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SUPREME COURT OF THE STATE OF NEW YORK

- FOURTH DEPARTMENT-

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THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES

-----X

Appellate Division
50 East Avenue
Rochester, New York
September 29, 2010

B E F O R E:

HONORABLE JONATHAN LIPPMAN,
CHIEF JUDGE

HONORABLE ANN PFAU,
CHIEF ADMINISTRATIVE JUDGE

HONORABLE HENRY J. SCUDDER,
PRESIDING JUDGE OF THE FOURTH DEPARTMENT

VINCENT DOYLE, JR., ESQ.
PRESIDENT ELECT - NY STATE BAR ASSOCIATION

JANINE J. VASCUKYNAS, RPR, CSR.
OFFICIAL SENIOR COURT REPORTER

THE CHIEF JUDGE'S HEARING ON CIVIL LEGAL SERVICES

THE FOURTH DEPARTMENT, SEPTEMBER 29, 2010

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1 JUDGE LIPPMAN: Good morning.

2 AUDIENCE: Good morning.

3 JUDGE LIPPMAN: Everyone should
4 definitely sit down, we're going to be here for a
5 while.

6 I want to welcome you to the second of
7 four hearings on expanding access to civil legal
8 services in New York. I think it's fair to say that
9 no issue is more fundamental to the courts and our
10 constitutional mission than ensuring equal justice
11 for all.

12 The availability of affordable legal
13 representation for low income New Yorkers is
14 indispensable to our ability to carry out our
15 mission.

16 This hearing -- yesterday there was a
17 hearing in Manhattan in the First Department at the
18 Appellate Division building on 25th Street in
19 Manhattan. Today is the second hearing. Next week
20 there's a hearing at the Third Department at the
21 Court of Appeals in Albany on October 5th. And on
22 October 7th, there is the fourth hearing in the
23 Second Department on Monroe Street in Downtown
24 Brooklyn.

25 And the reason why we're here is to focus

1 for the benefit of the judiciary and the task force
2 that I have appointed to expand civil legal services
3 on where are the gaps in civil legal services in New
4 York State. In this local area, local areas around
5 the state and the particular kind of cases that come
6 before the Court.

7 I want to introduce to you the panel
8 that's here with us. First on my right, and you all
9 know, is Presiding Justice Henry Scudder, who I want
10 to thank for being such a wonderful host in having
11 us here at this beautiful Fourth Department
12 building. And thank you, Judge Scudder.

13 And to my left is Judge, Chief
14 Administrative Judge Ann Pfau, who as you know runs
15 the day-to-day operations of the Office of Court
16 Administration.

17 And to our far right is the terrific
18 President Elect of the State Bar Association, who I
19 have had the pleasure of working with his father for
20 many years, Vince Doyle, Sr., and this is Vince
21 Doyle, Jr., who is, will be a great President of the
22 State Bar.

23 And I think that it should be obvious to
24 all, that what you have here is the leadership of
25 the Judicial Branch of government and the legal

1 of cases particularly related to the economy.
2 Evictions, foreclosures, debt cases, family
3 offenses, matrimonial conflict. Really, cases
4 dealing with the necessities of life, the
5 fundamentals of life, the very roof over people's
6 heads, their livelihoods, their well-being of
7 themselves and their families.

8 We have had a terrific outpouring of pro
9 bono work in this state by the legal profession,
10 including here in Rochester for the Monroe County
11 Bar Association. And around the state there have
12 been over two million hours of pro bono work given
13 for free to people who can't afford legal
14 representation. But that doesn't begin to be even
15 the tip of the iceberg in relation to the need for
16 additional funding for legal services.

17 For every person who is accepted by a
18 legal service provider for representation, there are
19 another eight to ten that are turned away. That
20 people we know, that people are dealing again with
21 the very basics of their life, lives, and are unable
22 to have a representation in court.

23 And we in the judiciary recognize that it
24 is our constitutional mission to provide equal
25 justice for all. That's what we're here for. And

1 it is also our ethical obligation as a profession to
2 foster access to the courts and equal justice for
3 all.

4 So from our perspective we believe that
5 if we're not going to stand up for those most
6 vulnerable in our society, who is? Other than the
7 people who care. And certainly from our
8 perspective, it is our mission to care. It is very
9 much a part of the fiber of who we are.

10 And the information that we gather at
11 these hearings plus the additional information that
12 the task force is able to get together from around
13 the state, will result in a report, I think it will
14 be the most comprehensive of its kind in the
15 country, to the legislature, laying out the need and
16 the amount of monies that are needed to fill those
17 needs.

18 And what's clear to me is that this is
19 every bit as important as the other priorities we
20 have in life when this -- and in our society,
21 whether it's schools or hospitals, legal
22 representation for the poor is every bit as
23 important, and we cannot leave it to the vagaries of
24 the economy or unstable funding streams.

25 Like, as you know, the beginning of this

1 crisis started with IOLA and the drying up of the
2 monies that came from the interest accounts that
3 lawyers have because interest rates are way, way
4 down. As a result, the monies available to IOLA,
5 which is one of the key funders of legal services in
6 this state, went from about 35 million to 8 million
7 this year. And that's really what we're up against.

8 So we were able to put our fingers in the
9 dike for IOLA this year, but again, it's just the
10 beginning of this effort. We need a permanent
11 funding stream for civil legal services, and it has
12 to come out of the public fisc. This is not one of
13 those things we say, gee, we can't afford it, or
14 let's put all kinds of fees or taxes to do it. This
15 is -- goes with the very basics. Again, schools,
16 hospitals, representation for the poor, all the
17 things that are important.

18 You know, almost 50 years ago in **Gideon**
19 **v. Wainwright**, the Supreme Court said that it is an
20 obvious truth to us, meaning the Supreme Court, that
21 people who are hauled into court as a defendant in a
22 criminal case cannot get a fair shake, cannot get
23 their day in court without being represented by a
24 lawyer. And I think it's fair to say that it's an
25 equally obvious truth today, particularly in these

1 difficult times that people who come into court and
2 are dealing with the very necessities of life cannot
3 get a fair shake, cannot get their day in court
4 without a lawyer. To me again, to all of us, an
5 equally obvious truth.

6 So we have a full plate today because we
7 want to learn from all of you exactly what the
8 problem is, where the funding is needed. We're
9 going to try and keep to a schedule. You'll forgive
10 me if I try and move you along. We have a full day
11 of testimony. We're allowing, and I'm sure you have
12 each been told that, roughly five minutes for each
13 person who testifies. You don't have to read your
14 statement. You know, that will be in the record and
15 will be digested by the task force, but we want you
16 to tell us what your viewpoint is. And then we're
17 going to ask you some questions to try and draw out
18 a little further where we, you know, what we can,
19 the information that we need to do what we have to
20 do to get our message through to the legislature.

21 The legislature has passed a joint
22 resolution that says that they fully support this
23 process that we are putting into place. They want
24 us to give them a report, and they want us to tell
25 them how much money we need. This is a far cry from

1 the past where basically civil legal services was
2 funded kind of in a hodgepodge way. The IOLA Fund,
3 some member items, a little Federal money, a little
4 private money. We need a systemic approach to all
5 of this. We need to build the plumbing so that this
6 kind of funding comes through a regular part of the
7 legislative process rather than being something
8 going around with our hands out saying, gee, what
9 can we do? Because people are going without that
10 very fundamental need of being represented in court
11 on things that are vital to them and critical to
12 themselves and their families.

13 So, we're going to begin. I thank the
14 task force members who are in attendance today. I'd
15 like to also introduce, I think from the task force
16 Steve Banks is here from the Legal Aid Society.
17 Judge Fern Fisher, who is the Statewide Director of
18 Access to Justice. Fern, where are you? You're
19 right there. Judge Fern Fisher. Sheila Gaddis is
20 here. Sheila? George Lowe, Judge George Lowe is
21 here. Deborah Wright. And Bob Convissar, the
22 President of the Buffalo Bar Association is here.
23 All members of the task force, and we're so grateful
24 for their assistance.

25 The lights that are in front of you, for

1 those non-lawyers or people who haven't argued here
2 at the Fourth Department, when the white light goes
3 on, that means that you have one minute more to your
4 presentation. But don't get nervous, the red light
5 will go on which says you're out of time.

6 We will try and move the hearing along,
7 but yet be gentle and, you know, not be too brusk.
8 And Judge Scudder is an expert in keeping this
9 courtroom in shape, on schedule, and moving along.
10 So, so blame it on Judge Scudder if you have to be
11 cut off by the lights.

12 So okay, let's start. Our first panel
13 really, and a lot of these are in groupings, is the
14 Client Panel. And I'd ask Jane X, Laura Hart, and
15 Heather Oaks to come forward and sit at these, at
16 the table right here, at the witness table.

17 Okay. Let's see. Jane? Okay. And
18 you're a client of the Empire Justice Center.

19 MS. KRESSMAN-KEHOE: That's right.

20 JUDGE LIPPMAN: And why don't you begin.

21 MS. KRESSMAN-KEHOE: Okay.

22 JUDGE LIPPMAN: Like I said, don't feel
23 rushed, but just try and tell us your --

24 MS. KRESSMAN-KEHOE: Okay.

25 JUDGE LIPPMAN: -- your story rather than

1 necessarily reading it, but read as much as you
2 want.

3 MS. KRESSMAN-KEHOE: Okay. First of all,
4 thank you for letting me speak and thank you for
5 holding these hearings.

6 My name is Kate Kressmann-Kehoe, and my
7 story is about how having legal services helped me
8 break down bureaucracy that I could not have done on
9 my own. Because we had access to legal services, my
10 daughter is learning to work to her educational
11 potential.

12 When my daughter started 2nd grade last
13 year, we thought it might be a little bumpy. She
14 had not had an easy time in the first two years, but
15 it wasn't terrible. There was also not a lot of
16 writing in kindergarten or 1st grade.

17 But 2nd grade, with much more writing,
18 was a whole different story. Within a few weeks the
19 teachers were calling us in because my daughter was
20 refusing to do any writing. We all agreed that
21 there was a possible learning disability. We
22 requested a formal evaluation.

23 As the evaluations began, it was really
24 obvious that she couldn't write. She could explain
25 how the solar system worked, she could explain why

1 we have seasons, she could not write. And if she
2 had to write, it could take days, hours, screams,
3 tantrums. Clearly there was something wrong, and an
4 evaluator really helped out on finding what the
5 problems were.

6 So we met with the teachers. It all
7 looked good. We went to a CSE meeting at the end of
8 March. We all thought there was a good plan, and we
9 expected to be working on how to help my daughter.
10 Instead, it was a nightmare.

11 The CSE representatives, who had never
12 met my daughter and who never referred to the
13 relevant reports, seemed to be trying to find ways
14 not to help her. They ran the meeting very
15 unprofessionally. My daughter's teachers, who had
16 attended many CSE meetings, had never seen anything
17 like it. They ruled that -- the CSE representatives
18 ruled that my daughter did not have a disability.
19 So, she was denied services that she needed and was
20 legally entitled to.

21 Now, my husband and I had to decide what
22 to do. We really did not think of a lawyer at
23 first. We thought we could navigate the bureaucracy
24 ourselves. We'd be fine. The ruling was an obvious
25 error, and we're very used to advocating for

1 ourselves.

2 The school staff strongly encouraged us
3 to talk to Empire Justice. We would not be able to
4 do it on our own, they told us. The mere presence
5 of a lawyer would change and accelerate the process.

6 Because it had already been seven months
7 since we had first noticed that there were some
8 major problems and because every day she was getting
9 more and more discouraged, we decided that we did
10 need help.

11 We contacted Jonathan Feldman at Empire
12 Justice, and when he reviewed our file, he felt that
13 we had a strong case. Empire Justice agreed to
14 represent us, and to our surprise, they told us that
15 there would be no charge for this service. This was
16 a great relief to us.

17 As soon as we began the process of
18 appealing the CSE ruling, we started to understand
19 how much it mattered to have a lawyer. The process
20 was complex and confusing, and Jonathan knew which
21 step really mattered.

22 Early on in the appeal we received a
23 discouraging letter from the district reiterating
24 the CSE ruling. Therapies, they said, were not
25 necessary for our daughter to receive an appropriate

1 public education. If we had been alone, we probably
2 would have given up then. But, thanks to the advice
3 of our lawyer, we didn't. Jonathan responded to
4 that letter with a renewal of our appeal.

5 After that, we attended a resolution
6 session with lawyers for both sides present and
7 Jonathan was able to negotiate a settlement.

8 To finalize the settlement, we had
9 another CSE meeting, but this time we had our lawyer
10 there. It was as if the first CSE meeting had been
11 from an alternate universe. At this meeting people
12 were actually trying to help our daughter. They had
13 actually read the reports. They were using their
14 expertise to think about what would help her learn.
15 The fact that we had a written settlement in hand
16 meant that they had to truly respond to her needs.

17 So listening to the teachers and the CSE
18 staff worked. It really reinforced how much it
19 mattered that we could work within the school system
20 and get the services in the school. And there's
21 just no way if we had all the resources in the world
22 that we could have reconstructed that ourselves
23 without having a lawyer and going through the
24 district.

25 It really mattered that we could, the

1 teachers could integrate the support with the
2 curriculum, with the daily schedule when and where
3 our daughter was struggling, and they could
4 rearrange things so it could mesh the schedules.
5 And having our lawyer in the room with us, even when
6 most of the time he didn't say anything, just having
7 him being there made a huge and visible difference.

8 The services have only just begun, but it
9 is already, it is really, it is quite different.
10 Writing is still a struggle, but we don't have the
11 tantrums, we don't have the fear. She's got some
12 hope. She says, I like school. And they can
13 rearrange the schedules so they can put math first
14 if the therapist isn't available until later so that
15 the therapist could be there when she's doing the
16 work or she needs help. They are actually doing the
17 exercises and the therapies based on the actual
18 curriculum as opposed to some generic workbook
19 that's unrelated to what she's trying to do. If
20 there's multiple people working on her case, they
21 can coordinate amongst themselves without having to
22 bring us into the loop.

23 It really makes a difference that we were
24 able to get it through the system. And we're, I
25 would say, people who could advocate for ourselves

1 most of the time.

2 JUDGE LIPPMAN: Let me ask you a
3 question.

4 MS. KRESSMAN-KEHOE: Sure.

5 JUDGE LIPPMAN: How did you find out
6 about Empire Justice Center?

7 MS. KRESSMAN-KEHOE: The school staff.
8 They had actually been to another CSE meeting that
9 Jonathan had attended and they had said that, again,
10 they had seen the same thing that when the lawyer
11 was there, it was a completely different experience.

12 JUDGE LIPPMAN: What happened when you
13 went into Empire Justice, they immediately assigned
14 you a lawyer?

15 MS. KRESSMAN-KEHOE: Well, they had given
16 us Jonathan's name, so we called and he looked at
17 our materials and said this is a strong case and
18 it's emblematic of some systematic problems and we
19 would like to take it on.

20 JUDGE LIPPMAN: And what would you do
21 today with your daughter if you weren't able to
22 have, have this help navigating the system?

23 MS. KRESSMAN-KEHOE: I don't know. I
24 think it would have been -- it would have been
25 really hard for us to try and get legal services on

1 our own. I don't know if we would have tried to
2 cobble together something outside of school. I'm
3 not sure what we would have done.

4 JUDGE LIPPMAN: Okay.

5 MR. DOYLE: Can I ask a question?

6 JUDGE LIPPMAN: Sure.

7 MR. DOYLE: And Kate, let me explain why
8 I'm asking. I'm a lawyer, my wife is a Special
9 Education teacher. We went through a CSE thing with
10 our own child, and I was completely confused. I
11 didn't understand what was happening. I couldn't
12 figure out the bureaucracy, couldn't figure out the
13 procedure, and we ended up having to hire a lawyer
14 who specialized in that.

15 JUDGE LIPPMAN: This is the President of
16 the State Bar Association.

17 MR. DOYLE: So I knew the right people to
18 call. But that's my question. It wasn't just that
19 you got a lawyer, it was that you got someone who
20 was an expert in that particular field and someone
21 who knew how to navigate such that when that person
22 showed up, the doors opened, people became
23 friendlier, the procedures suddenly fell away, and
24 everything was worked out for the best. Is that
25 right?

1 MS. KRESSMAN-KEHOE: I think that's true.
2 I think it mattered that we were working not just
3 with -- we were working with somebody who knew the
4 routine and knew how it worked.

5 MR. DOYLE: Okay. Thank you.

6 JUDGE PFAU: And what's so interesting is
7 this isn't a series of things you wanted that were
8 extra for your daughter. This is something that you
9 were entitled to, had a legal entitlement to get,
10 and you couldn't get it without a lawyer. Even
11 though you are used to advocating for yourselves,
12 something as basic as the education she is entitled
13 to.

14 MS. KRESSMAN-KEHOE: Mm-hmm.

15 JUDGE LIPPMAN: Okay. Anything else?
16 Okay. Thank you.

17 MS. KRESSMAN-KEHOE: Thank you.

18 THE COURT: Okay. Laura Hart, you're a
19 client of the Legal Aid Bureau of Buffalo.

20 MS. HART: Yes. Good afternoon. Thank
21 you for having me. I'm 27-years-old. I got married
22 very young, when I was 19, in 2003. My now
23 ex-husband is ten years older than me. We have
24 three young children. We have now seven-year-old
25 twin girls and a five-year-old little boy.

1 There were a series of events that were
2 intolerable for the four of us, me and my children.
3 I decided to leave the marriage. We all suffered
4 from severe emotional abuse, not only from him but
5 from his parents, who resided with us. The
6 emotional and mental abuse was intolerable. It
7 started changing the people my children were
8 becoming and we had to leave.

9 I had no established work history because
10 I was a stay-at-home mom for about four years before
11 I decided to leave. I had no money saved up. I had
12 nowhere to go. I had to live with my parents and
13 with my three children.

14 I was initially represented pro bono by a
15 private attorney. After I left my husband and was
16 staying with my parents, I began a relationship with
17 a person who ultimately became abusive to me in all
18 the ways my ex-husband was but also physically. The
19 relationship took me to a level I have never been in
20 my life. I was depressed, I was withdrawing, I was
21 financially strained. I had three small children,
22 all stay at home, which ultimately led to a suicide
23 attempt in, on Christmas of 2007.

24 My attorney at the time decided to cease
25 representation because after my suicide attempt my

1 children were taken from me and given to my
2 ex-husband. I was not able to see them. And when I
3 did, it was only for an hour at McDonald's at the
4 corner of the street in the playground, and that
5 wasn't good enough for me.

6 I had to find representation through the
7 Legal Aid Bureau. Not only through their legal
8 services but through their emotional support, I was
9 able to find the strength to stand up to the person
10 that I was being abused by. I left him, ultimately
11 pressed charges, and he was convicted in July of all
12 four counts, and he's in jail now serving four and a
13 half years.

14 I have my children back three to four
15 days every week. I have reestablished trust with
16 them. I have reestablished my role as mom with
17 them.

18 The divorce was actually final in 2009.
19 As a result of that, my ex-husband kept all of the
20 marital debt and for a while I wasn't paying any
21 child support. And the child support I'm obligated
22 to pay now is very minimal, which is helping to
23 regain financial independence.

24 I'm involved with activities at school.
25 My kids are in dancing, yoga, football,

1 extra-curricular activities. I'm involved in all
2 the doctors' appointments. I am more of a parent
3 now than I was before this whole ordeal happened.

4 I am now under the assistance of Assigned
5 Counsel in Buffalo. I have a petition to regain
6 residential custody of my children. And I
7 wholeheartedly feel that I would not be in the
8 position that I am today if not for the emotional
9 and legal support of the Legal Aid Counsel and
10 Assigned Counsel in Buffalo.

11 JUDGE LIPPMAN: How did you come to the
12 Legal Aid counsel?

13 MS. HART: Well, I was being represented
14 pro bono by a private attorney. Through the court
15 process, the judge suggested after I was
16 representing myself --

17 JUDGE LIPPMAN: That you go to legal --

18 MS. HART: -- that I would qualify. And
19 she gave me a referral and immediately was accepted.

20 MR. DOYLE: So there was an attorney who
21 was representing you pro bono for free?

22 MS. HART: Yes.

23 MR. DOYLE: But your needs just became
24 too great, you said?

25 MS. HART: I was making my own situation

1 worse. I kept going back to an abusive man. My
2 ex-husband found out about this, didn't want the
3 kids around him, rightfully so. And that kind of
4 led to the, you know, downfall.

5 MR. DOYLE: Legal Aid was able to step in
6 where the pro bono efforts of an attorney weren't
7 sufficient to help you?

8 MS. HART: Absolutely, yes. And helped
9 me understand that I wasn't doomed forever. That it
10 was a situation that I was in, that I was -- I
11 wasn't made to feel that I could be honest and say
12 that I have these problems and I'm being abused and
13 I need to get out without fear of losing my
14 children, which ultimately what I tried to do made
15 me lose them anyways. But there was a lot of
16 emotional support as well.

17 MR. DOYLE: Let me ask you about that
18 because you said it was not only legal services but
19 emotional support. How was that provided to you by
20 the clinic?

21 MS. HART: Well, ironically the lawyer I
22 was appointed, Nadine Patterson, one of her
23 co-workers Melissa Hervotis, I went to school with
24 her and so there was age similarity, and we went to
25 the same school, we grew up in the same town and

1 just kind of befriended her. And she understood my
2 situation, both Nadine and Melissa understood that I
3 wanted to get back where I was with my kids. My
4 kids were my number one priority. And they helped
5 me understand that in order to get to where I want
6 to be, there are certain things I have to stop
7 doing, which would be going back to an abusive
8 relationship and keep making negative choices.

9 JUDGE LIPPMAN: Was there any way that
10 you could have afforded to pay a lawyer to represent
11 you?

12 MS. HART: Absolutely not, no.

13 JUDGE SCUDDER: Was the process to
14 qualify difficult at all?

15 MS. HART: No. I also am on Medicaid and
16 so the process of getting assigned with an attorney
17 I think was lessened because I had Medicaid, which
18 automatically made me qualify. It was very quick,
19 within days.

20 JUDGE LIPPMAN: So there were criteria by
21 which you -- that they looked at and knew that you
22 would be someone that they could take?

23 MS. HART: Right, right. But I
24 absolutely would not be able to get what I have
25 today, which is my children back, without them.

1 JUDGE PFAU: Was there any point which
2 you were representing yourself?

3 MS. HART: For a day. And that didn't go
4 very well.

5 JUDGE PFAU: Right.

6 MS. HART: The Law Guardian kind of
7 helped me with the legal terminology that I kind of
8 deer in the headlights looked at the judge. And I,
9 yeah, that stopped, and she politely said that I
10 would very much qualify to have an attorney if I
11 wanted one. And so we adjourned and I went down the
12 street to get an attorney.

13 JUDGE LIPPMAN: I guess the bottom line
14 is that courts are foreign places and when you come
15 in --

16 MS. HART: Intimidating.

17 JUDGE LIPPMAN: You know, it is all like
18 a different world to you.

19 MS. HART: Very.

20 JUDGE LIPPMAN: Even though you bring a
21 lawyer today and your red light is on, you still,
22 it's still, but it's a different world when you got
23 in there.

24 MS. HART: It's totally foreign. All I
25 knew was diapers and bottles, and I got in there and

1 there were suits and sheriff's and everything and
2 it's very intimidating. And then they speak in
3 terminology that you don't know understand, and you
4 don't know what your rights are. And I waived away
5 a lot of things that I probably shouldn't have,
6 but --

7 JUDGE LIPPMAN: Like I said, you didn't
8 know what your rights were.

9 MS. HART: Right.

10 JUDGE LIPPMAN: And how to uphold those
11 rights.

12 MS. HART: Or how what I did in my
13 personal life would greatly effect what happened in
14 the courts. So I'm thoroughly thankful and would
15 not have my kids today without that.

16 JUDGE LIPPMAN: Okay. Thank you, Laura.
17 Heather Oaks, and you're represented by
18 Legal Services of Central New York.

19 MS. OAKS: Good morning. My name is
20 Heather Oaks. I am a member of the 865th Combat
21 Support Hospital in Utica, New York. My fiance',
22 Jason Lewis, served with the United States Marine
23 Corps at Henderson Hall down in Washington, D.C.
24 Together we're 27. We have three children, two of
25 which are from a previous marriage, and he has a

1 daughter who's seven named Angela, and a
2 five-year-old son named Aiden, and then together we
3 have our 16-month-old baby boy Braydon.

4 When I learned I was pregnant in
5 September of 2008, we began looking for a house as
6 we would outgrow our apartment. Jay and I spent
7 each night looking through books of houses,
8 newspaper ads, Internet sites. Throughout the
9 months of December, January and February, we looked
10 at dozens of houses.

11 Towards the end of February we came
12 across an ad in a weekly paper: "Bad Credit, No
13 Credit, No Problem. No closing costs." They work
14 with all, all types of credit. They can get us our
15 own home.

16 I left a message at the listed phone
17 number and several days later I got a phone call
18 back from Paul with Best House. He asked us a
19 couple of questions about where we wanted to live,
20 how many bedrooms we needed, driveway, garage. All
21 the basics that a real estate agent would ask you.

22 Paul gave us the Best House website and
23 asked us to review the site to pick out houses that
24 we would want to see. So we did. We looked at it,
25 we called him back. We found a house that we wanted

1 to see because it was very close to both of our
2 parents' home and made a day to view it.

3 We met Paul at the house. As we walked
4 into the home there was a family living there. We
5 went throughout the house. I fell in love with it.
6 This house was absolutely beautiful. It had
7 everything that we needed and wanted. It had enough
8 rooms for all of our children, plus us, and then
9 room to grow. It was our American dream,
10 ultimately. It was almost too good to be true. And
11 you know what happens when things are too good to be
12 true.

13 Jay and I went back and signed the papers
14 to buy the house. Paul ensured us that the house
15 would be ready for us to be moved in before my due
16 date. Towards the end of March I drove by the house
17 and it still looked the same as when we were there
18 in February. The family was still living there. I
19 was starting to worry and had sent several e-mails
20 to Paul and left phone messages that were
21 unreturned. I had almost finished packing our house
22 and all of our possessions, and we were ready to go.

23 The days were flying by and my due date
24 was rapidly approaching. I still heard nothing back
25 from Paul. Finally, about a week into April, Paul

1 called and told us they are having problems getting
2 the people out of the house but that he had another
3 house for us available immediately. We agreed to
4 look at the house with him.

5 The first time I walked in, I cried.
6 This house was a wreck. It was trash. There was so
7 much damage. The people that lived there before had
8 their possessions in the house still. It needed a
9 lot of work.

10 So I was supposed to be in our new home
11 relaxing to prepare for the birth of our child when
12 we had nowhere to go, so we had to take the house.
13 Paul promised to repair the foundation crack, to get
14 rid of the black mold throughout the house, to fix
15 the bathroom plumbing, put new carpeting in rooms,
16 replace the back door, install basement windows, and
17 do other repairs to the home to make it liveable.
18 Our American dream was slowly turning into a
19 nightmare.

20 We moved in soon after, and I don't have
21 to tell you that Paul's promises were nothing but
22 broken words. After being in the house for a couple
23 of weeks we had an inch of sewage in our basement
24 that just so happened to happen on my son's fourth
25 birthday.

1 Paul would make dates to come and fix
2 things that were wrong with the house and then never
3 show up. Needless to say, all of the work to make
4 this house a home was done by Jay and I, our
5 parents, my brother, and our family and friends. We
6 have spent hundreds of hours and more than \$4,000 to
7 make this house livable for ourselves and our
8 children.

9 A few months later I read in the
10 newspaper a lawsuit filed by Legal Services of
11 Central, New York against Best House, Paul, and
12 several other individuals including two
13 Syracuse-area lawyers. One of the lawyers at the
14 center of the scam defrauded first time home buyers
15 like us. They were operating, which I later
16 learned, was a property flipping scam. I cried
17 harder than I cried when we had to move into this
18 rundown house. I called Legal Services and they
19 have represented us since. They also represent
20 about 25 other families in the situation to ours.
21 The scammers buy depleted HUD homes and advertise
22 them for sale, making all kinds of promises to fix
23 things and add things to the house. They'll do
24 anything, they'll say anything to you to get you to
25 sign that piece of paper. We also learned that for

1 families who did get a mortgage, it was obtained
2 fraudulently.

3 We had put money and much effort into our
4 home to make it livable for us and our kids. We've
5 done significant improvements. We want to own and
6 eventually live there for good.

7 When we fell behind on monthly payments,
8 the scammers tried to evict us. After we fixed up
9 the house, the scammers wanted it back.

10 Legal Services gone to court to stop our
11 eviction. The lawyers at Legal Services have worked
12 with us for long hours to sort out all of our
13 problems. With help from Legal Services we would
14 not have a roof over our head. They have been
15 working to make sure that we can buy our house for a
16 fair market value. And our story is far from over.
17 It's going to require more hours, more time, more
18 money, more research.

19 I took an oath to defend our country
20 against enemies foreign and domestic, but where are
21 the people to help me and my family in our time of
22 need? We found those people with Legal Services of
23 CNY. Mr. Kaufmann and Mr. Young have helped us
24 through a lot.

25 I would just like to make sure that Legal

1 Services has the resources to defend other people in
2 our situation. I thank you for the opportunity to
3 tell my family's story here today.

4 JUDGE LIPPMAN: Thank you. You know that
5 the story that you tell, particularly in these
6 economic times, is not unusual. And evictions and
7 forecloses are through the roof literally in the
8 state, and I'm sure, you know, here in the Rochester
9 area and in the Syracuse area where, you know,
10 you're from. And so this is a common thing and yet
11 there are people who aren't able to get the help
12 that you received, and it's frightening.

13 MS. OAKS: It is. It's very frightening,
14 but you have a self-confidence that's built up with
15 a reassurance from Legal Services. They tell you
16 what's going on, they keep you informed. If
17 anything new comes up, you're always first to know.
18 It's not like you're the back of the line. And,
19 okay, everybody else knows and now we'll go and tell
20 them. As soon as something happens between
21 Mr. Kaufmann and Mr. Young, we know right away.

22 JUDGE LIPPMAN: Any other questions?
23 Okay. Thank you all. We greatly appreciate it.

24 MS. OAKS: Thank you.

25 JUDGE LIPPMAN: And I think graphically,

1 your stories graphically illustrate the need for
2 publically funded civil legal services. Thank you.

3 MS. OAKS: Thank you.

4 JUDGE LIPPMAN: We now have a Panel of
5 Educators, who I would ask to come forward. Rachael
6 Ann Gazdick, Jean Claude Brizard, and Dr. Anne M.
7 Kress. And they will each introduce themselves to
8 you, and, you know, what role they have. And let's
9 start with Rachael Ann Gazdick from Syracuse
10 University.

11 MS. GAZDICK: Good afternoon. And thank
12 you for the opportunity to testify on this very
13 important issue.

14 My name is Rachael Gazdick, and I'm the
15 Executive Director of "Say Yes to Education" at
16 Syracuse University. I'm from the City of Syracuse.

17 Say yes Syracuse is the Syracuse chapter
18 of the National Not for Profit Foundation "Say Yes
19 to Education" committed to dramatically increasing
20 high school and college graduation rates for urban
21 youth. What separates the Syracuse chapter from
22 active chapters in Harlem, Philadelphia, Hartford,
23 and Cambridge, Massachusetts is the implementation
24 across the entire Syracuse City School District,
25 serving well over 20,000 students.

1 By strengthening the model across the
2 entire district, Say Yes demonstrates that with
3 appropriate engagement, monitoring, support and
4 coordination, schools and communities they serve can
5 significantly alter the course of urban education.

6 The long-term success of Say Yes rests
7 largely on specifically designed supports that are
8 introduced early in a student's educational career.

9 Say Yes and Syracuse University have
10 designed two components to Say Yes Syracuse that
11 address these needs. Comprehensive student support
12 and enrichment beginning in kindergarten to help
13 students reach their academic and social potential,
14 and free college tuition for up to over one hundred
15 universities and participating colleges and
16 universities for all Syracuse city graduates who
17 meet residency, admission and financial aid
18 requirements.

19 Syracuse was chosen as a pilot program
20 for a district-wide implementation under Say Yes
21 because of substantial challenges that the school
22 district was facing, that affected children's
23 success in school. These challenges are set forth
24 in my written submission, and I will not repeat them
25 here. But they were daunting, and I'm pleased to

1 report that under Say Yes substantial changes have
2 been made.

3 Say Yes begins in kindergarten offering
4 high quality and sustained academic, social,
5 emotional, health and family supports. These
6 supports include universal after-school programming,
7 summer camps, tutoring, mentoring, family outreach
8 engagement, additional social workers, and
9 counseling services, financial aid counseling and
10 referrals for high quality healthcare and pro bono
11 legal clinics.

12 The law clinics are an invaluable
13 component to our support services because they
14 provide many of our families with access to the
15 legal system who would otherwise fail to obtain
16 legal assistance of any kind or encounter many
17 obstacles to accessing the limited free legal
18 services available in the community.

19 In my role with Say Yes, I have the
20 ability to interact with many young students and
21 their families on a daily basis. I've learned
22 firsthand of the many obstacles that students face
23 and ultimately must overcome to be able to perform
24 in school.

25 Many of the students who struggle in

1 school come from families with very low incomes.
2 Their economic status is further encumbered by their
3 housing conditions and family problems that often
4 have a legal matter at the root cause.

5 Parents and students have shared their
6 stories with me, and I have learned that many of
7 them face legal problems that interfere with the
8 child's ability to concentrate and learn while in
9 school, complete homework assignments outside of the
10 classroom. Some examples are set forth in my
11 written submission.

12 JUDGE LIPPMAN: So let me understand. So
13 legal services doesn't exist in a vacuum, it
14 allows -- in different areas of people's lives very,
15 again basics of their lives -- it allows them to get
16 things accomplished that they couldn't do, interface
17 with different kinds of disciplines, including in
18 this case education and getting the benefits of
19 education and being a part of your program and
20 facing the challenges that they face legally.

21 You know, is that a natural kind of
22 dynamic that in order to do what you have to do, you
23 really need legal services even though you think
24 what does one world have to do with the other?

25 MS. GAZDICK: Yes. We believe fully that

1 to remove students out of poverty, that we have to
2 remove the barriers that impact their academic
3 successes.

4 JUDGE LIPPMAN: To allow them --

5 MS. GAZDICK: To allow them to move. And
6 that's also connecting the legal community also with
7 our health community where we have organized our
8 entire health system.

9 Just to give you an example, 60 percent
10 of our students at Dr. King Elementary School have
11 asthma. And a lot of these health conditions are
12 related to housing conditions, which ultimately are
13 handled by our attorneys, and we're opening legal
14 clinics throughout the entire school district --

15 JUDGE LIPPMAN: So how did this
16 connection come about? The program with Legal
17 Services?

18 MS. GAZDICK: The program with Legal
19 Services is we have private law firms and Not for
20 Profit legal services throughout our entire city
21 offering pro bono. And it was through the Say Yes
22 Foundation as well as Syracuse University's Law
23 Clinic at the university to coordinate all of these
24 services. And we do that in all of the public
25 schools as we roll out the Say Yes Program across

1 the entire city. So currently we have six legal
2 clinics available for families, to reach 20,000
3 families.

4 JUDGE PFAU: Did you start out with this
5 comprehensive model, or did you identify as you were
6 kind of developing it that legal services was such
7 an integral part of how you could achieve success?

8 MS. GAZDICK: We started with a
9 comprehensive model knowing that Say Yes did this in
10 cohort models with 100 students in their other
11 chapters, where there were 100 kids that they
12 supported with high-quality academic, legal, health
13 and so forth. And then we took that model
14 district-wide to the entire City of Syracuse.

15 JUDGE SCUDDER: What's the scope of the
16 need, you know what I'm saying?

17 MS. GAZDICK: Yep.

18 JUDGE SCUDDER: -- of the need for legal
19 services? In other words, how much more would,
20 would you need to have to do an adequate job?

21 MS. GAZDICK: I think we're going to, we
22 are going to need to probably double the number of
23 legal clinics that we offer. What we're saying is
24 as the legal clinics pick up and people are
25 utilizing them and knowing that they're there, we're

1 seeing a lot of flow in each of those dep -- you
2 know, programs.

3 MR. DOYLE: Is it your impression, I know
4 you mentioned that some of this began with the
5 generosity of law firms and lawyers doing pro bono
6 work. Is it your impression that the need is
7 greater than can be met by pro bono efforts? That
8 it has to be met through legal services funded by
9 the public?

10 MS. GAZDICK: Yeah. I think that as this
11 grows, we'll get a better sense of -- but what we're
12 understanding from the pro bono field right now is
13 that there's not enough resources to meet the need
14 and how are we going to bring this to scale. So
15 that's a great concern to this. We have a legal
16 task force that meets with all of the legal services
17 in the city, and that is one of the major issues
18 that they raise as we begin to bring all our
19 programatic efforts to scale.

20 JUDGE LIPPMAN: What we're finding there
21 are lawyers in this state contribute more than two
22 million hours of pro bono service, and it's the tip
23 of the iceberg. You know, there's so much need out
24 there.

25 MS. GAZDICK: Yeah, I would agree.

1 JUDGE LIPPMAN: And it is so commendable
2 and so wonderful and we couldn't do what we have to
3 do without it, but it's all part of a puzzle, you
4 know, that fits together.

5 And I think what seems evident from your
6 testimony, what it tells me is that in communities
7 around this state, there are lots of pieces to the
8 puzzle. You know? That have to fit together to
9 have stable, thriving communities.

10 MS. GAZDICK: Yeah. And for the City of
11 Syracuse to offer free college tuition to all of our
12 graduating seniors, it's critical that our children
13 are prepared to take advantage. It's not enough to
14 just offer the free college tuition. We have to
15 remove all of the barriers, both academic, social,
16 emotional, legal and health, so that the kids can
17 take advantage of the college scholarships and be
18 more productive citizens and make contributions.
19 And it all is interconnected. We can't do one
20 without the other.

21 JUDGE LIPPMAN: Great. Okay. Jean
22 Claude Brizard?

23 MR. BRIZARD: Good morning, Chief Judge
24 and Judge Pfau, Scudder and Mr. Doyle. Thank you so
25 much for this opportunity.

1 My name is Jean Claude Brizard, I'm the
2 Superintendent of schools here in the Rochester City
3 School District. We have got 32,000 students, and
4 we serve 10,000 adult students. So again, thank you
5 for doing this for our kids.

6 Let me just start by saying that we don't
7 believe that poverty is an excuse for inadequate or
8 ineffective education. And we know of no other
9 effective path out of poverty other than delivery of
10 a quality education to our students.

11 We know, nonetheless, that social capital
12 correlates well to how effectively we can deliver
13 the educational services to our students.

14 I want to begin by sharing with you
15 census data reflecting the economic conditions under
16 which most of our students live.

17 According to the most recent census data
18 available, the City of Rochester ranks 12th in the
19 nation in per capita child poverty.

20 While Monroe County ranks 11th in New
21 York State in per capita wealth --

22 JUDGE LIPPMAN: Superintendent, I think
23 if you maybe move the mike a little bit further away
24 from you, you won't have that static you're getting.
25 Try that.

1 MR. BRIZARD: Sure, I'll try this.

2 The Rochester City School District has a
3 second highest per capita poverty rate among all 700
4 school districts in New York State.

5 Eighty-eight percent of our students are
6 eligible for free or reduced lunches.

7 Nearly 20 percent of our pre-K and
8 kindergarten students were recipients of neonatal
9 intensive care. This number has increased by
10 one-third in the past decade.

11 We are beginning to mirror third world
12 countries here in the city.

13 Twenty percent of our parents report that
14 their pre-K and kindergarten students have witnessed
15 violence in their neighborhoods.

16 Eighteen percent of our students have
17 been classified to receive special education
18 services.

19 One of the strengths in our community is
20 our cultural diversity, when compared to the City 20
21 or 30 years ago. Over the past five years, the
22 number of English language learners in our district
23 has grown from approximately 2,000 to 3,000, over 27
24 percent increase.

25 The number of languages spoken by

1 students here has grown dramatically from
2 approximately 20 to 72 over the past decade.
3 English language learners represent our fastest
4 growing population.

5 Given the economic and language barriers
6 facing City families, the need for civil legal
7 services is profound. Our families face much
8 greater risks of foreclosure, eviction, mental and
9 physical abuse, and unmet health and special
10 education needs when compared to their suburban
11 counterparts.

12 The Legal Aid Society and other legal
13 services agencies do their best to address the
14 following family needs in order that children arrive
15 at the school house doors ready to learn.

16 For example, assistance with applications
17 for Social Security Disability, Unemployment,
18 Worker's Compensation, aid to homeless and abandoned
19 children that are not living with a biological
20 parent due to economic circumstances, abuse or
21 incarceration.

22 Legal representation at meetings, as you
23 said earlier, of Committees of Special Education
24 with students with disabilities.

25 Assistance with matters of custody,

1 guardianship and foster care. Under the Federal
2 Fostering Connections Act of 2008, state and local
3 social service agencies and school districts are
4 expected to work together in order to minimize the
5 disruption in academic settings. But these
6 agencies, despite their best efforts, do not meet
7 the need. I can't quantify the unmet needs, but it
8 is so substantial.

9 Legal rights are empty promises unless
10 citizens have the ability to enforce those rights.
11 Children displaced from their homes due to
12 foreclosure, eviction or abuse, face enormous
13 barriers to educational and workplace successes.

14 So we support your initiative, Chief
15 Judge, and ask the State of New York to identify
16 permanent civil legal service funding streams,
17 improve the delivery of those services, and thus
18 remove the obstacles that stand in the way of
19 protecting the legal rights of the families of
20 students here in the City of Rochester. Thank you.

21 JUDGE LIPPMAN: Thank you,
22 Superintendent.

23 What happens to these kids if they don't
24 get the -- you know, we're focusing on the legal
25 services part of this equation. What are the

1 consequences when they can't access the different
2 kinds of services or benefits that they need to
3 have? What's the result from an educational
4 perspective in not getting the legal help that gets
5 them these other forms of help?

6 MR. BRIZARD: Well, you take a look at
7 the achievement rate of students here in the City of
8 Rochester. Until very recently we had the lowest
9 four-year graduation rate in New York State. When
10 you look at it again, the best example was early on
11 when students who have disabilities who are not
12 represented well. Imagine having a parent who knows
13 how to advocate for a child still having great
14 difficulty at CSE meetings and imagine one that is
15 not as educated, who doesn't have the resources to
16 seek and find those services and, therefore, not
17 represented and face this real intimidating process,
18 this cumbersome process. So kids don't get
19 services, they falter, they drop out of school.

20 And our mayor is very good at pointing
21 out that the crime rate is directly correlated to
22 the dropout rate in the City of Rochester. So if
23 you look at the kids --

24 JUDGE LIPPMAN: A direct relationship?

25 MR. BRIZARD: Absolutely. It is an

1 economic issue that you have as well because you're
2 losing monies from people that could be productive
3 citizens and contribute to our society.

4 JUDGE LIPPMAN: And instead they are a
5 drain on the society.

6 MR. BRIZARD: Absolutely.

7 JUDGE LIPPMAN: You know, and I think
8 that's one of the things that we find certainly in
9 the hearing yesterday and the one today that legal
10 services is not only the right thing to do, that
11 people should have, as you say --

12 MR. BRIZARD: Yes.

13 JUDGE LIPPMAN: -- be able to uphold
14 their rights. But that the bottom line is served by
15 getting those people legal help. That that money is
16 leverage a hundred times over.

17 MR. BRIZARD: Absolutely.

18 JUDGE LIPPMAN: In terms of having people
19 live productive life that benefits society rather
20 than again being a drain on society.

21 MR. BRIZARD: Absolutely. It also
22 provides a level of accountability for school
23 districts and systems should to do the right thing
24 for people perhaps who don't know how to
25 self-advocate. So when you have a child who needs

1 something and you have perhaps sometimes adults who
2 may not have the best interest of people in mind,
3 having an attorney sitting in your room suddenly
4 makes everyone pay attention.

5 JUDGE PFAU: Is Rochester different from
6 other parts of the state, or do you think the
7 scenario is laying out throughout the state?

8 MR. BRIZARD: I think it is throughout
9 the state. I worked in New York City for about 22
10 years, much of Brooklyn was part of my region. The
11 issues are very, very similar, the scales are a bit
12 different. But I bet if you were to walk into East
13 Flatbush, different parts of Brooklyn, you would
14 find the exact same story repeating throughout the
15 state.

16 JUDGE PFAU: And the ripple effect felt
17 in every school.

18 MR. BRIZARD: Absolutely. And you can
19 see the correlation. You have people that do not
20 advocate who have the resources to seek and find the
21 services, the achievement is much better than places
22 where you have adults who are struggling to support
23 the kids and parents that don't need to advocate for
24 their children.

25 JUDGE LIPPMAN: Great. Okay. Thank you

1 so much. Greatly appreciate it.

2 Dr. Kress?

3 DR. KRESS: Good morning. Thank you so
4 much, Chief Judge, for this opportunity to offer
5 testimony on this very important issue for all of
6 us.

7 Across our state -- I am President of
8 Monroe Community College in Rochester, New York.
9 Our college serves about 37,000 students over a
10 year, a little over 19,000 students in the fall so a
11 considerable number of students. And across our
12 state, across our nation, students come to community
13 colleges seeking a high quality education, higher
14 education that's also affordable.

15 Our students frequently come from
16 families where their goals and aspirations are not
17 matched by financial means. The cost to attend
18 Monroe Community College as a full-time student for
19 a year, our tuition is \$3,000 a year, which may
20 sound low, but then consider that over 70 percent of
21 our students receive some form of assistance to pay
22 for their college education, and 45 percent of them
23 access federal financial aid grants indicating that
24 they come from the lowest economic rungs in our
25 society.

1 They come to MCC, they come to community
2 colleges seeking a better life, but the reality is
3 many of them come from current lives that are filled
4 with strife that washes over into their academic
5 life, as we have already heard today.

6 I'm going to share some representative
7 and real stories that were shared with me from our
8 Equal Opportunity Program, which is a program at
9 MCC, like at many community colleges, that serves
10 students who are at the greatest risk for dropping
11 out, who come with the least degree of preparation
12 to our community colleges.

13 As their personal narratives will reveal,
14 their lack of access to consistent and quality legal
15 services has dramatically impacted their ability to
16 continue in college. And as a framer on that, I
17 want to share that we are in the midst of a national
18 discussion about college degree completion, our lack
19 of global competitiveness, and the fact that we have
20 fallen to 12th among developed countries in college
21 degree completions. So this is an issue that is not
22 just regional or statewide, it's a national issue at
23 this moment.

24 As might be expected, students needs to
25 access legal services in connection with housing

1 issues, as we have already heard here today, is a
2 recurrent one. For example, one student's mother
3 took a home equity loan that she, like many others,
4 did not completely understand. The mother of the
5 student had a limited education herself, and, in
6 fact, I think did not even complete high school.
7 The rate on the equity loan escalated rapidly, and
8 without recourse to assistance in understanding her
9 options, the mother lost the family home.

10 Because of the results of stress on the
11 mother, she lost her ability to handle many
12 situations, and the responsibility for finding a new
13 home for the family fell to the student. The impact
14 of this responsibility as well as her lack of
15 transportation to campus caused her to withdraw from
16 school for that term.

17 Another student and her mother lost their
18 apartment, and, for a while, they became homeless.
19 They were able to find temporary housing, which
20 initially seemed like it could become a permanent
21 option for the family. However, after they moved
22 in, they learned of significant issues with the
23 home, including a rodent infestation. They
24 complained repeatedly to the landlord, who, of
25 course, made promises to fix the property. Those

1 were never forthcoming. The home itself was
2 condemned. The family moved again. The repeated
3 moves and interim homelessness led the student to
4 miss classes and finally withdraw from courses. Her
5 failure to attend led to her failure to meet
6 academic progress.

7 And I just want to underscore this
8 because her failure to meet standards of academic
9 progress then compromised her ability to access
10 federal financial aid, essentially foreclosing her
11 opportunity to continue in school.

12 Other stories provide insight into the
13 struggles our many student-parents face in their
14 dealings with the legal system. For example, as a
15 result of an ongoing personal dispute, the father of
16 one student's son falsely reported the young woman
17 to Child Protective Services. Although she was
18 eventually cleared of any wrong-doing, she
19 repeatedly missed classes to attend court and she
20 subsequently again lost her financial aid because of
21 failure to make standards of academic progress.

22 I should also mention that other
23 students, typically mothers, are consistently in
24 arrears in their financial obligations to the
25 college because of their inability to collect child

1 support that has been awarded them rightfully. They
2 are forced to make decisions no one should make,
3 between buying a textbook and feeding their family,
4 between paying for a bus to come to school and
5 feeding their family.

6 Female students are also, unfortunately,
7 the majority of those on the receiving end of
8 abusive relationships. One student reported that
9 her ex-boyfriend broke her car windows, destroyed
10 the inside of her car, stole her school work and
11 textbooks. She withdrew from school for a period of
12 time because she was left with no transportation, no
13 books, and no recourse to replace either.

14 The fact is, too often, the students
15 whose futures can be most improved by access to
16 higher education at Monroe Community College and
17 community colleges across this state, lose this
18 opportunity because they cannot access consistent
19 and quality legal services. Many of them, and let
20 me add this, many of them, and you have heard this,
21 simply do not understand how to navigate the systems
22 that are even set up to assist them.

23 This is a loss for all of us: Rochester,
24 Monroe County, New York, the Nation. And for this
25 reason, Monroe Community College supports the

1 initiative of the Chief Judge in this task force.
2 We join you in asking the State of New York to
3 provide permanent and sufficient funding for low
4 income civil legal services. Thank you.

5 JUDGE LIPPMAN: Thank you. You know, I'd
6 ask you in relation to the community college, you
7 said that your kids are really the most vulnerable
8 in that they can go either way. They are not people
9 who are paying \$30,000 a year for tuition and the
10 families have the wherewithal to make sure that they
11 get through and have a decent job. That these kids
12 are either going to be productive, they are going to
13 get through and really be able to earn a living and
14 support themselves and support their families, or if
15 they can't navigate these different problems, that
16 legal services can help them out of, they fail, and
17 God knows what happens to them. They go in the
18 totally opposite direction.

19 DR. KRESS: And I would also underscore
20 that we're not just talking about kids, we're not
21 always talking about traditional college-age
22 students.

23 JUDGE LIPPMAN: Yes.

24 DR. KRESS: We're talking about people
25 who are 34, 35-years-old for whom --

1 JUDGE LIPPMAN: It's their last chance.

2 DR. KRESS: This next chance may be the
3 last chance that they have.

4 JUDGE SCUDDER: As you're aware here in
5 Rochester we have the Telesca Center For Justice?

6 DR. KRESS: Yes.

7 JUDGE SCUDDER: Which is a tremendous
8 project and does so much good, but they have limited
9 resources.

10 DR. KRESS: Mm-hmm.

11 JUDGE SCUDDER: Is it, when somebody
12 comes to your attention, do you ever send them
13 there? Or how's that work?

14 MS. KRESS: We definitely refer students.
15 We have entire counseling procedures, advising
16 procedures, to help students understand their
17 options outside of MCC.

18 But, you know, again, I'll just
19 underscore the figures. If we have 19,000 students
20 in the fall and 45 percent of them are accessing
21 grants to attend a college where the tuition is
22 \$3,000 a year, you know, that goes back to the
23 superintendent's point about the level of poverty
24 you find in Rochester and in so many communities.

25 JUDGE LIPPMAN: You know, I want to thank

1 the panel. I think it is instructive that even at
2 this point where we have only had, you know, some of
3 our witnesses, we see how legal services impacts so
4 many parts of life. Whether it be housing and the
5 roof over somebody's head, the well-being of
6 families, domestic abuse, success in education at
7 the grade-school level, you know, at the college
8 level, at the university level. Future jobs and
9 employment, you know, again, I think that there's a,
10 there's a tendency to think of legal representation
11 in a very narrow way. You know, a particular case
12 that, gee, you have representation or you don't.
13 But it's so almost seamless in a way it cuts over
14 all the lines of life and the way people, again,
15 become productive and, you know, lead meaningful
16 lives, and they're not a burden to society but
17 rather, you know, enhance a richness of our society
18 and all the different parts of it.

19 So it's very helpful to hear from people
20 from disciplines that you might not think at first
21 glance are really what this is all about. And it
22 sort of, again, cuts across so much of our life here
23 in the western part of the state and in the entire
24 state, and it makes the case again quite graphically
25 for the need for funding for legal services. So

1 thank you so much. Appreciate it.

2 The next panel, and again another area
3 which I think is so vital, which is our Health Care
4 Panel. And we're going to have Fran Weisberg,
5 Dr. Blatt, and Catherine Cerulli -- Dr. Cerulli.
6 Thank you.

7 Okay. We're going to start with Fran
8 Weisberg. And I'd ask you to introduce yourself and
9 tell everyone what you do and why you're here today.

10 DR. WEISBERG: Great. Thank you so much,
11 Judge Lippman. My name is Fran Weisberg, and I am
12 the Executive Director of the Finger Lakes Health
13 Systems Agency, which is the only fully functioning
14 independent community-based health planning
15 organization left in New York State. We hope that
16 changes sometime soon.

17 We serve the Finger Lakes region, which
18 is, as you know, a nine county area within the
19 Fourth Department. Our mission is to improve
20 healthcare in Rochester and the Finger Lakes region
21 by analyzing the needs of the community, bringing
22 together stake holders and organizations to solve
23 health problems and measure its results.

24 And I have to say what you were just
25 saying, it could be whether it's education, housing

1 or healthcare, it's the same issues for everybody.
2 And I have to say our job is to bring multi-state
3 cultures together to drive improvement in the
4 community. We could not do this. Every one of our
5 commissions, task forces, and work groups have very,
6 very many, many people from the legal services
7 community that are critical to the workers.

8 JUDGE LIPPMAN: So it's about
9 partnership.

10 DR. WEISBERG: It's completely about
11 partnership.

12 JUDGE LIPPMAN: And the legal services
13 community is so much a part of that.

14 DR. WEISBERG: And we leverage the work
15 that legal services folks do with the work that we
16 do. We just offer the community table.

17 Our health planning work is made real
18 through the many initiatives that we have, which is
19 to ensure the right care at the right time at the
20 right place to everybody in the community. We
21 convene what we called the 20/20 performance
22 commission right now, which has legal services
23 representation on it. A diverse group of community
24 leaders who meet very often and convene workshops
25 to -- our greatest goals is to right size the whole

1 healthcare system, reduce preventable
2 hospitalization, reduce suboptimal Emergency
3 department visits and strengthen the whole rural and
4 regional healthcare system.

5 We also have another very excited
6 commission called the Sage commission, which is
7 developing a person center integrated healthcare
8 system for older adults and allow them to enjoy care
9 in the least restrictive setting and help shift
10 investment to community resources.

11 Lastly, we convene and support this
12 community's African American health and Latino
13 health coalitions. These group of community leaders
14 support and inform our planning work to eliminate
15 disparities by helping our community build
16 non-medical approaches to reducing health
17 disparities. These coalitions supported the work to
18 document and report pressing health issues that
19 confront local communities of color with regard to
20 expanding access to needed services, empowering
21 people to navigate the complex system and help
22 healthcare providers to meet the unique needs of
23 Latino and African American.

24 I will say again, civil legal service
25 providers are vital to the work that we do in

1 improving health status and ensuring health access
2 and advocating for improvement to the healthcare
3 system. Whether it's work at the individual level,
4 like representing clients who are denied needed
5 benefits, or helping people navigate the Medicare
6 system and secure quality care they deserve.

7 JUDGE LIPPMAN: Won't that become even
8 more vital when you have the new legislation?

9 DR. WEISBERG: Exactly.

10 JUDGE LIPPMAN: The federal legislation
11 that are now coming into play.

12 DR. WEISBERG: And actually if the
13 Medicaid and Medicare system isn't confusing enough
14 now, it will be. I'm on the Governor's Advisory
15 Task Force of how our state actually is prepared as
16 is Empire Justice with getting ready for healthcare
17 reform. That was what the whole meeting was about
18 last week. It is complex, but it's so critical that
19 we get it right because it's about access for
20 everybody. But --

21 JUDGE LIPPMAN: Even the healthcare
22 professionals, I would guess, don't understand it.

23 DR. WEISBERG: Nobody understands it.
24 Right.

25 JUDGE LIPPMAN: But the legal services

1 people can explain it?

2 DR. WEISBERG: But I'm still one of these
3 people that are optimistic that it will do more good
4 than harm, and we need to get ready for it.

5 JUDGE LIPPMAN: No, no but whenever you
6 think about it, it is complicated.

7 DR. WEISBERG: It is very complicated as
8 is, and what I would say not only do we, our legal
9 services attorneys critical to the one on one work
10 of accessing care, Medicaid/Medicaid care, other
11 disability kind of payments that are needed, these
12 legal services folks are in every one of our more
13 public policy agenda issues to really ensure some of
14 the broadest issues.

15 We have great needs in this community. I
16 won't go through all of them. I have the testimony,
17 but I will give you -- the data speaks for itself
18 about the Latino and African American disparities
19 and unfortunately the poverty. None of the facts
20 that you have been hearing are startling in and of
21 itself. What is under-appreciated is the extent to
22 which poverty, race, ethnicity, geography, interact
23 and intersect with health status. When our planning
24 staff maps out the socioeconomic status, there are
25 clear patterns of economic segregation emerge and

1 how poverty relates on what that impact is on
2 health. I'll give you an example.

3 JUDGE LIPPMAN: When you have an economy
4 like we have today, those who suffer most are the
5 ones at the bottom of the ladder who are already
6 suffering.

7 DR. WEISBERG: Yes, exactly.

8 JUDGE LIPPMAN: And the lack of legal
9 representation impacts the very people you're
10 talking about.

11 DR. WEISBERG: And impacts their ability
12 to access care at the right place at the right time.

13 JUDGE LIPPMAN: Right.

14 DR. WEISBERG: And thus they are sicker.

15 And I will give you an example and of the
16 disparity of the lowest income. There is no
17 difference in diabetes prevalence in Latinos,
18 between Latinos and the general population. Yet
19 they are twice as luckily as non-Latinos to wind up
20 being hospitalized. With a two to one disparity in
21 diabetes, diabetic African Americans in our
22 community are hospitalized at a rate that is almost
23 four times greater than whites. And in Monroe
24 County, the Emergency department visitation rates
25 for African Americans were more than twice that of

1 whites. And when we also look at the disparities,
2 there is a sad disparity in who dies from disease
3 and at what age.

4 The work that legal service attorneys do
5 with our task forces are there to breakdown the
6 barriers and come up with solutions, whether it's in
7 cancer, heart disease, diabetes or AIDS, people of
8 color are sicker and die younger than the rest of
9 our community, and there is tremendous impact on
10 that, that we need legal help to really breakdown
11 the barrier.

12 In aging and long-term care it is the
13 same issues, and a perfect storm of challenges that
14 really threaten the viability of health service for
15 older adults. We all know the aging of the
16 population. The problem is if we don't get help
17 that navigates the Medicare and the Medicaid and
18 the Disability system, you will see tremendous more
19 problems that exist.

20 We have something called AL -- Alternate
21 Care Status, that people who are fair older adults
22 that are left in hospitals way later than they
23 should be, and the reasons why they have that is
24 because of Medicaid issues, Medicare issues. And
25 what I also want to say, and there's other people

1 here that know this better than I, that we do not
2 have an effective person-centered guardianship
3 system that allows these folks who have lost in
4 diminished capacity, person centered, that can
5 really have somebody else that can speak for them
6 but understand the system.

7 The Kaiser Family Foundation recently
8 found that people under 65 who have Medicare as a
9 result of a disability are more likely to experience
10 difficulty in accessing and paying for care. We
11 know that although healthcare reform will fix some
12 of that, there are so many issues still not
13 addressed. Hospital and healthcare providers did
14 not single handedly create these problems, nor can
15 they fix these problems at all. We need activities
16 that are like Legal Services. Healthcare
17 improvement cannot happen without civil legal
18 services in a very incredibly complex system so that
19 we have help in accessing the system.

20 And I can keep talking about churning and
21 Medicaid churning and so many other kinds of issues
22 that exist. As you've been saying before, whether
23 it's education, housing or healthcare, legal
24 services is intertwined into our ability what we
25 call and it is a critical tool in our tool box.

1 JUDGE LIPPMAN: It is almost the glue.

2 DR. WEISBERG: It really is the glue. We
3 have the Lead Coalition that works with us, we have
4 the obesity work, we have the Ryan White Network.
5 And every one of us plus the 20/20 Commission, and
6 we're trying really to decrease disparities. The
7 lawyers in Empire Justice, Legal Services, Legal Aid
8 are all intertwined in every part of what we do.

9 JUDGE PFAU: So the uncertainty in
10 funding of the state of civil legal services has a
11 very direct impact on your organization's ability to
12 plan and move forward?

13 DR. WEISBERG: On both levels. Both on
14 the individual level of that individual who is
15 uninsured because they can't get their Medicaid in a
16 timely fashion, to the broader public policy work of
17 preventing lead, preventing obesity kinds of work
18 from the policy to the individual. Thank you.

19 JUDGE LIPPMAN: Thank you.

20 Okay. Dr. Blatt?

21 DR. BLATT: Good morning, distinguished
22 members of the task force. It is really my distinct
23 honor to appear here to provide testimony about
24 important issues facing my patients, their families,
25 and people in need in my community.

1 I am a pediatrician on the faculty at
2 Upstate Medical University in Syracuse. And I have
3 been working in our Outpatient Pediatric Department
4 for the past 20 years. I also am the Director of a
5 clinic which provides healthcare to every child in
6 foster care in Onondaga County. And I am the
7 Medical Director of the Syracuse Medical-Legal
8 Partnership, a partner-site of the National Center
9 for Medical-Legal Partnerships.

10 As a pediatrician providing care to an
11 underserved population, I really congratulate you
12 and your colleagues for looking at ways to improve
13 access to civil legal services for my patients and
14 their families. And I want to share with you some
15 of the characteristics of my patients, some of the
16 obstacles that they face, and some of the efforts
17 currently underway to help them.

18 You've asked some of the other panelists,
19 and I know patients and families seen in my office
20 and Syracuse are very similar to the ones seen in
21 Rochester and Buffalo, the North Country, the
22 Southern Tier, Harlem, Bronx. Patients are
23 patients, they really are, and the data does bear
24 that out.

25 I don't want to spend a lot of -- any

1 time talking about statistics, but I do want to give
2 you a clear idea about what these people actually
3 look like. The typical mother that walks into my
4 office became pregnant for the first time when she
5 was a teenager. The typical mother became pregnant
6 when she was a teenager. Less likely to graduate
7 from high school or to hold a full-time job than
8 women who delay child birth until they are in their
9 20's.

10 The father is unlikely to live in the
11 same home as the mother and the child. Is unlikely
12 to provide financial or other assistance. They are
13 poor. They receive public assistance funds.
14 Healthcare is paid by Medicaid. But even though
15 that's all true, it really doesn't begin to capture
16 what, who they are.

17 And one thing that I would like everyone
18 to consider is really what poverty is. And all of
19 the other panelists have mentioned poverty. And
20 poverty, it's not the absence of money. My medical
21 students are poor. When you were in law school you
22 were probably poor. College students are poor. In
23 fact, after I take my four children shopping, I feel
24 poor.

25 But we are not in poverty. If everyone

1 in this room left your wallets behind and moved to
2 the Midwest with only \$50 in your pocket and the
3 clothes on your back, within a short period of time
4 you would have a job, a place to live, and something
5 to eat. And that's because we have an education.
6 We know how to find a job, we know how to work, and
7 we know how to manage our money.

8 People in poverty do not have those
9 skills. It's more than the absence of money.
10 Poverty means a lack of education, living a
11 disordered, chaotic life. It's not knowing how to
12 manage the few dollars that you have. You're
13 spending more than half of your monthly income on
14 housing, and not uncommonly, as people that have
15 mentioned already, on an apartment that may be
16 without heat or full of mold or otherwise unfit to
17 live in.

18 Ever wonder why obesity, which now
19 affects more than 30 percent of the pediatric
20 population, is so much more common in poor people?
21 It's because people in poverty do not have good
22 access to healthy food. And healthy food costs more
23 money. For \$5, you can easily get 2,500 calories at
24 a fast food place, but in a supermarket it will buy
25 you half a head of lettuce, a cucumber and a tomato.

1 People in poverty do not receive
2 appropriate healthcare. At least most of the
3 children in New York do have access to medical
4 insurance, but that doesn't mean they actually make
5 it to the doctor. No matter where one goes in this
6 country, the no show rate at clinics that care for
7 children on Medicaid have about a 30 to 50 percent
8 no show rate.

9 There are multiple reasons why kids don't
10 make it to the doctor. Certainly part of it is
11 people don't recognize the importance of healthcare.
12 But most parents understand about physicals and
13 shots. I think the bigger issue is it takes a lot
14 of work to make it to the doctor. One needs to
15 schedule an appointment, have a calendar to know
16 when to show up, arrange for transportation, battle
17 inclement weather, arrange for Medicaid coverage,
18 wait in offices. Make sure you don't have to go to
19 another appointment at the Civic Center at the same
20 time for your Medicaid or housing benefits, and so
21 forth. And it's almost amazing that anybody makes
22 it into the office.

23 Similarly people in poverty have in the
24 rest of their life, have the same challenges. My
25 office has 25,000 visits annually. A few years ago

1 we surveyed our families and found that 60 percent
2 of them had at least one unmet legal need. This
3 included economic issues such as public benefits or
4 entitlement programs, housing issues, education,
5 special education, custody and guardianship,
6 immigration, domestic violence, divorce and elder
7 law.

8 JUDGE LIPPMAN: So, Doctor, because of
9 all of those issues, if you don't have legal
10 services, they don't get to your office.

11 DR. BLATT: They may -- well, here's the
12 interesting thing. They find it to my office, and
13 we want to help them get legal services because
14 they --

15 JUDGE LIPPMAN: If they get to your
16 office, you help them get legal services.

17 DR. BLATT: Correct. But we at least get
18 to start with them in the hospital when the baby's
19 born. So we do get a crack at em'.

20 So why do I care about these legal
21 issues? Most doctors do not routinely ask their
22 patients about them and most of us don't enjoy
23 dealing with them.

24 JUDGE LIPPMAN: Do you actually do that?
25 You ask your patients about legal --

1 DR. BLATT: Absolutely.

2 JUDGE LIPPMAN: -- Problems.

3 DR. BLATT: Absolutely.

4 JUDGE LIPPMAN: And you try and funnel
5 them towards legal services?

6 DR. BLATT: Yes, we do. And the way we
7 do that is we have this medical legal partnership.
8 And I want to explain that to you.

9 JUDGE LIPPMAN: I thought the medical and
10 legal communities are not necessarily always on the
11 same page?

12 DR. BLATT: You know, that is -- that's
13 old thinking already. And this program started --

14 JUDGE LIPPMAN: Well, you're well beyond
15 that. You're well beyond that. Go ahead.

16 DR. BLATT: Okay. So in the 90's this
17 came out of a model at Boston University, and it's
18 really spreading throughout the state. And we
19 partner with Syracuse University College of Law, and
20 what we do is we actually have law students and law
21 faculty come to our offices, and when we go see a
22 patient, the law student comes in with us. And if
23 they need a lawyer, they are right there. If the
24 law student or law faculty are not onsite, we refer
25 them to you.

1 And I just want to share with you a few
2 examples. A mother came to our office in September.
3 She said she moved from the City of Syracuse to a
4 suburb to live with her mother. She went to enroll
5 the kids in a school in the suburb. They said, you
6 don't live here, your driver's license says you live
7 in Syracuse, you got to go there. They said go to
8 Syracuse. She says, no, I live here. Two weeks
9 into the school year, the kids were still not in
10 school. She came to my office, I don't even think
11 she knew why she came to my office, but she came to
12 my office, told us the story. Within two days she
13 had a lawyer. They went to the school, the kids
14 were enrolled in school.

15 But we don't always know as doctors or
16 healthcare professionals what a legal issue is. A
17 resident came to me in our conference room and told
18 me about a nine-year-old who was here for a
19 well-child visit. Said, by the way, the child's in
20 special education. By the way, he got in a fight,
21 they're going to suspend him. Luckily, the law
22 faculty was standing next to me, and she pointed out
23 that if this is part of the child's individual
24 education plan, you cannot suspend him, you have to
25 remediate him. We got them a lawyer, went back to

1 school, and the child was never suspended.

2 JUDGE PFAU: So the visits are really you
3 get two for one?

4 DR. BLATT: Correct.

5 JUDGE PFAU: You see the doctor and you
6 see the lawyer.

7 DR. BLATT: Absolutely, absolutely. You
8 know, it used to be I would go into the room and I
9 would say to the lady, are you the mother or the
10 grandmother? And I'd move on. Now, when I find out
11 she's not the mother, I say, do you have custody?
12 And if she says no, I say, well, do you want to know
13 about custody? And a lot of times they don't, but
14 sometimes they do, or they may not today but a month
15 later when the mother comes back and starts
16 threatening, they want custody, and then they get
17 the lawyer. And this comes up with everything, with
18 housing, immigration.

19 JUDGE LIPPMAN: So, again, this is what
20 we say, it all fits together.

21 DR. BLATT: It all fits together. And
22 one of the reasons why it fits together is because
23 people still trust doctors. They know when they
24 have a problem, and certainly pediatricians with
25 their child, they show up at our door. And even

1 when they don't have a problem, it's our job to ask.

2 And this is a model that is spreading
3 across the state. There's some legislation proposed
4 both statewide and federal to try to support these
5 services.

6 The thing is, as a doctor I love it,
7 because, I mean, I really do enjoy the law, I love
8 Law & Order, but, but this, I don't take care of
9 this, I want to be a doctor, and it is just so much
10 easier for me to say, okay, you have this problem,
11 go to the lawyer, you're going to get better medical
12 care for it.

13 JUDGE LIPPMAN: What we need to do is to
14 get you the funding so that you have lawyers to send
15 these people, too.

16 DR. BLATT: That's right. Right now.

17 JUDGE LIPPMAN: That's what we're trying
18 to do.

19 DR. BLATT: That's why we need this. We
20 need the funding. And that the other thing I just
21 want to point out is that we need more than just
22 lawyers. We need to get lawyers to where the people
23 are. You know that my patients, they may not know
24 that they have a legal problem. They may have a
25 legal problem -- they may know they have a legal

1 problem, but they have had bad experiences in the
2 past, either they lost or they were arrested or it's
3 too confusing. And so lawyers are not sufficient.
4 We need to get the lawyers to where the people are,
5 and we need to get people like doctors and schools,
6 you know, the folks from Say Yes doing it in the
7 schools. And we do work with them. We share a
8 lawyer who helps oversee both programs, but it's
9 more than just bodies, we need to get the bodies to
10 the people who need them.

11 JUDGE LIPPMAN: Great. Thank you so
12 much. Any other questions? No? Okay.

13 Dr. Cerulli, who I know of your good
14 work. Do you want to introduce yourself?

15 DR. CERULLI: Yes, I would. My name is
16 Kate Cerulli. And I'm with the laboratory of
17 Interpersonal Violence and Victimization at the
18 University of Rochester Department of Psychiatry. I
19 have been working in the field of intimate partner
20 violence since 1983. And I can tell you over my 27
21 years being an advocate, a shelter worker, taking
22 911 calls before they were routed to the centers,
23 and being a prosecutor, that civil legal services is
24 imperative in addressing the social problem.

25 I can also tell you as the Director of

1 the laboratory, that our past, present and current
2 research projects including randomized control
3 trials to help the court systems respond differently
4 to social issues, that counsel is imperative for
5 every one of the projects that we have been engaged
6 with.

7 I'm going to focus for just a moment on
8 intimate partner violence, which affects 23 percent
9 of women nationally and seven percent of men. If
10 you think about that in terms of having a house
11 party, one in four people walking in the door is
12 likely to be suffering such a situation.

13 Intimate partner violence lasts long
14 beyond the physical abuse. It can result in sleep
15 issues, depression, posttraumatic stress disorder,
16 increased use of pain medications, long lasting
17 physical, mental health consequences, which in the
18 end cost our counties and communities money because
19 that results in lost wages, lost work days, lost
20 productivity, incarceration, and other, other
21 situations that I will discuss momentarily.

22 In addition to the people I have just
23 told you, one in four walking in the door, uncounted
24 numbers of children also are involved in this issue.
25 We can put someone on the moon, we can have space

1 labs where people live forever, but we cannot get a
2 count of how many children are living in this
3 country exposed to this issue. Children not only
4 see the violence, they also are at higher risk
5 experiencing the violence, having medical
6 consequences themselves, and also have to watch the
7 aftermath of the violence.

8 How this results in costs to our
9 communities, these children end up having
10 difficulties in school. They have health and mental
11 health consequences, behavioral issues, and they are
12 at risk for future victimization and potentially
13 perpetration, which again is continuing the cycle
14 which we know is intergenerational.

15 The healthcare system and legal system
16 have become the frontline providers for this issue.
17 For the legal system, we're still in the infant
18 stage of our response only having started the past
19 two or three decades.

20 We have no way of knowing what this issue
21 is costing our communities. While the Center for
22 Disease Control has promulgated certain figures, I
23 believe they are a gross underestimation of the
24 problem. The reason is because the Center For
25 Disease Control forgot to look at our side of the

1 fence. They forgot to account for what it costs the
2 community in terms of legal responses to this issue.

3 But it's important that we have legal
4 responses to this issue because of the long-lasting
5 consequences, not only to individuals but also to
6 our communities. Domestic violence has documented
7 connections with poverty, which has been talked
8 about at great length. We have a connection to
9 homelessness. Many of those people homeless are
10 women and children. It raises landlord tenant
11 issues, immigration issues. People who are fearful
12 to come forward with their violence victimization
13 experiences because they are afraid of deportation.
14 Every single one of those issues in addition to
15 accessing benefits, disability, and anything that
16 they are entitled to, they will need legal counsel
17 to help navigate these systems.

18 We recently, I will bring two cases to
19 your attention. One, in which the victim had 12
20 Emergency Department visits in a very brief period
21 of time, and a homicide in Monroe County in which
22 the victim had 17 trips to the Emergency department
23 before killing her abusive partner. While the
24 Emergency departments can place band-aids on wounds,
25 offer pain medication, treat em' and street em', the

1 Emergency departments are not able to offer the
2 long-term curative effects to rid the family of this
3 issue. Those things include custodial agreements,
4 support, maintenance, divorces, protection order
5 acquisition.

6 And why do I think protection order
7 acquisition is so important? Because we know from
8 the social science field, it is evidence based that
9 correctly drafted protection orders can reduce
10 injury in the future up to 70 percent. If we can
11 reduce injury up to 70 percent, we will eradicate
12 the need for multiple Emergency department visits,
13 draw downs on Medicaid/Medicare costs, and we can
14 actually have people most importantly lead healthier
15 and better lives.

16 Our research in Monroe County documents
17 that attorneys who are trained especially in
18 intimate partner violence are likely to have better
19 outcomes, however that is testimony for another day.

20 If we can provide these trained civil
21 attorneys to provide services to these families
22 across a host of their social issues, we can
23 ameliorate the health consequences, the mental
24 health consequences, reduce children exposed to
25 violence and just provide better health.

1 In addition to accessing protection
2 orders across the spectrum of courts that we
3 currently offer, divorce is also an important remedy
4 in many of these cases. We know again from social
5 science research, which unfortunately at the time
6 could not include New York, that easy access
7 divorces reduced not only homicide and assault but
8 also suicidal ideating for victims who are
9 experiencing violence. Given the dramatic changes
10 in divorce laws in New York in the recent past few
11 months, we are offering people an empty envelope if
12 we do not offer them civil legal services to help
13 them with these new improved divorce laws.

14 Why is that important? A client I've
15 been working with experienced 20 years of violence,
16 had over 12 calls for police service to her house.
17 She paid for her attorney, up to \$20,000, another
18 attorney bill up to \$6,000, still no divorce papers
19 filed, no custody agreement signed in her hand. It
20 was not until VLSP took that woman's case that she
21 finally had what I would consider access to quality
22 care. Within a brief time with VLSP's attorney she
23 is now in the process of filing papers which should
24 have been filed almost two years. It is imperative
25 that we continue to offer people these resources.

1 The cost of a civil legal attorney seems
2 a low cost to bear for a healthier community both
3 for victims, their children and the perpetrators as
4 well. Short-term solutions using civil legal
5 remedies can have big payoffs. It can help us keep
6 people off of public assistance, keep their housing.
7 In turn be able to keep, maintain stable employment.
8 These are simply the first steps to the hierarchy of
9 needs that we know everybody is entitled to.

10 I support your mission wholeheartedly
11 that we provide access and funding for civil legal
12 services. They play a critical role in the
13 healthcare issue and have amazing opportunities to
14 be collaborative partners in healthcare treatment
15 plans.

16 We've already heard a little bit about
17 the health education law partnerships, but I will
18 tell you that we just started the first clinical
19 service in a court that we know of offering onsite
20 treatment and assistance for victims of violence
21 suffering trauma. Again, we can do little to help
22 their trauma if we can't help them secure adequate
23 legal remedies as medical providers. Only through
24 breaking the cycle of violence will we improve our
25 community's health.

1 At some point if we don't offer civil
2 legal services, we will pay one way or another. The
3 way that we will pay will be increased homicides,
4 increased healthcare costs, increased incarceration
5 for perpetrators, if left for the violence to
6 escalate, and the impact on children will be
7 immeasurable in terms of dollars. It will only be
8 measurable in terms of lost opportunities. It is
9 important that we invest now or we will pay later.
10 Thank you.

11 JUDGE LIPPMAN: Thank you. You know, one
12 point that you raised, I think that's so important
13 in talking about may in talking at a different
14 times, it's not only civil legal services that give
15 more lawyers, and more funding, it is that they
16 really have to be trained in some of these areas
17 that are very specialized. And you know, it's not
18 as simple as just saying, gee, if we got a little
19 more money we will be all right. We need money to
20 put the right person in the right spot, whether it
21 is in the doctor's office or in the domestic
22 violence clinic. I mean, there are just so many
23 issues that affect directly people's lives that
24 even, even, you know, a competent lawyer isn't
25 necessary equipped to deal with, and I think some

1 the issues you see are very much along those lines.
2 You know, state of the art kind of training.

3 MR. DOYLE: And the other thing we have
4 seen, Doctor, is from numbers of witnesses now is
5 that though the desire and the capacity for the
6 legal community to provide pro bono services is
7 really unmatched and is quite commendable. It's
8 not sufficient. It's no way can be sufficient to
9 deal with these issues in terms of volume, or as the
10 Chief Judge suggests, in terms of specialized
11 training.

12 We heard from some of the first witnesses
13 who had specialized problems with the CSE and
14 domestic violence, that, you know, even if they had
15 access to attorneys, that they didn't have the
16 concentration, the specialization in particular
17 areas such as you're talking about and such as the
18 doctor was talking about.

19 JUDGE LIPPMAN: And to have legal service
20 providers who have people in these different
21 specialties costs money.

22 DR. CERULLI: Yes.

23 JUDGE LIPPMAN: You know, to get people
24 to be able to allow them to have a specialty to
25 understand it, to really help people, you know, is a

1 whole organizational and educational, a challenge
2 for the providers.

3 MR. DOYLE: Doctor, the demographics of
4 the people you're talking about who need these
5 services, they can't afford private attorneys. I
6 mean, if a law firm wanted to go out and create
7 itself as a law firm for domestic violence victims,
8 they wouldn't be able to sustain itself
9 economically.

10 DR. CERULLI: Likely not. The issue with
11 the domestic violence affects all
12 socio-demographics, but I think that for people that
13 have resources, they can move out quicker, they can
14 secure housing quicker, in some way circumvent the
15 problem, and they can afford the attorneys.

16 The individuals that I work with even if
17 they come from a middle class family, if they are
18 leaving in the middle of the night with the shirts
19 on their back, they have no access to their assets.
20 They can't even release enough of their funds to put
21 down a retainer. So even for those who have the
22 resources, it's different to have them and to have
23 access to them.

24 MR. DOYLE: Okay. Thank you.

25 JUDGE LIPPMAN: Okay. Anything else?

1 Thank you so much. Again, I think that shows a wide
2 impact that Legal Services has on so many different
3 parts of our society.

4 Okay. The next panel will be a Judge's
5 Panel. You'll get a firsthand view of the need for
6 civil legal services. And so I would ask Judge
7 Nowak, Judge McKinney, Judge Nesser, and Judge
8 Winslow to come up to the witness table.

9 Your Honors, it is a pleasure to see you
10 all, and I think you have a unique perspective to
11 offer, as we saw yesterday in Manhattan, where we
12 had a number of judges who came up and testified
13 about civil legal services and how it impacts some
14 what you all supposed to be doing. I know it is a
15 little strange for you on the other side of the
16 fence here, with the red lights and the white
17 lights, usually go the other way, but you'll do the
18 best that you can. So let's start out with Judge
19 Nowak.

20 JUDGE NOWAK: Thank you, Judge Lippman.
21 It is a pleasure to be here. I am a housing Court
22 Judge in the City of Buffalo. I served in that
23 capacity for eight years now. And I preside over
24 all of the code violation cases in the city. But
25 more importantly to this panel since 2007 I presided

1 over approximately 7,700 evictions per year in the
2 City of Buffalo.

3 In general, litigants in evictions have
4 negative and often volatile relationships. By the
5 time they come to court tenants and the landlords
6 hate each other. They want to tell me the whole
7 story. Or the court referee that's assigned to help
8 me. The entire history of their relationship, which
9 is now fractured to the point where they are at each
10 others throats.

11 Ninety-five percent of the information
12 they wish to share is irrelevant to the proceeding.
13 Much of the information that they wish to share is
14 against the interest of the individual who's
15 speaking, especially if that's the tenant.

16 I have been fortunate since 2007 to have
17 two programs that provide free legal services to
18 tenants, and in fact, they represent over 90 percent
19 of the tenants that are facing eviction in the City
20 of Buffalo in my courtroom through two programs.
21 One through what is known as the Attorney of the
22 Morning Program, that's funded by the Volunteer
23 Lawyers Project, that's three days a week, and the
24 other two days a week through Neighborhood Legal
25 Services.

1 The attorney's ability to calm the
2 clients down, narrow the issues, make appropriate
3 motions, and most significantly negotiate
4 settlements greatly reduces court time and achieves
5 better results in the neighborhoods often saving the
6 tenancies and saving the homes of the tenants with
7 appropriate payment plans.

8 JUDGE LIPPMAN: When the lawyers not
9 there, what does that do to you in the role that
10 you're supposed to play in the courtroom.

11 JUDGE NOWAK: Well, the 95 percent of the
12 story that's irrelevant comes out. And sometimes I
13 end up ruling against someone because of what they
14 said in court when they couldn't control themselves.
15 It's not uncommon if I have a case, you know, one of
16 those 10 percent of the cases where neither side is
17 represented by an attorney, I often very quickly
18 explain what happens at the end depending on who
19 wins or loses ahead of time. And I do that in my
20 own self-interest because I want to warn the parties
21 ahead of time that you know, I know that you are
22 angry with each other, I know that you're hating
23 each other, I know that you're screaming at each
24 other, I heard you in the hallway, but if you win
25 landlord, and you're successful in getting your

1 judgment of possession of a warrant of eviction,
2 your tenant will be escorted out ten days from now
3 by city marshals. And what I of course am trying to
4 imply is if the tenant decides to put his current
5 hatred that he's clearly demonstrating for you into
6 your house that the tenant is currently residing in,
7 that takes ten minutes not ten days.

8 JUDGE LIPPMAN: Do you feel your role as
9 a judge is compromised when you have one side that
10 does have an attorney and the other doesn't in terms
11 of how you maintain neutrality when you have one
12 side that's very vulnerable and the other side well
13 represented by an attorney?

14 JUDGE NOWAK: Yes. Especially in a case
15 where a landlord who has means to understand, owns
16 property, they may own a number of properties, has
17 an attorney and the a tenant has no attorney,
18 there's certainly more of an equal playing field if
19 the landlord is pro se and the tenant has counsel.

20 JUDGE LIPPMAN: We had some of that
21 yesterday where the judges were telling us that, you
22 know, they are caught in the situation that
23 challenges their role as an neutral arbiter and
24 makes it very difficult so they can't be an
25 advocate, you know, and yet you have this unequal

1 playing field so it's not productive in terms of, as
2 you say, the efficiency and the end result of what
3 the justice system must be there for.

4 JUDGE PFAU: And we heard particularly
5 with regard to Housing Corp., we're talking about if
6 the judge sees defenses that may be available to the
7 tenant that the tenant doesn't see, and where is the
8 judge's role in that, and how do you do justice?

9 JUDGE NOWAK: Yes.

10 JUDGE PFAU: Very challenging.

11 JUDGE NOWAK: That happens all the time.
12 Especially in regards to warrant of habitability and
13 totality of eviction. That happens all the time
14 with pro se litigants where attorneys would pick
15 those up and present them.

16 Just two other points I want to make very
17 quickly. The Volunteer Lawyers Project has an
18 operating budget of \$40,000 and they have a staff
19 with that relatively meager of budget that recruits
20 and trains pro bono attorneys that represent tenants
21 about five hundred hours per year in my court. And
22 so the funds that they do receive are leveraged to
23 the greatest extent that they possibly can.

24 JUDGE LIPPMAN: But think about what
25 lawyers in the private sector earn and the amount of

1 money that's available for a program like this which
2 is so vital. The \$40,000 doesn't necessarily go as
3 far as we would like it.

4 JUDGE NOWAK: Absolutely.

5 JUDGE LIPPMAN: For the chairman.

6 JUDGE NOWAK: Absolutely. I think the
7 time that the court would need to spend without
8 those attorneys would greatly exceed \$40,000 in
9 terms of judge time and court reporter time and all
10 that.

11 The last point I would mention is we had
12 a study in any courtroom in 2007 that was done by
13 the University of Buffalo SUNY System Department of
14 Family Medicine came into court. They operate a
15 program known as Gold Choice, which is an arm of
16 Medicaid in Erie County that serves mental illness.
17 And it provides that. And the problem they
18 presented me with in 2007 is that in order to stay
19 on the Gold Choice Program, an individual receives a
20 document in the mail. They need to fill it out and
21 send it back. If that individual is evicted and if
22 the mail is not forwarded properly, they lose
23 their -- they lose their benefit, their Gold Choice
24 benefit to deal with their mental health issue.
25 Which then creates a myriad of other problems. So

1 they asked if they could just compare the docket
2 sheets, track the system and everything else, see if
3 they can catch anybody that may have been evicted so
4 that they can try to find a better address, track
5 them down, make sure they keep their benefits. So I
6 said sure, you can watch the dockets, monitor the
7 program. I thought they'd catch three or four
8 people, help them out and that was it. They came to
9 me February 2008 after conducting their sample and
10 their survey and said, Judge, we looked at several
11 hundred, took a sample of several hundreds
12 individuals that were evicted in your court. Do you
13 have an estimate as to how many are part of the Gold
14 Choice Program? And I said four or five? They said
15 27 percent that have documented mental illness as
16 part of Gold Choice Program. Now, that's including
17 anyone who may have fallen through the cracks, are
18 not part of the Gold Choice Program and qualified
19 for benefits. That's just the ones that they know
20 of. 27 percent of the people evicted in the City of
21 Buffalo based on the sample of 2007 have a
22 documented mental illness.

23 So you look at that in terms of the
24 attorneys ability to step in, help them, calm them
25 down, and try to save their home, it shows it's even

1 more critical.

2 JUDGE LIPPMAN: With the idea that there
3 are reasons why people come to the court.

4 JUDGE NOWAK: Absolutely.

5 JUDGE LIPPMAN: And to get to those
6 underlying reasons is not quite as simple as one
7 might seem. And, you know, the lawyers, certainly
8 legal services can play a tremendous role but
9 getting, you know, in peeling the layers and getting
10 to what this is really all about and getting people
11 the help that they need.

12 Okay. Judge McKinney? Delight to see
13 you.

14 JUDGE MCKINNEY: It is a pleasure to be
15 here. I'm Langston McKinney. I'm a sitting judge
16 in Syracuse City Court. I've been doing it for the
17 last 24 years.

18 I just want to just briefly state the
19 following: I think there's a need for lawyers to be
20 representing unrepresented individuals in the civil
21 side, especially in the housing area.

22 One of the things that's overlooked by
23 like the volunteer lawyer program is the follow thru
24 that occurs after court. And a real significant
25 lacking point is that our volunteer lawyer program

1 does no trials. That's a little problem. Short
2 term is a problem because if a case goes down for
3 trial, the defendant's put at the mercy of having to
4 secure the services of a lawyer, perhaps from Legal
5 Services, in the neighborhood legal services in our
6 community. And they don't have the full-time to
7 prepare a defense and present a defense as a lawyer
8 who had been on board originally.

9 That other area where follow thru is
10 absolutely necessary is once a warrant of eviction
11 issues or a stipulation occurs in court, there's
12 very little supervision over the effectuation of the
13 agreement as is made in court by someone who is of
14 equal stature with the landlord.

15 There's a world of difference between a
16 landlord who's appearing pro se and a tenant who's
17 appearing pro se. A landlord is normally versed in
18 all the practical and beneficial aspects of the
19 RPAPL whereas most tenants aren't. And even, so the
20 playing field is not even level there.

21 We have to intervene. We, being the
22 judge who's presiding, just to try to ensure that
23 the letter and spirit of the law is fulfilled
24 without necessarily appearing overly or partial to
25 the tenant.

1 JUDGE LIPPMAN: Right. And isn't that s
2 difficult. In terms of the role we're supposed to
3 have? You know.

4 JUDGE MCKINNEY: Not taking over the past
5 few years just in general the landlord that I have,
6 the origin of the landlord tenant law is principally
7 and primarily to protect property and property
8 owners. It's only been in the last hundred years or
9 so that we have seen any kind of significant change,
10 50 years, more significant change that tip the law
11 in favor of the tenant. I use that as a
12 rationalization for saying the trend is to push the
13 law more in the direction of the tenant so there's
14 some liberty for me to not necessarily advocate, but
15 to not be so willing to grant every single demand or
16 request that the landlord makes.

17 And that's a segue into the last part of
18 my little presentation here is I just think it is
19 very, very important for you all to know that where
20 we place judges in situations where people possibly
21 and probably will not be represented by lawyers, it
22 is absolutely imperative that the judge who presides
23 have a full and sound working knowledge of the law.
24 What it does, what it purports to do, what it was
25 designed to do. Letter and spirit. And there's

1 some possibilities to intensify the level of
2 training or, in the words of your predecessor,
3 perhaps create a problem-solving court that
4 addresses that as being perhaps a community problem.

5 When we don't have the advocates for the
6 tenant on a wholesale basis, very little, if any,
7 law reform occurs.

8 I can tell you, I see people in my court
9 that I represented 30 years ago that work for Legal
10 Services, tenants and landlords, all right? And
11 it's just the housing stock in the community is not
12 enhanced at all unless there's a major force that
13 says there's little or no value in renting bad
14 property. And I think the pro bono sources, the
15 Legal Aid and legal services organizations have
16 little or insufficient resources to manage --

17 JUDGE LIPPMAN: There's no question about
18 it.

19 JUDGE MCKINNEY: A mounting campaign that
20 says let's try to improve the housing stock by
21 taking some of the worst offenders out of the
22 business, making it more difficult for them to
23 prevail in the landlord/tenant relationship in
24 court.

25 JUDGE LIPPMAN: Okay. Thank you, Judge.

1 MR. DOYLE: Judge, I think that's an
2 important point you make. We have been focused so
3 far on the role of lawyers in these various settings
4 to help people enforce existing rights, so to speak,
5 that exist, but the people may not know how to
6 enforce them themselves. You're talking about the
7 lawyers role in terms of improving, pushing the
8 bounds of the law, helping perhaps even helping to
9 reform things. That's an important point. And
10 where those lawyers are there when the people can't
11 afford to have them or where there's a
12 well-intentioned, you know, pro bono voluntary
13 effort but perhaps there's inadequate training,
14 certainly inadequate man/woman power for the law,
15 it's not going to achieve those purposes.

16 JUDGE MCKINNEY: I think it is the
17 Court's responsibility in some way to not ignore
18 that, is a pivotal thing of what occurs.

19 JUDGE SCUDDER: Would the element being
20 like the criminal system essentially the housing
21 court where a tenant comes in and says here's my
22 situation and you'd say, okay, and we're going to
23 adjourn this and you go over and see X, Y and Z,
24 would that be the element or?

25 JUDGE MCKINNEY: Perhaps. But just from

1 the criminal side in a domestic violence situation,
2 the arresting officer is responsible for advising
3 the victim. Here's some advice that you have,
4 here's the organization that you can contact to do
5 something about effectuating your rights. There's
6 no parallel on the civil side. Perhaps something
7 just as simple as perhaps the legislature requiring
8 that when you serve a summons or petition in a
9 landlord/tenant proceeding, the petitioner has as
10 advanced notice that says you got to get this thing
11 in the lawyer's hands because you're going to be in
12 court. And here yet the legal services that are
13 available. If not, at least contact this person,
14 perhaps at some other organization in town bear the
15 responsibility for at least screening those.

16 JUDGE LIPPMAN: I think one of the things
17 that we're trying to do is to fashion a parallel to
18 the criminal side. And we talked about Gideon on
19 the criminal side and the spirit --

20 JUDGE MCKINNEY: Spirit.

21 JUDGE LIPPMAN: -- of Gideon on the civil
22 side. So I think this is all something that we are,
23 as Presiding Justice Scudder indicates, it would be
24 the optimal if we can go in that direction.

25 So, Judge Nesser?

1 JUDGE NESSER: Good afternoon, everybody.
2 My name is Joe Nesser, and I've been on the bench,
3 the Monroe County Family Court bench for almost
4 three years. Prior to that I practiced in Family
5 Court for 21 straight years. I represented parents,
6 grandparents, aunts, uncles, and I handled almost
7 every type of case in Monroe County Family Court.
8 And I want to thank you for the opportunity to speak
9 here today.

10 Can you manage an indigent litigant who
11 is usually from a low socioeconomic class, probably
12 without a high school diploma and unable to
13 articulate their position. Imagine further that
14 they are in a custody trial and they are the better
15 parent. The standard in Family Court is the best
16 interests of the child. The child's best interests
17 are not going to be served by having a litigant
18 represent themselves since they cannot properly
19 prepare and try a case.

20 While in private practice I represented
21 many litigants pro bono in Family Court through the
22 Volunteer Legal Services Program, VLSP. They were
23 non-parents attempting to gain custody of children
24 who were not adequately cared for by their parents.
25 Histories were obtained, disclosure was prepared and

1 exchanged. There were many court appearances, and
2 you never just get in and out of Family Court. It's
3 always a long wait. Settlement negotiations were
4 engaged in and sometimes you had to engage in an
5 emotional trial, a battle, if you will. Presenting
6 evidence and challenging evidence during trial
7 requires legal and practical knowledge, experience
8 and trial preparation and trial skills that pro
9 se --

10 JUDGE LIPPMAN: Particularly in Family
11 Court. Isn't it a world into itself, it is a very
12 different place than some of our other courts.

13 JUDGE NESSER: Yes. By emotion, when
14 you're talking about children and who gets custody,
15 it is high emotion.

16 JUDGE LIPPMAN: Isn't it funny that, not
17 funny, but ironic that the part of our court system
18 that so affects the most critical things in our
19 lives, our families, our children, is so often so
20 prevalent that there aren't lawyers representing
21 people. It seems odd.

22 JUDGE NESSER: Right. But the non-parent
23 litigants are at a disadvantage because they have to
24 prove extraordinary circumstances as well as best
25 interests. These are difficult hurdles.

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1 to the judges that talk about housing issues. Does
2 it compromise your position? You're trying to be
3 the neutral arbiter and you have people without
4 attorneys, and basics, the basics of their life are
5 going to be so impacted, and yet, you know, who are
6 you? The judge, the advocate, the educator, you
7 know?

8 JUDGE NESSER: I would agree with that.
9 I mean, I think there's a tendency for people to
10 want to represent the underdog, and the people who
11 are pro se are underdogs. So I, you try to keep --

12 JUDGE LIPPMAN: But that makes it very,
13 very --

14 JUDGE NESSER: It is difficult.

15 JUDGE LIPPMAN: -- strained.

16 JUDGE NESSER: You want to be fair.

17 JUDGE LIPPMAN: Exactly. You want to be
18 the neutral arbiter.

19 JUDGE NESSER: You know, you're supposed
20 to, if somebody's representing themselves, they are
21 supposed to be held to that same standard as an
22 attorney, but it is very difficult.

23 JUDGE LIPPMAN: That's not the way that
24 our system serves.

25 JUDGE SCUDDER: To say that you bend over

1 backwards, I have been in Family Court a lot, I
2 think you do flips for them. Wouldn't you agree
3 with that? In order to try to make it fair. I
4 mean --

5 JUDGE NESSER: I try to be fair. How's
6 that?

7 And as a result of the economic
8 recession, there has been a significant increase in
9 the number of custody, family offenses, and child
10 court petitions. There were 1,600 filing increase
11 in the past two years alone in Monroe County Family
12 Court. Volunteer Legal Services Project clients
13 increased 35 percent from 2005 to 2009, from 1,640
14 cases to 2,220. 48 percent were in Family Court.
15 And of the parties that come before me, 90 percent
16 qualify for full representation.

17 Not to belabor the point, I think it's
18 just imperative that the best interests of the
19 children are protected and that New York State
20 maintains strong public financial support for these
21 programs.

22 JUDGE LIPPMAN: It goes to the fabric of
23 our society.

24 JUDGE NESSER: Absolutely.

25 JUDGE LIPPMAN: That you see every day.

1 JUDGE NESSER: Absolutely. So I want to
2 thank you for this opportunity.

3 JUDGE PFAU: Just from kind of an
4 efficiency point of view, Family Court is before the
5 cases are growing, we know that you are seeing more
6 and more cases added to the extent that you have
7 people that have to represent themselves, does it
8 prolong the case? Do you have more appearances?
9 Each appearance takes longer because you're trying
10 to --

11 JUDGE NESSER: Many of these pro se
12 litigants don't even know how to get the petition
13 served. And often, yeah, I served them. Well, you
14 can't serve them, you have to have someone who's not
15 a party at least 18 years of age serve them, and you
16 have to provide me with an Affidavit of Service just
17 to get out of the house.

18 JUDGE PFAU: From the very beginning.

19 JUDGE NESSER: Yeah. From start to
20 finish, it takes a lot of extra time, and it is
21 really they are at a disadvantage and that's very
22 unfortunate.

23 MR. DOYLE: Judge, Judge Nowak had
24 mentioned in his housing court, landlord/tenant
25 particularly that the representation of a lawyer can

1 often sort of calm things a little bit in that
2 there's a high level of emotion in those cases. I
3 know there is in Family Court as well. Do you
4 witness the same thing?

5 JUDGE NESSER: Most of the attorneys are
6 very good in trying to just be professional about it
7 and just stick to the facts and try to keeping the
8 emotion out and not going down to the level of the
9 emotion that their clients have. So I would
10 definitely agree with that.

11 MR. DOYLE: And it's really a security
12 issue worst case scenario.

13 JUDGE NESSER: It's a security issue and
14 it helps to set up cases where people are thinking
15 reasonably and calmly and rationally.

16 MR. DOYLE: As lawyers are supposed to do
17 at least?

18 JUDGE NESSER: Yes, most of the lawyers.

19 JUDGE LIPPMAN: Okay.

20 Judge Winslow?

21 JUDGE WINSLOW: I'm Joanne Winslow. I'm
22 a Supreme Court Justice serving here in Rochester.
23 Thank you for this opportunity to speak to you about
24 this all-important issue.

25 In particular I wanted to talk to you

1 about how our current economy and this issue
2 colliding, how it effects the everyday workings in
3 our courtrooms, particularly our courtroom.

4 Currently, I have men and woman coming
5 through the doors of the courtroom and they carry
6 with them a wide range of emotions. Sometimes they
7 are worried, sometimes they are frustrated,
8 sometimes they are even fearful. They are scared
9 and they are worried because they come to the
10 courthouse not knowing things like whether or not
11 they'll lose their children, whether they'll be able
12 too put the food on the table for themselves and for
13 their children, and whether they'll be able to keep
14 a roof over their head and clothes on their backs.
15 The litigants who come to my courtroom, for those
16 who have been married a long time, their issues are
17 slightly different. Their children are now grown
18 and they are on their own, and instead they are
19 worried about if they'll be able to retire or afford
20 sufficient healthcare coverage at a time when they
21 will likely to need it the most. These are the
22 fears and emotions of litigants who come into my
23 courtroom who have lawyers.

24 Add to that for the pro se litigants
25 those same fears, but also not knowing where to sit

1 once they walk in the courtroom door. Not knowing
2 what's important to say. Not knowing how to say it.
3 Not knowing what is relevant. Not being able to
4 know how they can explain to the judge what they are
5 most concerned about. Not knowing how to properly
6 present what relief it is they are looking for, or
7 how to oppose what relief their opponent is looking
8 for.

9 A pro se litigant who has to face an
10 opponent who is represented by counsel, as Judge
11 Nesser said, is at a distinct disadvantage in a
12 forum where important issues such as I've mentioned
13 are decided on a daily basis. Issues to be decided
14 like where are the children going to be living? How
15 much time will each parent get to spend with the
16 children. How much money will each parent have to
17 spend on housing, food, car, clothing, monthly
18 expenses for themselves and the children.
19 Healthcare coverage. What happens if a Court orders
20 the following? How does the pro se litigant handle
21 that? How do they know what to do about it. What
22 if someone falls behind in the payments that they so
23 desperately need in order to make their obligations,
24 in order to put clothes on the kid's back and food
25 on the table.

1 In many ways a person who represents
2 themselves pro se against a litigant with counsel is
3 like speaking a foreign language and not having the
4 benefit of an interpreter. The pro se litigant
5 doesn't know where to begin and they simply don't
6 have the ability to do so.

7 Now, imagine both litigants, and this is
8 happening more and more, appearing pro se in my
9 courtroom. The process becomes much more onerous
10 and inherently unfair. And, Chief Administrative
11 Judge Pfau, just as you mentioned, it becomes much
12 lengthier, requires much more patience, requires
13 many more adjournments, and lengthens the process.
14 It is fraught with potential for error.

15 And as you have stated, Chief Judge
16 Lippman, remaining in the position of the neutral
17 arbiter becomes much, much more difficult. It's not
18 impossible, but it is very difficult and very time
19 consuming.

20 In a case without an attorney there is
21 neither any knowledge or ability, and as the doctor
22 from Syracuse mentioned, when you come to poverty,
23 it is not just the issue of not having money, it is
24 the lack of education, and that lack of education is
25 what really trips us up.

1 JUDGE LIPPMAN: Do you think people have
2 a right to an attorney? What's the answer here? We
3 know that we need to fund Legal Services much more
4 than we have. You know as a society, as a
5 government, what's the answer in the long run?

6 I think Judge Scudder asked a little bit
7 of the context before. Do people have to have an
8 attorney in these cases?

9 JUDGE WINSLOW: Well, certainly as you
10 mention in comparison, in the criminal realm I have
11 a great deal of past experience in, in the criminal
12 realm, absolutely. In the civil realm, they should.

13 JUDGE LIPPMAN: What we're trying to do,
14 one of the things that we've been talking about is
15 where do you draw the line? And one of the things
16 that the task force is going to be dealing with is
17 in what cases must you have an attorney?

18 We've used the buzz words or framed it as
19 when you're dealing with the necessities of life or
20 the fundamentals of life, you must have an attorney.
21 Do you think it would be hard to draw? What does
22 that mean? How do you draw the line because, you
23 know, there isn't enough money in the world to
24 provide representation on every case to everybody no
25 matter what it is. But yet we know right from

1 wrong, and we know that there are certain kinds of
2 cases that you must have an attorney.

3 Or as it was said, getting in on the
4 criminal side, it is an obvious truth that you can't
5 get your day in court. When you're dealing with the
6 kinds of issues that you're dealing with, these
7 critical issues, you're looking and say, boy, they
8 really have to have an attorney, right?

9 JUDGE WINSLOW: Certainly.

10 JUDGE LIPPMAN: Is that your experience?

11 JUDGE WINSLOW: If I had to draw that
12 line?

13 JUDGE LIPPMAN: If you had to draw that
14 line in the kind of cases you're talking about.

15 JUDGE WINSLOW: If I could draw that
16 line, I certainly would say in all contested cases,
17 but if you ask me to also write the check, that
18 would be tougher.

19 JUDGE LIPPMAN: Yeah. And that's one of
20 the things that the task force is going to grapple
21 with is that what are the cases that you have to
22 have an attorney.

23 JUDGE WINSLOW: Well, I certainly think
24 where there are children involved. Already we're
25 doing out best to do that. Legal Aid oftentimes

1 becomes available because of children being involved
2 and the cases amount VLSP rise to the top of the
3 list because there are children involved.

4 JUDGE LIPPMAN: I mean, we've made a
5 little bit of progress on the family and matrimonial
6 side in this area. Not all the time, but a good,
7 you know, amount of progress. But as we have seen
8 today civil legal services cuts over so many lines
9 in society with almost every issue one could
10 possibly think of is affected and has the need for
11 representation by trained lawyers.

12 JUDGE WINSLOW: That's the same as
13 Dr. Cerulli indicated in her comments in her
14 testimony about how you can reduce the cost, by
15 spending the money now, you reduce the cost later.
16 The same is true here. If you had someone who was
17 going through a divorce and who didn't have children
18 and there were financial issues which now are
19 critical in our divorce cases, the amount of debt is
20 unmanageable. But if the money doesn't get spent
21 now to protect that person's rights, they are going
22 to become a public charge down the road.

23 JUDGE LIPPMAN: Well, that's the common
24 theme that we have heard in two days of testimony
25 now. It's not only because this is right or this is

1 a moral obligation or an ethical obligation, it goes
2 to the bottom line.

3 JUDGE SCUDDER: It is interesting as a
4 society, we seem to draw that line somewhat with the
5 interplay between Family Court and then other civil
6 courts. I mean, we recognize that need in family, I
7 remember in the olden days we used to assign counsel
8 in Family Court, they go to matrimonial, no longer
9 could have the counsel, so we'd send back that part
10 to Family Court so they'd have an attorney. That's
11 been remedied somewhat, I realize. But at least
12 that's the start, wouldn't you say? That we have
13 already have that block there of when you have to
14 have an attorney, now we can build on that block?

15 JUDGE WINSLOW: True.

16 JUDGE SCUDDER: Would you agree with
17 that?

18 JUDGE WINSLOW: I would agree but I think
19 that those building blocks need to keep growing.

20 JUDGE SCUDDER: That's what I'm saying.
21 Yeah, okay.

22 JUDGE LIPPMAN: Anything else? I want to
23 thank you all. You're terrific. We appreciate what
24 you do every day, and we appreciate you coming in
25 today. Thank you.

1 JUDGE WINSLOW: Thank you.

2 JUDGE LIPPMAN: Now we are going to have
3 one of the local business leaders, who is a panel of
4 one.

5 Yes? Oh, paper change.

6 Come on up, Mr. Richards.

7 We have an equipment change over here.
8 The Court needs money to replace antiquated
9 equipment, you know.

10 COURT REPORTER: Thank you.

11 JUDGE LIPPMAN: You're welcome.

12 Okay. Come on up, Mr. Richards. So now
13 it is my pleasure to introduce Thomas Richards,
14 Esquire, he's currently the Corporation Counsel for
15 the City of Rochester, a former partner at Nixon
16 Peabody, and a former CEO of Rochester Gas &
17 Electric. Pleasure to see you and thank you.

18 MR. RICHARDS: I am a panel of one. I
19 feel like the fortunate litigant whose case was
20 called by Justice Scudder and the opposition didn't
21 show. It's never happened to me before. It's just
22 my luck when there's no case here. I draw this
23 luck. I will do the best that I can.

24 JUDGE LIPPMAN: You have free reign.

25 MR. RICHARDS: Yes, thank you. Maybe the

1 reason I am a panel of one here is that I think that
2 I have the opportunity to approach this from three
3 different perspectives in my life. Almost 38 years
4 ago I started Nixon Hargrave and now Nixon Peabody,
5 and in my 20 years there I was an appointed Law
6 Guardian for a while. I served on the Volunteer
7 Legal Services Project panel, and on whose board I
8 still serve. Eventually I became a managing partner
9 of that firm and I had some responsibility for
10 setting up the policy and practice with respect to
11 pro bono legal services that that firm provided.

12 I left that firm in the 1990's to join
13 RG&E, which is the utility for this region, and
14 eventually became a CEO. RG&E is the supplier of
15 essential services with a mandated obligation to
16 serve, and so as a result, it is constantly dealing
17 with people who not only have difficulty
18 understanding the rules and regulations that entitle
19 them to utility service, but also whose interaction
20 with the legal system itself in a myriad of ways
21 often incapacitates them with dealing with the
22 everyday obligations of their life.

23 For the past four and a half years I have
24 served as the Corporation Counsel for the City of
25 Rochester. It's a city with a substantial number of

1 people who do not have the financial means to engage
2 in legal profession in a conventional manner. This
3 position has given me yet another perspective on the
4 difficulties that people experience when they try to
5 deal with the laws and regulations that govern all
6 of our lives.

7 So as a result of my experience in each
8 of those positions and sort of the combined
9 perspective it's given me or I hope it's given me, I
10 would like to suggest the following to the panel:

11 The need and importance of competent
12 civil legal assistance is not proportionate to a
13 person's ability to afford it. However, that is the
14 basic mechanism by which we allocate such service
15 today. This applies not only to the quantity of
16 service but to the sophistication of it as well.
17 The inability to deal with the civil, legal and
18 regulatory problems can be every bit as difficult
19 and devastating to a family, as you heard from
20 people who are more qualified than I, in many
21 criminal problems. For criminal problems, we
22 recognize that people can't be left on their own.
23 However, for civil problems, but for an often poorly
24 funded and largely volunteer effort, people are
25 often on their own with unfortunate and sometimes

1 unfair consequences.

2 Now, the consequences of inadequate
3 access to civil legal service is not just borne by
4 the individual who needs it. It is a burden on the
5 legal system, on civil society, and very often on
6 the very entity or individual, no matter how well
7 represented, who's on the other side of that issue.

8 Individuals wandering around the legal or
9 regulatory system without proper guidance make it
10 difficult for everybody. Relatively simple aspects
11 of the process take more time and are more likely to
12 be adjourned or repeated. The outcome is less
13 likely to be understood and accepted by the
14 unrepresented party, even if there's a resolution
15 that's been offered. All of this adds time and
16 frustration and expense that's borne by everyone and
17 ultimately by society with a less effective legal
18 system.

19 I have also concluded that access to
20 civil legal service will not result from the present
21 system. That depends on a various underfunded and
22 inconsistently funded agencies and the volunteer
23 efforts of attorneys.

24 There were two words there. One that you
25 have heard a lot about here, that is "unfunded," but

1 the other one is "consistent."

2 JUDGE LIPPMAN: Consistent is very
3 important.

4 MR. RICHARDS: In many respects I think
5 it is almost as important. As I have been involved
6 in this through my career and particularly on the
7 boards of VLSP, I see this system staggering from
8 year to year without any consistency and so the
9 ability to plan, the ability to provide some
10 effective system is hampered by that.

11 And, you know, the State of New York has
12 accepted, to its credit, some level for
13 responsibility for this periodically.

14 JUDGE LIPPMAN: Here and there.

15 MR. RICHARDS: Here and there. It has
16 not been a very reliable partner. I mean, this
17 isn't the only place that's true, but it is
18 certainly true here.

19 JUDGE LIPPMAN: But let's cut --

20 MR. RICHARDS: We're not here for that
21 hearing, though, are we?

22 JUDGE LIPPMAN: They have their own
23 problems. Let's cut to the chase.

24 MR. RICHARDS: Yeah.

25 JUDGE LIPPMAN: Why shouldn't civil legal

1 services be funded out of the public fisc, out of
2 the general fund of this state, the same way so many
3 other critical functions in society are funded? Why
4 not? Why doesn't that make total sense?

5 MR. RICHARDS: Well, I think it does make
6 sense. I think that it is very hard to measure the
7 other consequence. The other consequence has money
8 attached to it, too. The inefficiency of the
9 system, the time and effort it takes, the inadequacy
10 of the process, and the result, which often has to
11 get repeated. Those are all -- all have monetary
12 consequence because they are not added up anyplace.
13 We don't know where they are.

14 JUDGE LIPPMAN: We had yesterday we had
15 people similar to you spend much of their lives in
16 the business world, from the real estate to the
17 landlord side, from the banks, the big banks,
18 Citibank testified yesterday. The big hospitals,
19 they are all saying not only should it be, but it
20 affects our bottom line.

21 MR. RICHARDS: Oh, yeah, it clearly does.

22 JUDGE LIPPMAN: Economically.

23 MR. RICHARDS: It clearly does. And
24 you're going to have to make some choices because if
25 we attack this as from only a principle, they are

1 reciprocal process.

2 JUDGE LIPPMAN: I agree with you.

3 MR. RICHARDS: You're not going to get
4 this done.

5 JUDGE LIPPMAN: I agree with you.

6 MR. RICHARDS: And what you're trying to
7 do very nice to your credit is to get something
8 done. We have been talking about this for a long
9 time.

10 JUDGE LIPPMAN: Forever.

11 MR. RICHARDS: Ever since I got admitted
12 to the bar, we've been talking about this. So I
13 think we're going to have to make some choices. And
14 I don't know any better than you how to make those
15 choices, but I think there are certain elements of
16 the process that affect the capacity of an
17 individual or a family to go about their ordinary
18 lives that we need to provide lawyers for.

19 Family Court is the obvious example.
20 Housing court is another example. But there are
21 others, there are others. We don't have to provide
22 lawyers for negligence cases in the beginning. I
23 mean, I'm trying to make a simple example.

24 JUDGE LIPPMAN: Exactly right, try to
25 draw lines, that's what we were talking about

1 || before.

2 MR. RICHARDS: Right. But using that
3 then we need to get a consistent funding stream. It
4 needs to get into the state budgeting process in a
5 way that these agencies can count on it.

6 JUDGE LIPPMAN: Not dependent on the
7 interest rate today or tomorrow.

8 MR. RICHARDS: Right, right. Which is a
9 very nice thing while it worked, you know.

10 JUDGE PFAU: And that needs the support
11 of the business community.

12 MR. RICHARDS: It does. It does. This
13 is a tough time to start talking about adding
14 expense for anything. It's not very popular right
15 now, to talk about increasing the cost of anything.
16 Increasing the cost of government is being rejected
17 all over the place.

18 JUDGE LIPPMAN: But no one would suggest
19 let's not fund the schools anymore.

20 MR. RICHARDS: No, no. But, you know, I
21 think we have an obligation, therefore, to explain
22 why this makes sense, not only from a theoretical
23 fairness of justice obligation.

24 JUDGE LIPPMAN: You're right.

25 MR. RICHARDS: But why it makes sense

1 from the point of view of the administration of
2 justice and that fact that you're going to pay for
3 it anyway in the process.

4 JUDGE LIPPMAN: One way or the other,
5 yep.

6 MR. RICHARDS: And most people who are
7 responsible in this system will accept that. There
8 are those who won't. You know, that's always the
9 case. But I think most people who are responsible
10 in the system will accept that.

11 But it's also why the initial proposal, I
12 think, is very important to make sure the initial
13 proposal as concrete and as reasonable as possible.

14 JUDGE LIPPMAN: The task force is
15 designed to do just that.

16 MR. RICHARDS: It's tough to do.

17 JUDGE LIPPMAN: To realize, which we do,
18 that we don't live in a vacuum.

19 MR. RICHARDS: Right.

20 JUDGE LIPPMAN: And we understand the
21 world around us. But we also understand, and these
22 hearings are all about that, heightening the
23 sensitivity level in this state of the why this is
24 so important, why this needs to be done, and why you
25 need public monies to do it.

1 MR. RICHARDS: There is one other aspect
2 of this that I think would help in that regard. If
3 we're going to fund these things, then and it is
4 going to be public money, then it is perfectly
5 reasonable to hold those people who receive that
6 money accountable for their performance. And that's
7 very much in vogue today as well.

8 In our particular community, a good
9 example of that exists with a combination of the
10 various assorted legal assistance programs who exist
11 today largely because they are connected to an
12 income stream someplace, revenue stream someplace,
13 who now are all in one building, who share a lot of
14 resources.

15 JUDGE LIPPMAN: Yes, it is a great
16 example.

17 MR. RICHARDS: Somebody comes in the
18 front door, they don't have to wander around town as
19 they did, you know, not long ago trying to find the
20 right place and who can help them, and over time
21 these agencies in Rochester have developed different
22 expertise, so they have a reason --

23 JUDGE LIPPMAN: That's what we've been
24 talking about, yeah.

25 MR. RICHARDS: I think the part that will

1 help, quite frankly, sell it, and I also think it is
2 a reasonable expectation. And we're not, we can't
3 just plow more money into a fractured system and
4 expect to get the return for that. That's
5 reasonable in today's world.

6 JUDGE LIPPMAN: Accountability is an
7 appropriate word and very much a part of this, this
8 puzzle. What those funds are needed for, where they
9 are needed, how they are going to be spent, and I
10 think the whole package needs to be together.

11 MR. RICHARDS: Right, right. Yes, sir.
12 Thank you.

13 JUDGE LIPPMAN: Thank you. Appreciate
14 it.

15 The last witness for today will be also a
16 panel of one. C. Kenneth Perri, Esq., who's the
17 Executive Director of Legal Assistance of Western
18 New York.

19 Mr. Perri, it's a delight to see you.

20 MR. PERRI: Thank you, Judge. And thank
21 you panelists, and I thank you for having me at this
22 hearing and more importantly for having the hearing.
23 It is very, very important for the low income people
24 at the Legal Services Community Service.

25 JUDGE LIPPMAN: Tell us the area that you

1 cover?

2 MR. PERRI: Okay. My program is Legal
3 Assistance of Western, New York. We have a 14
4 county service area. And it's seven staffed offices
5 provides services to low income people in 14
6 counties. And I will tell you where they are
7 located. They are in Bath, Elmira, Geneva, Ithaca,
8 Jamestown, Olean, and Rochester.

9 JUDGE LIPPMAN: So much of it rural.

10 MR. PERRI: Thirteen of the counties are
11 rural. We have the urban center here in Rochester.

12 JUDGE LIPPMAN: One of them the County of
13 Presiding Justice Scudder, very important.

14 MR. PERRI: That's correct.

15 JUDGE LIPPMAN: Garden spot of America.

16 MR. PERRI: And the 13 rural counties are
17 an incredibly large geographic expanse. They are a
18 little over 9,070 square miles, bigger than five
19 states, including the states of Connecticut and New
20 Jersey.

21 A little bit about what is going on in
22 those 13 rural counties right now.

23 JUDGE LIPPMAN: Yes, tell us.

24 MR. PERRI: The poverty population as of
25 2008, in 2008 the poverty population in New York

1 State, the rate was 13.7 percent. In those 13
2 counties we have 129,000 people living below the
3 poverty level, largely rural counties with the
4 poverty population in some of the counties and one
5 county nearly 18 percent, so that's one out of every
6 five people. In two counties it was 17 percent, and
7 in three others we were over the state rate 13.7
8 percent. You know that the Census Bureau released
9 new poverty figures earlier this month and the rate
10 in New York State has gone up from 13.7 to 15.3.

11 JUDGE LIPPMAN: So how do you deliver
12 civil legal services in a rural environment? And
13 where are you getting the money for them? And what
14 is the gap in that funding? I don't mean in a
15 monetary way.

16 MR. PERRI: Okay. We deliver civil legal
17 services through a staff attorney model. We have
18 seven staff offices, attorneys and paralegals.
19 Their efforts are supplemented by some pro bono
20 work, but it's very difficult to recruit pro bono
21 attorneys in rural counties.

22 JUDGE LIPPMAN: You probably don't have a
23 large number of attorneys.

24 MR. PERRI: There is not a large number.
25 And the attorneys who are in private practice in the

1 rural counties are in very, very small firms, two to
2 five is the average size of the firm. Many are sole
3 practitioners, and among the sole practitioners many
4 don't have support staff and, you know, answer their
5 own phones.

6 So it is very, very difficult to,
7 although some do, it is very, very difficult for
8 them to accept extended service cases where they
9 have to provide representation on something
10 contested.

11 We have found it to be very effective to
12 use pro bono attorneys to staff clinics. And a good
13 example is in our Geneva office, which serves five
14 counties. We have matrimonial clinics in four
15 counties. So attorneys meet one-on-one with people
16 who will wind up in court pro se, that they meet
17 one-on-one with the Petitioner in a matrimonial
18 action to prepare the pleadings to commence the
19 action. Then the papers are filed, the defendant
20 gets served, and then they meet again one-on-one to
21 prepare the papers necessary to get the Judgment
22 Roll. And the Clerk's know about our program and
23 know who the pro se people who are coming from our
24 program.

25 But the screening or the triaging to get

1 those people, our client into the clinic is -- it
2 has to be an uncontested matter as far as we could
3 tell or it won't work on a pro se basis. And child
4 support and child custody issues already have had to
5 have been resolved in Family Court. And so there's
6 the whole world of the contested matrimonial for low
7 income people that we just can't even touch, either
8 with our staff or with pro bono attorneys.

9 JUDGE LIPPMAN: Now, when we were talking
10 about drawing a line as to what is, what are the
11 necessities of life, what kind of cases are they
12 going to require an attorney, you may not be able to
13 draw the line, but I bet you know you that you're
14 not covering a lot of cases that are involved in
15 necessities.

16 MR. PERRI: Correct. I believe that
17 included on the correct side of that line should be
18 any cases, of course, involving children but also
19 cases involving housing. And let me tell you --

20 JUDGE LIPPMAN: Well, focus on one side.

21 MR. PERRI: Let me tell you how we have
22 to triage on housing. If it is a private
23 landlord/tenant case on a month to month basis, the
24 chances of them getting extended representation from
25 our program are minimal. We screen to and we court

1 priority to people who live in public or subsidized
2 the housing because their rents are affordable and
3 often that housing stock is considerably better than
4 the private stock. And if they lose their subsidy,
5 then they are in the private market and will find
6 themselves in situations where they can't pay rent
7 because they can't afford it and will wind up
8 homeless.

9 We try to represent mobile home owners.
10 There's some statistics in my testimony about the
11 number of mobile home parks and mobile home lots,
12 manufactured homes, I'm sorry, in our 13-county
13 service area. And when a mobile home owner rents a
14 lot and can't pay the lot rent and gets evicted,
15 they often are unable to move the mobile home. And
16 so they lose all of their investment in their home.

17 JUDGE LIPPMAN: Right.

18 MR. PERRI: We had a grant which is
19 phasing out from the Division of Housing and
20 Community Renewal to provide representation. My
21 light already? In cases --

22 JUDGE LIPPMAN: Keep going.

23 MR. PERRI: In cases involving
24 foreclosures, but the limitation on the funding was
25 that they had to be sub prime mortgages. So our

1 rural offices are now providing representation to
2 low income homeowners who have sub prime mortgages.
3 That funding ends in November. We are going to have
4 to have a serious discussion, actually next
5 Wednesday when we are meeting to talk about what we
6 will do in that area without funding.

7 JUDGE LIPPMAN: How do you know how much
8 money you have in any given year? Do you have an
9 expectation?

10 MR. PERRI: It's very erratic.

11 JUDGE LIPPMAN: Do you live hand to
12 mouth, or do you have an expectation, I'm going to
13 get X amount of dollars this year.

14 MR. PERRI: We do budget for those
15 funding streams that have been reasonably secure and
16 we did that this year.

17 JUDGE LIPPMAN: Like what?

18 MR. PERRI: We are a legal services
19 corporation grantee, we are an IOLA grantee so we
20 have an estimate of what we will get from IOLA. I
21 would be remiss if we did not thank you as a
22 community for the one time IOLA rescue funds this
23 year.

24 We have five. There are different
25 programs at different funding streams from the

1 state. My program has about five or six that were
2 severely cut from this year's budget. I will just
3 rattle off. The Department of State cut 72 percent.
4 Legal Services Assistance Fund, 10 percent. Others:
5 Homelessness prevention, supplemental homelessness
6 prevention, state and federally-funded cut 26 and 78
7 percent. And there was extended discretionary money
8 that we got last year which was also cut 72 percent.

9 We budgeted that as revenue we were not
10 expecting. We were hoping for static funding, and
11 the history has been that we have gotten static
12 funding. So we budgeted that, and those cuts from
13 my program totalled a little more than a half
14 million dollars, \$505,000 to be exact on an
15 annualized basis.

16 JUDGE LIPPMAN: How does that translate
17 impact on what you can do for these people in these
18 cases in the broader sense that affect the
19 fundamentals of their lives?

20 MR. PERRI: That translates into about
21 eight full-time attorney positions in my program
22 concerning salary and benefits.

23 JUDGE LIPPMAN: How many do you have
24 total?

25 MR. PERRI: We have 49 attorneys,

1 including in Rochester.

2 JUDGE LIPPMAN: Right.

3 MR. PERRI: And that's about at least
4 1,200 to 1,500 fewer families that will be served
5 because of those cuts.

6 MR. DOYLE: Ken, how disruptive is it to
7 you running the program to worry each year and not
8 just worry but to have to plan, to have to spend
9 your own and other people's resources, whether it be
10 lobbying, begging, pleading, worrying about whether
11 a grant is going to be coming from this entity, that
12 entity, the state, the federal, how much of your
13 time, worry, attention, does it take away from what
14 you could be doing?

15 MR. PERRI: Significant amounts. And I
16 can speak for all of the project directors.
17 Significant amounts of every project director's
18 time. If we could devote the time that we have to
19 spend just shoring up our state funding year after
20 year after year to doing fundraising in other
21 venues, foundations, other federal grants, we would
22 be richer, we would be richer if there was
23 consistency with what New York State does. And more
24 clients would be served.

25 JUDGE SCUDDER: Does it affect your

1 ability to hire?

2 MR. PERRI: It's difficult to recruit
3 attorneys for a number of reasons. One is, and this
4 is another infrastructure problem that's going to
5 have to be dealt with, is our starting salaries. We
6 offer an entry level attorney starting salary of
7 \$38,500.

8 And although we get those entry level
9 attorneys two or three years out when they are
10 trained and when they are buying their first home
11 and starting a family, they can't afford to work for
12 us.

13 And now the National Association of Law
14 Placement issued a report earlier this month that
15 shows to me that my program is in serious trouble
16 because the national entry level attorneys' salaries
17 is \$42,000 a year on average in civil legal services
18 programs. And the legal services corporation
19 grantees are on 43,000 on average. So we're going
20 to need funding to abate that. And 42 and \$43,000
21 really is not adequate either.

22 MR. DOYLE: The ABA is that the average
23 law student comes out and has to earn \$66,000 a year
24 just to be able to pay off their student loans and
25 to live.

1 MR. PERRI: Right. But that wasn't your
2 question.

3 JUDGE SCUDDER: What my question really
4 was, why would I go to work for a place that didn't
5 know if it was going to have any money to pay me?

6 MR. PERRI: The people that we're
7 recruiting actually do. We have been very fortunate
8 to find attorneys who really do have a deep level of
9 commitment to abating poverty to the clients that we
10 serve and doing this kind of work.

11 JUDGE SCUDDER: It certainly would make
12 it easier to know if you knew you had a constant
13 stream and could graduate up the number of years be
14 paid X amount, that type of thing.

15 MR. PERRI: We do have a salary scale
16 that is structured in steps, but the increments are
17 \$1,200 a year. So add \$1,200 a year to \$38,500, and
18 it is ten or twelve years out until you earn 50 or
19 55,000.

20 JUDGE PFAU: You also have to address
21 growing areas of expertise that you are going to --

22 MR. PERRI: Correct.

23 JUDGE PFAU: I mean, a few years ago
24 there was some foreclosure issues, now there are
25 significant --

1 MR. PERRI: Correct. My program did
2 minimal foreclosure work four years ago, and now we
3 have people that if I were foreclosed on. I would
4 want them representing me. They have become quite
5 experts. Mark Wanenberg in Bath handles quite a
6 number of a significant amount of those cases.

7 JUDGE LIPPMAN: Thank you.

8 MR. PERRI: Thank you, Judge.

9 JUDGE LIPPMAN: Thank you so much. I
10 think that it brings it down to the grass roots
11 level to hear your testimony.

12 I just want to end this hearing by -- I
13 think we all should be thinking about looking at the
14 many different areas, the breadth of what civil
15 Legal Services does in this, this particular area in
16 the state.

17 I mean, just to touch on it, and I don't
18 pretend to say that civil legal services is going to
19 cure all the ills of the world. I'm not sure any of
20 us are going to do that. But the problems of
21 disabled, of immigrants, of minorities, poverty, the
22 elderly, rural New York, incarceration rates, health
23 benefits, the well-being of our businesses, future
24 jobs and employment, debt collection, the
25 foreclosures, evictions, education at the grade

1 school level, at the college and university level,
2 the well-being of our families, domestic violence,
3 domestic abuse, custody cases, a divorce,
4 homelessness, all of just so many of the very
5 essence of what was supposed to be as a society is
6 fostered by our legal service providers and having
7 the monies to support legal services in this state,
8 the provision of civil legal services again in
9 issues that cover this, this, our lives. That cover
10 what we're all about, what our society is supposed
11 to be about. So I found these, this hearing
12 particularly elucidating in that regard.

13 We know that there are so many reasons to
14 support a stable, and the word consistent that was
15 used, stream of funding that should come up out of
16 the public pocket because this is all about the
17 public, and this is about the public's well-being,
18 our societies well-being. All of the different
19 entities within that society. And I think we have
20 to, I think these hearings are the kind of testimony
21 that we had today, will so much help us to make the
22 case to again what I believe to put together what
23 will be the most comprehensive report of its kind in
24 the country, justify why this issue should be
25 prioritized and say, look, this is, in these

1 difficult times, a question of prioritizing what is
2 important to our state, to our society.

3 And I don't think -- I think there are
4 things maybe that we can say are equally important,
5 but I don't think that there's anything more
6 important than the provision of civil legal services
7 when our citizens are confronted with issues and
8 cases and legal problems that affect the very basics
9 of their lives.

10 So I thank you all for being here. Our
11 terrific panel that really does represent the
12 leadership of the court system and the legal
13 profession in this state.

14 I want to thank all of the witnesses who
15 I think was really, again the light goes on when you
16 hear some of their stories and why this is
17 important.

18 And I thank all of you for coming. And I
19 welcome you if you want to go around the state with
20 us to our next hearings, but we are very much
21 appreciative of your being here. And the next stop
22 will be in Albany next week. So thank you all.
23 Appreciate it.

24 (The hearing adjourned at 1:38 p.m.)

25 * * *

C E R T I F I C A T I O N

I, JANINE J. VASCUKYNAS, do hereby
certify that I am an Official Senior Court Reporter of the
Seventh Judicial District, at Rochester, County of Monroe,
State of New York, duly appointed;

That I reported in stenotype shorthand
the proceedings had on the 28th day of September, 2010.
In the matter of the Task Force to Expand Access to Civil
Legal Services in New York;

And that the transcript, herewith
numbered pages 5 through 136, is a true, accurate, correct
and complete record of those machine shorthand notes.

JANINE J. VASCUKYNAS, RPR, CSR

Dated this 6th day of
October 2010, at
Rochester, New York.