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SUPREME COURT OF THE STATE OF NEW YORK
-- SECOND DEPARTMENT --

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THE CHIEF JUDGE'S HEARINGS,

ON CIVIL LEGAL SERVICES,

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45 Monroe Place
Brooklyn, New York 11201
October 7, 2010

BEFORE:

HONORABLE JONATHAN LIPPMAN,
Chief Judge

HONORABLE ANN PFAU,
Chief Administrative Judge

HONORABLE A. GAIL PRUDENTI,
Presiding Justice, Second Department

STEPHEN P. YOUNGER,
New York State Bar President

NANCY A. MESSANO &
TERESA MC GRATH,
Official Court Reporters

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2 THE SECOND DEPARTMENT, OCTOBER 7, 2010

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SECOND DEPT. CIVIL LEGAL SERVICES HEARING

1 JUDGE LIPPMAN: Good morning. We welcome you to
 2 the fourth hearing of the State Judiciary on the issue of
 3 civil legal services. I begin by saying that no issue is
 4 more fundamental to the Court's constitutional mission than
 5 ensuring equal justice for all. The availability of
 6 affordable legal representation for low income New Yorkers
 7 is indispensable to our ability to carry out this mission
 8 and that is why we are here today.

9 We've been in the First Department at the
 10 Appellate Division on 25th Street and Madison Avenue. We
 11 have been in the Fourth Department in Rochester at the
 12 Appellate Division and we've been in the Third Department
 13 at the Court of Appeals in Albany. And, now we are so
 14 pleased, due to the Presiding Justice Prudenti's
 15 hospitality, to be here at this beautiful courtroom in the
 16 Second Department which is the largest Appellate Department
 17 in the State.

18 Let me introduce our panel and then I will have a
 19 few words and we can get started. To my right is the
 20 Presiding Justice A. Gail Prudenti who was so pleased as
 21 again welcomed us to this large and diverse wonderful
 22 Second Department. To my left is the Chief Administrative
 23 Judge of the State of New York, Judge Ann Pfau and to my
 24 far right is our good friend the president of the State Bar
 25 Association, Stephen Younger.

1 The issue that brings us together is a critical
2 one and I will introduce some of the people in the
3 courtroom to you shortly. But, before that I just want to
4 thank first of all everyone for being here, witnesses,
5 citizens, members of the task force. It is particularly
6 critical because of what has happened in our economy in the
7 very, very recent past. The economic collapse in this
8 city, state and country has had a dramatic effect on the
9 people who appear in our courts. The most vulnerable
10 among them, the poor, the elderly, struggling families, the
11 disabled, victims of domestic abuse.

12 There's been a tremendous rise in foreclosures,
13 evictions, debt cases, family offenses, and matrimonial
14 conflict. When dealing with the very necessities of life
15 the roof over people's heads, their livelihood, the
16 well-being of themselves and their families, there can be
17 no doubt certainly in my mind that they need to have an
18 attorney in order to navigate the courts and in order to
19 navigate all the different entities, health, educational,
20 the different services that we provide as a society.

21 Fifty years ago, or almost fifty years ago, really
22 forty-seven years ago United States Supreme Court in Gideon
23 versus Wainwright said that it is an obvious truth that
24 when a person is hauled into court on a criminal case they
25 cannot get their day in court, they cannot get a fair shake

1 unless they have a lawyer.

2 I think it is fair to say that it is an equally
3 obvious truth today. That when a person comes into court
4 in a civil matter, dealing with the fundamentals of life,
5 again the roof over their head, their safety, their
6 security, they cannot get their day in court without a
7 lawyer. And, there are so many issues again whether it be
8 health and education, dealing with the housing agency,
9 dealing with so many different entities, their rights can't
10 be upheld unless they are able to interface in an
11 intelligent way with those different entities.

12 And, last year over two million people, about 2.3
13 million people came into our courts unrepresented, a
14 staggering number and very much a product of the economic
15 problems that we have been having in the state and country.

16 The lawyers in our state as represented by Stephen
17 Younger, the President of the State Bar have truly risen to
18 the occasion, have contributed over two million hours of
19 pro bono work towards helping the poor and the indigent in
20 our courts. That being said it is not nearly enough.
21 The legal service providers that hold the real -- do all
22 the heavy work in this area, and everything else we do, the
23 self-help programs, the pro bono work, is so important.
24 But, again, it's just part of a puzzle.

25 The legal service providers are at the center of

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1 this for every one person who is accepted for -- to be a
 2 client of our legal -- civil legal service providers,
 3 another eight to ten are turned away. It is something
 4 that is just inconceivable to all of us in the justice
 5 system.

6 Why is it that the Judiciary and legal profession
 7 are holding these hearings? Because if not us, who. If
 8 our constitutional mission is to provide equal justice for
 9 all, if we are not going to stand up for the most
 10 vulnerable in our society who is? It is our constitutional
 11 responsibility and it is our legal, it is our moral and
 12 ethical obligation to do so.

13 We are committed to this issue and I want to say
 14 how pleased I am that the legislature of this state has
 15 passed a joint resolution that basically applauds these
 16 hearings, says that this is the right way to systemically
 17 build the support that we need and has asked us to provide
 18 them with a comprehensive report detailing what we find and
 19 with our recommendations as to how much moneys are needed
 20 to close the gap in civil legal services.

21 I want to particularly thank two people who are
 22 here today who have provided such great leadership in the
 23 legislature on this issue, both of them from the Second
 24 Department. First Senator John Sampson, the Senate
 25 Conference Leader, head of the Judiciary Committee who

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1 himself was a former Legal Aid lawyer and who has dedicated
2 himself to this issue in every way; not only to the issue
3 but to providing leadership in the Senate on this issue and
4 that joint resolution was very much a product of his
5 efforts and we are so appreciative to you, Senator Sampson,
6 for all your wonderful efforts. I know they are so
7 sincerely held and come from your life experience and we
8 salute you for that and thank you so much.

9 And equally I want to thank sitting next to
10 Senator Sampson in the first row is Assemblywoman Helene
11 Weinstein, the Chair of the Judiciary Committee of the
12 Assembly who has also totally dedicated herself to this
13 issue, provided the leadership in the Assembly that
14 resulted in the joint resolution, has been dedicated to
15 civil legal services for so many years, really as long as
16 I've known her; and, on the other side, on the other house
17 has been such a great partner for Senator Sampson in this
18 effort. They have both met with us numerous times, again
19 provided what we need.

20 We need champions. We need champions in all the
21 different communities in this state but certainly in the
22 policy making branch of the government. And, I salute the
23 Senator and Assemblywoman for their wonderful efforts and
24 together I really believe we are going to make a difference
25 in an issue that is so ironic that today with the economy

1 so poor and so many began the poorest, the most vulnerable
2 in society, we have the least money for civil legal
3 services that we have ever had at a time when we need the
4 most money.

5 Foreclosures and evictions and all the things --
6 debt collection cases and all of the different areas we
7 have had such an explosion in the courts and I think the
8 IOLA crisis just really -- and again Senator Sampson and
9 Assemblywoman Weinstein were instrumental to get the money
10 to save IOLA. The 15 million dollar short fall in IOLA
11 just demonstrates that we cannot rely on unstable,
12 inconsistent means of supporting civil legal services. We
13 have to -- this money, this funding has to come out of the
14 public fisc.

15 It is in our mind, certainly in my mind as
16 important as the schools, as the hospitals, as all the
17 other things that we prioritize in our state. We are not
18 going to say that gee, this year times are hard. We are
19 not going to fund schools; and we can't say this year times
20 are hard we are not going to fund civil legal services.
21 It has to be, again come out of the public fisc and be
22 something that we prioritize in our state.

23 So, without further ado I want to move forward.
24 Let me just introduce to you a few of the other people who
25 are here. First the Chair of the task force on civil

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1 legal services, Helaine Barnett who is a former head of the
2 Legal Services Corporation and Helaine oversees a 28 person
3 task force and thank you so much, Helaine, for your efforts
4 and for being here today.

5 Steve Banks from the Legal Aid Society has been a
6 steward in this area and again a member of the task force.
7 Emily Franchina, the Second Department Team Coordinator who
8 we're so pleased. Denise Kronstadt also a Second
9 Department Team Coordinator. Lillian Moy. Is Lillian
10 here? She was up in Albany the other day. There are so
11 many people who have contributed to this effort and
12 certainly Fern Fisher, the Deputy Chief Administrative
13 Judge for the New York City Courts and head of our
14 Statewide Access Justice Staff Efforts.

15 Fern, where are you?

16 JUDGE FISHER: Right here.

17 JUDGE LIPPMAN: She's right there. I want to
18 thank you for your wonderful efforts and you will hear from
19 Fern later. She will be the closing witness today.

20 So, I would ask that we are going to have -- try
21 to limit testimony to five minutes for each of the
22 witnesses and five minutes of questioning. Don't feel
23 that you have to read your statement. You can tell us
24 what your views are and we would be happy to then ask you
25 some questions. So, we want to keep -- we have so many

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1 witnesses and we want to have the input of a wide breath of
2 witnesses today.

3 So, we are very pleased to start with someone who
4 has been a champion in this area for all his life and
5 certainly the Fund for Modern Courts that he represents has
6 been our partner in so many a good deeds for the courts and
7 legal profession in this state.

8 So, I would ask Victor Kovner, the Chair of the
9 Fund for Modern Courts to come forward and please make your
10 statement and I would note, too, that Dennis Hawkins, the
11 Executive Director of the Fund, is here today and we
12 appreciate that.

13 Thank you, Dennis.

14 Mr. Kovner, you want to start?

15 MR. KOVNER: Thank you, Chief Judge Lippman,
16 Justice Prudenti, Judge Pfau and President Younger. I want
17 to say it is nice to see our new Bar president up on the
18 bench. It becomes him.

19 We at Modern Courts very much appreciate the
20 opportunity to present testimony today on this critical
21 issue of civil legal services. And we think, we think it
22 is really vital that you have formed the task force to
23 expand access to legal -- civil legal services. And, I am
24 going to take the admonition of the Chief Judge and not
25 read my statement and turn to what I think is the heart of

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1 the matter.

2 I mean this is an issue that Modern Courts has
3 been involved with for a great many years and it is so
4 helpful that you have taken the time and helped assemble
5 those most concerned about the subject so that the public
6 can focus on this issue.

7 But, as many of you know we -- there was
8 commissioned a survey of civil legal needs which was
9 conducted by the respected Lake Research Partners in August
10 of this year. This was the first survey of civil legal
11 needs in our state in 20 years and it covers low income
12 residents throughout the state. A research for the survey
13 is complete. The final report will be submitted to the
14 task force shortly.

15 The survey followed a sample of low income New
16 Yorkers defined as people living at or under two percent of
17 the federal poverty guidelines as represents for family of
18 four roughly, \$44,000 per year. Those surveys were asked
19 about specific legal problems including housing, finances,
20 employment, health insurance, and medical bills, public
21 benefits, domestic and family issues, immigration issues,
22 with schools affecting their households over the past year.

23 When the representative population was presented
24 with a specific -- with a list of specific legal problems
25 nearly half, roughly 47 percent said they had experienced

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1 at least one of these problems in the past year. Applying
2 this percentage to New Yorkers at this level of income,
3 this translates to almost three million low income
4 residents of New York State who have had legal problems and
5 no access to counsel.

6 Within that number at least as I say three million
7 experienced one problem a year. 1.2 million experience
8 three or more legal problems and we have a chart here which
9 reflects the extraordinary number of people facing, in many
10 cases, a multiple of legal issues without access to
11 counsel. Now, the most significant --

12 JUDGE LIPPMAN: Staggering number.

13 MR. KOVNER: It is startling and it is an enormous
14 burden not simply to those families but to all sorts of
15 institutions throughout the state to those who you have
16 heard testimony in your prior hearing. But it affects
17 everyone, businesses, community, families and the courts.
18 The last thing a judge wants to do is have a litigant that
19 doesn't have counsel. It just -- it is a burden on the
20 Judiciary as a whole.

21 Now, the most significant legal problems are in
22 the area of health insurance or medical bills. That of
23 course is not an area that is limited to people with low
24 income. Most people have those problems and complex
25 problems. That is followed by finances, employment, and

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1 housing and our chart over here on the right indicates the
2 various categories. That is the chart on your left on my
3 far right.

4 JUDGE LIPPMAN: Let me ask you a question on that
5 chart on the far left.

6 MR. KOVNER: Yes, Your Honor.

7 JUDGE LIPPMAN: I think that a lot of people don't
8 realize that this is not only -- when we talk about civil
9 legal services we are not just talking about when someone
10 finds themselves in court. A lot of these areas are
11 things that really precede their coming to court and
12 hopefully never have to do so. Is that what we are
13 looking at? These are not necessarily cases in the
14 courthouse. They are interfacing with different parts of
15 the bureaucracies that one has to deal with in life when
16 you are a poor New Yorker.

17 MR. KOVNER: You are quite right and of course if
18 people had access to someone with legal skills in many
19 instances, enormous instances they wouldn't have to come to
20 court at all.

21 JUDGE LIPPMAN: Exactly.

22 MR. KOVNER: Now they are coming to court. What
23 good does that do for our society, what good does it do for
24 our economy. Now, those low income New Yorkers most in
25 need of legal services are the young parents of children

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1 under 18, African Americans, Latinos, immigrants, the
2 unemployed, uninsured and disabled. For example,
3 47 percent of the disabled low income New Yorkers or those
4 living in household with someone who is disabled reported
5 having legal problems. And, their problems like everybody
6 else varied widely. 60 percent of poor women under the age
7 of 60 reported having at least one legal problem in the
8 past year. 60 percent of children living under the age of
9 18 reported having at least one legal problem as well.

10 JUDGE PFAU: Did you also find what we have been
11 struck with in hearing the testimony is you think of this
12 often as an urban issue. But, as we have been going
13 upstate we have seen this so much as an issue of rural poor
14 and in geographic distances in reaching even assistance if
15 it is available. Did you look at that as well?

16 MR. KOVNER: Absolutely, Your Honor. I think the
17 survey reflects that this is not an urban only problem.
18 It is a suburban problem, rural problem, downstate problem.
19 It is a Northern New York problem. It is a Western New
20 York problem. This limits the ability of our Judiciary to
21 serve effectively and the families in those areas to get
22 effective services across the range of the state.

23 Now, the bottom line of course is that legal
24 representation is the best means of ensuring adequate
25 resolution of the legal problems of low income individuals

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1 and families and our goal as a society of laws must be to
2 mitigate the dangers these problems pose and consequences.
3 Providing a significant portion of low income New Yorkers
4 with access to equal and fair justice can only be met when
5 the State offers secure and consistent funding for civil
6 legal services as a core program of this State. The Lake
7 Research Survey quantifies the needs and we at Modern
8 Courts consider this a most urgent and critical problem.
9 Thank you.

10 JUDGE LIPPMAN: Thank you. I think the numbers
11 are even more staggering than one would think and you're
12 right, that one of the problems is we haven't done one of
13 these surveys for so many years and I think it is out of
14 control and I think that is not -- the public is not as
15 aware of this as they should and of course that's one of
16 the purposes of these hearing. But, I think the survey is
17 terrific to get our arms around the breath of this problem.
18 I mean it is staggering.

19 MR. KOVNER: And the other thing if I may in
20 conclusion. This is not just an additional service to low
21 income people. This is a service to everybody, everybody
22 has a stake in our addressing these unmet needs. Everyone
23 benefits if we can address it.

24 JUDGE LIPPMAN: You know, I think you make a very
25 good point. We have had testimony and we are going to

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1 have more today. Not just from the people you would
2 expect to testify in this issue. We have had testimony
3 from the large banks, from the real estate industry, from
4 the health industry, saying that not only is this the right
5 thing to do but their bottom line is affected when people,
6 poor people don't have representation in court. Actually
7 the money that is vested in civil legal services will
8 redound over and over and over again to the benefit of the
9 State economically putting aside the right thing to do, the
10 ethical obligation to do. So, I think that it is a very
11 good point. Anything else?

12 JUDGE PRUDENTI: Mr. Kovner, number one, I
13 welcome you to 45 Monroe Place and I thank you very much
14 for being here.

15 And as we who have worked in the court system for
16 many years are well aware the Fund for Modern Courts goes
17 out to many, many courts and they have over the last
18 decade, I know in the Second Department, and observed court
19 operations.

20 And, besides the survey when these individuals
21 come back I know they talk to you about, and they talk to
22 your board about the operations of the courts. Has this
23 problem been brought to your attention over the past
24 decade?

25 MR. KOVNER: The answer is yes, Your Honor, and

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1 thank you for referring to our court monitoring programs.
2 Yes, we do monitor courts throughout the state. We have
3 been working in Washington and Warren and now in Suffolk
4 County and Family Court which is a large court system and
5 the answer is these issues do arise. They are covered in
6 our reports which we publish regularly and hope to continue
7 to expand that program. We try to rotate our monitoring
8 program which is done by volunteers who come in and observe
9 and write up their reports and are welcomed by the courts
10 and these problems are specially apparent.

11 We have been to some justice courts upstate and
12 they are also evident there where there have been basically
13 travesties of justice where -- this is more in the criminal
14 area than in the civil area -- but, the need for civil
15 legal assistance is clear throughout our state.

16 JUDGE LIPPMAN: Thank you, Mr. Kovner. Thank
17 Modern Courts for all of your leadership in this area and
18 in general to the well-being of the courts of our state.
19 We greatly appreciate it. Thank you so much.

20 MR. KOVNER: You're welcome.

21 JUDGE LIPPMAN: Okay, next we are going to have a
22 panel of leaders of the community. The Reverend Terry
23 Troia and Rajiv Garg.

24 Reverend Troia.

25 REV. TROIA: Good morning, Chief Judge Lippman and

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1 Judge Prudenti, Judge Pfau and President Younger. My name
 2 is Terry Troia and I am the Executive Director of Project
 3 Hospitality in Staten Island and Minister of the New
 4 Utrecht Reformed Church in Bensonhurst, Brooklyn.

5 Project Hospitality is an interfaith effort that
 6 has been serving the needs of hungry and homeless Staten
 7 Islanders for the last 28 years and I have been working
 8 with them for 26 of those 28 years.

9 We serve a population of people in our borough,
 10 providing food, clothing, shelter and emergency services,
 11 social and support services to people who are disabled,
 12 people who are unemployed, people who are homeless or on
 13 the verge of homelessness, unstably housed.

14 Many of the people we serve are also newly arrived
 15 immigrants to Staten Island, a borough which has the
 16 largest percentage increase of immigrants in the City of
 17 New York. 75 percent of the people we serve are people of
 18 color. 63 percent disabled and last year we served over
 19 25,000 individual Staten Islanders in need.

20 On Mondays we provide access to free legal
 21 attorney -- legal services from Legal Services of Staten
 22 Island and the Legal Aid Society and our soup kitchen. We
 23 are overpacked and we are booked sometimes two and
 24 three months ahead of time in order to get people in to see
 25 an attorney.

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1 JUDGE LIPPMAN: What kind of problems are they
2 facing?

3 REV. TROIA: A lot is eviction prevention, debt
4 resolution, immigration issues, domestic violence. I
5 would say that would be the top four.

6 JUDGE LIPPMAN: And do you think those issues have
7 been exacerbated during recent times because of the
8 economic problems?

9 REV. TROIA: Absolutely. We serve the north
10 shore. We serve all of Staten Island but predominant
11 poverty is on the north shore corridor which has a
12 21 percent unemployment rate right now and actually if you
13 have been following Staten Island, I am not saying that
14 anyone should follow the news in Staten Island, but if you
15 were --

16 JUDGE LIPPMAN: We all follow the news in Staten
17 Island.

18 REV. TROIA: I thought so. We have had a whole
19 space of hate crimes that have started in April that -- or
20 alleged hate crimes and a lot of it stemmed from poverty
21 and lack of jobs and the struggle of communities to find
22 their own place and to hang onto what very little they
23 have.

24 JUDGE LIPPMAN: Why is civil legal representation
25 so important in that mix?

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1 REV. TROIA: Well --

2 JUDGE LIPPMAN: If they don't have it what
3 happens?

4 REV. TROIA: Folks fall through the cracks of our
5 legal system. We serve 640 cases that were served by
6 Legal Aid Society and Legal Services of Staten Island last
7 year and those were 640 of what we thought were our most
8 severe cases that we had to get to an attorney because we
9 saw the potential of people falling out of their homes, saw
10 the potential of domestic violence survivors going back
11 into situations that would imperil their families and
12 themselves. If we don't provide that level of what I
13 would call safety net people end up out in the streets.
14 People end up losing their jobs when they shouldn't have
15 lost their jobs. People don't get the back wages that
16 they are entitled to. And, that is a --

17 JUDGE LIPPMAN: We are trying to make the argument
18 or heard the argument made that in the end it costs society
19 more than the cost of providing basic legal representation
20 if people kind of fall off the cliff. You know, they are
21 not represented. They can't access these different
22 benefits. They can't access the courts. That in the end
23 even on an economic basis really is very negative in terms
24 of, you know, our bottom line in these difficult financial
25 times.

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1 REV. TROIA: If we can prevent an eviction we save
2 a family from becoming homeless and going into the homeless
3 care system which is a very expensive system of care. We
4 are glad it is there. But, the goal is to not have anybody
5 become homeless. That is the prime example of the need for
6 civil legal services.

7 JUDGE LIPPMAN: So, we put aside even beyond that
8 this is the moral and ethical obligation. It really is in
9 plain dollars and cents makes sense, doesn't it, in terms
10 of the people you see every day?

11 REV. TROIA: Absolutely. I mean we are front-line
12 workers so I have beaten off rats with a broom and I am
13 pretty good at it. I have been in places where people
14 lived that are simply beyond our imagination to comprehend.
15 Where people pay \$25 a week to sleep on a piece of a
16 mattress in somebody's basement. That's the level of
17 poverty that we are talking about.

18 And, the free legal services are forced to turn
19 away at least five people in need for every one that they
20 can help. Even though the lawyers work long hours, high
21 case loads and I want to say personally I have been
22 available to myself and my staff after hours and sometimes
23 on weekends including New Years Eve.

24 JUDGE PFAU: And you serve the whole community.
25 What is the impact on the community when you are dealing,

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1 try to prevent people from falling through the cracks and
2 homelessness and the result that you see with the kind of
3 hate crime issues that have been raised in Staten Island
4 recently?

5 REV. TROIA: Well, people need to first of all
6 believe that they have human dignity and respect and that
7 they have a place for themselves where they are not going
8 to get pushed out of their apartment, not end up out on the
9 street and they are going to have food in their pantry to
10 take care of their families.

11 I actually go into houses where there isn't any
12 food. It is simply hard to imagine that. So, if the
13 kids aren't eating they are not performing well in school,
14 they become problems in school. ACS gets involved.
15 There's family problems. When you have four and five
16 families crammed up in one apartment all together the
17 family dynamics are threatening and perilous to the
18 families. Very hard to study when you don't have a
19 kitchen table to study on, when you are sharing it with 12
20 or 13 kids.

21 So, we are not doing justice to the children who
22 are our future generation as a result of the kind of
23 poverty. And, the need for us to be able to provide the
24 access to the legal services that will help them be in the
25 right place, receive the food stamps and entitlements they

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1 are entitled to and sometimes get denied and they need to
2 go back and fight that are very important to some level of
3 basic sustenance.

4 PRESIDENT YOUNGER: To follow Judge Pfau's
5 question up, what is the impact to the community of having
6 large numbers of foreclosures for example?

7 REV. TROIA: In -- Staten Island has the
8 unfortunate reputation of having very high foreclosure rate
9 for the City of New York. Well, there are two effects.
10 First it is the impoverishment of the family that is losing
11 their home and many people rent a portion of their home to
12 try to sustain their mortgage. So, there are also renters
13 that are victims of foreclosures as well. So, people lose
14 their homes.

15 The indignity of losing your home, losing your
16 possessions, people being forced into the homeless system
17 that never ever imagined that they would have to go through
18 that. People are ripped away from their schools. They
19 are sent to shelters in other boroughs. You lose
20 continuity of care. People that had medical care or
21 getting cancer treatment are ripped away from that. They
22 lose all their stability and their roots in the community
23 and in that case that takes years to build and that forms a
24 part of the person's identity and dignity and along with
25 losing their house and possessions and being relocated they

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1 lose that as well.

2 JUDGE LIPPMAN: So, we are really talking about
3 the fabric of society that holds it together. I mean is
4 that -- as obviously the kinds of services that you provide
5 in the -- legal services is just an integral part of
6 keeping that community together, keeping a framework in
7 which everyone can hopefully thrive and move forward.

8 REV. TROIA: Absolutely. And on Staten Island
9 legal services and Legal Aid Society don't have enough
10 resources to help everyone in need. And unlike the other
11 boroughs in the City of New York in addition to us being
12 transportation challenged we have no where else to send
13 clients so we handle 640 cases on Staten Island but we have
14 taken a number of cases to Queens and to other boroughs and
15 that means taking a staff person to escort a client who may
16 never have ridden the subway before and negotiate that in
17 order to get some type of legal services somewhere else and
18 then you wait hours and hours because they are already
19 booked in Queens and we are pushing into their time and
20 services.

21 JUDGE PRUDENTI: So we have a clear understanding
22 is there an advice only component to some of the civil
23 legal services that your group is providing?

24 REV. TROIA: The majority of the services -- there
25 is like a triage because they really take the most pressing

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1 cases. So it is not really advice. It is mostly
2 representation and of course our priorities are the DV
3 cases. We do have some advice only from -- CUNY has an
4 immigration and citizenship project and we have advice only
5 attorneys that come and advise people. But the majority
6 of the work that Legal Services of Staten Island and Legal
7 Aid Society do are court related.

8 JUDGE LIPPMAN: You are -- they are actually
9 representing them in court?

10 REV. TROIA: Absolutely and because of the triage,
11 because of the numbers only the most urgent.

12 JUDGE LIPPMAN: Okay, thank you.

13 REV. TROIA: So, I -- you covered the issue of
14 foreclosure. I again -- again hundreds of impoverished
15 Staten Islanders faced eviction last year and housing
16 lawyers are already forced to turn away many clients in
17 order for them to do the meaningful help to the cases that
18 they are able to take and despite the high rate of fatal
19 domestic violence incidents in Staten Island many survivors
20 do not have the legal protection they need because of the
21 insufficient resources. Although the 18-B lawyers can be
22 appointed survivors fear confronting their batterer without
23 a lawyer who spent time preparing for the court proceeding.
24 It is very, very scary stuff.

25 Those who are turned away have no place to go for

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1 help on Staten Island. So, decreased civil legal services
2 will undermine the Island's stability at a time when the
3 overall population and the poverty rate are growing more
4 and more rapidly than the rest of New York City. We have
5 21 percent of unemployment rate in the north shore of
6 Staten Island. More people will lose their homes. More
7 people will become homeless and homeless system is at a
8 critical mass at this time in our city and we end up
9 eroding the very fragile stability that we have in our
10 neighborhoods without benefits like food stamps,
11 unemployment benefits. We will see a high number of people
12 plunge into a deeper poverty really creating a gap between
13 rich and poor and more domestic violence survivors will
14 risk serious harm to themselves and to their families.

15 So, we urgently ask acknowledgement of the severe
16 situation that poor people face both in our borough and
17 across the city and hope that there is some way to find a
18 way to seek, secure additional services for legal services.

19 JUDGE LIPPMAN: Thank you for your very telling
20 testimony. I note no one should get scared but that red
21 light means that your time is up. The white light means
22 that you have about two minutes. Is that what the system
23 is here? One minute.

24 So, the white light means you have one minute.
25 Red light means your time is up but there is not a big

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1 crane that comes down and yanks you off. But, you can
2 watch the lights. It will give you a sense of how long
3 your testimony is.

4 Let's take Rajiv Garg who is the President and CEO
5 of Wyckoff Heights Hospital. Mr. Garg.

6 MR. GARG: Good morning, Chief Judge Lippman,
7 Presiding Judge Prudenti, Judge Pfau and President
8 Mr. Younger. I am going to take the advice for
9 summarizing my testimony in a substantive or form manner.

10 What I see in a health care institution where we
11 see about 80,000 people who use the hospital as an
12 alternate to private doctor.

13 JUDGE LIPPMAN: Right.

14 MR. GARG: Is the same way they view legal
15 services. They just do not know legal services can help
16 better with health treatment plan which would be basic
17 health care. Examples are people come in either they are
18 uninsured, they are unaware of the medical treatment plan
19 which would be given to them had somebody guided them
20 through the many ways of being able to get medical care.
21 And that is the biggest challenge when you have a
22 population which is at an economical disadvantage, language
23 barriers.

24 And, they are going to be getting educated, at
25 least the next ten years the education occur in that

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1 neighborhood. It is going to take time to mature as the
2 younger children go to school in the American system. The
3 parents who guide them also don't understand the health
4 care.

5 JUDGE LIPPMAN: What is the effect on the hospital
6 itself. We can --

7 MR. GARG: Sorry?

8 JUDGE LIPPMAN: What is the effect of the hospital
9 itself when people come in and they have no idea of how to
10 let you help them?

11 MR. GARG: Well, the biggest impact is that the
12 patient becomes what we call unfortunately a frequent
13 flyer. They come into the emergency room. You give them
14 the little treatment you can. You let them out of the
15 emergency room and they are back in a week.

16 JUDGE LIPPMAN: Because you don't cure their
17 problem?

18 MR. GARG: Well, we have to cure what is
19 immediate.

20 JUDGE LIPPMAN: Right, you cure the immediate
21 problem, right?

22 MR. GARG: But to put them on a treatment plan
23 which is required for an extended period of time would mean
24 that they would understand their rights and that is where
25 legal service, civil legal services would be hugely

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1 helpful. Especially it occurs with people with chronic
2 disease. A diabetic, an aging diabetic with hypertension
3 disease. They're -- for example the treatment plan would
4 call them for a device or some implement which they could
5 get if somebody told them how to get it. Or, for example,
6 if you get somebody who is a victim of a rape crisis.
7 They walk into the hospital unaware of where they need to
8 go.

9 And, what is happening with the medicaid office
10 and other insurance company, people who basically help pay
11 for these services, is they are trying to curtail this
12 expense by basically trying to have people wait a lot
13 longer and that again has the same impact on making the
14 patient even more diseased or more ill.

15 JUDGE LIPPMAN: You are not talking about a court
16 case. You are talking about basic access to health
17 benefits and isn't that going to become even worse with the
18 new health law if people don't have the assistance of legal
19 counsel to navigate, you know, what -- the rights that they
20 are entitled to, the benefits that they are entitled to?

21 MR. GARG: I definitely think so and that is
22 becoming more and more obvious as the numbers of people who
23 walk through doors of hospitals like ours, community
24 hospitals, with economical disadvantage who just are
25 bewildered as to what the next step is.

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1 Most of the stuff which we see in a hospital like
2 ours is three fold. It is not a court case that we are
3 trying to avoid but some people in the system who were
4 disadvantaged may end up in court.

5 JUDGE LIPPMAN: Yes.

6 MR. GARG: And that is something to recognize and
7 try and avoid by providing some legal services at the
8 outset of a treatment plan. Not that everyone qualifies
9 for it but certainly a helping hand with a legal edge to it
10 would be immensely useful to this population.

11 PRESIDENT YOUNGER: It strikes me so often that
12 the medical profession and legal profession are divided.
13 Doctors think all lawyers do is sue doctors and what you
14 are talking about is a collaboration where lawyers can
15 actually help you treat the patient in ways that a doctor
16 can't.

17 Now, I was wondering if you can expand on that in
18 what ways a doctor and lawyer can collaborate.

19 MR. GARG: Well, when the lawyer is getting
20 involved at the initial stage of, you know, let's just take
21 an example of a patient who comes in who is chronically
22 ill, has a bunch of issues and doesn't know what he can get
23 as a treatment plan. Their lawyer can actually help a
24 doctor understand what that doctor can do within the bounds
25 of legality, who he can go to. For example medicare.

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1 What is the patient entitled to? What can the doctor fight
2 for? What tests are useful in substance or form? Doesn't
3 it make sense to push some of the boundaries?

4 Doctors and lawyers are divided when it comes to
5 malpractice because, you know, if you look at it it's two
6 sides of the same coin. On one hand you are saying well,
7 we cannot give you the aid that is required to use
8 defensive medicine because you can't do all the things you
9 are suppose to do to make the patient better. If you
10 don't do that and patient finally, you know, falls prey to
11 either manifestation of disease later on in life or
12 something bad happens then the lawyers on the other side
13 are trying to sue the doctor.

14 I think the collaboration would actually reduce
15 malpractice, will make the doctor I guess more bold in what
16 he needs to do at the outset. And, it will coordinate the
17 various pieces at least for this condition and serve the
18 patient a lot better much early on. I think that's what --

19 JUDGE LIPPMAN: Okay. Thank you so much for your
20 testimony.

21 And next is Brad Snyder who is the Representative
22 of the Network of Bar Leaders.

23 MR. SNYDER: Thank you, Chief Judge Lippman and
24 rest of the panel for having us here today. I will also
25 just paraphrase some of my testimony although it may be

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1 points where I am reading.

2 I am the executive director of LeGaL which is the
3 LGBT Bar Association of Greater New York and am here today
4 as a representative to the Network of Bar Leaders.

5 As you probably know the Network consists of 46
6 Bar Associations many throughout New York City and State of
7 New York and one part of our mission is the advancement of
8 commonly shared views pertaining to the administration of
9 justice and particularly appropriate for today views
10 pertaining to the delivery to the public of legal services.
11 So, this is an issue that has been obviously of great
12 concern to the Network for some time.

13 Our member associations are quite diverse. We
14 are the County Bars, the Women Bars, People of Color Bars,
15 Practice Specialty Bars, LGBT Bars, Cultural and Religious
16 Bars and reason I emphasize that today is as the panel
17 already heard in other testimony we represent communities
18 that are particularly disproportionately affected by
19 reductions in legal services for the work that many of our
20 pro bono attorneys are doing throughout the city and state.

21 One example of that that was noted in testimony
22 that I believe has already been presented to the panel
23 comes from the focus on Staten Island again. The Staten
24 Island Women's Bar Association which notes that the client
25 populations of New York States civil legal services

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1 programs are women and women with families over 70 percent
2 of the time. There are a lot more statistics about
3 certain communities who are disproportionately impacted.
4 They certainly speak to the LGBT community at all different
5 income levels facing lots of legal uncertainty particularly
6 during time of crisis and what that means to our community.
7 But, this is sort of an across the board narrative about
8 what is going on out there in the world.

9 When funds are scarce the front line public
10 interest organizations and Bar Associations and Networks at
11 Bar Associations are forced to make some very tough choices
12 and in many instances that means a direct reduction in
13 services.

14 In other instances it means the outright
15 elimination of services entirely. As Chief Judge Lippman
16 noted however earlier the Bar has stepped up in many ways
17 to meet the needs, that there is a call by Chief Judge
18 Lippman with respect to respond to the foreclosure crisis
19 and I believe many of our member Bar Associations met that
20 call although, as noted earlier, the need is just too
21 great.

22 So, I guess the point that I just want to
23 emphasize is that our ability as members of the Bar who
24 care passionately about this to connect visitors either
25 directly to legal representation or informal ways to

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1 connect them to resources and really reach them before it
2 is too late because we run an attorney referral service and
3 lots of our Bar Associations do, we run clinics, and the
4 worst call that we get is the one where we think if only
5 that person had had access to someone six months ago this
6 entire situation would be different.

7 And, I really think there is an opportunity there
8 for us and the work being done by the panel to try to get
9 to people sooner.

10 JUDGE LIPPMAN: I think it is a mix of services.
11 I think pro bono is so helpful and does so many wonderful
12 things. But, you need that core of the providers to build
13 around, then the pro bono efforts can be that much more
14 effective. Because the -- there aren't enough hours in
15 the year for, you know, pro bono efforts to begin to hit
16 the core problem. But, I think if we had a stable funding
17 for providers and then you had this great outpouring from
18 the Bar around it I think then we would make a difference.
19 Then we could begin to really cover the unmet need and what
20 needs to be addressed by our state and our society.

21 So, we greatly appreciate the work of the Network.
22 We greatly appreciate your pro bono efforts and we want to
23 continue working with you and with the different providers
24 to really start to crack this nut, to really start to begin
25 to deal with the need which as was testified by some of the

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1 people, the good Reverend, for every person taken by the
2 providers there are so many others turned away. And, for
3 every pro bono hour given by the Bar we can use ten more,
4 you know.

5 So, I want to thank you all and it's been a
6 terrific panel and thank you for coming in and testifying.

7 The next panel is about local issues and need for
8 legal services. Local issues and need for legal services
9 panel and this is Mary Barbera, the Chief of the Rockland
10 County Sheriff's Civil Division and Christine Malafi the
11 Suffolk County Attorney.

12 Chief, why don't you start and tell us.

13 CHIEF BARBERA: Thank you, Chief Judge and
14 esteemed panel for the opportunity to speak to you today.

15 In my capacity as Chief of the Rockland County
16 Civil Division I often see what happens when there is a
17 lack of adequate legal representation in the cases that we
18 deal with and the adverse of effect felt by individuals and
19 families in the County where I live and where I work.

20 The Civil Division serves and enforces all legal
21 mandates that come out of the Village, Towns, State,
22 Federal Courts. We also direct the receipt and recordings
23 of fees for services garnishing payments, seizures,
24 Sheriff's sale. Our work is not discretionary. We are
25 at the end of this process. We can't look at a family, we

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1 can't stop an eviction with an elderly person. We have to
2 do the job that we are asked to. We have to enforce the
3 mark. I cannot decide not to put the padlock on their
4 door or put their belongings out on the street.

5 I think it is especially critical for my job and
6 community's safety and economic well-being that the rights
7 of these individuals are protected to the fullest extent.
8 In my experience the only way to do that and make sure
9 these rights are protected is provide legal representation
10 to these individuals.

11 New York State Law, New York State Statute
12 provides that a sheriff serve a 72-hour notice before we
13 proceed with an eviction. That is three days. That is
14 three days to tell somebody that they have to vacate their
15 home. In certain instances we see, we find that it is the
16 first time they have ever come in contact with the legal
17 system. There is a deputy showing up on their door saying
18 here, you got three days to get out. I am sure they are
19 aware that they are in arrears on their rent or the
20 foreclosure proceeding is at the end but I don't think they
21 really know or they can really fathom what the eviction
22 process is. It is a hard cold reality.

23 JUDGE LIPPMAN: They are not ready to interface
24 with the legal system, with your office.

25 CHIEF BARBERA: No. I have, and this is an

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1 example from 25 years ago when I first started. There was
2 a couple. They were being evicted. There was snow on
3 the ground. They had a ten-day old baby. I held that
4 baby in my arms wrapped in a blanket while they took what
5 they could, piled it in their car and everything else
6 stayed on the street. And I remember walking away looking
7 at that crib on the street and saying wow, you know, and I
8 know they had no legal representation. But we had a job
9 to do.

10 I stood on a street corner and watched children
11 get off the bus at the end of the day and the content of
12 their home piled out on the front and I have seen those
13 parents who were in turmoil all day try to explain to those
14 children, a ten year old, why everything was out on the
15 street and where they had to go next. And all I can do is
16 walk away.

17 We have experienced in Rockland situations where
18 the deputy knocked on the door. The tenant said come in
19 and the tenant was sitting there with a shotgun under her
20 chin. She had no where to go. She had no one to turn
21 to. And thank goodness those deputies moved that gun as
22 that shot was fired and it went into a wall. I can
23 continue on and on. I have been doing this job for a very
24 long time. These are all situations that we have
25 encountered and they are all heart wrenching.

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1 JUDGE PFAU: Is it getting worse with the economy
2 and foreclosures and evictions?

3 CHIEF BARBERA: It absolutely is. It absolutely
4 is. I think that it -- we can do a better job when the
5 people that we come in contact with are represented. When
6 they know there is legal representation out there. When
7 they know there is somebody who can help them.

8 JUDGE LIPPMAN: When you serve your notice I
9 assume sometimes you will have someone who has a lawyer
10 from a provider and something happens within that 72-hour
11 period?

12 CHIEF BARBERA: Infrequently. Most of the time
13 --

14 JUDGE LIPPMAN: But generally by that point if
15 they have gotten to the point where you are putting a --
16 serving a 72-hour notice it's too late?

17 CHIEF BARBERA: Well, our Legal Aid in Rockland
18 County usually gets involved right after that 72-hour
19 notice is served if the person knows. There are times
20 when we direct them there.

21 JUDGE PRUDENTI: That would be my question,
22 follow-up of the question of the Chief Judge. After you
23 serve that 72-hour notice does your office get many calls
24 and what if anything do you do with those calls?

25 CHIEF BARBERA: We do get a lot of calls. We do

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1 something in Rockland where when we serve a 72-hour notice
2 we also put a copy in the mail to our Department of Social
3 Services so that they have it on file and if the person
4 goes for aid they know that they are about to be evicted.

5 JUDGE LIPPMAN: How many of these people does
6 Legal Aid wind up representing?

7 CHIEF BARBERA: A good portion of them. I don't
8 have statistics on that. I can tell you that our eviction
9 calendar has from 2003 to 2009 risen three-fold in
10 Rockland.

11 In 2003 we evicted 473 families or individuals.
12 In 2009 that number has increased to 1,423. Because of
13 the economic downturn I think in the last two years it's
14 become a lot worse. We have seen a ten percent increase
15 just from January to June in this year. We have also got
16 foreclosure evictions which are much more difficult for us
17 because it is an entire house. It is a proceeding that
18 has gone on for a very long time and if it comes to
19 eviction which is not usual in the foreclosure proceeding
20 it is because they have absolutely no where to go. They
21 have no where to turn.

22 It is much more difficult for the deputies to
23 stand there and do this. It is certainly difficult for
24 the families. They have no options left. I as a public
25 servant and officer of the State and concerned member of my

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1 community because there are times when I have scheduled
2 evictions for, you know, friends of the family or my son's
3 friends' families and that is a difficult thing.

4 I believe that the funding ensures adequate legal
5 representation for those in debt, for those maybe facing
6 potential foreclosure and also for victims of domestic
7 violence for whom we serve orders of protection.

8 JUDGE LIPPMAN: That's a critical issue.

9 CHIEF BARBERA: In my perspective it is just as
10 imperative to provide counseling and funding for legal
11 representation for these families as it is for criminals.

12 JUDGE LIPPMAN: So, you see the other end. You
13 see the consequences of not having legal representation?

14 CHIEF BARBERA: I absolutely do every day. We
15 are inundated. I am here because of my working
16 relationship with the Legal Aid Society. I respect them.
17 I admire them. They usually come in at the last minute.
18 They have the ability to work within the court system and
19 get things done so that their clients aren't -- their
20 belongs aren't on the street and they are not homeless and
21 that's why I am here today. I think without counsel we
22 can't be certain that these people are protected.

23 JUDGE LIPPMAN: Okay. Thank you. I appreciate
24 it, Chief.

25 Okay, Ms. Malafi, Suffolk County Attorney,

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1 welcome.

2 MS. MALAFI: Chief Judge Lippman, Judge Pfau,
3 Judge Prudenti, President Younger, thank you. I am very
4 honored to be here today.

5 Liberty and justice for all. It is a phrase we
6 have all said numerous times per week since the age of five
7 when we started kindergarten and learned the Pledge of
8 Allegiance. Justice for all cannot happen without
9 meaningful access to the courts. The definition of
10 meaningful access to the court does vary depending on
11 circumstances. But, people forfeit rights by being
12 unrepresented either due to ignorance or inability and it
13 denies all litigants meaningful access to the court, not
14 only those that cannot afford attorneys.

15 In Suffolk County and in New York State we have
16 been fortunate. The court system has made numerous
17 strides, as you know and as you have effectuated, in
18 helping get legal representation and helping those who want
19 to represent themselves have meaningful self access to the
20 court through your website, through forms, through links to
21 help.

22 It doesn't only affect those people. It affects
23 society as a whole. Providing legal services to people
24 who cannot afford legal services avoids the payment by the
25 government of Social Service and welfare benefits. It

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1 avoids the use of Social Service workers, probation
2 officers, police officers and other government workers who
3 have to assist those who need, who become in need because
4 they don't have legal representation. It helps society as
5 a whole because it creates jobs in the area of legal
6 representation. It helps businesses in the economy and by
7 avoiding decreased productivity and increased absenteeism
8 of employees. It helps cases flow through the court
9 system faster. It allows the Judiciary to act for the
10 benefit of everyone as other elected officials can do. It
11 also legitimizes the government as a whole and it avoids
12 tragedies and reduces incidents of domestic violence.

13 PRESIDENT YOUNGER: It I can stop you one second.
14 One of the things that struck me is just how overwhelming
15 these numbers are. We heard a number this morning, three
16 million people. What kind of criteria would you offer to
17 decide which of the cases that are worthy of a government
18 saying you ought to get a right to counsel and where can we
19 draw that line?

20 MS. MALAFI: I think the line has to be drawn not
21 at the federal poverty level. I think that is way too
22 low. I think that there has to be a recognition of the
23 fact that there are working class people who for lack of a
24 better term, working poor. They do everything they can to
25 keep their heads above water and if they have one legal

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1 crisis or legal issue where they need a lawyer that is
2 enough to put them in complete economic crisis.

3 JUDGE LIPPMAN: And there are some wonderful
4 programs around the state that require funding that are
5 targeted at the working poor.

6 MS. MALAFI: Correct.

7 JUDGE LIPPMAN: Certainly people who are not a
8 burden on society. Who go out every day and work and
9 because they want to be useful members?

10 MS. MALAFI: Absolutely.

11 JUDGE LIPPMAN: In the communities and it is so
12 hard because all it takes is one legal issue. They cannot
13 deal with it and maybe they don't continue to be working
14 and they just become poor.

15 MS. MALAFI: Correct, and then they qualify for
16 aid.

17 JUDGE LIPPMAN: Social Services.

18 MS. MALAFI: Social Service aid. We heard a lot
19 of testimony already and you have said domestic violence
20 increases greatly in these households which requires police
21 officer assistance, Social Service assistance, the Family
22 Court gets involved, foster families. It creates a lot of
23 expenses.

24 JUDGE LIPPMAN: So from the point of view of
25 county government civil legal services is not just

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1 something that again is a good thing to do for the right
2 thing to do. It really directly affects your community
3 and county government and cost of it and the fabric of the
4 community. All of the above.

5 MS. MALAFI: It absolutely does and Suffolk
6 County, we are in economic crisis for -- I have been
7 involved since January of 2004. And it is constant budget
8 issues and we have been able to maintain funding for
9 numerous projects based on the fact that funding a \$200,000
10 project is actually less costly than having the people who
11 need help not get help and then have to fund those personal
12 services through other areas of county government.

13 Also, we are very fortunate. We are -- we have a
14 law school that is committed to public service that the
15 county works with to provide assistance so that people's
16 houses that are in foreclosure, we help get an order, court
17 ordered support for children or even visitation, and other
18 important rights. They can go there.

19 JUDGE PRUDENTI: Just to follow up because I know
20 Suffolk County has done a very, very good job over the
21 years for funding Suffolk County Legal Aid Society and I
22 know that the Suffolk County Legal Aid Society handles
23 criminal matters and a limited amount of civil matters
24 basically.

25 Are there any discussions with regard to extending

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1 those services into other civil legal services.

2 MS. MALAFI: The Legal Aid Society would like to
3 do that. I have had discussions with them. The problem
4 is funding. The county funds the criminal end, the
5 mandatory legal representation areas. They would like to
6 extend it. One way the Legal Aid Society has thought to
7 make their budget a little bit looser so they can afford to
8 help more people is something as simple as a state law
9 needs to be passed to allow the Legal Aid Society to
10 participate in government health insurance which would cut
11 down the health insurance cost to their lawyers and free up
12 more money. That can be extended also to other
13 not-for-profits that provide legal services to people to
14 free up more budget money because it is -- the government
15 does have a limited amount of money and everyone
16 understands that. But, if we can free up other moneys to
17 help these societies that are willing to have attorneys on
18 staff to help that it would be beneficial.

19 I would like to mention that doing this does not
20 only help the person getting the help in society but I was
21 in private practice for over 15 years before I became a
22 county attorney. I have been on this other side of the
23 table for unrepresented litigants. I know my clients
24 wound up paying more for my services because it is harder
25 to litigate against an unrepresented person. It is harder

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1 to be on the other side even in a transactional matter from
2 someone who is unrepresented. You have to put in more
3 time to review a 300 page rambling complaint.

4 JUDGE LIPPMAN: It is not an effective way to go
5 about your business or go about society's business?

6 MS. MALAFI: It is not. So, the people who can
7 afford attorneys do wind up paying more for the attorneys
8 because there is more time used in being involved with
9 someone who is unrepresented.

10 JUDGE PFAU: In Suffolk County you are
11 particularly hard hit by foreclosures. We unfortunately
12 know the numbers and we know what the impact is. In
13 particular with the Legal Aid Society having taken on --
14 being able to take on a limited number of civil cases I
15 would imagine that the large number of unrepresented
16 litigants in the foreclosure cases is having the ripple
17 effect in your community as far as what happens when houses
18 are foreclosed and impact in the community and
19 neighborhood.

20 MS. MALAFI: Absolutely. The county, we fund two
21 different projects to help the pro bono foreclosure
22 settlement conference through the Suffolk County Bar
23 Association which is fabulous and to our law school. But
24 we recognize with that money which we intend to double next
25 year with the budget that has been proposed that helps when

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1 a house is not empty with a foreclosure. There are a lot
2 less acts of violence in the area in the community where
3 the foreclosure is happening. There is less gang activity
4 because there is not an empty house for kids to hang out
5 in. There is less vandalism. The police don't have to
6 keep going there.

7 So, we understand the greater picture of making
8 sure that people get the legal representation they need and
9 also it is a basic element of society that we recognize as
10 the county that people who can't afford a lawyer should not
11 be taken advantage of.

12 JUDGE LIPPMAN: So the bottom line the health of
13 your county is very much reflected in the health of our
14 system of representing poor people. And funding this,
15 this just isn't about helping them because it is again good
16 or the right thing to do. The county is impacted in a
17 very negative way if poor people or the working poor, both,
18 don't have representation in court in accessing the health
19 system, housing, all the other things that people run into
20 when -- in their ordinary day lives.

21 MS. MALAFI: Absolutely recognize it's an
22 obligation to not only people who need representation but
23 all the tax payers to keep the cost down and make our
24 community a better community.

25 JUDGE LIPPMAN: And it is very much -- I am

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1 pleased that you emphasize that last point. It is to keep
2 the county's cost -- providing representation for the poor
3 better the bottom line of not only the county but also of
4 private entities to deal with people who don't have
5 representation. So, it is very much a holistic approach
6 to providing funding for civil legal services.

7 MS. MALAFI: Absolutely, yes.

8 JUDGE LIPPMAN: Okay. Thank you. Thank you
9 both.

10 I see the District Attorney is here. So, I am
11 going to ask him to come up and he is going to talk about
12 the criminal justice system and need for legal services.

13 Mr. District Attorney, we are so pleased to have
14 you here and I think so instructive that someone who
15 basically deals with the criminal justice system feels it
16 important to come and testify about civil legal services.

17 DISTRICT ATTORNEY HYNES: I must say you took part
18 of my statement though, Judge. Very good to see you,
19 Chief Judge.

20 JUDGE LIPPMAN: Great to see you.

21 DISTRICT ATTORNEY HYNES: And Presiding Justice
22 Prudenti and Chief Administrative Judge Pfau and State Bar
23 President Younger. I really thank you for the opportunity
24 of coming today and I am a former Legal Aid lawyer so I am
25 proud to appear before this panel. I guess the task force

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1 has heard mostly from people in the civil law arena
2 including indigent clients of civil legal services. But
3 my guess is you haven't heard much from those of us who
4 practice criminal law and yet those of us in the criminal
5 justice system certainly do have a significant stake in the
6 issue before you. Namely ensuring that the poor have
7 access and continue to have access despite the economic
8 downturn to the civil legal services that they require.

9 Just last week I was in Washington DC
10 participating in a forum on the role of the 21st Century
11 Prosecutor. District attorneys around the country are now
12 embracing that new paradigm of community prosecution and I
13 am proud to say -- you know this firsthand, Judge.

14 JUDGE LIPPMAN: I do.

15 DISTRICT ATTORNEY HYNES: -- that my office for
16 two decades has adopted this proactive collaborative
17 strategy for reducing crime and enhancing public safety.
18 Community engagement is a critical part of that strategy's
19 success and it is clear to me that Chief Prosecutor must
20 care about the health and welfare of community members
21 because healthier and more stable community inevitably
22 enhances public safety. And that's why access to civil
23 legal services becomes so important. By providing to
24 those who can't afford lawyer's advice and representation
25 in court regarding a broad range of life-affecting issues

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1 civil legal service providers help keep families and
2 communities secure, healthy and stable.

3 As the District Attorney of this county I am proud
4 to say we have implemented many innovative programs to
5 protect crime victims by stabilizing those who have been in
6 the criminal justice system, reducing their recidivism and
7 helping them to rebuild their lives. For example to
8 divert non-violent drug offenders into treatment in lieu of
9 prison and to assist formally incarcerated individuals to
10 successfully reenter their communities. All of these
11 individuals as well as their families are often wrestling
12 with the underlying civil legal issues. Family law and
13 immigration matters, housing problems resulting in
14 homelessness, wrongful denial of unemployment, disability
15 or other subsistence benefits and wrongful denial of health
16 care assistance. Particularly mental health care
17 services.

18 The administrative agencies involved in many of
19 these issues have forms, rules, procedures and
20 bureaucracies that can be at minimum daunting for any lay
21 person to navigate without the guidance of an attorney.
22 Unfortunately if the civil legal issues go unaddressed
23 clearly they will tear down the fragile lives that these
24 impoverished individuals are struggling to reconstruct. To
25 ignore their need for professional assistance is to deny

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1 them justice and weaken the social fabric that community
2 prosecution depends upon for enhancing public safety.

3 You already know by now the single largest group
4 using free legal services are women. Many of them
5 struggling to protect themselves and their children from
6 the violence of intimate partners. My office prosecutes
7 roughly 10,000 domestic violence cases each year. These
8 victims are all too often desperately in need of civil
9 legal services. Our Family Justice Center which Mayor
10 Bloomberg and I opened in July of 2005 includes a broad
11 group of service providers and is located on the same floor
12 as our Domestic Violence Bureau. It is heavily used by
13 the victims in cases handled by my office.

14 Since its inception the Family Justice Center has
15 seen over 36,000 clients. Currently the center has
16 approximately 550 to 750 new clients each month. Roughly
17 45 percent of these clients receive on-site civil legal
18 advocacy services and advice including paralegal screening
19 and linkage to services. Help for drafting Family Court
20 orders of protection petitions, advocacy with Family Court
21 issues and assistance in obtaining U-Visas.

22 Among its 15 on-site agencies I am proud to say
23 that the center has four legal services as our partners.
24 South Brooklyn Legal Services, Sanctuary for Families, The
25 Urban Justice Center and Jewish Association of Services for

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1 the Aged or JASA. These four partner agencies also
2 provide smaller percentage of clients with actual legal
3 representation in immigration, Family Court and matrimonial
4 matters.

5 While advocacy services are important legal
6 representation is a vital and necessary service for clients
7 seeking economic justice and safety from abusive
8 relationships and quite frankly the current legal services
9 agencies have a great deal of difficulty meeting our center
10 demands.

11 We have also seen the need for civil legal
12 services for clients in my re-entry program which partners
13 with the Counseling Services of the Eastern District of New
14 York which is not patient drug treatment provider, the Doe
15 Fund, a provider of transitional employment and housing,
16 the New York State Division of Parole and numerous
17 community based social service providers.

18 The re-entry program targets Brooklyn residents
19 who are on parole and have been mandated to substance abuse
20 treatment. Our re-entry initiative which has been
21 validated by Professor Bruce Western of Harvard University
22 has a successful cost effective crime reduction strategy,
23 and by the way six out of ten of the formally incarcerated
24 are without counseling, without help, are rearrested within
25 three years and more than half go back to prison.

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1 According to Professor Western's study for our
2 program it is closer to two, to two and a half. I believe
3 we can knock it down one out of ten or maybe into
4 fractions. But they are facing issues such as
5 landlord/tenant, Family Court issues, child support
6 payments, and obtaining public assistance benefits. In
7 the past they were frequently given referrals to an
8 attorney connected with the special re-entry initiatives
9 sponsored by the City Bar. But that initiative lost
10 funding in 2009 and of late referrals are made to the
11 overworked Legal Aid Society's civil division.

12 The criminal justice system is extremely
13 expensive. We all know that. The cost of housing a
14 person in Rikers Island according to the IBO, Independent
15 Budget Office, is now an astounding \$312 a day. While
16 providing free legal services to the indigent also carries
17 a price tag the investment is certainly sound. And seen
18 in this light the Chief Judge initiatives to increase
19 access to civil legal assistance State-wide through funding
20 in the Judiciary's budget is not only the right thing to do
21 in terms of fairness and access to justice, it can also
22 have a very positive impact on services to assist the
23 victims of crime and on services to assist the formally
24 incarcerated and I commend you, Chief Judge, for this
25 effort.

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1 JUDGE LIPPMAN: Thank you.

2 DISTRICT ATTORNEY HYNES: And I am certainly
3 available to provide additional information to help you in
4 this effort to meet the unmet needs for civil legal
5 assistance. Again thank you very much for having me.

6 JUDGE LIPPMAN: I thank you so much for your
7 testimony, District Attorney, and I think the -- what is so
8 interesting is there really is a very basic interconnection
9 between providing civil legal services for the poor and the
10 well-being of our society, particularly as reflected in
11 crime and crime rates. I think we are feeding into by
12 allowing particularly in these difficult times the --

13 DISTRICT ATTORNEY HYNES: Of course.

14 JUDGE LIPPMAN: -- feeding into --

15 DISTRICT ATTORNEY HYNES: One of the problems is
16 the frustration felt by someone who can't get help and they
17 will turn to drugs or alcohol and then the next step is of
18 course they will offend.

19 JUDGE LIPPMAN: And it is not only the crime but
20 it is the bottom line for society and costs of everything
21 that follows dealing with the legal issue and then almost
22 going off the cliff whether it is crime or social services
23 or all the things that as a society ultimately bears the
24 cost. So, we salute you for all your efforts and not only
25 in this particular area but recognizing the importance of

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1 the community around, all of us, and that the criminal
2 justice system and civil justice system don't live in a
3 vacuum. We are part of the community and we recognize the
4 interconnection. So, we salute you for all your efforts
5 and thank you.

6 DISTRICT ATTORNEY HYNES: Thanks Judge, and good
7 luck with this effort.

8 JUDGE LIPPMAN: Thank you so much. Appreciate
9 it.

10 DISTRICT ATTORNEY HYNES: Good to see you all.

11 JUDGE LIPPMAN: The next panel that we are going
12 to have is on domestic violence and that is Jane
13 Aoyama-Martin, executive director of the Women's Justice
14 Center at Pace Law School and Lois Schwaeber who is the
15 Director of the Nassau County Coalition Against Domestic
16 Violence.

17 MS. AOYAMA-MARTIN: Good morning, Judge.

18 JUDGE LIPPMAN: Thank you for coming.

19 MS. AOYAMA-MARTIN: Thank you very much for
20 hearing me today. I am the executive director of the Pace
21 Women's Justice Center of White Plains. We are located at
22 the law school.

23 JUDGE LIPPMAN: And doing very good work.

24 MS. AOYAMA-MARTIN: Thank you. Our clients are
25 primarily poor, working poor, women with children and

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1 victims and survivors of domestic violence and elder abuse.
2 95 percent of our clients are women with children.

3 What I would like to -- I have submitted my
4 written testimony and what I would like to address today
5 are really three points. The civil legal services in
6 Westchester that is serving domestic violence survivors,
7 the impact that the services have on our clients and the
8 gaps in service.

9 PRESIDENT YOUNGER: Before you do can I ask you a
10 question about the law schools?

11 MS. AOYAMA-MARTIN: Sure.

12 PRESIDENT YOUNGER: It struck me. I heard
13 statistics that said every law student on average comes out
14 with the kind of debt load that they have to make \$66,000
15 to pay off their debt. Yet we have all these unemployed
16 lawyers who can't find jobs. And we have a lot of people
17 who need lawyers. We have been hearing three million of
18 them in New York State.

19 Is there some way we can be working with a law
20 school so we can put these law students who want to work
21 who want to be able to help people in jobs that -- where
22 they can still pay off this massive debt loan?

23 MS. AOYAMA-MARTIN: Yes. I mean it is a funding
24 problem. I know with the current economic situation there
25 are those -- the deferred associates I think that is a big

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1 program that the City Bar has now. Our problem in
2 Westchester even though we applied for deferred associate
3 it is -- I don't know about the recent grants but they
4 don't seem to want to work in New York City. Westchester
5 is that -- I don't know, to New York City people,
6 Westchester is upstate. It is too far, and to people
7 upstate it is part of New York City. So, we are sort of
8 in that marginal area.

9 But what we do at the Women's Center is we rely
10 heavily on volunteers and law students. The good thing
11 about our program is that in fact in the domestic violence
12 field we have training for students. They get three
13 credits and we are -- we staff two offices directly in the
14 courthouse, walk-in basis for emergency orders of
15 protection in the Family Courts of White Plains and
16 Yonkers.

17 JUDGE LIPPMAN: What is the relationship? Explain
18 to us. You know, the domestic violence area sort of
19 crosses the boundary between the criminal and the civil in
20 that a lot of it is in Family Court and where it goes into
21 the criminal justice system is debatable. What is the
22 relationship when we talk about the domestic violence area
23 between again the criminal justice system and civil legal
24 services?

25 MS. AOYAMA-MARTIN: Well, we work closely with the

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1 District Attorney's Office and, you know, the District
2 Attorney's Office representing I guess the people of
3 Westchester, you know, they prosecute the abusers
4 criminally. But, that still leaves the civil side and
5 domestic violence survivors they are not clients of the
6 DA's offices. They are complainants.

7 JUDGE LIPPMAN: Is there any right to
8 representation in domestic violence situations on the civil
9 side?

10 MS. AOYAMA-MARTIN: Yes, under the Family Court
11 Act an order of protection. Certain cases, order of
12 protection cases, custody cases. But the problem we see
13 with -- and, you know, the 18-B program is great but you
14 could be in court on a return date or the second return
15 date. That's when you get your 18-B attorney. But a lot
16 of our work takes place before that stage and domestic
17 violence survivors have myriad legal problems. It is not
18 just --

19 JUDGE LIPPMAN: So, it is interconnected to their
20 lives?

21 MS. AOYAMA-MARTIN: Absolutely. And what we do
22 is when we -- and you know in some cases I mean early
23 access to attorneys is in some ways preventive because what
24 typically happens is say there is a call at 11:00 PM or in
25 the evening before and the police come. They fill out a

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1 -- they really direct the victim to go to Family Court.
2 They say go to Family Court. So, the next morning
3 typically the woman is there. You know, we are able to
4 see that person immediately on a walk-in basis. And we do
5 a comprehensive intake because there are a myriad of
6 problems. The protective order, part of it is the sort of
7 the immediate emergency safety issue. But --

8 JUDGE LIPPMAN: But it is all these issues
9 surrounding it?

10 MS. AOYAMA-MARTIN: Custody, child support. If
11 they are married there might be a matrimonial action. But
12 the support and financial issue are really --

13 JUDGE PFAU: Has the lack of consistent funding
14 and stability from year to year affected, you know, how you
15 see your ability to support women who are in this
16 situation?

17 MS. AOYAMA-MARTIN: The lack of consistent funding
18 is a big problem and that is hopefully as a result of the
19 testimony at this task force there will be some permanent
20 source of funding for civil legal services. It affects,
21 you know, it affects our ability to plan. It affects --
22 right now we are sort of at really the absolute minimum in
23 terms of operating the program efficiently. We have -- we
24 can't take like another cut in funding without really
25 affecting the program.

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1 JUDGE PRUDENTI: Have you been able to partner
2 with any other providers?

3 MS. AOYAMA-MARTIN: Pardon?

4 JUDGE PRUDENTI: Have you been able to partner
5 with any other providers?

6 MS. AOYAMA-MARTIN: We absolutely partner with
7 Legal Services of Hudson Valley. Legal Services of Hudson
8 Valley -- me -- my center just focuses on domestic violence
9 and elder abuse. But Legal Service of Hudson Valley is
10 the largest sort of most comprehensive civil legal services
11 provider. We partner with them because of all the
12 different issues. They have more areas of expertise. We
13 have a lot of cross referrals. We work very closely with
14 them.

15 JUDGE PRUDENTI: Thank you.

16 JUDGE PFAU: One of the things we heard
17 particularly in the area of domestic violence is not just
18 the availability of legal services for victims but the need
19 for the expertise in the area and how the funding affects
20 that, that it is not just something any lawyer is trained
21 in. Can you just address that for a moment?

22 MS. AOYAMA-MARTIN: Well, maybe it is because it
23 is the field I am in but I do feel it is critically
24 important to understand the dynamics of domestic violence.
25 To give you an example. When someone walks into our

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1 Family Court Legal Program, you know, sometimes getting an
2 order of protection is not the safest thing for that
3 person. So, we, you know, legal services that we provide
4 there is the comprehensive -- we call it in-take interview
5 where we discuss all the options. And, there are certain
6 -- and not insignificant but certain number of clients who
7 decide it is really not safe for them to file for
8 protective order. So, they end up not filing.

9 But, you know, that's what that kind -- it is the
10 kind of expertise that we can provide and true
11 understanding of the dynamics of domestic violence that
12 makes our services so critical.

13 JUDGE LIPPMAN: I think it is only in the last
14 years that we have all had a better understanding of what
15 domestic violence is all about and all of these --

16 MS. AOYAMA-MARTIN: Yes.

17 JUDGE LIPPMAN: -- and sub-issues that allow one
18 to deal with, you know, with that scourge, really, of
19 society.

20 MS. AOYAMA-MARTIN: In my materials I cite to a
21 study that was done. And during the 1990s the incidents of
22 domestic violence actually decreased and there was a direct
23 tie. In fact one of the factors in the study that I cite
24 is related to the provision of civil legal services.
25 Although the study took place in the '90s I want to

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1 emphasize though with the current economy and recession
2 that is over I guess --

3 JUDGE LIPPMAN: Yes.

4 MS. AOYAMA-MARTIN: -- there has been an
5 18 percent increase in domestic violence.

6 JUDGE LIPPMAN: Okay. Thank you so much. I am
7 going to thank you for the good work that you do and ask
8 Ms. Schwaeber to now speak. I would note that in terms of
9 domestic violence Judge Leventhal one of the justices of
10 this Court, the Appellate Division Second Department and
11 former presiding Justice of the Domestic Violence Court
12 here in Brooklyn is here. So, I am pleased you are with
13 us.

14 Ms. Schwaeber.

15 MS. SCHWAEBER: Good morning, Judge Lippman, Judge
16 Pfau, Judge Prudenti and President Younger. I also would
17 like to thank you all for inviting me here. You have
18 given me this opportunity for speaking to you --

19 JUDGE LIPPMAN: Thank you for coming.

20 MS. SCHWAEBER: I would like to take one moment to
21 especially thank Assemblywoman Weinstein for everything
22 that she has done for civil legal services in the State of
23 New York because it is critical to our programs.

24 JUDGE LIPPMAN: She just left but I am going to
25 tell her exactly what you said.

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1 MS. SCHWAEBER: Okay, that's fine. Thank you is
2 not so much to her personally but publicly to thank her for
3 what she has done.

4 JUDGE LIPPMAN: Good. Go ahead.

5 MS. SCHWAEBER: I need to first correct my title.
6 I am not Executive Director of Nassau County Coalition for
7 Domestic Violence although I am introduced that way most
8 often. I am simply the Director of Legal Services for the
9 Agency. Having said that I would like to depart from my
10 testimony, my written testimony.

11 JUDGE LIPPMAN: Sure.

12 MS. SCHWAEBER: And talk to you from my heart
13 because I really think, I am very passionate about domestic
14 abuse. I came to law very late in life. At 53 I went to
15 law school because I was a volunteer for my agency working
16 as a volunteer court advocate helping victims of domestic
17 violence. My agency has a program for walk-ins at Nassau
18 County Family Court and has since the middle '80s. We are
19 a private not-for-profit agency. We rely completely upon
20 funding from any kind of government sources as well as
21 donations and private foundations.

22 We had a small grant at that time to do this
23 advocacy program and after working as a volunteer for about
24 two and a half years I said if I really need to help, just
25 want to help this population I need to go to law school

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1 because they need attorneys who have the expertise as Judge
2 Pfau pointed out so amply a minute ago to work with them.

3 The ADV program is terrific but they meet with
4 them at the courtroom for the first time. They don't know
5 anything about them. They get two minutes to speak to
6 them and then it is their attorney and they may do a very
7 good job from there on, but they don't have the expertise
8 or the information to pass them on to the many different
9 kinds of referrals that they need, whether it be to Nassau
10 Suffolk Law Services, for homeless, for child support,
11 although they recently lost their funding for that and we
12 are seeing a tremendous increase in people coming to us for
13 child support because of that.

14 The population in Nassau county is reflected in
15 the people that we see coming to us. It is not a
16 particular population. It is everyone; rich, poor.
17 Although, we see more and more unemployed people coming to
18 us, or see women and they are 95 percent or better women
19 whose spouses are unemployed, whose spouses have left them
20 without any money and they have to beg for money.

21 This new legislation that has passed for the
22 temporary maintenance I think will go a long way to helping
23 our clients not be financially strangled during the
24 pendency of the divorce. As a result of working with this
25 population for years we felt that just doing orders of

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1 protection and custody and visitation wasn't enough.

2 JUDGE LIPPMAN: Because it's interconnected to
3 other issues?

4 MS. SCHWAEBER: Yes. We recently -- not so
5 recently anymore. I guess it is three or four years ago,
6 expanded into the divorce area and are doing matrimonials.
7 Within the first year we had over 30 clients waiting on a
8 wait list to --

9 JUDGE LIPPMAN: How are you funded?

10 MS. SCHWAEBER: Well, that's federally funded by
11 the legal assistance, the victims grant out of the office
12 of violence against women. That provides five attorneys
13 to us and with five attorneys I cannot keep up with the
14 case load for the family offenses, for the custody and
15 visitation.

16 JUDGE LIPPMAN: What other funds do you get?

17 MS. SCHWAEBER: Well, we get a small civil legal
18 services line and our other funding is from private --

19 JUDGE LIPPMAN: From who is that civil legal
20 services?

21 MS. SCHWAEBER: Budget line in the New York State
22 budget.

23 JUDGE LIPPMAN: Okay.

24 MS. SCHWAEBER: We have a small budget line.

25 JUDGE LIPPMAN: So, it is like a member item line?

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1 MS. SCHWAEBER: No, we have a civil legal services
2 line. We also have always gotten over the last few years
3 member items which we are not getting this year. As of
4 January --

5 JUDGE LIPPMAN: Yes.

6 MS. SCHWAEBER: As of January 1st we will not have
7 that. That will not only impact our legal department but
8 it will impact the ability of the agency to provide
9 counseling for children who witness, counseling for victims
10 of rape --

11 JUDGE LIPPMAN: You know what you are going to
12 have one year to the next?

13 MS. SCHWAEBER: No, we never know what we are
14 going to have one year to the next.

15 JUDGE LIPPMAN: Is that at the heart of the
16 problem not having a stable source of --

17 MS. SCHWAEBER: There is no stable source of
18 funding. The only stable source of funding has been
19 federally but it's a two-year program and every two years
20 you reapply.

21 JUDGE LIPPMAN: And very --

22 MS. SCHWAEBER: And nationally competitive.

23 JUDGE PFAU: If you had a stable source of
24 funding do you think that would translate into serving more
25 clients?

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1 MS. SCHWAEBER: I can't really answer that
2 question. Legal services right now is over capacity.
3 Any one of my attorneys will tell you oh, my God, don't
4 give me another case. We have recently gotten
5 appropriations, congressionally funded appropriations to
6 reach out to -- and try and get attorneys to work for us
7 pro bono. And, one thing that the bad economy has done for
8 us is that it has given us a lot of unemployed attorneys
9 who have been admitted to the Bar the ability to work for
10 us. So, we recently did a training two weeks ago on
11 representing domestic violence victims in matrimonials.
12 We had 26 attorneys attend. Will they all take clients?
13 Probably not. But, at least we have given them not only
14 the matrimonial law but the expertise or the information
15 and impact of domestic violence on the cases.

16 But, abusers use the court system as a further
17 means of abuse. They harass clients by constantly filing
18 new petitions and violations. Being self represented is
19 another way. How would you like to be a victim sitting
20 there being cross examined by your abuser who is
21 self-represented?

22 JUDGE LIPPMAN: The bottom line is that your
23 domestic violence work doesn't exist in a vacuum?

24 MS. SCHWAEBER: Absolutely not.

25 JUDGE LIPPMAN: That there are all kinds of

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1 services and victims' needs that relate to legal
2 representation of one kind or another that we would call
3 civil legal services and needs to be funded in order to let
4 people live a useful life and get back into society.

5 MS. SCHWAEBER: Absolutely.

6 JUDGE LIPPMAN: And continue forward?

7 MS. SCHWAEBER: Nassau County is thought of as a
8 wealthy county. However, we have -- we see in my agency
9 people from all walks of life. 30 to 70 percent of our
10 cases are people that receive TANF funding. The self
11 sufficiency -- the federal poverty levels makes one
12 statement, but the self sufficiency level that you need to
13 exist in Nassau county --

14 JUDGE LIPPMAN: No question.

15 MS. SCHWAEBER: -- is \$74,000 per family of three
16 not for a family of four now when county executives really
17 recently declared a health emergency because of the rate of
18 increase of domestic abuse in Nassau County. Things are
19 dire and it is exalating somewhat because of the economic
20 situation.

21 JUDGE LIPPMAN: I know. Well, we appreciate your
22 testimony, both of you, and certainly in a critical area
23 that is so related to the topic of our hearing today. So
24 thank you both.

25 (Hearing continues on next page.)

1 JUDGE LIPPMAN: Next we are going to have a
2 client panel, Alvin Thomas, William Schneider, Chakiera
3 Locust and Gail Greene, please come to the witness
4 stand.

5 Okay. Thank you all for coming. Don't be
6 intimidated by the courtroom or the red lights. All we
7 need you to do is just tell us your story as to, you
8 know, as clients of legal service providers.

9 I'll start with Alvin Thomas as a client of
10 legal services of the Hudson Valley and accompanied by
11 Trevor Eisenman.

12 Alvin, go ahead.

13 MR. THOMAS: Good morning, Judge.

14 My name is Alvin Thomas.

15 JUDGE LIPPMAN: Good morning.

16 MR. THOMAS: Good morning.

17 My name is Alvin Thomas.

18 JUDGE LIPPMAN: Tell us your story.

19 MR. THOMAS: Okay. My story is my name is
20 Alvin Thomas. I live in Mt. Vernon, Westchester County.

21 I served in the United States military from
22 1972 to 1979, when I was honorably discharged and
23 received a good conduct medal. After my discharge I was
24 admitted to the Medical Pavilion Hospital Center where I
25 went to psychiatric treatment for more than

1 one-and-a-half years.

2 Over the decade I do have many problems. I
3 had between 100 and maybe 150 hospitalizations. It was
4 only recently that I have been able to put the pieces
5 together in my life. I truly believe that if it was not
6 for the representation that I had gotten from the legal
7 services of Westchester County and Hudson Valley I would
8 not have been ever able to do so.

9 First came the legal service situation with
10 Hudson Valley. I had got an eviction. The paperwork
11 was given to me at 5:30 in the evening, p.m. I was not
12 in court that day. The court did not open that day.
13 The attorney, Mr. Eisenman, who represented me from this
14 had the papers in court and had made a complaint in the
15 court the next day and the negotiations were successful
16 in bringing me time to move.

17 Another situation that I ran into was over the
18 next three years I was faced with relocating many a
19 time, after which I used the services of Hudson Valley
20 attorney services. Mr. Eisenman had represented me in
21 court again, maintained stability in difficult
22 situations. The legal firm has represented me.

23 I was in my apartment for about four months
24 when the landlord sent me an eviction. I had already
25 paid two months rent and the security down payment. And

1 the first month I had significant income to pay my rent
2 because of my veteran's benefits. The landlord would
3 not work it out with me. Payment schedules with me was
4 hard to get.

5 The Department of Social Services refused to
6 give me a one shot deal, which was really, really not
7 understanding to me and they showed no compassion to me
8 as a person.

9 The legal services had got with me at the time
10 to move me into a new apartment.

11 My new apartment --

12 JUDGE LIPPMAN: We all have them, --

13 MR. THOMAS: Yes.

14 JUDGE LIPPMAN: -- for better or worse.

15 MR. THOMAS: I am sorry.

16 My new apartment, Social Services chose to
17 give me money to get it, and I could not believe it. My
18 legal services got me to move in and found me an
19 apartment. The new apartment turned into a nightmare
20 because I was only able to see that apartment during the
21 morning hours from eleven, being early. After I moved
22 in the building I was hanging out with prostitutes, drug
23 dealers and gangsters, finding myself in another dark
24 and hard situation while trying to maintain some type of
25 standard lifestyle and renting. I was very frightened

1 to leave my apartment.

2 Again services came, they helped me.
3 They asked the people up in Mt. Vernon in the courts to
4 hold onto the lease, which would give me a chance to
5 find another apartment.

6 So the very next time I said I am not going to
7 find any more apartments. I am going to deal with
8 realtors. I went to the realtor, showed me an
9 apartment, took my money, and gave me keys to an
10 abandoned, unlivable apartment. I could not believe it.
11 I withheld my rent.

12 Legal services assisted me in finding another
13 and safer apartment. Legal services also represented me
14 in the Small Claims Court with the dispute with the
15 realtor where they were able to return -- get my
16 precious money back. I live on a set income and it
17 would have been very, very more devastating, make a
18 longer homeless period of time if I didn't have these
19 people to advocate for me.

20 My housing problems went on for more than two
21 or three years. But by the time I knew it the court
22 just recognized me with little sympathy up there when I
23 was in front of him with these cases with hardly no
24 compassion. Unfortunately, the workers from the VA only
25 offered -- so here we go, my legal services offered me

1 the most basic and in a difficult situation he always
2 listened to me with the details of the situation and
3 thank God he offered me encouragement, because I, as I
4 stated, went through a lot of pain, maybe just as many
5 as 150 hospitalizations, just as many with the different
6 medications when I had got the right one to deal with
7 it.

8 But basically it comes down to stability to
9 put my life together. I had just recently gotten
10 married, which I feel very good about, because if
11 somebody had told me when I came home something like
12 that was possible it wouldn't have mattered. But I
13 fought back and I would not give up.

14 And basically why I am here is because I
15 really feel that the money and the resources are needed
16 or may be more increased. As you know, I am a man,
17 soldier of arms, and veteran. These guys are going to
18 be coming home. I would not like to see these gentlemen
19 be misrepresented or pushed away or even locked up. It
20 comes down to we have not had anyone that can represent
21 us, and make our case, make our life, make our story
22 heard.

23 I was very happy and very pleasurable when I
24 was asked to come here to talk about the situation that
25 affected me. If it wasn't for this attorney and legal

1 services I didn't know what was going to happen.

2 JUDGE LIPPMAN: What would you have done
3 without legal services representation?

4 MR. THOMAS: I think I would have been in the
5 street and I would have been homeless, and with my
6 condition of paranoid schizophrenia, which has been
7 uncontrolled for many years now, it was like a bad
8 situation.

9 But not only that, also reached out, they
10 called back and checked with me. They took interest in
11 making sure that I was okay.

12 As I said, I went to the Veteran's
13 Administration. They had no resources other than I was
14 getting. And what really shocked me was the DSS or the
15 housing preservation that puts money out for social
16 work, they wouldn't even look at me. They made me feel
17 like come on, what's going on with this.

18 But the point I am saying, time after time but
19 the calls at night, Thomas, how are you, how are you
20 doing, that's what got me through to get me here.

21 JUDGE LIPPMAN: So it's fair to say as an
22 ex-military guy, someone who served his country, really
23 legal representation is what's allowed you to now live a
24 useful life and to go about your business and not be,
25 you know, a burden to society or who knows what would

1 have happened.

2 MR. THOMAS: Well, sir, I am going to say this
3 and I know we have to move along.

4 Some of us guys come back so wounded we like a
5 little saying, you have to put a whole bunch of little
6 pieces together just to get a little piece to make a big
7 person.

8 Like I say, I am so very happy now. I have a
9 wife that I can sit across the table from and have lunch
10 and dinner with. I never thought these things were
11 possible. But with the encouragement they showed me I
12 can do it and they reached out to me and actually made
13 me feel like somebody. I am a taxpayer. I was
14 refused --

15 JUDGE LIPPMAN: We are so glad you are here
16 today and glad that you are here to tell your story and
17 to demonstrate really the need for funding for civil
18 legal services.

19 So thank you, so much.

20 MR. THOMAS: Thank you, sir.

21 JUDGE LIPPMAN: William Schneider, a client of
22 Nassau/Suffolk Legal Services -- Law Services,
23 accompanied by Rose Caputo.

24 MR. SCHNEIDER: Yes.

25 JUDGE LIPPMAN: Mr. Schneider, glad to have

1 you here.

2 MR. SCHNEIDER: Thank you.

3 As a preface I would like to state that the
4 circumstances involve me and my wife and we had home
5 ownership in one place for about 40 years and were able
6 to maintain ourselves in the community, in the
7 neighborhood. What happened is I got older, went on
8 Social Security, could not obtain the level of
9 employment I had previously, and we, we were having
10 trouble paying the property taxes which went up at a
11 very steep rate in recent years.

12 And as a second part there were issues between
13 my wife and myself which made things much, much worse
14 and brought it to the point of not knowing what to do,
15 not being able to find a path that would allow us to
16 solve these problems. It's quite possible, given the
17 circumstances, if everything had been simple that we
18 would have taken stock, sold the house, and moved to a
19 place that would allow us to take care of our
20 obligations.

21 I have here a prepared statement which I would
22 like to bring before you because it explains some or
23 most of the reasons for this kind of problem and it
24 brings into the equation the role that Nassau/Suffolk
25 Legal Services Senior Division played in helping us

1 overcome these difficulties, not without some serious
2 consequences to the family, but they put us on the path
3 where I couldn't find ways to deal with it previously.

4 If you don't mind I will read the statement.

5 JUDGE LIPPMAN: Go ahead, sure.

6 MR. SCHNEIDER: My name is William Schneider.

7 I am 84 years old and I have lived most of my life on
8 Long Island, New York. I have an undergraduate degree
9 from SUNY Albany in math and science and a teaching
10 degree from Harvard Graduate School of Education.

11 I worked most of my working life as a
12 mechanical draftsman and since the -- since about the
13 1950s. I married my wife Adele in 1953. We have two
14 daughters, Linda and Catherine.

15 About 10 years ago, when I was 74 years old, I
16 became employed as a consultant to help develop a marine
17 collision avoidance system based on infrared radiation.
18 This was for an engineer/designer/inventor who had some
19 very unique and important ideas. Although the inventor
20 had procured funding by raising capital for this
21 endeavor, at some point we couldn't get any more funding
22 or attract capital. Consequently, at about 190 -- 2003,
23 after two or three years of advancing the job, we were
24 unable to continue to the extent necessary.

25 My role was as a -- as a consultant, because

1 the company was small and couldn't have employees. So I
2 was in that role.

3 Because the inventor who formed the
4 corporation was a personal friend as well, he and I
5 having worked a number of years, an association that
6 went back about 20 years, there was great trust between
7 us. And I volunteered my, my work after the corporation
8 was no longer able to pay me for it. There are a couple
9 of reasons of this; one, as I mentioned, we had a close
10 association and trust. I was in -- as a Social Security
11 recipient and at this point in my life I really wasn't
12 able to get a regular job for myself. When I worked
13 with him I worked out of my house because of various
14 infirmities and whatever.

15 So, in addition to this project, of course, we
16 had Social Security and between my wife and myself it
17 probably was in the order of 20, 22 thousand dollars
18 income. But, nevertheless, I continued working for
19 reasons just mentioned, because there were goals, there
20 were promises, I had trust, and it would have been a
21 greater thing to complete it.

22 I continued on this direction for about three
23 years or so after the ability to pay me directly had
24 stopped. And at some point in that time I sought
25 independent or other employment as a necessity because

1 of our personal circumstances. My wife and I were
2 coming to the point of great difficulty.

3 I went on numerous job interviews, but despite
4 my efforts I was unable to find another job. As a
5 result, I was unable to meet household expenses and the
6 increasing Nassau County property taxes.

7 My financial difficulties worsened as a result
8 of a difficult relationship between my wife and I. It
9 had been somewhat adversarial, perhaps independent of
10 money, but money entered into it to an extent.

11 My wife was diagnosed with bipolar disorder in
12 2003. She was hospitalized for a short while. And she
13 had previous indications of mental illness of maybe not
14 such a serious nature before. And the important thing
15 financially there is she was unable to distinguish the
16 reality of our situation; one, that we could not
17 maintain the home, pay the taxes, and keep up. And so
18 the situation financially worsened.

19 And we -- I sought help, began seeking help
20 from various county agencies, from the Nassau County
21 Assessor regarding the property taxes. And because our
22 names were both on the deed of the house one party could
23 not make any kind of decision without the other.

24 By 2008 our property taxes had become
25 increased to about \$11,000 a year. You measure that

1 against 20 to 22 thousand dollars on Social Security
2 income and it was an impossible situation.

3 I entered into credit card debt, which at the
4 largest point got to be about a hundred thousand
5 dollars. And although I was able to make payments and
6 never missed a payment, the realization was that our
7 circumstances were such that it was going to be
8 impossible.

9 JUDGE LIPPMAN: So what did you do, at what
10 point did you come in contact with legal service
11 providers?

12 MR. SCHNEIDER: Well, okay, in 2008 I met my
13 lawyer, Rose Caputo, at Nassau/Suffolk Law Services.

14 JUDGE LIPPMAN: In relation to this whole debt
15 situation?

16 MR. SCHNEIDER: Yes.

17 I had contacted other agencies before,
18 including Nassau County legislature, and one got
19 sympathy maybe at certain times but nothing tangible.

20 JUDGE LIPPMAN: How did your lawyer help you?

21 Tell us in your own words, you don't have to
22 continue reading, you can tell us what happened.

23 What happened, you were having a debt problem,
24 you went to see legal services, how did she help you,
25 tell us in your own words?

1 MR. SCHNEIDER: Can I please read it because
2 it's a little --

3 JUDGE LIPPMAN: You can, but we have a lot of
4 witnesses waiting.

5 MR. SCHNEIDER: I will try to be quick.

6 JUDGE LIPPMAN: Sure, go ahead.

7 MR. SCHNEIDER: I made her aware of the
8 circumstances of the debt, and most importantly, told
9 her about the property taxes. Consequently, a lien was
10 placed on our home. If I were unable to pay the
11 property taxes with interest within two years our home
12 would go into foreclosure. The mortgage itself had been
13 paid off in 1979.

14 Rose advised me to convince my wife, Adele,
15 that we had to sell our house and/or get a reverse
16 mortgage. I was unable to convince my wife to sell, or
17 obtain a reverse mortgage.

18 Rose advised me of other options to resolve
19 the situation. The first was we explored the
20 possibility of a guardianship, a limited guardianship
21 over my wife. That didn't need any more where after
22 some study because it's just not the way the law works
23 in New York State.

24 Consequently, the one that I had to go by was
25 to file for divorce as really the only possible

1 solution, she and I both being deed holders.

2 Several months after filing for divorce on my
3 behalf my wife's behavior became increasingly erratic.
4 Sometime in December of 2008, after attending a church
5 function, my wife left her car in the church parking lot
6 and walked to a nearby hotel. Right in the hotel she
7 told the staff that she was there to meet some rich
8 relatives who were going to give her a lot of money.
9 Because her behavior was disruptive the hotel staff
10 called the police. The police arrived, removed her from
11 the premises and brought her back to the church, instead
12 of taking her to the hospital or in custody. An officer
13 then came to my house to notify me where my wife was.
14 We went back to the church and I drove her home. I
15 attempted to obtain a police report and the police were
16 uncooperative.

17 JUDGE LIPPMAN: How did your lawyer help you
18 out of the situation?

19 That's really --

20 MR. SCHNEIDER: Right now this is the crux
21 here.

22 JUDGE LIPPMAN: That's what we want. Go
23 ahead.

24 MR. SCHNEIDER: I informed Rose, who
25 understood what -- that what had transpired might be

1 helpful in filing for a guardianship proceeding.

2 With my permission Rose called the police the
3 next day, which allowed Social Services to come into the
4 picture. Again with my permission Rose made a referral
5 to the Nassau County Department of Mental Health.
6 Shortly after, on December 29, 2008, the Department of
7 Mental Health team of social workers came to our house.
8 As a result, my wife was involuntarily admitted to this
9 hospital in serious condition due to tachycardia,
10 congestive heart failure and hypertension. In addition,
11 the mental health crisis team immediately diagnosed my
12 wife as suffering from dementia, a diagnosis that was
13 confirmed when she was admitted.

14 Just one note, and not reading, and that is we
15 had tried for a number of times to get, in other
16 instances, to get the police to take my wife to the
17 hospital for all I can say is testing to determine if
18 she was mentally ill to the extent of needing --

19 JUDGE LIPPMAN: But your lawyer helped you to
20 get a guardianship of your wife?

21 MR. SCHNEIDER: We are right there and I
22 should --

23 JUDGE LIPPMAN: We are going to have to -- we
24 have a number of witnesses waiting, so all we really
25 want to know, and we so appreciate you coming here, what

1 did the lawyer -- in the end how did she resolve your
2 problems for you, your wife had a guardianship and what
3 about your debt issues?

4 MR. SCHNEIDER: Rose helped me find an
5 organization that could help me with the debt issue to
6 the extent of getting a reduction and clearing up the
7 debt that way.

8 There were many other things she did. She
9 filed the timely withdrawal of the divorce action
10 because we didn't need that anymore, and securing proper
11 assessment and treatment of my wife.

12 In addition, Rose helped us secure Medicaid
13 funding for my wife's nursing home care, helped me and
14 my daughter gain more time for an appropriate nursing
15 home for my wife after an early discharge order seemed
16 to forgo that, attended to the guardianship hearings
17 with me, drafted a will, healthcare proxy and power of
18 attorney for me and transferred the title of my home to
19 me to facilitate the sale of our house.

20 In addition, she took over the contract for
21 the sale of the house from an unscrupulous real estate
22 attorney, a closing attorney, prepared all the documents
23 for the closing and attended the closing. She also
24 tried to help me secure senior housing. And since I am
25 in the position of working on the credit card debt

1 because of Rose and her referrals and instruction.

2 JUDGE LIPPMAN: I gather that you are on your
3 way to putting your problems behind you --

4 MR. SCHNEIDER: Yes, we were able.

5 JUDGE LIPPMAN: -- thanks to the
6 representation by legal services.

7 MR. SCHNEIDER: So strong.

8 JUDGE LIPPMAN: And I gather this is a problem
9 that had many different tentacles to it.

10 MR. SCHNEIDER: Yes.

11 And there were no ways, we couldn't -- we
12 couldn't go to a private attorney. They wouldn't work
13 on, what do you call it, contingency.

14 JUDGE LIPPMAN: We understand.

15 MR. SCHNEIDER: You know, why should they or
16 whatever.

17 JUDGE LIPPMAN: It's a wonderful story and I
18 see how -- we see how legal services really allowed you
19 to have your life back.

20 MR. SCHNEIDER: We had nowhere else to go and
21 they found a path for us in many directions.

22 JUDGE LIPPMAN: I see in a multitude of many,
23 many legal entanglements.

24 MR. SCHNEIDER: Yes, and even given my wife's
25 health, the fact that she was diagnosed with dementia,

1 got nursing home -- good nursing home help, all of that
2 that were things aside from direct financial that --

3 JUDGE LIPPMAN: I agree and I think the moral
4 of the story, and I don't mean to cut you short, but I
5 think that the moral of the story is that it's not --
6 you are an educated man and obviously have had a fine
7 career and a home and that legal services is not just
8 for people who never had a job or are uneducated or who,
9 you know, have language problems or immigration
10 problems. They are for normal people, good people, who
11 work their lives and have some material things and there
12 comes a point in life where there is no money and no
13 ability to pull your life together on your own.

14 And we see how essential legal services can be
15 to getting on with living and enjoying life and because
16 of legal problems you can't, no matter how educated or
17 sophisticated you are, you can't necessarily navigate
18 the legal system.

19 So we thank you for your story and definitely
20 can see how instrumental legal services are in terms of
21 so many different people from all walks of life in our
22 community. So, thank you. We appreciate it.

23 And now we go to Chakiera Locust, client of
24 the Legal Aid Society of Rockland County, accompanied by
25 Mary Ellen Natale.

1 Go ahead.

2 MS. LOCUST: Good afternoon.

3 My name is Chakiera Locust and I am pleased to
4 tell you how the Legal Aid Society of Rockland County
5 was there for me when I needed help.

6 JUDGE LIPPMAN: Maybe you ought to bring the
7 mike closer to you.

8 MS. LOCUST: Sorry.

9 Is this better?

10 JUDGE LIPPMAN: Good.

11 Go ahead.

12 MS. LOCUST: I live in Rockland County, New
13 York, with my two children. My son Xavier is five and
14 my daughter Kaylah is two.

15 I had been working as a telemarketer in -- I
16 had been with my company for about three years, but in
17 2008 things started to fall apart. First, I lost my job
18 when my business was closing. One day my boss came and
19 told me to pack up my belongings and leave. I did so
20 and then I applied for unemployment benefits. I told
21 unemployment exactly what happened and I was denied when
22 my boss said that I had quit, which was not true.

23 So I called the Legal Aid Society of Rockland
24 County for help and that's when I met Mary Wallace, the
25 advocate assigned to my case. She represented me at the

1 unemployment hearings. She fought for my rights. I was
2 finally awarded benefits in the spring of 2009. But
3 that wasn't before that ordeal had an effect on the rest
4 of my life.

5 You see, I had fallen behind in my rent
6 payments due to the fact that I wasn't working while my
7 unemployment case was going on. So my children and I
8 lived in a private rental apartment, one of the few that
9 we can afford. The Section 8 waiting list is closed, so
10 we have very few affordable options. So it was very
11 important that we were able to stay in our home.

12 My landlord brought an eviction proceeding
13 against me in the Spring Valley Justice Court in May of
14 2009 and I contacted Legal Aid again. This time I was
15 represented in court by Miss Mary Ellen Natale. She
16 negotiated up enough time for me to be able to pay off
17 the back rent with the help of Social Services, and I
18 was able to pay the ongoing rent now that I was
19 receiving unemployment benefits thanks to Miss Wallace.
20 So I felt that I was back on my feet and that everything
21 would be okay from that point on. And I was wrong.

22 In November of 2009 I was served with yet
23 another eviction petition and I had been paying my rent.
24 But this time I was being sued by someone I had never
25 met, a temporary receiver for my building. My landlord

1 was in foreclosure and a receiver had been appointed.
2 My landlord was supposed to be turning over my rent
3 payments to the receiver, but he didn't, and the
4 receiver thought that I didn't pay.

5 I didn't know any of this until I contacted my
6 lawyer at Legal Aid again and she did some investigating
7 to find out what was going on. Miss Natale represented
8 me again in court and the eviction was dismissed. Plus
9 the judge had told the receiver to find someone to
10 manage the property as long as we were renting there.

11 I was thrilled that the eviction was dismissed
12 but my problems still were not over. My furnace broke a
13 couple of weeks after the proceeding and I called my
14 landlord to fix it and he refused. I had contacted
15 Legal Aid. Miss Natale put me in touch with the Health
16 Department and contacted the receiver, and before the
17 day was over we had heat again.

18 But my housing problems were still not
19 resolved because in May my landlord filed an eviction
20 proceeding against me. He claimed that I had not been
21 paying my rent, when, in fact, I had been paying the
22 court appointed receiver. So I contacted Legal Aid once
23 more. Miss Natale represented me again. She contacted
24 my landlord's attorney. The case was withdrawn without
25 me having to go to court, which was really important to

1 me because I am now working, so I can't miss a day of
2 work. And she also advised me of my legal rights
3 against my landlord and told me that Legal Aid would
4 help me if I wanted to pursue them.

5 But I am very hopeful that things will be
6 looking up for me and my children. We are still in our
7 apartment and it's a comfort to know that I have
8 affordable housing at least, you know, for now.

9 In the past year I obtained my GED and am
10 hoping that this will help to open doors for me. I am
11 back at work. And I don't know what I would have done
12 or what would have happened to us if Legal Aid hadn't
13 fought for my unemployment benefits or prevented our
14 eviction or helped me even with just heat in the winter.

15 I sat here and I listened to a woman that
16 worked for the shelter and just listening to what she
17 said, her client could have been me, and if they hadn't
18 stepped in at the time that they stepped in, every time
19 that they stepped in, I was one step away from being
20 that lady's client.

21 So I just want to say that, you know, what
22 they do, it really makes a difference in people's lives,
23 and I have been, you know, someone she represented. So
24 it's very important that we continue to have their
25 services and I felt great to know that my rights are

1 protected and that I have someone to fight for me.

2 JUDGE LIPPMAN: The same as Mr. Thomas and
3 Mr. Schneider, really, legal services helped you to pull
4 your life together.

5 MS. LOCUST: Most definitely.

6 JUDGE LIPPMAN: And things are looking up?

7 MS. LOCUST: Yes.

8 JUDGE LIPPMAN: Okay. Next is Gail Greene,
9 client of the Legal Aid Society of New York City,
10 accompanied by Sumani Lanka.

11 MS. GREENE: Good afternoon.

12 JUDGE LIPPMAN: Hi.

13 MS. GREENE: My name is Gail Greene. I am
14 currently a client of the Legal Aid Society. I am here
15 today to share my experience with you, and in doing so I
16 hope to convince you of the importance of continued
17 funding for the Legal Aid Society and other civil legal
18 services programs.

19 I currently reside in East Elmhurst, Queens,
20 with my 25-year-old son and my 19-year-old disabled
21 daughter. I have lived in my home for over 10 years.
22 My home is extremely important to me because it is
23 handicap-accessible for my daughter, who suffers from
24 spina bifida, a birth defect that involves the
25 incomplete development of the spinal cord.

1 My troubles started in 2007, when I was
2 looking to refinance my home. The mortgage broker,
3 Atlas Home Equities, promised me a fixed rate mortgage
4 of eight percent and mortgage payments of approximately
5 \$3,000 per month, including taxes and insurance.
6 Instead, I was tricked into taking out an adjustable
7 rate mortgage with a bank at an initial rate of
8 12 percent and mortgage payments starting at
9 approximately \$5,000, which included taxes but not
10 insurance, despite the fact the lender and broker knew
11 that I would be unable to afford to make such payments.

12 Inevitably, I ended up defaulting on my
13 mortgage payments, and the bank instituted an 18 percent
14 default interest rate on the loan. At that point I knew
15 that I would never be able to catch up on my mortgage
16 payments. Despite my attempts to work something out
17 with the bank, I ended up in foreclosure.

18 When I first came to the Legal Aid Society for
19 assistance I was in foreclosure proceedings. I was
20 desperate to save my home, but I did not know my legal
21 rights or even if I had any. My friend advised me to go
22 to the Legal Aid Society, and I am so grateful that I
23 did. I met with a foreclosure prevention attorney, who
24 reviewed my case, patiently answered questions, and
25 explained all of my legal rights.

1 The Legal Aid Society agreed to represent me
2 in the foreclosure action. The Legal Aid Society
3 submitted defenses on my behalf and as a result of their
4 representation the bank decided on its own to dismiss
5 the foreclosure action against me. Without Legal Aid's
6 direct representation, assistance, and advocacy I have
7 no doubt that my family and I would have already lost
8 our home.

9 The Legal Aid Society later informed me that
10 many homeowners have similar stories to me, that they
11 were also deceived into taking out high interest
12 adjustable rate loans with banks. However, due to the
13 lack of resources, many of those homeowners would not be
14 able to get much needed legal representation.

15 The Legal Aid Society is now representing me
16 in an affirmative litigation case against this bank and
17 Atlas Home Equities in the Eastern District of New York,
18 in the hopes that the rights of other homeowners may be
19 protected.

20 I am extremely lucky to have a Legal Aid
21 Society attorney represent me because otherwise I would
22 not have a home and my daughter would be at a huge
23 disadvantage. I feel that the Legal Aid Society
24 provided me with the support and knowledge to fight back
25 against an injustice that was done to me. All I wanted

1 was the opportunity to save my home and thanks to the
2 Legal Aid Society I believe that I am being given that
3 chance. However, I know that there are many other
4 individuals out there, not just homeowners, that need
5 access to legal resources in order to protect their
6 rights.

7 The Legal Aid Society is an extremely
8 important resource for New Yorkers who would otherwise
9 lack the ability of obtaining representation or legal
10 assistance in a variety of civil litigation issues. I
11 am here today in support of continued and increased
12 funding to civil legal services in New York.

13 Thank you.

14 JUDGE LIPPMAN: Okay. Your story is certainly
15 not untypical, particularly today with the economy the
16 way it is. And again, another example of, I think, the
17 value in people's everyday lives, that being able to
18 function in our society in having representation.

19 So I thank you, Mr. Thomas, Mr. Schneider,
20 Miss Locust and Miss Greene for your testimony, it's
21 greatly appreciated.

22 Thank you.

23 MR. THOMAS: Thank you, guys.

24 Have a nice day.

25 JUDGE LIPPMAN: Now a judges' panel, Judge

1 Honorable Kathie E. Davidson, Honorable Eleanora
2 Ofshtein, and Honorable Norman St. George.

3 Well, we have turned the table on the three of
4 you, now you have to look at the red lights.

5 Anyway, so delighted to see all of you.

6 Judge Davidson, you want to start.

7 JUDGE DAVIDSON: Good morning -- I mean good
8 afternoon, Judge Lippman, Judge Pfau, Justice Prudenti,
9 and President Younger.

10 I did prepare a speech. I will probably go
11 between the both of them.

12 Thank you for this opportunity to discuss the
13 importance and the necessity of civil legal services.

14 JUDGE LIPPMAN: Thank you for coming.

15 JUDGE DAVIDSON: As the Supervising Judge for
16 the 9th JD, Family Court, and also presiding over the
17 neglect and abuse part, I can't imagine being able to
18 even function without the assistance of civil legal
19 services.

20 As you are aware, the forum for many of the
21 legal matters are those where families and children come
22 before the Family Court. Family courts can provide such
23 a forum only if there is justice accessible to the
24 citizen and in the case of the Family Court usually
25 that's provided by our 18B panel or in fact, by the

1 civil legal services.

2 Generally, most of our litigants are low
3 income or indigent and as they come before the court,
4 the cases of the proceedings of the family offense
5 petitions, neglect/abuse cases, custody, visitation,
6 juvenile delinquency, and PINS petition.

7 Generally most of the litigants, once they
8 come into court are, in fact, assigned counsel.
9 Otherwise they may come before the court through the
10 justice center which ultimately will refer the case to
11 the Hudson Valley Legal Services.

12 Interestingly enough, I just had a case this
13 week where there was a case where the parents were
14 separated, divorced, and the subject child lived in
15 Virginia with her mother or with cousins and family and
16 she was on her visit up here in Westchester for the
17 summer with the father, a teenager. During that time
18 she disclosed to her father that she had been sexually
19 abused by the husband of her cousin whom she was living
20 with. He was actually a sex offender and that was, in
21 fact, documented.

22 As a result of that, her father, who was
23 basically illiterate, tried to come to Family Court, was
24 unaware of the process, and in fact, was unable to gain
25 access. As a result he went to the Hudson Valley Legal

1 Services, they filed an Order To Show Cause on his
2 behalf and the matter was brought before me.

3 As we researched we found that this case was a
4 case originally before Judge Cooney and, in fact, that
5 she had an action on that matter. Clearly I signed the
6 Order To Show Cause and obtained the emergency
7 jurisdiction.

8 As we reviewed the file it was clear to us
9 that because there was a previous proceeding regarding
10 this matter and we were back and forth between Virginia,
11 he had assigned counsel, but as stated from the previous
12 testimony, because of his inability, even though we have
13 probation who assists in filing petitions, because he
14 was illiterate, can't read or write, he couldn't even
15 get into the door. So without the assistance of legal
16 services of the Hudson Valley who knows what may have
17 happened, in fact, with this young girl, who, in fact,
18 did disclose, our Department of Social Services went
19 out, indicated the case and, in fact, the case is before
20 me now. Just some of the interconnection between the
21 legal services on these emergency applications,
22 especially with the litigants that we face.

23 JUDGE LIPPMAN: This is really what you face
24 everyday.

25 JUDGE DAVIDSON: Absolutely.

1 JUDGE LIPPMAN: Each one of these cases has
2 all these other tentacles, interconnections, as you call
3 them, that requires legal help and legal representation.

4 JUDGE DAVIDSON: Absolutely. Every single
5 stage.

6 As I sat and listened to all the litigants, at
7 some point that was some litigant before me or in my
8 days of representing clients were clients before me.

9 When I pooled my court attorneys and the other
10 staff that I talked with just to say what would they
11 like me to tell you, our support magistrates really
12 wanted to tell you that generally they are not allowed
13 to, not allowed, but usually it's as discretionally and
14 they allow assigned counsel. And now with the dire
15 situation with the economic crisis, the highest -- one
16 of the highest numbers of filings come in the support
17 cases.

18 In addition, most of my complaint letters are
19 now with the support matters. And generally the
20 complaint is not that one doesn't want to pay what they
21 have, but because the economic circumstances.
22 Westchester County has the highest paying taxes in the
23 nation.

24 So the support magistrates are so frustrated
25 because when we talked about it they say I know that

1 there is testimony or evidence that can deviate from the
2 support guidelines. However, we can't elicit the
3 testimony. We can't jump in. So either they get
4 inadequate orders, the petitions are dismissed, lack of
5 evidence. And likewise on the other side, when the
6 litigants know, when the parents or the custodial
7 parents know that there is income out there but they are
8 unable to document it.

9 So in those cases I ask them, in light of the
10 economy, when they can and if they can, to assign
11 counsel. And then we do have an up and thriving pro
12 bono committee in the 9th JD, we assign counsel.

13 JUDGE LIPPMAN: So it's really a combination
14 of all different things.

15 JUDGE DAVIDSON: Absolutely.

16 JUDGE LIPPMAN: Obviously, the providers, pro
17 bono assistance.

18 JUDGE DAVIDSON: Right.

19 JUDGE LIPPMAN: Whatever we can do with
20 helping them in the courts, --

21 JUDGE DAVIDSON: Exactly.

22 JUDGE LIPPMAN: -- it's all part of this
23 picture.

24 JUDGE DAVIDSON: Exactly, exactly.

25 And especially when we have a family petition

1 and the litigants come before us, many of them are just
2 unaware of the process. So a judge is required in five
3 minutes or less to explain the constitutional concept of
4 notice, opportunity to be heard, where many of us had to
5 take a whole course on understanding.

6 So within the system itself, and I will just
7 sum up, especially in Family Court, it doesn't really
8 just begin when you come to the -- when you get into the
9 court. It really starts with the clerk's office,
10 because they are unfamiliar with how to file the
11 petitions. There are unfamiliar language barriers that
12 I haven't even begun to discuss and I won't discuss now.
13 There are litigants who are non-speaking -- are
14 non-English speaking litigants, and the culture issues.

15 So all I can say --

16 JUDGE LIPPMAN: Which is a whole other area.

17 JUDGE DAVIDSON: Absolutely.

18 So, I will nip this in the bud. To make a
19 long story short, clearly, without access to civil legal
20 services, the 18B Panel, Attorney/Children Panel, all of
21 which I have served on, Family Court would just come to
22 a grinding halt.

23 PRESIDENT YOUNGER: Are there particular kinds
24 of cases in your court that aren't getting assigned
25 counsel that would benefit from it?

1 JUDGE DAVIDSON: Clearly in the support
2 matters, in those matters.

3 And I would also like to say sort of the
4 middle class, middle class is suffering from cases. So,
5 for instance, maybe they can't afford a divorce but they
6 will come into Family Court and get everything else.
7 they get custody, visitation, but they don't fit into
8 that area where they quite qualify for assigned counsel.
9 You know, maybe you will get the attorney for the
10 subject child who ultimately ends up being the power
11 broker to have the deal. You know, clearly that's a
12 section that -- and obviously we again try to get pro
13 bono.

14 But those two areas I say is a big gap, the
15 support matters and also those on the custody matters
16 and the modification of your divorce proceedings that
17 come into Family Court because we are easier to access
18 and quicker to get to us and you will get a court date
19 quicker.

20 JUDGE LIPPMAN: Thank you, Judge Davidson.

21 Judge Ofshtein, you have an area very graphic
22 in terms of the need for civil legal services, the
23 Housing Court. Tell us a little bit about how legal
24 services affects or hurts if you don't have it.

25 JUDGE OFSHTEIN: Thank you, and good

1 afternoon.

2 I have been very lucky to wear three hats in
3 the Housing Court. At first as a practitioner in a
4 small landlord/tenant firm. Mostly we represented
5 landlords, a few tenants. Then as a court attorney in
6 the Housing Court for nine years in Manhattan. And then
7 now recently as a judge in the Housing Court.

8 What we are seeing, and through all three of
9 those hats what you are seeing is what you have seen in
10 this prior panel. You have seen the ex-vet, the elderly
11 person going through debt, the woman dealing with
12 eviction notices. You see all these people every single
13 day times 70 cases.

14 You have people coming in unrepresented, vast
15 majority unrepresented. You have, as a practitioner, a
16 few minutes to speak to them and you have a complete
17 conflict of interest because you have to represent your
18 client in the best way that you can, at the same time
19 you have a person in front of you who has no idea what
20 you are talking about.

21 JUDGE LIPPMAN: Well, you know it's very
22 interesting that you say that. We had representatives
23 of the landlord bar who are saying how destructive it is
24 to them, too, to have people who are, you know, not
25 represented. There are rent stabilization associations.

1 We had representatives of the industry as a whole just
2 saying that the last thing they want is to come into
3 court --

4 JUDGE OFSHTEIN: And that is true --

5 JUDGE LIPPMAN: -- and see tenants without
6 representation.

7 JUDGE OFSHTEIN: -- across the board.

8 How do you in five minutes that you have to
9 talk to these people, before you run and do your other
10 cases, explain jurisdiction, laches and various
11 others, and are you allowed to explain that, isn't that
12 legal advice, where a person is standing there asking
13 you questions.

14 JUDGE LIPPMAN: And as the judge it really
15 is -- you are not supposed to be an advocate, yet what
16 do you do.

17 JUDGE OFSHTEIN: Well, you can rubber stamp
18 everything, that's about it. Otherwise you are going to
19 answer questions and you are going to ask questions and
20 you are going to open up Pandora's boxes that you don't
21 want to open up.

22 JUDGE LIPPMAN: So it really compromises our
23 system of justice certainly in the Housing Court.

24 JUDGE OFSHTEIN: Absolutely.

25 And as a court attorney the same thing. There

1 is a lot of tensions that it causes and it causes
2 tensions, it makes the court look inefficient. There is
3 that appearance of impropriety.

4 All of these things across the board for every
5 person, walk of life, not just your poor person who is
6 on public assistance, you are talking about an
7 incredible increase in the working poor. People are
8 trying to get to work, they can't come back to court
9 every five minutes. You are talking about middle class
10 people.

11 JUDGE LIPPMAN: The working poor is very much
12 a product of this.

13 JUDGE OFSHTEIN: Absolutely.

14 And as the judge stated, we are not even
15 talking about the issues of cultural background,
16 language background. You have to get through all that
17 to find out the story.

18 JUDGE LIPPMAN: Yes.

19 Anything else?

20 PRESIDENT YOUNGER: Let me just ask you, you
21 said the vast majority of the litigants on the tenants'
22 side are unrepresented.

23 I assume most of the landlords are
24 represented --

25 JUDGE OFSHTEIN: Most -- sorry.

1 PRESIDENT YOUNGER: -- and I have heard from
2 one legal services provider here in Brooklyn that when
3 they have lawyers, when the lawyers show up and they get
4 assigned, that then 90 percent of those cases get worked
5 out.

6 What is it about bringing the lawyer into the
7 equation with this in this dynamic that helps that to
8 get worked out and leaves the person in their apartment
9 as opposed to getting evicted?

10 JUDGE OFSHTEIN: So many things. You are
11 talking about an attorney having already spoken to their
12 client, best case scenario, has gone through all these
13 issues, whether it's cultural, language, finding out the
14 strategical issues in that person's case, coming to talk
15 to a second person and being able to just cut through
16 all those things that take time, time we don't have.

17 You have people trying to explain their life
18 stories, their frustrations, their anger. How do you
19 get through all that to ask them when are they going to
20 pay their rent, or what are the issues about repairs.
21 Or what about timidity, imagine your elderly grandmother
22 coming into court, an immigrant, and barely speaking
23 English, and trying to explain to that person do you
24 have issues, what are your issues. They may not be able
25 to get them out unless you ask questions. And at some

1 point your questions are going to lead you to legal
2 advice and they have consequences.

3 So when two attorneys meet they know those
4 things already. You don't have to go through law school
5 101 to explain those issues. They already know them.
6 And they are able to negotiate on a level playing field,
7 they are able to discuss the true issues of what's
8 happening in that case.

9 JUDGE LIPPMAN: I think what you are
10 demonstrating is the whole system breaks down --

11 JUDGE OFSHTEIN: Absolutely.

12 JUDGE LIPPMAN: -- without legal
13 representation for the poor, working poor, all the
14 others who really can't defend themselves.

15 JUDGE OFSHTEIN: And it affects the way the
16 court is viewed as well.

17 JUDGE LIPPMAN: No question.

18 Thank you, Judge, appreciate it.

19 Judge St. George.

20 JUDGE ST. GEORGE: Good afternoon, Chief Judge
21 Lippman, Chief Administrative Judge Pfau, Presiding
22 Justice Prudenti and President Younger.

23 My name is Norman St. George. I currently
24 serve as the presiding judge over the Integrated
25 Domestic Violence Court for Nassau County, hearing a

1 combination of cases related to Family Court issues and
2 divorce cases.

3 JUDGE LIPPMAN: So really you structurally are
4 dealing with the relationship between the need for civil
5 legal services and the criminal, --

6 JUDGE ST. GEORGE: Absolutely.

7 JUDGE LIPPMAN: -- the different issues
8 involved, very much a part of your everyday.

9 JUDGE ST. GEORGE: Yes.

10 And I have sat through a number of their prior
11 panels and all of the testimony comes to play in my
12 court everyday. So I am well familiar with the effect
13 that a reduction of legal civil services will have on
14 our legal system.

15 It's my opinion, and it's the sad, unavoidable
16 truth that litigants who appear in court without an
17 attorney obtain an inferior result than those who appear
18 in court with an attorney. I think that's a fact we
19 understand. We accept that principle in criminal cases
20 and therefore we make sure that indigent defendants are
21 represented in criminal matters.

22 JUDGE LIPPMAN: What do you think
23 conceptually, I know this is a hard question, but
24 certainly one of the premises you know of these hearings
25 and really what we are trying to do is that there is an

1 analogous right, in quotation marks, that people have to
2 a lawyer when they can't afford one and you are dealing
3 with things that go to the very necessities of life and
4 certainly in your part people are dealing with the
5 well-being of their families, their personal safety, do
6 you view it from a judge's perspective as people have
7 that right to representation?

8 JUDGE ST. GEORGE: I believe that they do have
9 the right to representation because you are dealing with
10 as severe an issue as you would be dealing with in
11 Criminal Court.

12 JUDGE LIPPMAN: It's on a parallel track to
13 when you are dealing with someone's liberty.

14 JUDGE ST. GEORGE: Absolutely.

15 JUDGE LIPPMAN: Because here you can certainly
16 lose certainly the equivalent of your liberty.

17 JUDGE ST. GEORGE: Absolutely.

18 Dealing with custody and visitation issues, it
19 goes to the essence of our families and a lot of the
20 Family Court petitions involve violations of court
21 orders of protection which carry with it jail time and
22 we have a screening system that we use. And I have sat
23 in Family Court for a year where we ask if someone has a
24 home, and if they have a home they do not qualify for an
25 18B attorney.

1 Unfortunately, with the down turn of the
2 economy, many people may have a home but are either in
3 foreclosure or upside down in their mortgage and do not
4 have money. So at that moment they are prevented from
5 an 18B attorney. They could look to civil legal
6 services if it's available. If those monies are cut
7 then that is not available for them.

8 The judge mentioned something that's
9 interesting; the inequity starts at the filing process,
10 appearing in the clerk's office and not knowing how to
11 draft a complaint, how not to draft a family offense
12 petition. I have family offense petitions that allege
13 incidents that occur in the future and obviously those
14 have to be dismissed. I have violations, allegations of
15 a violation of a court order of protection which happen
16 after, actually before a judge signed the court order.

17 So these little problems in the accusatory
18 instruments or the filing of the complaints and
19 petitions have great devastating impact on families and
20 it also increases the case load where these people, it's
21 my view, obviously, if they consulted with attorneys you
22 would have a better quality of accusatory instrument in
23 the beginning and you wouldn't waste time many months
24 getting to a point where it would have to be dismissed
25 at trial based on a technicality, which is unfortunate

1 for the system, but more unfortunate for the families
2 and the litigants and especially victims of domestic
3 violence. And there is no way around that.

4 Obviously, as a neutral magistrate we cannot
5 prompt people, we cannot assist them in their
6 litigation.

7 After the filing process one of the inequities
8 is that unrepresented litigants cannot subpoena
9 witnesses. Many times they are unfamiliar with the
10 process. They cannot sign off on a subpoena like an
11 attorney can. So a lot of times their entire case
12 relies upon their testimony which is normally unedited
13 and is usually just a flow of consciousness.

14 Another inequity comes when one side is
15 represented by an attorney and the other side isn't. I
16 had a case two weeks ago where an attorney made an
17 objection and the unrepresented litigant stopped her
18 testimony, don't know if she was embarrassed, don't know
19 if she was confused, and sat down. And I asked her a
20 number of times would you like to continue and discuss
21 some of the issues pertinent in this case. She said no.
22 And then that case was over.

23 So just those little procedures that an
24 unrepresented litigant does not know in the court realm
25 leads to inequities and it goes back to not having

1 representation, and it's at every point of the
2 litigation process from beginning to end.

3 JUDGE LIPPMAN: And, of course, before the
4 litigation at all.

5 JUDGE ST. GEORGE: Absolutely, before the
6 litigation at all.

7 So it's my belief that a further reduction
8 would have a detrimental effect on our legal system and
9 those who come before us in civil cases.

10 JUDGE LIPPMAN: Any other questions?

11 We thank the judicial panel.

12 JUDGE ST. GEORGE: Thank you.

13 JUDGE DAVIDSON: Thank you.

14 JUDGE LIPPMAN: You have a unique perspective,
15 a bird's eye perspective, I think, on the need for
16 additional funding for civil legal service.

17 Thank you.

18 JUDGE OFSHTEIN: Thank you.

19 JUDGE LIPPMAN: I appreciate it.

20 Our final witness for today, our clean up
21 hitter, so to speak, is Judge Fern Fisher, who has done
22 such a fabulous job statewide in promoting access to
23 justice in this department and the other three
24 departments around the state and I think also has a
25 unique perspective on the need for stable funding for

1 civil legal services.

2 So, Judge Fisher, it's a delight to see you.

3 JUDGE FISHER: Good afternoon, Chief.

4 Good afternoon, Justice Prudenti, Judge Pfau
5 and President Younger.

6 Initially I want to acknowledge the hard work
7 of Helaine Barnett, Marsha Levy and all the task force
8 members who contributed to insuring that many voices
9 have been heard at the four hearings across the state on
10 this most important issue of stable and adequate funding
11 for civil legal services.

12 Today I would like to add the voice of the New
13 York State Courts Access to Justice Program and my own
14 voice as a Deputy Chief Administrative Judge of the New
15 York City Courts to the harmonious inquiry. I may echo
16 a lot of what you have already heard, but I think I do
17 have some new information for you.

18 The primary mission of the Access to Justice
19 Program is to insure equal access to justice to everyone
20 who has a case in one of our courts or a legal problem
21 outside of our courts' jurisdiction. Our number one
22 goal is finding long term solutions to chronic lack of
23 civil legal assistance for people of low income and
24 modest means in New York, including and foremost finding
25 a permanent public funding stream for civil legal

1 services.

2 At a time when many in this country are
3 expressing discontent with government it is essential
4 the third branch of government, the judiciary, address
5 the inherit inequity that individuals experience when
6 they must deal with life effecting legal issues without
7 access to civil legal assistance.

8 The most compelling voices that we have heard
9 at all of the hearings are the clients whose lives would
10 have been dramatically impacted had they not been
11 fortunate enough to obtain legal assistance. I am
12 extremely proud to be part of a court system led by a
13 chief judge who understands the human consequences of
14 injustice.

15 Our court statistics support that New Yorkers
16 are in crisis. The crisis is reflected by the volume of
17 cases filed that affect everyday people's lives. Family
18 cases, matrimonials, consumer credit, foreclosures and
19 landlord/tenant cases comprise 70 percent of our civil
20 filings. Growing foreclosure filings from 2005 to 2009
21 illustrate the increased pressures the economic down
22 turn, that down turn has caused for individuals.

23 The statistics are very grim. In Kings County
24 filings have increased 300 percent. In Nassau County,
25 the wealthy county supposedly, the increases have been

1 419 percent in filing. In Suffolk the increase was
2 375 percent. In Queens 370 percent.

3 This year foreclosures continue to increase.
4 In Queens this year approximately 5,000 conferences have
5 been held with 3,000 owners represented, meaning 2,000
6 were not represented.

7 Since legislation was enacted requiring
8 preliminary conferences in foreclosures there have been
9 over 75,000 conferences in the Second Department alone
10 and the numbers are growing throughout the state. For
11 example, in Orange County there were 129 conferences in
12 February of 2010, last month there were 750.

13 In the Civil Court of the City of New York in
14 2009 241,594 consumer credit cases were filed. The
15 inability to pay debt starts the spiraling down of
16 people's lives leading them to other legal problems,
17 such as evictions and foreclosures. Economic pressures
18 are affecting families. Judges and clerks see more
19 angry, crying, desperate, hopeless litigants.

20 Family Court statistics are staggering; last
21 year 742,365 Family Court filings. We are seeing more
22 people of all incomes faced with potentially life
23 altering legal problems.

24 In a recent survey of our judges face --
25 excuse me. In a recent survey of our judges, 42 percent

1 of our judges indicated that there have been an increase
2 of chronic low income unrepresented litigants in the
3 courtrooms, 67 percent indicated there have been an
4 increase of unrepresented litigants who have recently
5 become low income due to the economic down turn, and
6 53 percent of the judges reporting indicated that there
7 has been an increase in unrepresented litigants of
8 moderate income.

9 The human consequences of the outcomes of
10 these cases have been amply established by the oral and
11 written testimonies of clients and legal services
12 providers.

13 It should be noted that the Access to Justice
14 Program staff uses the term unrepresented litigants and
15 not self-represented litigants. The latter term seems
16 to indicate that individuals who appear without
17 attorneys have elected not to be represented and not
18 that they have no access to one. It is a misconception
19 that litigants choose to be pro se. The overwhelming
20 majority have no choice.

21 The numbers of unrepresented litigants in the
22 courts are tremendous. In Family Court in the City of
23 New York 93 percent of both petitioners and respondents
24 in child support cases are completely unrepresented.
25 Another four to five percent had counsel for a part of

1 the case. So, effectively, 97 to 98 percent of
2 individuals dealing with child support issues in New
3 York City do so without benefit of counsel. Overall,
4 approximately 74 percent of all litigants in Family
5 Court are unrepresented.

6 In 2009 in New York City consumer debt
7 cases -- in the consumer debt cases approximately
8 one percent of consumer defendants had counsel, while a
9 hundred percent of plaintiffs had counsel. A five-day
10 survey of all of our counties in New York show that in
11 Richmond County not one defendant had an attorney. In
12 New York County a small number of litigants were
13 represented by the Volunteer Lawyer for the Day Program,
14 which is cosponsored by NIKLER, but no other defendants
15 had counsel.

16 The numbers in landlord/tenant are similar.
17 In outside of the City of New York about 98 percent of
18 tenants do not have counsel. Inside the City of New
19 York about 90 percent appear without counsel.

20 It should be noted that there is a growing
21 number of lower income small owners who appear without
22 an attorney. Owners are now frequent users of our help
23 centers. Outside the City of New York about 30 percent
24 of owners were facing foreclosures and other problems
25 are unrepresented by counsel.

1 The economic crisis had very long tentacles.
2 There are many unlikely individuals affected by the
3 economic crisis.

4 The consequences of unrepresented litigants
5 appearing in our courts are many. The negative effects
6 of unrepresented litigants on the efficiency of the
7 court operations has been supported by the testimony of
8 trial judges. I wish, however, to focus more on the
9 indicia that unrepresented litigants have difficulty
10 obtaining equal justice.

11 A recent survey of judges indicated the
12 following; 63 percent of judges responding felt it was
13 difficult to ascertain facts, as evidence is not
14 properly presented; 73 percent indicated unrepresented
15 litigants failed to present necessary evidence;
16 64 percent felt that there was ineffective witness
17 examination; and 67 percent felt there were ineffective
18 arguments; 70 percent felt there was confusion over
19 issues; and 84 percent felt that there was lack of
20 knowledge about the law.

21 Well, nationally the role of a judge in an
22 unrepresented litigant case is slowly evolving to be a
23 neutral but engaged figure. Neutrality is central to
24 judging. Many judges feel it stretches neutrality when
25 they attempt to be engaged in a case involving

1 unrepresented litigants. When a judge is unengaged a
2 litigant without a lawyer will have great difficulty.
3 Judges are grappling with where the line should be drawn
4 and they are stressed by the difficult decisions they
5 must make.

6 The court System also understands that the
7 legal problems that individuals struggle with in our
8 courts are only a partial reflection of the legal
9 problems experienced by individuals who have no access
10 to civil legal services. Problems individuals have with
11 administrative agencies or private entities prior to
12 litigation requires lawyers.

13 Our judges are flooded with cases such as
14 landlord/tenant cases which would not have ripened into
15 litigation if government benefits, unemployment
16 insurance, wages and immigration issues were resolved by
17 lawyers. For example, numerous cases in the New York
18 City Housing part would completely disappear if
19 individuals had adequate access to lawyers to resolve
20 financial issues that fuel nonpayment housing cases.

21 The court system, owners and tenants all
22 benefit when underlying legal issues are resolved by
23 attorneys without the need to file housing papers. The
24 court system would see far less cases in other
25 substantive areas of law if lawyers were available

1 pre-litigation to assist individuals.

2 Civil legal services attorneys are necessary
3 also to insure that rights are achieved that are
4 intended and guaranteed by our state legislature in
5 housing foreclosure and family and other areas.

6 You have references to pro bono efforts to
7 assist unrepresented litigants and self-help measures.
8 We are very pleased with the progress of court sponsored
9 volunteer programs, such as the Volunteer Lawyer for the
10 Day Program. However, these programs address only
11 limited types of uncomplicated cases and reach a small
12 percentage of the total needs of litigants. We have
13 learned that pro bono attorneys are excellent sources in
14 limited types of cases. The more complicated cases with
15 multiple legal issues require attorneys who are both
16 experienced and knowledged and have the time to devote
17 to such cases.

18 Civil legal services attorneys are uniquely
19 able to address the full range of legal problems
20 experienced by their clients. In the Second Department
21 pro bono attorneys from local bar associations, such as
22 the Nassau County Bar, Suffolk County Bar, Queens County
23 Bar, Brooklyn Bar Association, Richmond County Bar have
24 devoted numerous pro bono hours to foreclosure cases.
25 Bar Associations and other pro bono attorneys must be

1 applauded for their efforts.

2 Even with the surge of pro bono efforts in
3 foreclosure and the assistance of legal services
4 providers, 44 percent of homeowners in foreclosures
5 still remain unrepresented. In other areas in need,
6 such as unemployment, immigration, housing, consumer,
7 divorce and family there are far fewer pro bono
8 attorneys.

9 In some areas in the state, particularly rural
10 areas, the private bar is insufficient to meet the ever
11 growing need.

12 While we must continue to encourage attorneys
13 to serve, we cannot rely on pro bono services to stem
14 this crisis, nor can we rely on self-help measures. The
15 help self -- help centers operated by the courts provide
16 some basic relief to unrepresented litigants, but staff
17 there can only provide legal information. In some
18 courthouses the need is so great we are forced to turn
19 litigants away. In most counties there are no help
20 centers or the help center is able only to provide
21 assistance in certain types of cases.

22 The do-it-yourself computer programs that we
23 have developed provide legal information and they help
24 litigants fill out forms. But a computer cannot give
25 legal advice, nor can it calm the fears of an individual

1 facing crisis.

2 Pro bono and self-help measures, while
3 necessary and helpful, cannot insure equal access to
4 justice. Civil legal service attorneys alone are able
5 to shoulder the majority of the need, they must do the
6 heavy lifting.

7 Obtaining a stable state funding stream in New
8 York State for civil legal services should be our first
9 priority. Legal services programs should not be forced
10 to guess each year if they will continue to remain open.

11 We must, as a state, accept that there is a
12 price to pay when individuals are denied equal access to
13 justice in civil cases. The price includes the cost of
14 cleaning up the results of cases where people could not
15 access assistance. But most important, those denied
16 justice lose faith in our system of government.

17 In figuring out what the dollar amount should
18 be, if you allow me, Chief Judge, using the Chief
19 Judge's words, we must put together the pieces of the
20 puzzle. We must fit together the civil legal services
21 needs of the public combined with setting priorities and
22 with exploring all models of delivery of legal services
23 via legal services providers. We must fit in maximizing
24 the use of pro bono attorneys and self-help measures
25 where it's appropriate. And we must insure that all

1 civil legal services are delivered efficiently and
2 effectively.

3 In closing, I quote from the last speech of
4 Hubert Humphrey in 1977, the moral test to government is
5 how that government treats those who are in the dawn of
6 life, the children; those who are in the twilight of
7 life, the elderly; those who are in the shadows of life,
8 the sick, the needy and the handicapped.

9 Our justice system must meet the moral test of
10 providing equal access to justice which can only be
11 achieved through stable and adequate civil legal
12 services funding. Our citizens and residents who face
13 loss of healthcare, home, child or United States
14 residency, who are unable to protect their incomes or
15 who are trapped in untenable violent marriages are in
16 danger -- excuse me, are as in danger of being in prison
17 in their lives as Mr. Gideon was in jeopardy of being
18 put in prison. The time is now to embrace the spirit of
19 Gideon in the civil arena and move forward toward a more
20 perfect world.

21 Thank you, Chief Judge, for your efforts in
22 this regard.

23 JUDGE LIPPMAN: Thank you, Judge Fisher.

24 Your passionate and compelling testimony, I
25 think, sums up very well what we are dealing with here

1 and the breath of it and the comprehensive nature of
2 really this problem and the approach we are going to
3 have to take to it. And I do very much agree with this
4 idea that this is a puzzle and we have to find, I think,
5 the core part of that puzzle certainly is the people who
6 are on the line everyday providing civil legal services
7 to the poor and the indigent and the working poor and
8 those fighting the battle each and everyday in this city
9 and this state.

10 I think that what these hearings really
11 demonstrate is the breath of the problem. Think about
12 all the things we have heard today and all the things we
13 have heard at the other hearings, that everything from
14 divorce to domestic violence, to housing, to education,
15 to job employment, to the health of our businesses, to
16 crime, to the effect on crime, to the elderly, to
17 poverty here in New York City and in the rural parts of
18 our state, immigration, language problems, the disabled,
19 minorities. It really impacts not only on the most
20 vulnerable in our society, the lack of meaningful civil
21 legal services, or not only impacts on those who, again,
22 are the poorest, those who need help, who need a helping
23 hand, but on the well-being of our communities, our
24 society, our economy, our state government.

25 The strength of New York as a beacon for this

1 country is so deeply affected and impacted by the lack
2 of sufficient legal representation for the poor. And as
3 Judge Fisher just laid out, some of the numbers in this
4 city and around the state in terms of the cases in our
5 courts, which are only a part of the problem, because so
6 much of this has to be done before there is a court case
7 or to avoid a court case or just as matters of basic
8 human decency.

9 So I thank everybody who has testified at
10 these four hearings; the clients who are so important to
11 this equation, the judges who, again, have a bird's eye
12 view of what it's all about, and all the different
13 constituent parts of our state, whether it be the
14 business community, the health people, the education
15 communities, each and every part of it, domestic
16 violence people who may have made that a lifetime goal
17 to eliminate that scourge in our society, our Family
18 Courts, our Housing Courts, all of it.

19 I think this issue of legal representation for
20 the poor impacts every part of our society and I thank
21 the panel today for overseeing this hearing.

22 I thank all of the people who have made their
23 life's work to correct this inequity and help those who
24 can't help themselves, Judge Fisher for all your
25 wonderful efforts around the state.

1 We, this is just the beginning, we have got
2 our work cut out for us. And Helaine Barnett, the chair
3 of our task force, is working day and night preparing
4 with her group, preparing a report that will digest what
5 happened at these hearings and the surveys we have done
6 around the state and all the information that we
7 gathered. And rest assured that every witness' prepared
8 testimony will be a part of the report, as well as the
9 transcript of the remarks here that you made at the
10 hearings.

11 And I do believe, and I kid Helaine about it,
12 but I do believe that the report that we will put out
13 will be the most comprehensive and informative report
14 that's ever been done in this country about the unmet
15 need of civil legal services.

16 And I emphasize again that I do think that
17 there is a moral and an ethical obligation here.
18 Certainly as a judiciary and a profession we absolutely
19 are committed to providing equal justice for all and
20 that we cannot do that without addressing this problem.

21 But I would emphasize again that this is not
22 just about doing good deeds. This is about the
23 well-being of a society, the bottom line of our society,
24 the well-being of our communities around this state. I
25 don't think as an ethical, moral society or as a State

1 of New York, a City of New York it's going to thrive in
2 these difficult economic times, that we can be who we
3 are supposed to be, be the Empire State, without
4 addressing this fundamental issue of justice, of
5 morality and of well-being for our state, absolutely
6 expanding access to justice and increasing many, many
7 fold the funding for civil legal services in a stable,
8 consistent way that doesn't depend upon the vagaries of
9 whether the stock market is up or whether the economy is
10 good on any given day.

11 So I thank you all, I appreciate it. We are
12 all in this together and we go forward.

13 So thank you so much.

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