

**Written Statements Submitted at the
Second Department Hearing on October 7, 2010**

Statements of Non-Testifying Witnesses

1199 SEIU United Healthcare Workers East

Brooklyn Bar Association

Legal Services Of The Hudson Valley

Hon. Eileen N. Nadelson, Judicial Hearing Officer, Civil Court, Kings County

Nassau/Suffolk Law Services Committee, Inc.

NewYork-Presbyterian Hospital

Richmond County Bar Association

Sanctuary for Families

Single Stop USA

Sullfolk County Bar Association

1199 SEIU United Health Workers East

**TESTIMONY OF 1199 SEIU United
Healthcare Workers East**

On

**IMPACT OF THE UNMET CIVIL LEGAL SERVICES NEEDS
THROUGHOUT NEW YORK STATE**

Presented before:

**Hon. Jonathan Lippman
Chief Judge of the State of New York**

1199 SEIU United Healthcare Workers East is the largest union representing healthcare workers in New York with 275,000 members in the State. Our members work in hospitals, nursing homes, in homecare services, ambulatory care facilities, the mental health system, and a variety of other health-related areas in every region of New York State. Our members are front line healthcare workers - nurses, doctors, maintenance and environmental staff, technicians, lab workers, and virtually every other occupation found in the healthcare system. In addition to our direct workforce, when our members' spouses, partners, children and retirees are included, we represent over 1 million people, or more than 5% of the population of New York State as a patient base and consumer of healthcare services. We believe this gives us a distinctive view of the healthcare system as it relates to our workers, working and middle-class families, and the community.

The effects of the worst recession that our country has seen since the Great Depression of the 1930's have had a significant impact on the healthcare industry. The delivery of patient care has become increasingly challenging as hospitals continue to grapple with the State budget and continuous Medicaid cuts. Hospitals provide good-paying jobs for its community, but many hospitals that employ our members have significantly reduced their workforce to try to fill budget gaps, or were forced to close altogether - the worst scenario for any community. Our members stand at the crossroads of society, watching as patients from all walks of life seeking medical help navigate what can be a very complicated legal situation – the denial of insurance coverage for needed medical assistance. Those patients with access to legal services often fare much better in securing full coverage for the medical assistance they need than those who do not have such access, thereby perpetuating the denial of equal access to justice for the poor.

Equal access to justice is an important issue for organized labor, and especially to 1199 SEIU. In addition to representing workers in the healthcare industry, 1199 SEIU proudly represents the support staff employed in all three practice areas at The Legal Aid Society in New York City. Our members are the paralegals, social workers, receptionists, and data entry specialists that provide vital daily support and assistance to the attorneys. Like their brothers and sisters in UAW Local 2325, our members are social first responders, addressing the most emergent needs of New York's poorest and most vulnerable citizens who walk through the doors of The Legal Aid Society. Like their brothers and sisters in the healthcare industry, our members see firsthand the inadequacies that still exist in our judicial system today as the number of poor and low-income New Yorkers seeking legal assistance increases exponentially each year and many New Yorkers who need legal help must be turned away because organizations like Legal Aid lack sufficient resources. Our members and the work that they do personify our most cherished common values as a society, however it has become increasingly challenging to achieve equal access to justice for all when funding for civil legal services is continuously cut each budget year.

The economic crisis in New York State continues to worsen as the State grapples with ever-growing budget deficits and an unemployment rate of 9.4 percent. As previously noted, many 1199 members have lost their jobs, putting their families, their homes and their futures in jeopardy. Times like these make the work of civil legal services workers more indispensable than ever. Government should be keeping social service programs running at current or expanded levels instead of continuously slashing funding to this vital public service. And yet, over the past several years, New York has consistently failed to protect the social safety nets that are already in place, like The Legal Aid Society. As a result, the programs represented by 1199

continue to face the threat of layoffs, elimination of support staff positions, and reductions in client services. Because of Legal Aid's lack of resources, our members have experienced a wage freeze for the past several years which severely compromise our ability to attract and retain staff. Despite increased client need, these programs have been cut to the bone. They have exhausted the approach of being forced to resolve budget gaps through staff eliminations, concessions at the bargaining table, and getting staff to try to do more with less. They cannot absorb further reductions in funding and further severe disruptions in service.

We are mindful of the extreme financial difficulties that the State is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low-income New Yorkers as more of the programs that provide them assistance close their intake programs, or shut their doors and disappear. Moreover, it would be fiscally irresponsible not to support greater funding for civil legal services given the demonstrably high savings to the State in emergency assistance. In the coming fiscal year, the State will be faced with tough choices in balancing the budget, but it is time that funding for civil legal services becomes one of its top priorities. For all these reasons, 1199 SEIU United Healthcare Workers East supports the Judiciary's initiative to implement a permanent public funding stream for civil legal services.

Brooklyn Bar Association

THE IMMEDIATE AND URGENT NEED

New York State has the highest poverty rate of any northern state in the America: 14.3% of New Yorkers live in poverty versus a national average of 12.3%.¹ **Brooklyn, New York has the highest indigent population in the state – close to 600,000 people.**² Staggeringly, 33.7% of Brooklyn families with children under the age of five live below the poverty level.³

This vulnerable population faces life altering legal challenges in their day to day struggle to survive, including family breakdowns, overwhelming debt and bankruptcy, foreclosure, eviction and ongoing predatory practices that target the poor and the elderly. Despite the seriousness of the risk facing them, hiring legal assistance is not a viable economic option. The mission of the Brooklyn Bar Association Volunteer Lawyers Project (“the VLP”) for the past 20 years has been to meet the needs of these people with high quality, compassionate pro bono civil legal services.

In the past two years and continuing into 2011, severe economic realities coupled with catastrophic cuts in state and private funding for statewide civil legal service programs have created an immediate and urgent need for more assistance. During this period, the demand for the VLP’s services has steadily escalated and the VLP has responded in kind, assisting over 12,000 Brooklyn residents in the most recent 15 month period. From January 1, 2010 through September 16, 2010 alone, the VLP handled 2401 cases, **more than double the number of cases opened in the same period in 2009.** This urgent and growing need cannot be met if the VLP’s legal services must be cut due to diminished funding.

Reduction or elimination of services by the VLP would impact the very people who least can afford it – families with children, the disabled and the elderly. By helping our clients stave off the hardest edges of poverty, the VLP provides a vital community service and is a lifeline for the neediest among us.

¹ U.S. Census Bureau <http://factfinder.census.gov>. The next poorest state is Alabama. The census poverty statistics do not take into account the higher cost of living in New York. The Census Bureau’s federal poverty threshold is \$16,530 for a family of three. The eligibility thresholds for VLP pro bono services ranges from \$22,875 to \$36,620 for a family of three, depending on the services required.

² *Id.*

³ *Id.* In addition, 21.5% of Brooklyn residents over the age of 65 live below the poverty level.

THE VITAL PROGRAMS OF THE VLP

Pro bono attorneys, working through the VLP, attack the devastating life issues created by poverty. VLP civil legal services help our clients obtain and retain critical necessities and regain dignity and control over their lives. An independent non-profit in a close working relationship with the Brooklyn Bar Association, the VLP leverages a small staff and annual budget of under \$400,000 with the pro bono commitment of the private bar to provide both direct representation and advice and counsel to individual and families in the following practice areas:

- Foreclosure intervention and prevention.
- Family law - custody, visitation, child support and divorce.
- Article 17A Guardianship.
- Bankruptcy and consumer debt.
- Elder law.
- Immigration.

The VLP also supervises and staffs two essential programs in Kings County Civil Court: the Kings County CLARO clinic and, in partnership with the New York State Courts Access to Justice, the Volunteer Lawyer for A Day Consumer Debt Program.⁴

A SAFETY NET FOR THE MOST VULNERABLE

The VLP operates borough-wide, serving all of Brooklyn without restriction. The VLP's programs are uniquely responsive to emergent needs in the community and provide a lifeline for Brooklyn residents who cannot be served by overwhelmed staffed legal service programs as well as those who do not fit within the threshold requirements for legal aid. VLP clients are in most instances subsisting on government benefits; many are disabled or face other challenges that make it particularly difficult to make their way through the legal system to protect or obtain essential life necessities.

The wide-ranging resources of the private bar provide great flexibility in VLP programming. In addition, the VLP seeks out partnerships with other organizations to create in-depth programs that target need.

⁴ Given the dire state of our economy, there is a pressing need for legal assistance with a host of consumer law issues, particularly consumer debt. Civil filings have increased 300% in five years, in large part as a result of consumer credit litigation. The VLP is on the forefront of providing broad spectrum assistance and representation to debtors in Kings County Civil Court.

In addition to its regular programs in family law, bankruptcy and elder law, in the past two years, the VLP has:

- Created an active and resolute Pro Bono Foreclosure Intervention Program in partnership with South Brooklyn Legal Services.
- Together with three other organizations⁵, recruited and trained attorneys and is now staffing and supervising ongoing clinics for Haitian immigrants affected by the January 2010 earthquake.
- Opened a second, daytime CLARO clinic in Kings County Civil Court for unrepresented debtors.
- Staffs and supervises the Kings County NY State Access to Justice Consumer Debt Volunteer Lawyers for A Day Program.
- Created the Article 17A Guardianship Pro Bono Assistance Program, the first in Brooklyn, in response to a request from the judiciary,
- Reinvigorated its response to escalating domestic violence in partnership with the Brooklyn Family Defense Center.

Without adequate staff to supervise and support these new programs, they will no longer be viable and services will cease.

CATASTROPHIC BUDGET GAPS

The Effect on Our Clients and Programs

To address the striking increase in the need for civil legal services in Kings County, the VLP has been working well beyond capacity, assisting over 12,000 Brooklyn residents in the most recent 15 month period. This is accomplished with a staff of three full-time employees and three-part time employees in a one room office.

The powerful programs of the VLP are made possible by the dedicated service of 175 active pro bono attorneys, recruited, trained and supervised by the VLP⁶. From January 2009 through March 2010, 1275 cases were completed and 6114 pro bono hours were contributed by VLP attorneys. The dollar value of these services estimated at \$150 per attorney hour equals \$917,100.⁷

⁵ Brooklyn Defender Services, Lutheran Social Services of New York, and the Brooklyn Women's Bar Association.

⁶ There are 275 attorneys who have stated an interest in pro bono work in the first nine months of 2010. Notably, the Brooklyn Bar Association has 2037 members. Ongoing recruitment and support of pro bono attorneys is a priority for VLP staff.

⁷ New York State IOLA Grantee Report for 2009-2010, attached as Exhibit A.

As stated above, from January 1, 2010 through September 16, 2010, the VLP handled 2401 cases, **more than double the number of cases opened in the same period in 2009.**⁸ Of this total, 955 matters remain active. The VLP's two CLARO programs in Kings County Civil Court have assisted 1355 debtors, almost double the numbers served in 2009 and 2008.

On a daily basis, the VLP averages 60 phone calls a day from people seeking legal assistance. In addition, our office is open for walk-in clients and the number has steadily increased during the past 12 months. For any visitor or caller who cannot be assisted, the VLP provides a targeted referral.

One of the most relevant indicators of the escalating – and unmet – need is the size of the VLP's waiting lists. Our current waiting list for bankruptcy stands at 115 clients with a wait time of up to five months. Even more distressing than waiting lists, which currently exist for all of our services, is the fact the VLP has had to freeze its intake process for both family law and bankruptcy due to increased applications and insufficient resources.

Harsh Economic Realities

The VLP's funding from all sources was drastically cut in 2010 and the prospects for 2011 are worse. The VLP works on a razor-thin budget: the 2010 Budget is \$398,953. VLP staff salaries, low even by public interest standards, have been frozen since 2008; expenditures for supplies and equipment have been strenuously cut. Programs, as reflected above, have been expanded to meet the urgent demand.

In 2009, the VLP received an IOLA grant of \$143,750 for the 15 month period from January 2009 through March 2010. In 2010, the VLP's IOLA funding dropped over 77% to \$32,000. Without the seven-month OCA supplemental rescue funds of \$74,354 provided through Judge Lippman's initiative, the VLP would have closed out 2010 with a substantial deficit.

In the past, the VLP has received significant annual funding from New York State through legislative initiatives ranging from \$50,000 to \$75,000, announced through two-year contracts. All state funding available for 2010 has been awarded and allocated to VLP programs. No state funding has been announced for VLP civil legal service programs for 2011-2012.

⁸ VLP KEMPS Program Reports, annexed collectively as Exhibit B.

Although several grant applications to private foundations are pending, two private foundations that have supported VLP with substantial funding in the past have indicated that funding will not be available during 2011.

The VLP works aggressively to support its programs through a variety of fund raising efforts aimed at the private bar and the legal community. These efforts also have been severely and negatively affected by the economic downturn.

Two distressing realities face the VLP in 2011:

1. Without adequate funding, programs will have to be eliminated and staff members will have to be let go.
2. Without the staff to recruit, train, supervise and support volunteers, the critical civil legal services provided by the VLP will cease.

As a result of diminished IOLA funding, the absence of state funding for 2011, and huge cut backs in grants from private foundations these frightening prospects look more likely every day.

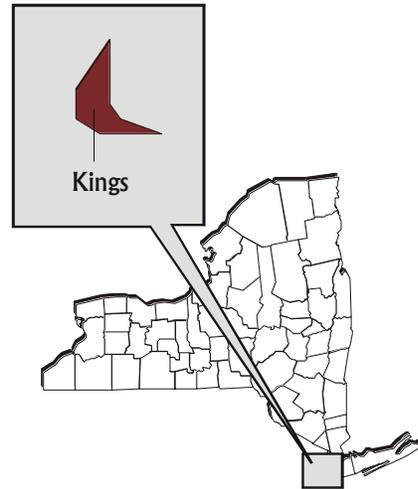
Without additional funding, the VLP's 2011 Budget will show a minimum deficit of close to \$200,000, forcing a reduction in staff of more than half. This will necessitate ending many of the VLP's most urgently needed programs. Knowing the needs of the indigent population makes facing questions about what programs to cut both an economic and a moral dilemma. Cutting programs raises an additional question that has far reaching implications in our community: who will help those who can not be helped by the VLP?

Brooklyn Bar Association Volunteer Lawyers Project, Inc.

Snapshot of Accomplishments, 2009-2010

In addressing the striking increase in the need for civil legal services in Kings County over the past 15 months, the Brooklyn Bar Association Volunteer Lawyers Project ("the VLP") was both severely challenged and acutely responsive. With essential support provided by extended IOLA funding, the VLP was able not only to maintain the quality and further increase the scope of its core pro bono programs in family law, consumer law, elder law and foreclosure intervention, but was able also to respond immediately and effectively to the aftereffects in our community of the devastating earthquake in Haiti on January 12, 2010 through the creation of the Haitian Immigration Legal Assistance Program ("HILAP"). Over 400 Haitian residents of Brooklyn have been served to date through HILAP, which will continue as an active immigration and full service referral VLP program for as long as it is needed.

During the grant period, the VLP recruited and trained 611 new attorneys. In addition to providing direct representation in bankruptcy court, family court, civil court and in the foreclosure settlement conferences in Kings County Supreme Court, many of these new attorneys worked under VLP supervision in the well-established VLP family and consumer law clinics to assist poor and low-income Brooklyn residents attempting to navigate the court system to obtain and protect basic rights. CLARO, the VLP's innovative consumer debt clinic in Kings County Civil Court, has now been replicated city-wide and in Brooklyn was recently significantly expanded by the creation of the VLP/NYS Access to Justice Consumer Debt Volunteer Lawyer for A Day Project for unrepresented debtors, a four day a week court house program that takes referrals through CLARO and from the pro se clerk in the consumer debt part of Kings County Civil Court. The VLP Foreclosure Intervention Program has 163 active matters, with new referrals every day through its partnership with



This Provider At a Glance

Population Served: General Low Income Population

Area Served: Kings County

Total Funding: \$566,219

Total IOLA Grant(s): \$143,750

Program Size - Full Time Equivalents

Total Staff: 6.25

Lawyers: 3.75

Paralegals: 1.25

Other Staff: 1.25

Types of Services Provided

Direct Civil Legal Representation

Brief Services ●

Extended Services ●

Hotlines and Other Phone-Based Services ●

Community Legal Education ●

Pro Se Assistance ●

Support for Other Service Providers ○

Major Cases or Other Advocacy Projects ○

The IOLA Grant(s)

Administration of Justice \$143,750

See page 3

Continued on last page

Outcomes...

5,371 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 405 People obtained federal bankruptcy protection
- 392 People avoided or delayed foreclosure or other loss of home
- 333 People obtained a living will and/or health proxy or power of attorney
- 282 People obtained a divorce, legal separation or annulment
- 510 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 1,389 People benefited from legal advice and counsel
- 1,136 People benefited from non-litigation advocacy services
- 924 People benefited by referral to other sources of help

Examples...

Outcomes for Clients

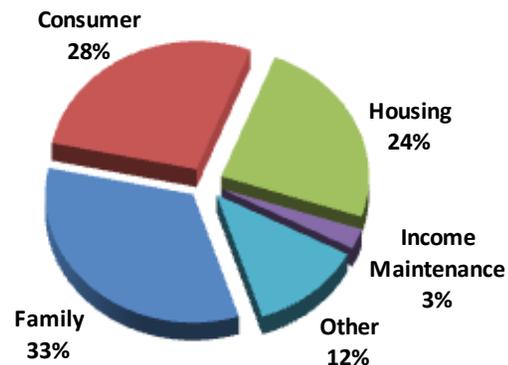
Ms. C had always enjoyed an especially close relationship with her son's daughter, Eve. Both granddaughter and son would visit Ms. C on a daily basis. In June 2008, Ms. C's son passed away. After the funeral, Ms. C's daughter-in-law refused to let Eve visit her grandmother. In January 2009, Ms. C filed for visitation, which the mother aggressively opposed. At the outset, Ms. C's VLP attorney was able to get visits established every other week but, because of allegations made against Ms. C, the visits were only to be held outside of Ms. C's home. After a court-ordered investigation, visitation was modified to once again allow visits in Ms. C's home. However, Eve's mother continued to oppose visitation, pulling out all stops and even filling an order of protection against Ms. C.

Through the compassionate and determined advocacy of Ms. C's VLP attorney, eventually Ms. C and her daughter-in-law began communicating about what was best for Eve. The VLP attorney remains actively involved in facilitating this communication and representing Ms. C in court. Another hearing is scheduled in July to resolve the remaining issues but in the meantime, Eve visits her grandmother regularly and the VLP attorney remains in weekly contact to keep things on an even keel.

Examples continued on last page

Breakdown By Legal Problem Area

Total	5,371 People
Family	1,789 People
Consumer	1,484 People
Housing	1,298 People
Income Maintenance	139 People
Other	661 People



Other Services

Hotlines and Other Telephone Based Legal Services

As a vital service and on a daily basis, the VLP regularly provides callers with legal advice and counsel from the Supervising Attorney and the Foreclosure Intervention Program Director, as well as from volunteer attorneys available in the VLP office on a variable schedule. In addition, general information and targeted referrals are provided by specially trained Intake Advocates and law student interns.

Legal Services Other Than Direct Legal Representation

- The Haitian Immigration Legal Assistance Program: Since mid-January 2010, in direct response to the tragic earthquake in Haiti that affected so many members of the Brooklyn community, the VLP is co-sponsoring an ongoing series of clinics throughout Brooklyn to assist Haitian immigrants with obtaining Temporary Protective Status and with other urgent immigration issues. Attorneys trained through intensive CLE programs work one on one with individuals, assessing the risks and benefits of applying for TPS status and, when appropriate, completing the application and any necessary waiver applications. The attorneys are supervised by experienced immigration attorneys; Haitian Creole speaking attorneys are numerous, and a committed number of Creole speaking translators from the community are available.

The VLP's essential partner in this project is Brooklyn Defender Services; members of their immigration staff serve as ongoing mentors and take on difficult cases with significant immigration issues for direct representation. Recently, the HILAP weekly Monday clinics have been augmented by a series of Saturday clinics held in churches and community centers throughout Brooklyn.

- CLARO: The VLP's Civil Legal Advice and Resource Office ("CLARO") in Kings County Civil Court provides critical services to both self-represented litigants and the judicial system. A pilot project initiated in 2006 with the cooperation of the Civil Committee of the New York City Bar Association and at the request of several Kings County Civil Court judges, CLARO assists pro se debtors being sued or threatened by creditors. CLARO is staffed by volunteer attorneys, trained and supervised by the VLP. Administrative and organizational assistance is provided by students from Brooklyn Law School. During the most recent grant period, Brooklyn CLARO assisted close to 1,400 unrepresented debtors struggling to navigate through the Civil Court system. Attorneys offer advice and counsel on, among other topics, how to vacate default judgments that resulted from faulty or "sewer" service, how to request documents proving the debt, how to unfreeze illegally frozen bank accounts containing only exempt funds, and how to stop harassment and threats

IOLA Project Grants

Administration of Justice

IOLA Funding Amount: \$143,750

Purpose of the IOLA Grant: To provide pro bono legal services to poor and low-income residents of Brooklyn, New York.

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

Total:	12,919 People
Community Legal Education:	6,000 People
Pro Se Assistance:	6,919 People

Other Services, *continued*

from creditors. Expanded hours established in 2008 remain in effect: CLARO courthouse clinic hours are from 2:30 to 4:30 pm and 6 to 8 pm every Thursday. CLARO is now a citywide program (Staten Island CLARO is still in the planning stages); each program is a replica of the VLP/BLS 2006 model. City-wide training is provided by the VLP.

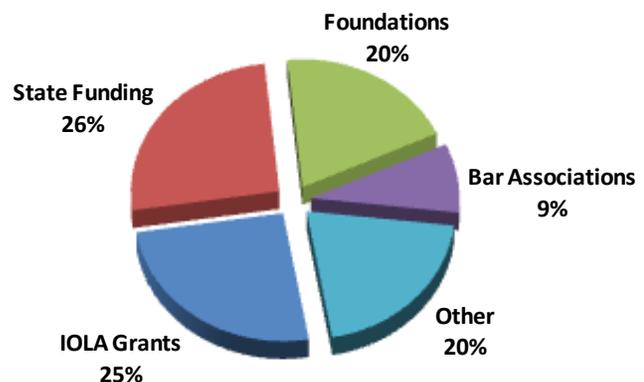
- In early 2010, the VLP inaugurated the Kings County Consumer Debt Volunteer Lawyer for A Day Project in partnership with the NYS Courts Access to Justice Program. This Project is open in the court house four days a week and provides direct oversight to specially-trained volunteer attorneys who will represent on a limited basis for a day litigants appearing in Kings County Civil Court on consumer debt matters. The Project is under the direction and supervision of the VLP.
- Article 17 A Guardianship Assistance: In this recent program, the first of its kind in Brooklyn, volunteer attorneys assist with Article 17 A guardianship proceedings in Kings County Surrogate's Court to designate a parent, sibling, other relative friend or an organization to act on behalf of a person with mental retardation and/or developmental disabilities who has attained the age of 18. Before the court will appoint a guardian, it must be satisfied that the guardianship is necessary and that it is in the best interest of the disabled person. The assistance of a compassionate, skilled attorney is critical to a

positive experience for both the petitioner and the ward and a long-term stable guardianship.

- Pro Se Uncontested Divorce Clinics: During the grant period, the VLP's assistance to individuals filing pro se for uncontested divorces in Kings County Supreme Court expanded significantly through partnerships with several law firms and with attorneys from the New York City Department of Law. The goal of this project is to provide guidance through the complex and often confusing court procedures for pro se filers and to assist the court by making certain pro se papers are properly completed, filed and served. The VLP's Pro Se Uncontested Divorce Clinics are extremely successful in meeting both goals and receive many referrals from the court and other legal and social service providers. A significant percentage of the divorces involve domestic abuse.
- Foundation Law Community Education Programs: In partnership with the Brooklyn Bar Foundation, during the grant period, the VLP continued to design and present a series of "know your rights" community education programs. This initiative will remain part of the VLP's ongoing programming, with a minimum of four community forums each year on matters including elder law, consumer debt, employment issues and government benefits.
- Senior LEAP: Senior LEAP Resource Clinics address the unmet legal needs of the impoverished and underserved elderly of Brooklyn in the seniors' own communities

Sources of Funding

Total	\$566,219
IOLA Grants	\$143,750
State Funding	\$146,008
Foundations	\$111,500
Bar Associations	\$ 49,327
Other	\$115,634



Other Services, *continued*

through legal education and advice and counsel clinics. Trained volunteers, accompanied by staff and/or mentors from the VLP, meet with seniors at regularly scheduled sessions to provide education and assistance in two critical areas: (1) issues of consumer protection, avoidance of debt and abusive debt collection practices; and (2) critical problems encountered by the elderly on a daily basis, including obtaining benefits and the need for advance medical directives. The format of the clinics allows discussion with VLP attorneys about individual questions relating to family law and social service issues.

Pro Bono Private Attorney Involvement

As a pro bono legal services organization with a small staff and tight budget, the VLP leverages the pro bono services of private attorneys to obtain equal justice for thousands of underserved residents of Brooklyn, the most populous borough and one with great cultural diversity and close to a quarter of its residents living in poverty. The ongoing commitment of private attorneys is essential to the VLP's core programs. The VLP's structure and programming are designed specifically to recruit, train, supervise and support volunteer attorneys and other legal professionals who assist in obtaining and protecting basic human rights for the VLP's clients.

The VLP offers newly admitted attorneys, seasoned practitioners and law students a wide and varied range of pro bono opportunities. Pro bono panels in each of the VLP's primary referral areas - family law, consumer law, foreclosure intervention and elder law - provide volunteer attorneys with collegiality and resources when they take on direct representation. Special clinics and court based help centers for pro se, or more accurately unrepresented, clients allow attorneys to provide critical assistance without taking on long-term direct representation. Active, experienced and accessible mentors work with new attorneys or those practicing outside their fields. Monthly CLE programs in or related to the VLP's practice areas and programs are offered, frequently designed to

address recent changes in the law or particularly thorny issues in our practice areas. The VLP provides malpractice insurance to all attorneys working pro bono through the VLP. The wide variety of VLP pro bono programs, ranging from legal presentations to the public, to walk-in and by appointment legal advice clinics, to traditional legal counseling and partial or full representation as members of the VLP's Pro Bono Panels, are constantly re-evaluated and assessed by the VLP Board, staff, in consultation with members of the judiciary and our mentors.

During the most recent grant period, the VLP's CLE programming was significantly strengthened and expanded in response to requests from attorneys and other legal service providers. Specially designed courses are now offered regularly within law firms and for in-house corporate counsel. VLP CLE courses are accredited and available in DVD format for personal viewing. The VLP provides in-depth support to all volunteers by VLP staff and a deep panel of mentors offering both initial training and on-going guidance and assistance. For Senior LEAP presentations, CLARO, Uncontested Divorce Clinics and HILAP, after initial training, the VLP offers new volunteers opportunities for "shadowing" experienced volunteers before working independently. The VLP's Supervising Attorney and the Foreclosure Program Director work individually with all new volunteers; support and encouragement are also provided by the VLP Pro Bono Coordinator. In addition, the VLP has established relationships with the federal and state judiciary to encourage and reward pro bono work, often meeting with judges at informal lunches and more formal meetings.

Pro Bono Statistics

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

- | | |
|-------------------------------------|-----------|
| • <i>Number of cases completed:</i> | 1,275 |
| • <i>Hours contributed:</i> | 6,114 |
| • <i>Dollar value of services*:</i> | \$917,100 |

**estimated at \$150 per hour*

Outcomes for Clients *continued from page 2*

Ms. D, age 59, is wheelchair bound; she suffers from a debilitating lung disease and is in urgent need of a lung transplant. Ms. D's only income is social security disability and a small pension. Severe side effects from the numerous prescription drugs she must take cause confusion and significant memory loss. Over the years, Ms. D amassed a significant amount of medical debt and eventually Ms. D contacted the VLP to file for bankruptcy, although at intake she repeatedly stated that she was horribly embarrassed and depressed to be doing so.

Her VLP attorney, a seasoned member of the VLP Bankruptcy Panel, worked diligently to calm Ms. D's concerns. However, at the creditor's meeting in Bankruptcy Court, a non-adversarial and relatively routine part of a bankruptcy

proceeding, Ms. D was subject to the assigned trustee's inappropriate and abusive conduct. Ms. D's medication made it very difficult for her to answer particular questions about expenses; the trustee lost his temper, intimidated and yelled at her, and threatened to have her come back to court another day, an unusual occurrence for a creditor's meeting and a grave difficulty for Ms. D.

Ms. D's VLP attorney calmly but with great acuity defended Ms. D and was able to successfully complete the proceeding on her behalf. As a result, Ms. D was able to get a full bankruptcy discharge without having to return to court. Ms. D's attorney subsequently filed a complaint against the trustee on behalf of Ms. D and other disabled debtors, which remains outstanding.

Snapshot of Accomplishments *continued from page 1*

South Brooklyn Legal Services Foreclosure Prevention Project. This remains one of the most challenging—both intellectually and practically—programs the VLP has undertaken. Although results are modest in the struggle to stem the destruction caused by the loss of homes in struggling communities, the assistance and support provided to homeowners is essential to both the homeowner and to the courts.

In the 15 month grant period, the VLP served well over 6000 residents of Brooklyn through the provision of broad spectrum pro bono civil legal services that promote equal access to justice and underwrite the stability and well-being of our communities. IOLA funding accounted for approximately 20% of the VLP's grant period income.

September 16, 2010

Brooklyn Bar Association Volunteer Lawyers Project, Inc.

PROGRAM REPORT

Total number of open cases as of 09/16/2010: **955**

Cases opened between 01/01/10 and 09/16/10: **2401**

Cases opened between 01/01/09 and 09/16/09: **1017**

Cases closed between 01/01/10 and 09/16/10: **1202**

Cases closed between 01/01/09 and 09/16/09: **1045**

Breakdown of cases opened between 1/1/10 and 09/16/10:

Bankruptcy:	145
Child / Spousal Support:	19
Custody:	12
Debt Collection:	1355
CLARO:	1011
VLFD:	344
Divorce:	75
Guardianship:	6
Homeownership/Foreclosure:	108
Immigration (HILAP):	675
Wills:	6

Senior LEAP Presentations:

Advanced Medical Directives

Number of presentations between 01/01/10 and 9/16/2010: **6**

Estimated number of attendees: **140**

Estimated number of Health Care Proxies signed: **60**

Upcoming presentations currently scheduled: **1**

Fraud Prevention

Number of presentations between 01/01/10 and 9/16/2010: **2**

Estimated number of attendees: **35**

Upcoming presentations currently scheduled: **1**

September 29, 2009

Brooklyn Bar Association Volunteer Lawyers Project, Inc.

PROGRAM REPORT

Total number of open cases as of 9/29/2009: 743

Cases opened between 01/01/09 and 09/29/09: **1117** (1035 PBI, 82 Staff)

Cases opened between 01/01/08 and 09/29/08: **1052** (881 PBI, 167 Staff)

Cases closed between 01/01/09 and 09/29/09: **984**

Cases closed between 01/01/08 and 07/08/08: **868**

Breakdown of cases opened between 1/1/09 and 07/08/09:

Bankruptcy:	131
Child / Spousal Support:	27
Custody:	11
Debt Collection (CLARO):	763
Divorce:	119
Deed of Guardianship	1
Homeownership/Foreclosure:	51
Landlord / Tenant:	2
Paternity:	1
Wills:	11

Senior LEAP Presentations:

Advanced Medical Directives

Number of presentations between 01/01/09 and 09/29/09: **12**

Estimated number of attendees: **270**

Estimated number of Health Care Proxies signed: **108**

Upcoming presentations currently scheduled: **5**

Fraud Prevention

Number of presentations between 01/01/09 and 09/29/09: **6**

Estimated number of attendees: **162**

Upcoming presentations currently scheduled: **3**

New Topic: Elder Benefits

Upcoming presentations currently scheduled: **3**

New Attorneys Added to Database since January, 2009: **68**

October 30, 2008

Brooklyn Bar Association Volunteer Lawyers Project, Inc.

Board of Directors Meeting

PROGRAM REPORT

Total number of open cases as of 10/30/08: **713**

Cases opened between 01/01/08 and 10/30/08: **1142** (965 PBI, 177 Staff)

Cases opened between 01/01/07 and 10/30/07: **885** (697 PBI, 188 Staff)

Cases closed between 01/01/08 and 10/30/08: **916**

Cases closed between 01/01/07 and 10/30/07: **742**

Breakdown of cases opened between 1/1/2008 and 10/30/2008:

Bankruptcy:	145
Child / Spousal Support:	26
Custody:	14
Debt Collection (CLARO):	727
Divorce:	208
Homeownership/Foreclosure:	4
Immigration (VAWA petition):	1
Landlord / Tenant:	3
Miscellaneous:	1
Paternity:	2
Wills:	11

Senior LEAP Presentations:

Advanced Medical Directives

Number of presentations between 1/1/08 and 10/30/08: **14**

Estimated number of attendees: **390**

Estimated number of Health Care Proxies signed: **80**

Upcoming presentations currently scheduled: **1**

Fraud Prevention

Number of presentations between 1/1/08 and 10/30/08: **11**

Estimated number of attendees: **285**

Upcoming presentations currently scheduled: **3**

Average Daily Client Phone Calls Received: **40**

New Attorneys and Paralegals Added to Database since August, 2007: **132**

VLP Cases Opened 2004 - 2008

Case Type	2004	2005	2006	2007	2008
Bankruptcy	113	190	108	117	171
Debt Collection			201	544	904
Contracts/Warranties			1	1	
Unfair Sales Practices			4	1	
Other Consumer/Finance			2		
Education		4			
Adoption		2			
Custody/Visitation	20	33	33	27	16
Divorce	39	153	139	166	231
Guardianship		1	2		
Paternity		1			2
Domestic Abuse	171	95	35	2	
Child/Spousal Support	20	52	40	50	31
Other Family	7	3	1		
Medicaid		1	1		
Other Health		2		2	
Homeownership	6	4	1	3	5
Landlord	4	9	13	4	3
Other Housing		2	2	2	
Food Stamps			1		
SSI	2			1	
Prisoners Rights		4			
Immigration					1
Other Individual Rights	1	1			
Wills, Advance Directives	54	12	9	40	12
Miscellaneous	1	22	11	30	1
Yearly Totals	438	591	604	990	1377

Legal Services Of The Hudson Valley

TESTIMONY OF LEGAL SERVICES OF THE HUDSON VALLEY

On

**THE IMPACT OF THE UNMET NEED FOR CIVIL LEGAL
SERVICES THROUGHOUT NEW YORK STATE**

Submitted to:

**Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. A. Gail Prudenti, Presiding Justice of the Second Department
Hon. Ann Pfau, Chief Administrative Judge
Stephen P. Younger, President of the NY State Bar Association**

Second Department Hearing

October 7, 2010

Legal Services of the Hudson Valley welcomes this opportunity to submit written testimony at this special hearing on the critical need for civil legal services in New York State. We greatly appreciate the consideration of this urgent problem by the Chief Judge, the Presiding Justice, the Chief Administrative Judge, and the State Bar President.

We submit this testimony to provide information about the urgent need for free civil legal services to indigent and low-income families and individuals in the Hudson Valley who have critical legal needs impacting the basic necessities of life.

Legal Services of the Hudson Valley is the largest provider of free, comprehensive civil legal services in the Hudson Valley, and the only provider in Westchester, Putnam, Dutchess, Orange, Ulster and Sullivan Counties. Legal Services of the Hudson Valley provides assistance to households who need civil legal services to maintain the basic necessities of life –shelter from the elements, family safety and integrity, access to health care, food, clothing and subsistence income. In these harsh economic times there is a desperate and growing need for free civil legal help for people who have been displaced by foreclosures, job loss, lack of health care and loss of housing. Many Hudson Valley residents are falling deeper into poverty and thousands more are slipping into poverty for the first time.

Legal Services of the Hudson Valley provides crucial legal help to individuals and families in Westchester, Putnam, Dutchess, Orange, Rockland, Sullivan and Ulster Counties in all areas of civil law. We have six offices located in White Plains, Yonkers, Mt. Vernon,

Poughkeepsie, Newburgh and Kingston, some of the poorest cities hard hit by the bad economy. Our staff is comprised of 77 full time employees, including 41 attorneys and 14 paralegals. Last year we had 82 staff members. Due to funding losses staff was reduced in 2010, and services reduced in the substantive areas of domestic violence and housing in Dutchess and Orange Counties.

In 2009, Legal Services of the Hudson Valley opened and closed 16,779 cases. 59% of those cases were handled in Westchester County. Special units help the elderly, children, persons with mental, physical and developmental disabilities, families facing homelessness, and victims of domestic violence. Typical cases at Legal Services of the Hudson Valley involve families facing eviction from affordable apartments, low-income homeowners facing foreclosure where subprime or non-traditional mortgages are involved, elderly residents denied home health aides and destined to live out their days in nursing homes, and victims of domestic violence and their children who are increasingly being assaulted in their homes.

The nation's poverty rate jumped to 14.3% in 2009, its highest level since 1994, and the 43.6 million Americans in need is the highest number in 51 years of record-keeping. Outside of New York City, the Hudson Valley has one of the highest rates of poverty per capita. According to the Census Bureau's 2008 Poverty and Median Income Estimates, the Hudson Valley counties served by Legal Services of the Hudson Valley had a total of 206,544 poor people in 2008¹. In 2009 poverty increased throughout the Mid to Lower Hudson Valley with every county showing an increase in the percentage of individuals living in poverty. In Sullivan County, Legal Services of the Hudson Valley's most rural county, a whopping 17.7% of the total population lived at or below the federal poverty guidelines in 2009. All of these people fall within Legal Services financial eligibility guidelines; however, with 41 staff attorneys and 14 paralegals LSHV is only able to help a fraction of those needing assistance.

With the downturn in the economy, the number of residents who can no longer afford a lawyer to represent them in life altering legal matters is skyrocketing. Over the past year LSHV experienced an overall 30% increase in the number of clients seeking help, yet we have had to turn away more than 50% of actual applicants who would have been served if we had the staff. The true number of unserved is much higher given the large number of low- income residents and unavailability of free legal help. The following shows the unprecedented increase in requests for help in core areas of need in 2009:

¹2008 Poverty and Median Income Estimates, U.S. Census Bureau, Small Area Estimates Branch, Internet Release Date 11.2009

- 334% increase in mortgage foreclosure cases handled but a 500% increase in requests for foreclosure defense assistance
- 60% increase in unemployment insurance cases handled
- 10% increase in housing cases and domestic violence cases handled
- 30% increase in the number of clients seeking help
- 50% of the applicants seeking assistance must be turned away

The number of mortgage foreclosure cases being handled by staff attorneys has increased by 300% and the number of unemployment insurance cases handled has jumped by 60%. As more and more people have lost their jobs increasing numbers now qualify for our services. In fact, people who have had middle class incomes for the past 10 or 20 years are now coming to legal services for help because they have been laid off from their jobs and cannot make ends meet. Then they can't pay their mortgage or rent and can't pay their credit card and utility bills. Their world is collapsing around them and they are looking to programs like Legal Services of the Hudson Valley to provide whatever legal help we can. Meeting the legal needs of the newly poor comes on top of the already pressing need that Legal Services of the Hudson Valley has never been able to meet, making the task that much harder.

On a daily basis, civil legal services programs save Counties and the State money by averting costly "crisis" services such as emergency and homeless shelter stays. Legal Services offsets costs by helping families and individuals secure federally funded benefits such as Social Security and Food Stamps. It helps stabilize families and thus avoid foster care costs and increases economic security by maximizing child support benefits for low-income parents and children. It leverages private and federal funds that bring dollars and jobs into communities.

For example, in 2009 Legal Services of the Hudson Valley prevented or delayed 648 evictions/mortgage foreclosures for Westchester County households where 1,771 persons resided. While not all evicted households wind up in homeless shelters, many do. 455 of those households had children; 193 did not. In Westchester County, it costs \$36,000 per year to house an individual or family in a homeless shelter. The average stay in a shelter in 2009 was 8 months. The County and State each pay 25% of the cost of sheltering a homeless family (the federal government pays 50%) and 50% each of the cost of sheltering an individual or childless couple (the federal government pays nothing). Assuming only 50% of the households served end up needing County shelter, the cost savings to the County and State is a minimum of \$5 million just in Westchester County.

As documented by the IOLA Fund, County and State Dollars are also saved through a myriad of programs serving the disabled, the elderly, victims of domestic violence, and children. Clearly in addition to the "moral imperative" Judge Lippman frequently speaks about, there are

powerful economic incentives to fund legal services. Outlays for civil legal services are budgetary pennies that save many dollars. A foreclosure prevented is an eviction avoided, a family kept from homelessness — and a considerable burden lifted from the government’s social-service safety net. With legal help, poor people can avoid litigation, easing the load on judges and courtrooms. They can get food stamps, leveraging federal dollars in an underused program. Most importantly, they can avoid poverty and have money to spend in the local economy.

Lastly, we appreciate the Judiciary’s leadership in addressing the funding shortage for the provision of civil legal services by allocating \$15 million in the Office of Court Administration’s 2010-2011 budget to partially offset the drop in IOLA Fund revenue, and now by holding hearings to address the unmet need for civil legal services across the state.

Thank you once again for taking the time to solicit our input and taking the initiative to address the lack of civil legal help for individuals and families who desperately need assistance to keep or obtain the basic necessities of life in New York State. We attach hereto the IOLA Funds’ snapshot of work done by Legal Services of the Hudson Valley’s in 2009.

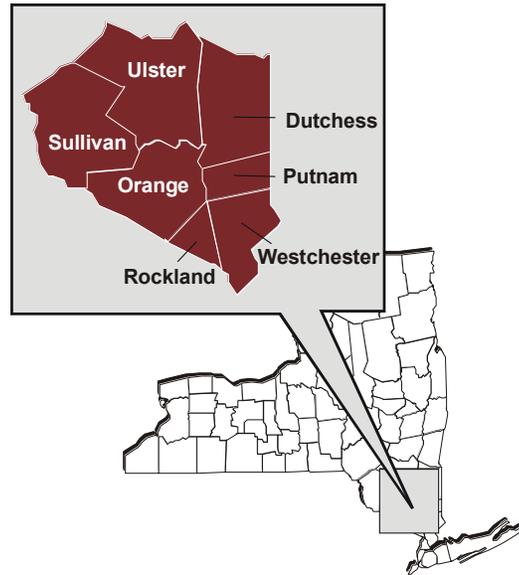
Legal Services of the Hudson Valley

Snapshot of Accomplishments, 2009-2010

Legal Services of the Hudson Valley (LSHV) is the largest not-for-profit law office providing comprehensive, free civil legal representation to poor and low-income persons in the Hudson Valley. It is the only provider in Westchester, Putnam, Dutchess, Orange, Ulster and Sullivan Counties, and one of two providers in Rockland County. In January 2010 LSHV stopped subcontracting Legal Services Corporation funds to The Legal Aid Society of Rockland County. This decision ensures that clients in the Hudson Valley can be served by one provider who has the capacity to provide the full range of civil legal services. In addition to the core areas of housing, public benefits and family law, LSHV has units that serve children, the elderly, persons with physical, mental and developmental disabilities, persons infected or affected with HIV/AIDS, persons affected by health crises, persons facing homelessness, families facing mortgage foreclosure, and victims of domestic violence. Additionally, LSHV's pro bono unit is well known state-wide for its ability to recruit, train and mentor hundreds of volunteer attorneys each year who provide much needed legal help to clients. LSHV plans to open a small Rockland office by June 2010 and is in the process of recruiting Rockland County board members to ensure community and fund raising support.

2000 census figures place the number of persons living at or below 125% of poverty in LSHV's service area at 195,276. Over the past year LSHV experienced an overall 30% increase in the number of clients seeking help, yet we have had to turn away 50% of the applicants who would have been served if we had the staff. The following shows the unprecedented increase in requests for help in core areas of need in 2009:

- 334% increase in mortgage foreclosure cases handled but a 500% increase in requests for foreclosure defense assistance
- 58% increase in unemployment insurance cases handled
- 10% increase in housing cases and domestic



This Provider At a Glance

Population Served: General Low Income Population

Area Served: 7-County Area of SE New York

Total Funding: \$9,580,836

Total IOLA Grant(s): \$1,467,098

Program Size - Full Time Equivalents

Total Staff: 78.70

Lawyers: 50.60

Paralegals: 14.00

Other Staff: 14.10

Types of Services Provided

Direct Civil Legal Representation

Brief Services •

Extended Services •

Hotlines and Other Phone-Based Services •

Community Legal Education •

Pro Se Assistance •

Support for Other Service Providers •

Major Cases or Other Advocacy Projects •

The IOLA Grant(s)

Civil Legal Services \$1,467,098

See page 3

Continued on page 7

Outcomes...

15,048 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 1,323 People prevented eviction from private housing
- 957 People delayed eviction providing time to seek alternative housing
- 479 People prevented eviction from public housing
- 469 People obtained or maintained custody of children
- 3,364 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 6,600 People benefited from legal advice and counsel
- 1,836 People benefited from non-litigation advocacy services
- 20 People benefited by referral to other sources of help

Dollar Benefits Achieved

for Clients - Total	\$6,050,699
• Social Security, SSI Benefits:	\$5,338,911
• Other Federal Benefits:	\$162,908
• Unemployment Compensation:	\$341,614
• Family Law - Child Support:	\$205,466
• Family Law - Alimony:	\$1,800

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

Examples...

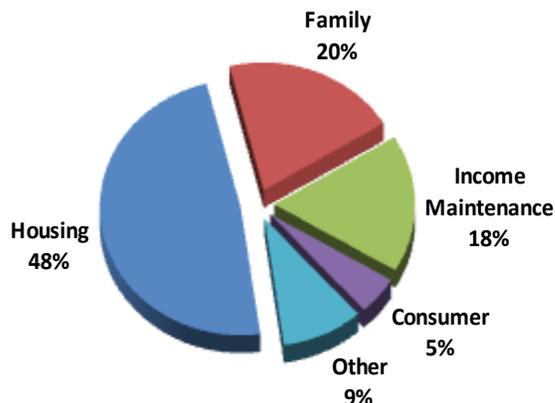
Outcomes for Clients

A woman worked for a high level county public official who lost his reelection bid. She lost her job as a result. Subsequently, she found another, lower paying position. During the same period, she became ill and required surgery. As a result of her situation, she fell behind on her mortgage payments. The bank began foreclosure proceedings. When she first received notice of the foreclosure proceeding being filed against her, she contacted the bank. The bank offered her a forbearance agreement, where she would make payments of roughly \$2,500 per month, for three to six months. They promised her that if she made those payments, they would modify her existing loan. She made the payments. The bank then offered her another forbearance agreement, this time requiring higher monthly payments. They told her that this would stop the foreclosure action if she paid the amounts requested. She again managed to make the payments, on the understanding that she would be given a modified loan. She was led to believe that the foreclosure action would be held in abeyance while this process continued. She was frightened as a result when she received a letter addressed to "Occupant" which stated that the house was to be auctioned off. She immediately contacted the bank, which offered her a new forbearance agreement, with monthly payments totaling \$4,000. She again made these

Examples continued on last page

Breakdown By Legal Problem Area

Total	15,048 People
Housing	7,269 People
Family	3,027 People
Income Maintenance	2,619 People
Consumer	727 People
Other	1,406 People



Other Services

Hotlines and Other Telephone Based Legal Services

Intake and information system through a toll free number during the following hours: Mon. Tues. Weds. 9 AM to 5 PM; Tues. Thurs. 12-3 PM

Legal Services Other Than Direct Legal Representation

In 2009/10 we continued to give high priority to public information, speaking engagements, and community legal education activities. Almost every advocate on staff presented at some form of meeting or training for low-income clients, consumers, special needs groups and community groups. Training events were conducted alone and in collaboration with other local not for profit and governmental agencies. We estimate that, in conjunction with radio spots wherein staff appeared, we provided some form of live community legal education to nearly 5,000 persons in 2009/10.

Brochures, flyers, pro se and training materials have been produced and disseminated to the public and community organizations in the following

areas: family law, public assistance, food stamps, housing, disability law, consumer law and confidentiality rights of individuals who are HIV+. We estimate that we disseminated 1500 pieces of printed material.

Pro se assistance is frequently given to clients when a determination is made that the client will benefit from it, particularly in the areas of housing (orders to show cause), debt problems (bankruptcy), and small claims actions. We also conduct clinics for pro se filers of uncontested divorces. (We assist several hundred clients every year to file for divorce.)

Every substantive unit of LSHV ventures into the local community to provide training, outreach and orientation, such as, but not limited to:

- advocates for HIV+ and affected people/ households regularly meets with service providers;
- our protection and advocacy attorneys meet with parent advocates groups and parents to teach them about meetings of Committees for Special Education;
- our senior advocates go to senior centers, and

IOLA Project Grants

Civil Legal Services

IOLA Funding Amount: \$1,467,098

IOLA funding was used to provide civil legal services to poor and low-income persons needing representation to maintain the basic necessities of life in Westchester, Putnam, Dutchess, Orange, Ulster, and Sullivan Counties. The client-eligible population (125% of the federal poverty level) in the seven-county area is 195,276 persons. Hundreds of thousands more live below 200% of poverty.

LSHV received \$1,173,000 in 2009 along with notification that 2010 would bring a significantly lower award. This notification spurred LSHV to raise other funds while maximizing its 2009 IOLA grant to ensure stability of services during IOLA's funding downturn. In 2009/10 IOLA funding was used to (1) maintain LSHV's centralized intake unit staffing, (2) ensure structural soundness by refining but maintaining its experienced administrative/management team, (3) meet clients' emerging legal needs involving mortgage foreclosure and predatory lending problems, (4) ensure service to more rural communities, and (5) recruit and retain highly qualified and experienced attorney staff.

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

Total:	3,812 People
Community Legal Education:	2,404 People
Pro Se Assistance:	421 People
Legal Hotline Services:	987 People

Other Services, continued

senior communities, and regularly participate in activities coordinated by the local offices of the aging to provide information sessions about civil legal matters;

- foreclosure prevention staff provide information sheets to not for profit housing counselors and conduct information sessions for persons facing mortgage foreclosures;
- homelessness prevention staff regularly participate in panels for consumers, and in-house training sessions for cbo's;
- VA Administration- attend clinic event;
- Shelters and Drop-in Centers - presentation to homeless population;
- Community Centers - L&T presentation;
- Affordable Housing Program - moderate eviction prevention program;
- High Schools - parent outreach;
- Public Libraries - various fora;
- Community Events- Outreach;
- Disability Advocacy Partnership Meetings; and
- CQC Community Advisory Board Meetings

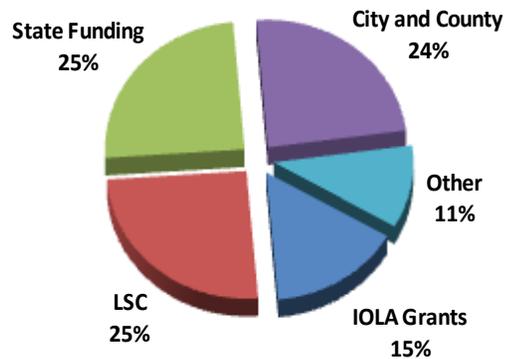
Support for Other Service Providers

2009 - 2010: LSHV has continued its emphasis on legal and technical assistance to other area providers serving our client population. Our participation is pervasive throughout Dutchess, Ulster and Westchester counties and some are: trainer at St. John's Riverside Hospital personnel on SSI benefits; collaborator in Mediation Center and Battered Women's Services, member of the elder law

coalition in Ulster County; member Wise Talk steering committee in Dutchess County (rights of seniors); trainer to the Family Court personnel and Family Court attorneys Dutchess County(ed rights,disabled children); regular participant in radio show to answer questions regarding housing issues, Ulster County; career Day participant at the Poughkeepsie High School and Marist College's Career Day; provider of monthly training at Hudson River Housing in Dutchess (bankruptcy and foreclosure); provider of monthly training at at RUPCO,Ulster Counties (bankruptcy and foreclosure); panelist at a matrimonial CLE for the private bar in 2009, involving Dutchess Supreme Court; member of the Ulster Interagency Domestic Violence Council; member of the strategic planning committee for Bankruptcy Court in Poughkeepsie; panelist giving training to members of the Dutchess County legislature on domestic violence issues; member of the Universal Response to Domestic Violence steering committee, Dutchess; member of Coalition against Domestic Violence and Sexual Assault, Dutchess; member of the Dutchess County Housing Consortium; member of the Dutchess County and Orange County Department of Social Services Advisory Council; technical assistance to mental health providers (CHOICE, St. Vincent's and NY Presbyterian hospitals, MHA, the Guidance Center, The Empowerment Center, Search for Change, HDSW); technical assistance to providers serving individuals with HIV throughout Westchester County; technical assistance to Mt.Vernon United Tenants organization; technical assistance to

Sources of Funding

Total	\$9,580,836
IOLA Grants	\$1,467,098
LSC	\$2,422,828
State Funding	\$2,371,158
City and County	\$2,316,899
Other	\$1,002,853



Other Services, *continued*

Livable Communities, a Westchester elder network; technical assistance to Cluster, FSSY, Pace, and other Westchester organizations on housing, kinship care, family law issues.; creator/facilitator of a consumer advisory board for HIV clients to provide feedback to providers; technical assistance to Protected Services for Adults caseworkers, hospital social workers in Westchester; in-person availability to agencies/consumers for recently developed initiatives on rapid rehousing through the HPRP Participant in a HUD consortium of non-profit/social service agencies in Yonkers to help the homeless; training of pro bono attorneys (matrimonial, support, dv cases, unemployment benefits, special ed/, ADA, bankruptcy, foreclosure); presenter to caseworkers and support group at ARCS Newburgh re: permanency planning; presenter to Vassar hospital, social workers in Dutchess; presenter to support group at Kingston ARCS re:SSI/SSD work rules and permanency planning; participant world AIDS day reception Poughkeepsie; member HIV care network; and technical assistance with Family Health Center staff re: Free HIV testing day.

Major Cases or Other Advocacy Projects Franshawn Carney v. Pathstone

Client lives with her ten year old son in housing that she can afford by virtue of a Section 8 voucher. In 2009, the Section 8 administrator, Pathstone, gave her notice that they planned to terminate her subsidy. The reason given for the termination was that the client did not provide documents to her caseworker in a timely fashion. The documents showed the client's change in income, which the client is required to produce in order to keep the voucher. The client first went to a Section 8 hearing on her own and argued that she did indeed provide the documents on time. Her caseworker had left employment at Pathstone, and there were no records to support the agency's claim that the records had not been supplied. The hearing administrator ruled that they could not prove that the client had done anything wrong, but that the client should agree to a payment plan if she wanted to keep her subsidy. Pathstone then arranged a payment plan for the client, which she was not able to keep. Our office represented her at a second hearing, when the agency again tried to terminate

her assistance, for failing to keep up with the payment plan. We argued that forcing the client to agree to a payment plan where it was not proved she had done anything wrong violated due process. We lost at the administrative hearing level, and the agency terminated our client's benefits. We filed an Article 78 proceeding, stating that the agency could not force our client to agree to a payment plan where there was no proof of wrongdoing on the part of our client. We received a favorable decision from the Court. As Pathstone provides hundreds of vouchers to tenants in the Hudson Valley, we expect that this will impact hundreds of families over time.

Pro Bono Private Attorney Involvement

In 2009, LSHV continued to nurture and build upon its innovative approaches to utilizing the private bar to increase access to justice for the poor. Between January 1, 2009 and March 31, 2010, 330 pro bono cases were placed with volunteer attorneys through the various projects and initiatives spearheaded by the LSHV Pro Bono Unit. In addition to our traditional "referral panel" model, the LSHV Volunteer Attorney Program, LSHV sponsors a number of exciting and inventive projects that are highlighted below:

- **Project FAIR PLAN (Family Attorneys in Rockland Providing Legal Assistance Now):** This pilot project in Rockland Family Court is in the planning stages and is slated to kick-off in September of 2010. FAIR PLAN is envisioned as a means to assist unrepresented litigants in Rockland Family Court seeking to file petitions for Custody, Visitation, Violations of Custody/Visitation or Modifications of Custody/Visitation. Project FAIR PLAN is a collaboration between LSHV, the Rockland County Family Court, the Rockland County Bar Association and the Rockland County Pro Bono Committee. FAIR PLAN will seek to recruit experienced Family Law Attorneys to volunteer to provide in-court assistance to unrepresented litigants on a pro bono basis.
- **The Westchester County Uncontested Divorce Project:** This Project is a collaboration between LSHV, the 9th Judicial District Law Department and the Westchester County Pro

Other Services, *continued*

Bono Committee. The number of potential clients contacting LSHV wishing commence uncontested divorce actions has skyrocketed and LSHV does not have the resources, either through staff or volunteers to meet the demand. This project is being established to assist those who have simple and uncontested divorces to represent themselves pro se so that we can devote our resources to more complex matters in which legal representation is a necessity. LSHV is working closely with the Law Department and Special Referees who oversee uncontested divorce matters in Westchester County in order to provide clients with the most straightforward and simple instructions and forms to achieve their goal. The Project also plans to offer clients the opportunity to meet with a volunteer attorney to review the pleadings before they are filed.

- Bankruptcy Clinics: Due to economic turmoil, impoverished debtors are looking more than ever to utilize the protection of our bankruptcy laws, but can't afford to hire an attorney to guide them through the process. Overwhelmed with the volume of eligible clients seeking bankruptcy protection and having a difficult time meeting the demand for services, LSHV developed a Chapter 7 Pro Se Bankruptcy clinic designed to give individuals the information, advice and training they need to navigate the bankruptcy process. Experienced volunteer attorney administer the clinics and LSHV recruited a panel of volunteer attorneys to review client prepared petitions and schedules before a client file the documents in Court.
- The 9th Judicial District Foreclosure Settlement Conference Project: Since the foreclosure crises began, LSHV has partnered with Pro Bono Committees, Bar Associations and the Judiciary throughout the 9th Judicial District and Ulster County to create and implement creative programs that utilize private volunteers to assist homeowners facing foreclosures. During the past 18 months, we have worked with the Empire Justice Center, which has been providing free training to attorneys on how to represent homeowners in mandatory settlement conferences. We are

currently planning meetings with all of the Judges and Special Referees throughout the 9th JD who preside over the settlement conferences to establish a direct referral system for the Court to refer cases to LSHV in which the homeowner is in need of counsel. LSHV will then assign a volunteer attorney trained by the Empire Justice Center and mentored by LSHV or one of our collaborators to represent the homeowner at the settlement conferences.

- The Assigned Counsel Matrimonial Program: LSHV continues to administer its historically innovative and highly successful assigned counsel divorce program for indigent litigants in Westchester, Putnam and Orange Counties. Divorce defendants and prospective plaintiffs are screened for financial eligibility, durational residence and a meritorious defense or cause of action. Pro Bono staff then assists the client in preparing a pro se motion requesting leave to proceed as a poor person and for assignment of counsel. If the client is a defendant, a pro se Order to Show Cause requesting a stay of the action is also submitted to the Court. The Court then assigns an experienced matrimonial attorney to represent the client in the action.
- The Unemployment Project: Low-income workers who have been laid off and denied unemployment benefits often do not have legal representation. With unemployment rates nearing catastrophic proportions, the project, now in its third year, recruits and trains private attorneys to provide pro bono representation to claimants seeking benefits to which they are legally entitled. Started in Westchester, we are expanding the Project in 2010 to serve clients in Dutchess County and a training and recruitment program for attorneys is planned for June of 2010.
- The Children's Justice Project: Children with disabilities have rights afforded them under federal law, including the right to a free and appropriate education, as set forth in Individuals with Disabilities in Education Act (IDEA). There is a significant shortage of attorneys representing disabled children in the arena of special education law. Without a sufficient number of attorneys to advocate for

Other Services, *continued*

the rights of disabled children in education, these rights are rendered virtually meaningless. The lack of experienced attorneys in this area of law has taken on new urgency because of the autism epidemic. LSHV and the Orange County Pro Bono Committee continue to train and mentor private attorneys to represent children whose families cannot afford legal representation.

Pro Bono Statistics

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

- *Number of cases completed:* 240
- *Hours contributed:* 3,405
- *Dollar value of services*:* \$510,750

**estimated at \$150 per hour*

Snapshot of Accomplishments *continued from page 1*

violence cases handled

- 30% increase in the number of clients calling for assistance
- 50% of the applicants seeking assistance were turned away

LSHV has met the challenge by handling more cases from January 1, 2009 through March 31, 2010. During that time period LSHV opened 10,192 and closed 9,872 cases. 25,480 individuals were assisted through direct casework. We also opened 565 Private Attorney Involvement (PAI) cases and closed 308 PAI cases, with most individual PAI cases placed in the areas of matrimonial and consumer law. LSHV's pro bono department continues to thrive and expand services to clients (see Part G below). Other statistics of interest show that 3,654 people were assisted through our community legal education and pro se models.

Of particular significance is the number of mortgage foreclosure cases handled during the 15 month period. In 2008 the program opened 258 mortgage foreclosure cases and closed 112 cases. For the 15 month period herein, the numbers increased to 644 opened and 540 closed. Of all cases opened and closed, 45% were in the area of housing, including mortgage foreclosure. Other high volume areas include public benefits and family law cases, both of which went up due to the increased need for unemployment insurance benefits, public assistance representation, and representation in domestic violence matters.

Through the Disability Advocacy Program (DAP) funded by New York State, LSHV returned

\$1,414,040 to low-income disabled residents who moved from public assistance to SSI benefits after representation by LSHV. \$329,022 was returned to the counties and state and hundreds of thousands of dollars were saved by the counties and state by avoiding long term welfare costs.

For the fifteen month period of the IOLA grant LSHV prevented or delayed 1,225 evictions, including mortgage foreclosures, impacting 3,299 persons. In Westchester County 778 evictions/mortgage foreclosure were prevented/delayed impacting 2,138 individuals. In Westchester County, it costs \$36,000 per year to house an individual or family in a homeless shelter. The average stay in a shelter is 8 months. The County and State pay a minimum of 50% of sheltering a homeless family (the federal government pays 50% when the household has children) and 100% of the cost of sheltering an individual or childless couple. Assuming only 50% of the households served end up needing shelter, the cost savings to the county, state, and taxpayers is over \$5 million dollars per year.

Despite the economic downturn and hard times, LSHV continued to push its agenda of providing innovative, quality services to the community. New funding and collaborations were sought to sustain services. Increased funding for mortgage foreclosure representation, federal stimulus money to represent recently unemployed members of low income households, and involvement as a partner in the newly created Family Justice Center in Westchester County have continued to enhance and complement services to an increasingly needy client population.

Outcomes for Clients *continued from page 2*

payments. She then contacted our office. Our office has been representing her in settlement conferences. The bank had proceeded with the foreclosure action with serving our client with any notice of its actions. It had placed her house up for auction twice before the date of the last sale date. Each time, the bank had adjourned the sale dates in order to retain payments made under the forbearance agreements. At the last settlement conference, the bank claimed it could not modify her loan at all, as the investor in the loan would not allow it. The bank refused to turn over evidence of this, stating that the investor's name and information was confidential. Our office queried other legal services offices in the State of New York, and discovered that the bank had used the same argument in a case in Queens, New York. The client in Queens had actually received notice of the investor's name; legal services in Queens then was able to show that the bank's allegations that the investor's agreement would not allow modification of the loan was absolutely false. When we revealed that we had this information to the bank, they agreed to take steps necessary to modify our client's loan. The matter is still

ongoing; the sale of the home has been stayed.

In 2009, we assisted a combat veteran of the United States Navy who suffers from a debilitating terminal illness. The client requested our assistance after he was fired from his job and denied unemployment insurance benefits. The security company where he worked changed his schedule from 12AM-8AM. Since he relied on public transportation he had a hard time finding buses that late and could not make it to work. His new schedule also prohibited him from making weekly medical appointments which were critical to maintaining his health. After he was let go from his job, we successfully represented him in his hearing at the Department of Labor and he was finally awarded Unemployment Insurance Benefits. Because he had no income for some time, our client also fell behind in rent and faced a non-payment proceeding which would render him homeless. We advocated for him with his landlord and prevented his eviction. With stable housing and steady income, our client was able to continue his essential medical appointments and have time to look for a new job. Today he is working at a job he enjoys and going to paralegal school at night.

Hon. Eileen N. Nadelson

Judicial Hearing Officer,
Civil Court, Kings County

Task Force on Civil Legal Services - civil court, kings

From: Eileen Nadelson
To: civillegalservices@nycourts.gov
Date: 10/6/2010 7:24 PM
Subject: civil court, kings

To the Task Force:

Since being assigned as JHO at Civil Court, Kings County, I have sat in the pro se part, handling inquests and trials with pro se litigants. There is no doubt in my mind that the unrepresented parties need trained legal representation. Nearly all the litigants (there are always exceptions) come unprepared for trial - whether, plaintiff or defendant. That means that plaintiffs lose their cases even if they were wronged, and defendants are unable to provide sufficient evidence to counter a claim.

The court has made efforts to assist the pro se party. Prior to trial, the resource center attorney may speak with the litigant and review the case and any documents, but the party still appears on his/her own at trial. We also participate in the volunteer lawyer program where the attorney actually represents the litigant for that day in court. All good efforts, but, unfortunately, not enough - not enough volunteer lawyers - not enough time to speak to all litigants who seek guidance at the resource center.

Where and how will we get the money to pay for this large outlay of taxpayer money? I have no convincing argument to this anticipated opposition. I believe, however, that there will be an even greater price to pay in the loss of public confidence. The judicial system is the last rung of protection for the citizens of this nation. If our constituents believe that the scales of justice are tipped against them, the resultant expense will far exceed any monetary allocation.

Respectfully, JHO Eileen N. Nadelson

Nassau/Suffolk Law Services Committee, Inc.

One Helen Keller Way
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(516) 292-8100

Douglas Good
Chairperson of the Board

Jeffrey A. Seigel
Executive Director

Testimony of
Nassau/Suffolk Law Services Committee, Inc.

on

The Impact of the Unmet Civil Legal
Services Needs Throughout the State

Submitted to:

Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. A. Gail Prudenti, Presiding Justice of the Second Department
Hon. Ann Pfau, Chief Administrative Judge

Second Department Hearing

October 7, 2010

Nassau Suffolk Law Services Committee, Inc., "Law Services", welcomes this opportunity to testify at this special hearing on the critical need for civil legal services in New York State. We greatly appreciate the consideration of this urgent problem by the Chief Judge, the Presiding Justice, the Chief Administrative Judge, and the State Bar President. With the crucial support of the Assembly and the Senate, the Judiciary's advocacy for funding for civil legal services has been exceptional.-first by allocating \$15 million in the budget of the 2010-2011 Office of Court Administration's to offset the dramatic drop in IOLA funding, due to the historic reduction in interest rates, and second by conducting these historic hearings statewide on the unmet civil legal service needs of New Yorkers.

We submit this testimony to provide information on the critical need for civil legal assistance for families and individuals on Long Island who need legal help to maintain the basic necessities of human life. The current need is enormous, as the United States has experienced the worst economic downturn since the Great Depression of the 1930's.

Further the Census Bureau recently released its official 2009 statistics on poverty, and the numbers are staggering. More Americans were poor last year-43.6 million-than at any time since the U.S. Census Bureau began estimating the poverty rate 50 years ago. Nearly 57 million Americans now qualify for civil legal assistance, an increase of 3 million from 2008, and the highest number of people eligible for legal aid in our country in the 35 year history of the Legal Services Corporation. On a local level, in Nassau and Suffolk County, these statistics do not accurately reflect the reality of poverty on Long Island. The federal poverty threshold on which the census calculates poverty rates is flawed because it does not take into account the wide disparities in the cost of living for different regions of the country, such as higher costs in Nassau and Suffolk County. Under the federal poverty threshold, a family of four earning \$21,756 would be considered poor, and eligible for federal government assistance programs. Yet, it has been calculated that an income of \$74,000 in Nassau and \$78,000 in Suffolk was needed for an adult with two children to meet "basic needs". Furthermore, Long Island has the highest rate of foreclosures in the nation. This reality belies the mythic stereotype that Long Island is the Island of the rich, affluent and the middle class. These poverty statistics underscore the need for adequate funding for civil legal services on Long Island.

"Law Services" has tried to meet the civil legal service needs of Long Islanders. Established in 1966, Law Services was the first Legal Services Corporation program in New York State. The program is committed to helping disadvantaged persons vindicate their rights under the law. "Law Services" has been successful at developing individually tailored programs designed to deal with the legal problems of persons with special needs; the Adult Home Project, The Foreclosure Prevention Project, the Mental Health Law Project, the Protection and Advocacy Project for the physically and developmentally disabled, the PLAN project for individuals and families affected by

cancer, the Senior Citizen Law Project, the SSI/Disability Advocacy Project, the David Project for individuals with HIV/AIDS, and programs to protect the homeless and those at risk of homelessness. With a staff of 79 lawyers, paralegals, social workers and support staff nearly 10,000 cases for more than 26,500 individuals were handled to completion for the period from January 1, 2009 through March 31, 2010. Our staff was able to prevent homelessness, help people move from welfare to work, obtain medical care for people with HIV/AIDS, cancer and other illnesses, address discrimination against disabled persons, help senior citizens avoid nursing home placement, halt domestic violence, and help custodial parents obtain child support. Due to the foreclosure crisis on Long Island "Law Services" received funding to add a foreclosure project covering both counties in 2008. "Law Services" also conducts a Bankruptcy Clinic and has served clients by either providing a consultation with a bankruptcy attorney a Chapter 7 bankruptcy for them. Yet, we are not meeting the needs of all Long Islanders who need assistance. We must turn away clients because we simply do not have the resources to assist them. This is not just a Long Island dilemma. Even at current funding levels, before any IOLA reductions or other State and County cuts, national studies have found that at least 80 percent of low income persons who need civil legal assistance are unable to access services.

Not providing adequate legal representation is, unjust and also fiscally irresponsible. It is indisputable that New York is facing an unprecedented financial crisis. However, our work assisting individual clients benefits the State, County and local economy. We save the state and counties money through our SSI, public benefits, family and housing work. During January 1, 2009- March 31, 2010 more than \$10,283,831 federal Social Security benefits, child support awards and public assistance and Medicaid were obtained by our staff on behalf of low income and disable individuals on Long Island. As a result of our efforts, more than \$10,037,926 was saved by New York State taxpayers through the avoidance of emergency shelter costs and moving clients off welfare onto federal social security. These benefits bring desperately needed dollars into local economies. An IOLA report in 2001 revealed that every \$1 invested in civil legal services yields \$2.44 in client benefits, which then flows into local communities to buy food and pay rent. So New York state benefits from the work of "Law Services", and other civil legal service providers, yet New York State ranks last among states in the Northeast, including New Jersey, in per capita expenditures for civil legal services.

This financial crisis is wreaking havoc in the lives of low income New Yorkers and once middle class New Yorkers, who are the new poor. Every day at "Law Services" we experience their desperation. They are struggling and with no immediate economic recovery in sight, the need for civil legal services is increasing exponentially. In the mid-'90s, then Chief Judge Judith Kaye convened a task force, and it determined that at least \$40 million in additional annual State funding would be required bridge the justice gap. A decade later, with economic conditions worsened, even more funding will be needed.

Chief Judge Jonathan Lippman's leadership in convening these hearings in each of the four departments and appointing a Task Force to make recommendations to meet the unmet need for civil legal assistance is the leadership we need for our current realities. Thousands of individuals are representing themselves in court proceedings. This development is unconscionable and undermining the core values of our judicial system. Supreme Court Justice Lewis F. Powell Jr. said, equal justice "is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists...it is fundamental that justice should be the same, in substance and availability, without regard to economic status." The State of New York should help the nation fulfill the promise of equal justice for all and address the dire need for civil legal services for its residents.

Nassau Suffolk Law Services, Committee, Inc. supports the Chief Judge's initiative to meet the unmet needs for civil legal assistance in the New York State.

New York-Presbyterian Hospital

October 4, 2010

Submitted to the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York City

New York-Presbyterian (NYP) is very pleased to learn that there is an effort to expand much needed civil legal services to residents of New York City whose financial situations may impede their ability to access such services. In this memo, we are providing some case situations we have encountered where patients are in need of legal services but are unable to access them or are unaware of what services may be available. As the largest provider of health care in New York City as well as the largest employer, we regularly see patients whose personal situations create additional stress and may interfere with their ability to recover from illness. This is also true of much of our support staff who live in this predominantly poor, immigrant community of Washington Heights, Inwood and West Harlem and for whom such services are vital.

The following case situations are samples of those that the social work staff at New York-Presbyterian encounter when they work with patients to determine need and to prepare for discharge.

The most frequent needs for legal services are in the areas of housing, immigration and accessing health care.

Housing and Employer Problems

1. Patient with significant medical problems including being trached and with a cervical collar has been hospitalized for almost 2 months.(transferred from Harlem Hospital to NYPH). He separated from wife 3 years ago but she has been attempting to help him. She informed us that his employer of 20 years would not submit unemployment or disability papers. It is not clear if his employer is legally mandated to submit this paper work. Additionally, the patient's landlord has removed his possessions due to lack of payment of his rent which he was unable to pay because he is in the hospital and no one has access to his funds.
2. Patient resides in an apartment in the NYC Housing Authority projects which keeps getting broken into and her possessions stolen. The super and the Housing Authority have refused to replace the locks to ensure her safety.
3. We regularly see situations of substandard housing, such as lack of safe and secure buildings, leaks, cracks in plaster, peeling, roaches and rats that play significant roles in the health of the family. These are particularly true with patients who suffer from asthma. Patients complain that their landlords refuse to fix these violations and are limited in their ability to access legal

services. Many are poor, undocumented and speak little or no English, and are therefore reluctant to complain to authorities or lack knowledge and skills to solve their own problems.

Legal residents, however, with limited resources, also encounter similar housing situations. Free legal services would greatly benefit their health and welfare.

Immigration

The following case situations are a small sample of the immigration problems we regularly see at NYP.

1. Seventy-two year old undocumented individual living in New York for over 17 years. He worked off the books for the entire 17 years supporting his family, a wife and retarded son. He suffered a severe stroke and now requires total care. His 70 year old wife states that she is unable to care for her husband while caring for severely retarded son. Patient came to New York legally but never filed necessary papers for residency. He is unable to be placed in a skilled nursing facility nor receive home care services due to lack of paperwork and his illegal status. Wife and family are totally overwhelmed and are very afraid of immigration authorities. Hence, the patient remains in the hospital now going on 3 months.

2. A forty-seven year old woman originally from Ecuador has a husband and one five year old child here in the United States. She has two other children in their 20's who reside in Ecuador. Her husband works at least 2 jobs here and rents a room within an apartment in Port Chester, New York. Social supports are very limited. Both the patient and her husband entered the country illegally and are therefore not entitled to community Medicaid, or any other public benefits. The family in Ecuador is quite poor. In fact, the patient helped to support her family members there before her hospitalization.

She was admitted on in October 2009 with a subarachnoid hemorrhage. Her grade IV bleed caused substantial brain damage. She cannot ambulate and has no speech capabilities. She is incapable of taking care of herself and requires total care from others.

Her home environment is not conducive to a return to the community, and she lacks a caregiver and insurance to pay for her skilled needs and supplies at home. We have explored resources in Ecuador, but the same barriers exist there as here: No family resources, insurance or income to support the cost of her care.

The patient has experienced a very difficult hospital course, most recently spending a few weeks in the NICU with life threatening infections. She is now stable, requiring care that can be delivered in a subacute facility.

We have applied to dozens of facilities throughout the metropolitan area, including HHC facilities that have sometimes taken uninsured patients of ours in the past. None are now accepting this patient. Her lack of insurance is the clear barrier to her discharge from NYP.

Patient is still in our hospital which is not the preferred environment at this stage of her illness and treatment.

Miscellaneous Situations

1. Single mother who is a legal resident awarded child support payment to which she is entitled. Father of the 3 children refusing to pay that support.
2. Grandmother/guardian of 4 grandchildren (ALL with mental health needs) is threatened with having her public assistance cut. Requires substantial legal services to prove that she is the legal guardian of these children and her public assistance is critical to her ability to support them.
3. A parent who has a mental health diagnosis requires legal services so that her parental rights are not terminated based on her mental health.
4. A 16 year old girl was referred to one of NYP's school-based health clinics in one of the local junior high schools. Patient has suffered multiple traumas in her life. For example, she was kicked out of her father's home without provocation or misbehavior on her part. She had learning difficulties and was approximately 3 grade levels behind as well as being diagnosed as having Major Depressive Disorder. Her father brought her to the US from the Dominican Republic at age 5 illegally (using false papers) and subsequently failed to secure her documentation to make her a legal resident. Thus, when she turned 18 years of age, she officially became an 'illegal' resident of the only country she has ever really known. Later that year, the patient became pregnant and had a child. At that time, she briefly had health insurance for her and her baby; however, she was soon left without health insurance. Additionally, she cannot obtain legal employment and cannot afford to go back to school.

She is now motivated to improve her life but has been resigned to a life of poverty and struggle due to her lack of legal assistance.

Again, we are extremely pleased to provide this information and look forward to working with the Chief Judge's Task Force as necessary.

Submitted by

Helen Morik, VP
Government & Community Affairs

Richmond County Bar Association

RICHMOND COUNTY BAR ASSOCIATION
VOLUNTEER LAWYERS' PROJECT, INC.
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Dear Chief Judge Lippman,

Please find enclosed an outline of topics which I would like to present via oral testimony at the public hearing being held in the Second Department. On behalf of the Richmond County Bar Association and our Volunteer Lawyers Project, I would like to have the opportunity to present our views on the current situation concerning the lack of funding for civil legal services.

Sincerely Yours,

John Z. Marangos

I. TYPES OF SITUATIONS/CASES WHERE LEGAL SERVICES NEEDS ARE UNMET AND MAGNITUDE

- Our experience deals with foreclosure cases, specifically settlement conferences
- The magnitude is tremendous as many homeowners who cannot afford to make their mortgage payments also cannot afford to hire an attorney
- The overwhelming majority of new cases in the settlement conference part are pro se litigants who do not have representation
- Approximately 1 in 919 housing units in Richmond county received foreclosure filing in 2010

II. TYPES OF INDIVIDUALS AT STAKE

- Not one particular demographic, but generally low-income families
- These homeowners are ethnically diverse, but include a higher number of minorities
- A large number of these homeowners are married couples with children
- Some homeowners are elderly adults
- Most individuals in need of pro bono legal services have been affected by the economy; these include those who have lost their jobs, had reduced earnings, or temporarily were out of work
- Other homeowners who often cannot afford legal services are families who have been stricken by medical illnesses and/or injuries; their medical bills have prohibited them from paying their mortgages and also prevent them from hiring an attorney
- Without funding, organizations such as ours will be limited in the help we can offer and as a result all of these types of individuals will face a greater risk of losing their homes

III. DATA ON IMPACT OF ECONOMIC DOWNTURN ON SOURCES OF FUNDING

- IOLA denied us grant money, claiming an 80% decrease in their own funding
- IOLA Executive Director Chris O'Malley claims that the decrease in funding is due to "historically low bank interest rates," which have lowered IOLA's funds from nearly \$32 million in December 2008 to only \$6.5 million in early 2010 (a decrease of about \$25 million)
- Local Initiative Grants through Senator Savino's office are currently on hold for this fiscal year because of the vetoes on spending by Gov. Paterson
- In turn, all state sources of funding may currently be put on hold
- Due to a decrease in funding from funds such as IOLA and government sources, private foundations will receive a greater number of grant requests, thereby making that form of funding even harder to attain
- Furthermore, many private foundations have seen a decrease in its own funds due to the economy's influence on reducing charitable donations; this means there is a larger pool of applicants applying for a smaller amount of possible funding
- Judge Lippman called on bar associations and community groups to respond to the foreclosure crisis and help alleviate the overwhelming burden on the court system; organizations like the RCBA VLP have answered that call but cannot continue to adequately meet the demands for pro bono legal services without continued support from the legislature

IV. IMPACT ON COURTS OF INCREASING NUMBERS OF UNREPRESENTED LITIGANTS

- 2400 filings in Richmond in 2009, estimated over 2000 filings in 2010
- Although there has been a slight decrease in filings over the past year, the influx is steady and there is no indication that the foreclosure crisis is about to end
- The court is overwhelmed with cases and conferences are being adjourned for two to three months each time due to the volume of cases
- The settlement conference part has been expanded to 3 days to accommodate all the new filings
- The court requests that all pro se litigants speak to an attorney before conferencing with the bank; we are one of the organizations that attend the settlement conferences to provide pro bono counseling
- However, the amount of pro se litigants greatly outweighs the number of volunteer attorneys available on a given day
- Due to the nature of the settlement conference, the process can be a lengthy one; cases involving unrepresented litigants pose a greater difficulty for the court due to the litigants inability to negotiate, to understand complex legal issues and lack of understanding their rights
- The clerks must dedicate more of their time to these cases to ensure that there is a balance of fairness
- Increased funding is vital to not only sustain our program and programs like ours, but also to allow us to expand and hire new staff members and recruit and train more volunteers

V. ECONOMIC AND SOCIAL HARM TO COMMUNITY WHEN LEGAL SERVICES NEEDS ARE UNMET

- The North Shore has been the area hit hardest by foreclosures, with the highest ratio of filings to housing units; this area consists predominantly of lower-class and/or minorities
- The impact and harm is simple: homeowners cannot afford legal services and if they do not receive quality representation the chances of losing their homes increase; the increase in foreclosed properties destroys the community by displacing families and causing instability within neighborhoods
- Local businesses will also suffer due to the displacement of families throughout the neighborhood
- There may be an increased burden on public housing
- The stress of a foreclosure proceeding can negatively impact families by straining or even ending marriages

VI. ECONOMIC AND SOCIAL BENEFIT TO COMMUNITY WHEN LEGAL SERVICES NEEDS ARE MET

- Low-income families receive quality, free legal services which increase the chances of them keeping the property while also giving them the comfort of having someone knowledgeable defending them/negotiating for them
- Provides relief to the court system as the number of pro se litigants is reduced
- Allows families to remain intact and keep children in stable living situation
- Provides stability to the community by keeping residents in the neighborhood
- Prevents the possibility of an added burden on the public housing

Sanctuary for Families

Sanctuary for Families' Center for Battered Women's Legal Services
Testimony for the Chief Judge's Public Hearings on Civil Legal Services
Thursday, October 7, 2010

Introduction

Founded in 1989, Sanctuary for Families' Center for Battered Women's Legal Services (the "Legal Center") is the largest provider of legal services exclusively for victims of domestic violence and sex trafficking in New York State. The Legal Center's 23 attorneys, operating out of offices in four New York City counties, last year provided legal representation and extended advocacy to well over 3,000 victims, many with multiple cases, and brief legal assistance, advice, and referrals to 1,300 additional clients. Our legal staff provides assistance to battered immigrant adults and children seeking permanent resident status or citizenship; to domestic violence victims with family law cases, including matters for orders of protection, custody/visitation and spousal and child support, as well as with contested and uncontested divorces, and public benefits matters. We also assist other underserved populations such as lesbian, gay, bisexual, and transgender abuse victims and sex trafficking victims, many of whom have also been subjected to domestic violence.

Significant Increase in Domestic Violence

The global recession has had a significant impact on victims of domestic violence. A poll of more than 600 domestic violence shelters nationwide revealed that since September 2008, three out of four shelters have experienced an increase in women seeking assistance from abuse, a startling seventy-two percent increase in the Northeast region of the United States (survey conducted by the Mary Kay Ash Charitable

Foundation, May 12, 2009). Seventy-three percent of the shelters attributed the rise in domestic violence to “financial issues” and 49 percent to “job loss.”

In New York City, the Domestic Violence Hotline received an increase in calls in 2009, and there was a 15% increase in the number of applicants for public assistance who reported current danger due to domestic violence and an 11% increase in the number of new Family Violence Option waivers granted to applicants under the Temporary Assistance Program (OTDA).

Economic Downturn Linked to Domestic Violence Rise

The domestic violence shelter survey directly linked the increase in domestic violence to the downturn in the economy. This connection is supported by an array of studies that show a higher incidence of domestic violence in families that are poor, low income, and experiencing unemployment. Bureau of Justice Statistics have consistently demonstrated that women in impoverished or low income families are at a far greater risk of domestic violence than other women. In its 2006 report, “Intimate Partner Violence in the U.S.,” the Bureau of Justice reported that “[p]eople with lower annual income (below \$25,000 a year) are at a three-times higher risk of intimate partner violence than people with higher annual income (over \$50,000 per year).”

Chillingly, abuser unemployment is the most significant risk factor in intimate partner homicide. A study published in the [American Journal of Public Health](#) concluded that the abuser’s lack of a job is the strongest predictor of the murder of women in abusive relationships, increasing the risk of femicide fourfold (Jacqueline Campbell, “Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study,” 2003).

Acute Demand for Legal Services for Domestic Violence Victims

Like many domestic violence legal service providers, Sanctuary's Legal Center is experiencing an unprecedented demand for legal services directly connected to both the increase in domestic violence and the downturn in the economy. In particular, we have witnessed a heightened demand for representation and assistance in financially-related legal matters areas, such as child support and contested matrimonial cases, where there is no right to assigned counsel for the indigent. While domestic violence itself is a major precipitating factor in the unemployment, underemployment, homelessness, and impoverishment of victims, this situation has clearly been acutely exacerbated by what is now being called "the Great Recession." Hence there has been an increase in the need for advocacy related to housing issues, particularly as homelessness and the threat of losing one's home is increasing amongst domestic victims. Given the safety net that public benefits can provide to a victim, advocacy in securing and maintaining such benefits is particularly crucial.

We have also seen a rise in inquiries from victims needing protective orders and assistance in custody and visitation cases. According to victims, perpetrators of domestic violence have not relented in employing a variety of abusive and controlling tactics against their victims, from physical violence to the misuse of the legal system to file retaliatory cases and make false allegations against victims. Further, with the expanded jurisdiction of the family court in family offense proceedings to include intimate relationships since July 2008, more people than ever before are eligible to seek relief in family court, including teens in violent relationships, lesbian, gay, bisexual, and

transgender abuse victims, and other intimate partner victims without a marriage or a child in common with their abuser.

And, probably because some of those hardest hit by the economy are immigrant families, requests for legal assistance by immigrant domestic violence victims, especially in immigration cases, has spiked. Assistance by skilled, specialized, well-supervised lawyers is essential for victims to obtain these critically important and often life-saving legal remedies.

Legal Services Protect Victims and Prevent Violence

Clearly, at this time of social and economic crisis, domestic violence victims and those at risk of domestic violence are in urgent need of legal services--assistance that, research demonstrates, reduces domestic violence recidivism and, prior to the economic downturn, contributed to a significant reduction in its incidence. In one study, 86 percent of the women who received a protective order reported that after receiving it the abuse either stopped or was greatly reduced (James Ptacek, Battered Women in the Courtroom: The Power of Judicial Response, 1999). More recent studies have shown significant reduction of domestic violence recidivism following the issuance of a final civil order of protection (Journal of American Medical Association, 2002).

Economists at the University of Arkansas and Colgate University have found that women who live in counties with domestic violence legal assistance programs have significantly lower reporting rates of domestic violence (Amy Farmer and Jill Tiefenthaler, "Explaining the Recent Decline in Domestic Violence," Contemporary Economic Policy, April 1, 2003). They concluded that, "Because legal services help women with practical matters such as protective orders, custody, and child support they

appear to actually present women with real, long-term alternatives to [abusive] relationships.” These researchers attributed the widespread provision of legal services for battered women and the economic boom of the 1990’s as major contributing factors to the decline in reports of domestic violence around this time. Given that the economy is no longer booming but instead has recently emerged from the most severe downturn since the Great Depression, the need for legal services for domestic violence survivors has never been more urgent.

Assisting victims of domestic violence in accessing the legal system and stopping the violence is critical, particularly considering the extensive impact of domestic violence on its victims as well as the their community. For instance, an order of protection not only benefits a victim by deterring the abuser from inflicting and escalating physical and emotional harm, but it can also lessen the financial impact of violence by preventing future incidents. The annual costs for direct medical and mental health care services for intimate partner violence nationwide are estimated at exceeding \$4.1 billion (Costs of Intimate Partner Violence Against Women in the United States, Centers for Disease Control and Prevention, 2003). Moreover, victims of domestic violence lose nearly eight million days of paid work annually, or the equivalent of 32,114 full time jobs. Further, for domestic violence victims who have affordable and stable housing, obtaining an exclusionary or stay away order of protection allows them to remain in their home and avoid the additional disruption and cost of moving to avoid future abuse.

For victims with children, an order of protection, often together with other legal remedies, such as an order of custody, has similarly beneficial results, as children may experience emotional trauma or missed days from school due to domestic violence.

Moreover, limiting or ending children's exposure to domestic abuse is important in breaking the inter-generational cycle of violence often seen in families, whereby children become the next generation of either perpetrators or victims of intimate partner violence.

Conclusion

Civil legal services providers offer domestic violence victims essential assistance, particularly in this current social and economic crisis. As both unemployment and domestic violence rates have surged, the demand for legal services for victims is at an all-time high. The importance of civil legal services must be recognized, particularly as legal services providers have experienced severe budgetary cuts, thus jeopardizing victims' access to critical legal remedies. There are tremendous economic and social benefits of assisting victims in escaping violence and stopping an escalating pattern of abuse. If adequate funding is not available to address the growing need for legal services, the impact on domestic violence victims is likely to be nothing short of catastrophic.

Single Stop USA



October 1, 2010

Task Force to Expand Access to Civil Legal Services In New York
Marcia Levy, Esquire
Counsel to the Task Force
Sullivan & Cromwell
125 Broad Street
New York, NY 1004-2498

Dear Ms. Levy:

On behalf of Single Stop USA, I would like to thank the Task Force to Expand Access to Civil Legal Services in New York and Chief Judge Jonathan Lippman for holding these hearings. I am writing in strong support of the expansion of resources for free legal services in New York City.

Single Stop USA is a national nonprofit organization whose mission is to slash poverty nationwide by connecting low-income households with much needed benefits. We work to ensure that individuals and families are provided with the supports necessary to move them to self sufficiency. We provide benefits counseling, free tax preparation, financial counseling and free legal counseling all in one place.

Our data and anecdotal evidence demonstrate that the legal services our partners provide make a significant difference in clients' lives. These services help build stable communities and are keys to safety, stability and self sufficiency. If left unaddressed, especially given the current economic climate, too many New Yorkers will remain without access to the legal services, and in many instances the justice, they deserve.

Single Stop USA currently funds eight legal services organization who provide targeted legal services at community-based organizations and community colleges throughout New York City. Many of our partners have shared client stories and other written testimony before this task force. Specifically, our partners handle the following types of cases:

CASE TYPES
Benefits
- Medicaid/Medicare, TANF, food stamps, SSI/SSD
Housing
- eviction, transfer/placement, safety issues
Family
- custody, divorce, domestic violence, child support
Consumer
- debt reduction, collection, creditor harassment, contracts/warranties, loans, bankruptcy, predatory lending, identity theft, public utilities
Immigration
- citizenship/naturalization, alien registration, employment authorization, ITIN obtainment, VAWA, temporary protected status
Employment
- discrimination, worker's comp, unemployment insurance
Special education
- private school placement, public school placement, school suspensions
Education
- discipline, access (bilingual, residency, testing)
Advanced directives
Criminal Rap Sheet
Power of Attorney
Restoration of Professional Licenses

In 2009, we have allocated over \$3 million to provide legal counseling services for nearly 10,000 poor families, with 13,600 cases, throughout New York City. Clients received over \$100 million worth of services. This is a return on investment of 30:1 for our clients. Last year, our providers increased their caseloads by 15% from the prior year (11,900 cases in 2008). The types of services accessed also changed in 2009. Single Stop participants faced more legal issues than in the past largely as a result of the poor economy and higher unemployment. Benefits and housing issues (mainly eviction) represented a larger share of caseloads in 2009 than in 2008.

Case types	Total # Cases (N)	% of Cases in 2009	% of Cases in 2008
Benefits	5103	38%	30%
Housing	3761	28%	27%
Family	1078	8%	12%
Consumer	744	5%	8%

Immigration	1419	10%	6%
Employment	569	4%	6%
Criminal Rap Sheet	113	1%	-
Special education	50	1%	3%
Advanced directives	157	1%	<1%
Miscellaneous	569	4%	7%
TOTAL	13,578	100%	100%

Because Single Stop funds organizations already engaged in community work, legal providers are able to target populations with unmet needs and reach low-income families in each of the five boroughs. Our providers are reaching clients in non-traditional settings, including hospitals, medical clinics, food pantries, soup kitchens, community colleges, and community based organizations. We are delivering multiple social services at one location allowing our providers to reach populations who may not have otherwise accessed assistance.

We have taken a deeper look at two of our providers who provide services in non-legal environments – soup kitchens and health clinics. These two agencies, New York Legal Assistance Group - Legal Health and Urban Justice Center’s Homelessness Outreach and Prevention Project handled over 67% of total benefits cases in 2009, and about 26% of housing-related problems. These numbers indicate that those who seek medical care or food aid are populations with unmet legal needs, who may lack an alternative avenue into the legal system, leaving them particularly susceptible to long-term poverty and on going legal issues.

Cost of Unmet Needs

The cost of unmet legal needs to the individual, and society as a whole, is not a small one. There is a substantial body of research detailing the economic and social cost to both the community and individuals. Single Stop relies on this research to assign metrics, or values to its legal outcomes. To help us evaluate the impact of our programs on the lives of those we serve, Single Stop USA uses a methodology developed by the Robin Hood Foundation that establishes monetary values for each of our benefits and services.

When possible, we use the actual cash value of a benefit as the metric. However, most of the services and benefits provided are not as straightforward to monetize. We base these monetized values on published academic research, in-house research, and the experiences of our partners, considering factors like the projected boost in future earnings, improvements in living standards, or amounts saved that would otherwise be expenses. These metrics also allow us to create benefit-cost ratios for each site, which illustrate the aggregate benefit to low-income families that each grant creates per dollar cost. The metrics we use are constantly being updated as new research and new sources of data become available.

These metrics show that in 2009, Single Stop and its partners generated over \$100 million in legal service benefits for its clients. The following is a discussion of a sample of services that Single Stop monetizes, based on conservative estimates of their values. This should illustrate the benefit of legal aid intervention.

Housing

When an individual loses housing and falls into homelessness, we know the costs are great. Research shows that homeless individuals are more likely to be mentally and physically ill, and that homeless children are twice as likely as stably-housed children to suffer from chronic illness, and eight times as likely to have mental retardation. Eviction prevention, then, is an important service to help avoid these circumstances.

Single Stop values eviction prevention for one single adult at \$10,000, based on the avoidance of mental illness, chronic physical illness, job loss, as well as quality of life estimates and the counterfactual—what *would have* happened without Single Stop's intervention. For a household with a dependent, the benefit is more—at \$29,000. This takes into account avoidance of child chronic illness, mental illness, juvenile delinquency and risk of foster care.

Family

Single Stop legal partners provide vital family law services that greatly reduce risk and improve quality of life. Research indicates that, for instance, Orders of Protection account for a for a 50 to 70 percent reduction in subsequent abuse over 18 months.¹ Based on these statistics and the cost saved to clients by accessing free services, Single Stop assigns a value of \$6,500 for each Order of Protection.

Custody and visitation issues are another large segment of family law. When Single Stop values these services it bases estimates on the concept that court-ordered custody and visitation is meant to reduce the likelihood of the child's exposure to poor parenting. Good parenting provides extensive benefits to children including fewer instances of abuse, better overall quality of life, decreased juvenile delinquency and improved high school graduation rates. Researchers also tell us that parenting improvement leads to less child abuse. There is a 50 percent drop in child abuse among parents who place their children in high quality preschool. In light of these facts, Single Stop estimates a value of \$6,500 for help with custody arrangements.

Conclusion

The total value in settlement dollars as well as assessed risk prevention value from each case in 2009 exceeds \$100 million, with a benefit-cost ratio of 30:1. These legal services are offered in concert with other programs at Single Stop USA—including public benefits enrollment and financial counseling. Single Stop's model emphasizes the importance of combining multiple social services in the fight against poverty.

Although Single Stop lawyers only accounted for 25% of the Single Stop's costs in 2009, legal services accounted for nearly 45% of overall poverty-fighting benefits. This clearly highlights

¹ *Intimate Partner Sexual Assault Against Women: Frequency, Health Consequences, and Treatment*, Judith McFarlane, et al., American College of Obstetricians and Gynecologists, 2005

the importance of offering legal help to low-income families to reduce life-altering risks and lift them out of poverty.

There is no doubt that low-income New Yorkers will continue to need these vital legal services to achieve economic stability and legal service providers will need the funding that is necessary to meet these unmet needs. Single Stop USA stand ready to assist the task force to achieve its goals.

Sincerely,

Grayce Wiggins,
New York Program Director

Sullfolk County Bar Association

THE SUFFOLK COUNTY BAR ASSOCIATION



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October 1, 2010

President

Sheryl L. Randazzo

Sent by email to civillegalservices@nycourts.gov

President Elect

Matthew E. Pachman

Helaine M. Barnett, Chair

Task Force to Expand Access to Civil Legal Services in New York

First Vice President

Arthur E. Shulman

Dear Ms. Barnett:

Second Vice President

Dennis R. Chase

As President of the Suffolk County Bar Association and on behalf of our Officers, Directors and members, we are pleased to submit the following statement with respect to the unmet needs for Civil Legal Services in State of New York for your Task Force members' consideration:

Treasurer

William T. Ferris, III

There is a significant need to expand access to civil legal services in Suffolk County, as is recognizably true throughout most of the state. Currently, foreclosure, matrimonial and custody, and Article 81 guardianship matters represent the vast majority of cases for which there is limited ready access to legal services within Suffolk County, and, to our legal community's credit, the slack is being picked up by attorneys acting pro bono. However, pro bono representation has its inherent short falls, and we cannot rely on the generosity of practitioners in Suffolk County to continue without limit, particularly in light of these challenging economic times.

Secretary

Donna England

The foreclosure crisis is a topic unto itself and has been given tremendous attention otherwise. For purposes of this submission, we will address the need for expanded access to civil legal services as it pertains to Article 81 guardianships and matrimonial and custody matters.

Executive Director

Sarah Jane LaCova

Based upon geography and the significant cost of living, Suffolk County appears to have a growing number of residents or persons concerned for our residents who file into the Courthouse, anxious and frustrated, as an extreme last resort to seek physical, mental and emotional assistance for incapacitated persons who are unable to tend to their own basic medical needs and financial challenges. Many alleged incapacitated persons experiencing such crisis are without sufficient funds to pay for the cost of someone to assist them.

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In response to this growing demand, the Suffolk County Pro Bono Action Committee and the Suffolk Academy of Law have sponsored several Article 81 Pro Bono Guardianship trainings and seminars, with free Continuing Legal Education credits being given. In addition to free CLE, attorneys have received free training, one-on-one mentorship services, free malpractice insurance coverage, waiver of registration dues and promises of self gratification to be bestowed in exchange for pro bono services in the guardianship arena. While nice incentives, these offerings are nothing more than “gift wrapping incentives” that make little difference in the long run for those inclined to volunteer.

The recognition of this unmet need for legal representation in Article 81 guardianship proceedings is best depicted by Suffolk County’s most recent pro bono efforts. In June of 2010, the Suffolk Academy of Law co-sponsored a program with the Pro Bono Action Committee of the Suffolk County Courts entitled - “How to Be an Article 81 Guardian.” Seventy (70) attorneys attended the seminar, and sixty (60) new attorneys agreed, at the outset of the seminar, to participate in our Pro Bono Guardianship Program. Less than a handful, however, actually sought the Court’s approval to become a member of the Part 36 fiduciary list which is necessary to enable them to accept an appointment. The reason for this discrepancy - our pro bono “gift wrapping incentives” for attorneys is simply too far outweighed by the enormity of the commitment required to be a guardian under Article 81 without compensation.

In other areas of law, such as matrimonial matters, the pro bono advocates are faced with the same quandary. Issues such as child custody, domestic violence and even complicated financial equitable distribution scenarios appear in pro bono files as a matter of course. These cases require extensive and specific expertise.

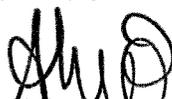
At the same time, and due specifically to the economic downturn, there are many unemployed newly admitted attorneys joining the Pro Bono Project. Notwithstanding that we welcome any and all attorneys looking to assist in the pro bono effort; particularly those with energy and drive, many of these new members to the Bar are clearly without the skills and confidence needed to adequately represent the typical Suffolk County pro bono litigant.

Suffolk County is very grateful for the few generous, veteran matrimonial lawyers that have agreed to serve as mentors to these newly admitted attorneys and attorneys new to the matrimonial field. However, with professional and personal obligations of their own, the mentors can simply not meet the huge burden of adequately providing others with the support needed on an ongoing basis to appropriately represent the County’s pro bono matrimonial clients.

Thus, although Suffolk County attorneys, through the Suffolk County Bar Association, our Pro Bono Foundation and our Pro Bono Project, working in conjunction with the Pro Bono Action Committee of the Suffolk County Courts, are doing a remarkable job for the time being with respect to addressing the significant needs for access to civil legal services of Suffolk County residents. Unfortunately, this volunteer effort should not be relied upon as a limitless solution to ever-increasing needs, and something must be done to address these needs otherwise.

Thank you for your consideration of this submission.

Very truly yours,



Sheryl L. Raddazzo
President