Society*

Focusing on collaboration, presenters will provide examples of the resources available to further integrate technology into legal services, including the necessary planning (business process analysis or business intelligence) and the challenges that can naturally arise in collaborations.

- Who's Who in Legal Services Technology
 - Existing Resources (*LSNTap, LSTech, NYSTech, NTEN, TIGs*)
 - What Can We Do as a Community to Better Communicate about Technology?
- Picking a Project that Best Meets the Needs of Your Staff and Clients
 - Evaluating Systems and Efficiencies: Business Intelligence and Expert Systems to Avoid Automation of Inefficient Processes
- Choosing the Right Partners
 - Identifying the Goals: Navigating Divergent Views of Good Change
- Project Sustainability and Planning
 - Assessing the Availability of Resources to Continue Projects
- Training
- Challenges with Collaboration

3.B GATHERING AND USING DATA

ROOM 106

Merritt Birnbaum *Chief Administrative Officer, NYLAG*

The panel will introduce methods for gathering and using the myriad data collected to evaluate and increase services, including how funders drive data collection, how programs use data to inform service delivery and the supervision of legal services.

- **Funder Perspective** (*Veyom Bahl, Robin Hood Foundation*)
 - Which Data Points Interest Robin Hood Most and Why?
 - Key Robin Hood Metrics for Legal Services and How They are Applied
- **Agency Perspective** (*Laura Haring, NYLAG*)
 - Deciding What to Measure for External & Internal Purposes
 - What Information do Funders Want?
 - What Information do Supervisors Want or Need to Manage Programs More Effectively?
 - Tools for Data Management
 - Using Excel-based Dashboards and Pivot Tables to More Easily Visualize and Analyze Data
 - Analysis and Reporting
 - Trend Tracking to Inform Program Priorities, Grant Reporting, Fundraising Appeals, Legislative Advocacy, etc.
- **Broader Impact** (*Wilneida Negron, Data & Society Research Institute*)
 - What Role can Legal Services Data Play in Larger Efforts to Raise Awareness about Social Issues and Support Civil Rights?
 - How Legal Aid Data can be Combined with Public Data to:
 - Inform Legal Services Deliveries
 - Enhance the Statewide Legal Service Delivery Capacity
 - Better Integrate Legal Aid into Existing Community-Based Service Delivery Systems through Increased Triage Service Delivery Models
 - Developing Measurement Standards
 - Using Data Mining and Predictive Analytics
 - Data-Driven Advocacy and Leveraging Data for Outreach

3:45-4:45 P.M.

CLOSING PLENARY

ROOM 106

Christine Fecko *General Counsel, IOLA Fund*

Michael Mills *Neota Logic, Inc.*

Rajat Basu *PhD, Honeywell (Ret.)*

The conference facilitators will report out the key points from their sessions and a panel will reflect on next steps for the New York civil legal aid community. Together, they will ask how New York can move forward to implement the ideas considered during the conference.

4:45-5:00 P.M.

CLOSING REMARKS

ROOM 106

Helaine M. Barnett *Chair, Task Force to Expand Access to Civil Legal Services in New York*

PARTICIPANTS

KATHLEEN AMES

Executive Vice President
CAMBA, Inc.

ANDREAS ANTONIOU

Chief Information Officer
Paul, Weiss, Rifkind, Wharton &
Garrison

JANE AOYAMA-MARTIN

Project Director, Legal
Services NYC, Bronx

JOHN ATTINGER

Director of Training, Capensys

BRYAN BABCOCK

IT/Administrator
Volunteer Legal Services
Project of Monroe County

VEYOM BAHL

Senior Program Officer
Robin Hood Foundation

STEVE BAKER

Managing Attorney, Legal Aid
Society of Northeastern NY

AMY BARASCH

Executive Director, Her Justice

HELAINÉ M. BARNETT

Chair, Task Force to Expand
Access to Civil Legal Services
In New York

RAJAT BASU, PHD

Senior Principal Scientist (Ret.)
Honeywell

MARGARET BILLYARD

Information Specialist
Worker Justice Center of NY

MERRITT BIRNBAUM

Chief Administrative Officer
New York Legal Assistance
Group

SHAWN BLUMBERG

Director of Legal Service
Housing Conservation
Coordinators

ALEXANDER BURSZTEIN

Executive Director, Legal Aid
Society of Rockland County

DOUG CARLSON

Chief Operating Officer
Pro Bono Net

BEN CHAN

Assist. Manager for Operations
Center for Family
Representation

MONTEL CHERRY

Supervising Attorney
MFY Legal Services

AMY CHRISTENSEN

Deputy Director, Legal
Assistance of Western NY

GRAIG CRAVER

Hotline Programs Coordinator
Legal Information for
Families Today

MALLORY CURRAN

Principal, Mallory Curran
Consulting

SALLY CURRAN

Executive Director, Volunteer
Lawyers Project of Onondaga
County

PAUL CURTIN

Joint Chief Attorney
Civil Legal Service Unit
Legal Aid Bureau of Buffalo

JULIE DAVIES

Program Director
Rural Law Center of NY

NIKKI DEMEL

Pro Bono Coordinator
Pro Bono Net

JENNIFER DECARLI

Senior Director, Legal Services
Her Justice

BRIAN DONNELLY

Lecturer in Law & Director of
Educational Technology
Columbia Law School

MICHAEL DONNELLY

Chief Information Officer
Simpson Thacher & Bartlett

ANNE ERICKSON

President/CEO
Empire Justice Center

CHRISTINE FECKO

General Counsel, IOLA Fund

JESSICA FIELDS

Comptroller, Legal Services for
the Elderly, Disabled or
Disadvantaged of WNY, Inc.

BARBARA FINKELSTEIN

Chief Executive Officer
Legal Services of the
Hudson Valley

JEFF FRANCHETTI

Chief Information Officer
Cravath, Swaine & Moore LLP

SHEILA GADDIS

Executive Director
Volunteer Legal Services
Project of Monroe County

SARAH GALVAN

Development Director
Legal Services for the Elderly,
Disabled or Disadvantaged
of WNY, Inc.

HIMA GLEASON

Director of Legal Education
Legal Services NYC

BETH GOLDMAN

Executive Director, New York
Legal Assistance Group

JACK GRAVES

Professor & Director of Digital
Legal Education
Touro Law Center

MICHAEL GREEN

IT Manager, Empire Justice
Center

NANCY GREEN

Director of Office Administration
Nassau/Suffolk Law Services
Committee

JOHN GREINER

President, Just-Tech LLC

MIKE GRUNENWALD

Program Coordinator
Pro Bono Net

EILEEN GUINAN

Pro Bono Coordinator
Albany County Bar Association

JENNIFER GUNDLACH

Senior Associate Dean
Hofstra Law School

LAURA HARING

Grant Writer & Data Analyst
New York Legal Assistance
Group

ALISSA HARRISON

Program Analyst
The Legal Aid Society

KATHRYN HASLANGER

Chief Executive Officer, JASA

WILLIAM HAWKES

Executive Director
Neighborhood Legal Services

ADAM HEINTZ

Director of Pro Bono Services
Legal Services NYC

HEIDI HENDERSON

Executive Director
Brooklyn Bar Association

ANNA HINELINE

Technology Coordinator
Legal Assistance of Western
New York

JOHN HOCIENIEC

Staff Attorney
Neighborhood Legal Services

JOSHUA HOFFMAN

Director, Finance &
Administration, Brooklyn Legal
Services Corporation A

JEFF HOGUE

Community Relations &
Operations, Legal Server

ADRIENE HOLDER

Attorney-in-Charge, Civil
Practice, The Legal Aid Society

PAUL HOLZER

Manager IT/Infrastructure
LSHV

REBECCA HORWITZ

Manager of Gov't Affairs
Center for Family
Representation

CHRIS HUANG

Director of Operations
Mayor's Office of Immigration

JESUS INFANTE

Managing Director,
IT & Evaluation
The Bronx Defenders

MADELINE JENKS

Legal Assistant
Sullivan & Cromwell

SERGIO JIMENEZ

Director, Civil Justice Practice
Brooklyn Defender Service

CONRAD JOHNSON

Clinical Professor of Law
Columbia Law School

MICHAEL KANE

Director, Legal Services
Mental Health Association

LAUREN KANFER

Assistant Deputy Counsel to
the Chief Judge, NYS Unified
Court System

CINDY KANUSHER

Executive Director
Pace Women's Justice Center

AVERY W. KATZ

Vice Dean & Milton Handler
Professor of Law
Columbia Law School

DENNIS KAUFMAN

Executive Director
Legal Services of Central NY

LIZ KEITH

Program Director, Pro Bono Net

JOSEPH KELEMEN

Executive Director
Western New York Law Center

JUDY KLUGER

Executive Director
Sanctuary for Families

DILIP KULKARNI

IT Director, Legal Services NYC

DARRIN LAWSON

IT Manager
Hiscock Legal Aid Society

JIMMY LEON

Interim Co-Director of Law ITS
Pace University School of Law

PETER LESSER

Director of Global Technology
Skadden Arps

WILLIAM LIENHARD

Executive Director
Volunteers of Legal Service

HON. JONATHAN LIPPMAN

Chief Judge of the State of
New York

MYRA LOEWENSTEIN

Chief Financial Officer, Legal
Services of the Hudson Valley

LARA LOYD

Associate, Sullivan & Cromwell

PAUL LUPIA

Executive Director, Legal Aid
Society of Mid-New York Inc.

ELIZABETH LYNCH

Supervising Attorney
MFY Legal Services

KIM MADDEN

Director of Family Support
Advocates for Children

THOMAS MALIGNO

Executive Director,
Hearst Public Advocacy Center
Touro Law Center

MARGARET MALLOY

Chief Counsel
Pro Se Litigation
U.S. District Court, SDNY

LEAH MARGULIES

Project Director, LawHelpNY

CELIA MATOS

Helpdesk, Just-Tech

PATRICIA MAZO

Office Manager
Children's Rights Society

JOSEPH MELO

Senior Consultant, Just-Tech

GAIL MILLER

Management Analyst,
Court Research, NYS Unified
Court System

JANET MILLER

Senior Vice President
CAMBA Inc.

JON MILLER

IT Specialist, Legal Assistance
of Western New York

MICHAEL MILLS

Co-Founder & Chief Strategy
Officer, Neota Logic

JEAN MIRANDA

Access to Benefits Coordinator
The Legal Aid Society

MARY MONE

Deputy Counsel (Ret.)
NYS Unified Court System

ALICE MOREY

Managing Attorney
City Bar Justice Center

CHIP MOUNT

Director, Division of Technology
NYS Unified Court System

LILLIAN MOY

Executive Director, Legal Aid
Society of Northeastern NY

BARBARA MULÉ

Chief of Staff
NYS Judicial Institute

GAYLE MURPHY

Pro Bono Coordinator
Erie County Bar Association
Volunteer Lawyers Project

KAREN MURTAGH

Executive Director
Prisoners' Legal Services

MARTIN NEEDELMAN

Co-Executive Director &
Chief Counsel, Brooklyn Legal
Services Corporation A

WILNEIDA NEGRON

Fellow, Data & Society
Research Institute

MARK O'BRIEN

Executive Director
Pro Bono Net

ANNE O'GRADY

Managing Attorney, Pro Bono
My Sisters Place; & Content
Manager, LawHelp

CHRISTOPHER O'MALLEY

Executive Director, IOLA Fund

MARY O'SHAUGHNESSY

Manager, Information
Technology, Her Justice

SAM PALMER-SIMON

Legal Initiatives Coordinator
New York Immigration Coalition

LEWIS PAPANFUSE

Executive Director
Worker Justice Center of NY

SUSAN PATNODE

Director, Rural Law Center
of NY

KEN PERRI

Executive Director, Legal
Assistance of Western
New York

DIANE POZORSKI

Chief Financial Officer
Neighborhood Legal Services

REBECCA PRAUS

Intake Director, Legal Services
of the Hudson Valley

RAUN RASMUSSEN

Executive Director
Legal Services NYC

SOREN RASMUSSEN

Communications Associate
Voices for Civil Justice

GLENN RAWDON

Program Counsel for
Technology, Legal Services
Corporation

KAREN RILEY

Executive Director
Children's Rights Society

KATE RUBIN

Managing Director, Civil Action
Practice, The Bronx Defenders

BRIAN SABODA

Chief Information Officer
The Legal Aid Society

ROB SALKIN

Division of Technology
NYS Unified Court System

RAY SAMNANI

Managing Consultant,
Tyler Technologies

JOANNE SARRO

Special Assistant to Executive
Director, Sanctuary for Families

LOIS SCHWAEBER

Director of Legal Services
The Safe Center Long Island

JEFFREY SEIGEL

Executive Director
Nassau Suffolk Law Services
Committee

COURTNEY SELBY

Associate Dean for IT
Hofstra Law School

CAROLYN SILVER

Chief Program Officer
Lenox Hill Neighborhood House

NATALIE SOBCHAK

Director of Pro Bono Programs
Pace Women's Justice Center

LAREN SPIRER

Director of Pro Bono Programs
Columbia Law School

RON STAUDT

Professor of Law & Director,
Center for Access to Justice &
Technology, Chicago-Kent
College of Law

ROBIN STEINBERG

Executive Director
The Bronx Defenders

MICHAEL TELFER

Staff Attorney, Legal Aid
Society of Northeastern NY

TERRY J. TEREZETTI

Information Technology
Administrator
Legal Aid Society of Mid-NY

DIANA URQUHART

Director of Program
Evaluations, Sanctuary for
Families

KATIE URTNOWSKI

Director, Administration
Urban Justice Center

LILIANA VAAMONDE

Training Director & Special
Projects Coordinator
The Legal Aid Society

KATE WAGNER-GOLDSTEIN

Senior Staff Attorney
Legal Action Center

VERN WALKER

Professor & Director,
Research Lab for Law, Logic
& Technology, Maurice A.
Deane School of Law, Hofstra
University

JOE WARREN

Director of Technology
Legal Services of Central NY

HEATHER WEBB

Staff Attorney, Legal Aid Society
of Northeastern NY

STACEY WHITELY

Executive Director
Albany County Bar Association

MIKE WILLIAMS

Clerk of Court, Bronx County
Family Court

DEBORAH WRIGHT

President, Local 2325
United Auto Workers

BARBARA ZAHLER-GRINGER

Counsel for Administration
NYS Unified Court System

JEANETTE ZELHOF

Executive Director
MFY Legal Services



The Task Force to Expand Access to Civil Legal Services in New York

ACKNOWLEDGMENTS

TECHNOLOGY CONFERENCE PLANNING COMMITTEE

HELAINÉ M. BARNETT	Chair, Task Force to Expand Access to Civil Legal Services in New York
MICHAEL DONNELLY	Chief Information Officer, Simpson, Thacher & Bartlett, LLP
CHRISTINE FECKO	General Counsel, IOLA Fund of the State of New York
JOHN GREINER	President, Just-Tech
JEFF HOGUE	Community Relations & Operations, Legal Server
CONRAD JOHNSON	Clinical Professor of Law, Columbia Law School
BARBARA MULÉ	Chief of Staff, New York State Judicial Institute
MARK O'BRIEN	Executive Director, Pro Bono Net
GLENN RAWDON	Program Counsel for Technology, Legal Services Corporation
RON STAUDT	Professor of Law and Director, Center for Access to Justice & Technology, Chicago-Kent College of Law
DEBORAH L. WRIGHT	President, Local 2325, UAW; Chair, Task Force Technology Working Group
BARBARA ZAHLER-GRINGER	Counsel for Administration, NYS Office of Court Administration
MARY ZULACK	Clinical Professor of Law, Columbia Law School

The Technology Conference Planning Committee gratefully acknowledges the generosity of Simpson Thacher and Bartlett, LLP for the Conference refreshments.

The Technology Conference was planned in conjunction with NYSTech and The Task Force extends its sincere gratitude to those members who worked tirelessly to make this event possible with particular thanks to John Greiner, Jeff Hogue and Christine Fecko.

The Technology Conference Planning Committee extends its deep appreciation to Columbia Law School: Gillian Lester, Dean and Lucy G. Moses Professor of Law, and Avery W. Katz, Vice Dean and Milton Handler Professor of Law, for hosting this event; and to Daria Sidlauskas, Executive Director of Alumni Relations and Special Events, Char Smullyan, Director of Special Events, and Luis Bello, Director of Multimedia Information Technology, for their gracious assistance in preparing for the Conference.

PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 17:

**Statement from the New York State Bar Association in
Support of Pro Bono Service by Government Attorneys**

NOVEMBER 2015

The New York State Bar Association (NYSBA) is in favor of facilitating the ability of government attorneys to perform more *pro bono* service. To provide a tool to aid in this effort, NYSBA is in the process of developing a model *pro bono* policy for government attorneys. The policy is being developed by a subcommittee of the NYSBA President's Committee on Access to Justice (PCAJ), which began its work in March 2015.

We hope to have a model policy finalized in 2016. We anticipate that the model policy, in its final form, will:

- Summarize the significant unmet need for additional resources to provide civil legal services to low-income people who currently must proceed unrepresented in court proceedings and in other civil matters;
- Encourage and support participation by government agency attorneys in providing *pro bono* services;
- Define *pro bono* services consistently with the Rules of Professional Conduct, 22 NYCRR Part 1200, Rule 1.6;
- Take into consideration Public Officers Law sections 73 and 74, which govern the business and professional activities of state employees, including uncompensated outside employment; and
- Provide a series of recommended policies and procedures for agencies to consider adopting.

Following approval of the policy by NYSBA's executive committee, NYSBA will transmit it to the Permanent Commission on Access to Justice (the "Commission"). NYSBA hopes to work closely with the Commission and with federal, state and municipal agencies with respect to adoption of the policy.