

COURT OF APPEALS

ALBANY, NEW YORK

CHIEF JUDGE'S 2019 HEARING ON CIVIL LEGAL SERVICES
IN NEW YORK

COURT OF APPEALS
20 Eagle Street
Albany, New York 12207
September 23, 2019

B E F O R E: HON. JANET DiFIORE
Chief Judge

HON. ROLANDO T. ACOSTA,
Presiding Justice of the First Department

HON. ALAN D. SCHEINKMAN,
Presiding Justice of the Second Department

HON. ELIZABETH A. GARRY,
Presiding Justice of the Third Department

HON. GERALD J. WHALEN,
Presiding Justice of the Fourth Department

HON. LAWRENCE K. MARKS,
Chief Administrative Judge

HENRY GREENBERG,
President of the New York State
Bar Association

BETH NEWTON, SENIOR COURT REPORTER
THERESA L. ARDIA, SENIOR COURT REPORTER

1 (Proceedings commenced at 1:02 p.m. as follows:)

2 CHIEF JUDGE DiFIORE: Good afternoon, please be
3 seated. Welcome to the Court of Appeals Hall and to
4 the 2019 Public Hearing on Civil Legal Services here in
5 New York State. Joining me today are the leaders of the
6 Judiciary and the Bar in the State. It is my privilege
7 to introduce each of them to you. Starting on my right
8 is Presiding Justice of the Appellate Division First
9 Department, Justice Rolando T. Acosta, Jr. To my left is
10 Presiding Justice of the Appellate Division Second
11 Department, Alan Scheinkman. To Justice Acosta's right
12 is Presiding Justice of the Third Department, Elizabeth
13 Garry, in whose Department we are holding this Public
14 Hearing. Presiding Justice of the Appellate Fourth
15 Department is Justice Gerald Whalen. President of the
16 New York State Bar, Hank Greenberg. And, of course, our
17 Chief Administrative Judge of the State of New York,
18 Larry Marks.

19 There is another person who is with us today,
20 who probably certainly needs no introduction in the
21 context of these hearings and work being done across the
22 state, but who certainly does deserve our recognition and
23 gratitude, and that is the Chair of the Permanent
24 Commission on Access to Justice, Helaine Barnett, who is
25 seated in the first row here. I think everyone here

1 would agree that the significant progress we have made to
2 narrow the justice gap in New York would not have been
3 possible without Helaine's tireless and dedicated
4 leadership over so many years, virtually her entire
5 career. Thank you for your leadership, Helaine.

6 Also deserving of our thanks and expressions of
7 gratitude and appreciation are the 32 members of our
8 Commission who have been so very generous with their time
9 and expertise. Many of them are here today despite their
10 busy day jobs, and I want to take the opportunity
11 publically to acknowledge and thank them, as well. The
12 Honorable Lucy Billings, Camille Siano Enders, Anne
13 Erickson, Barbara Finkelstein, who will be presenting
14 today, Adriene Holder, who will be presenting today,
15 Sheila Gaddis, who is seated in the first row, our Deputy
16 Chief Administrative Judge for Justice Initiatives,
17 Edwina Mendelson, who will be presenting, Lillian Moy is
18 here, also presenting, and Raun Rasmussen. Thank you so
19 very much.

20 One other very special person in the
21 courtroom, and she calls this her professional home, is
22 my wonderful colleague, Leslie Stein, who is seated in
23 the back. Thank you, Judge Stein, for being here, and
24 I'm sure everyone appreciates that.

25 I also want to take a moment and acknowledge

1 and thank the Commission's excellent staff for organizing
2 today's hearing, and, of course, all the support and
3 wonderful and smart work they do throughout the year.
4 From the Office of Court Administration, Barbara Mule,
5 Rochelle Klempner, Barbara Zahler-Gringer, who will not
6 be attending today, and Lauren Kanfer, who was a past
7 member of our family here, and who has moved on to serve
8 in her new position. We wish her well as Associate
9 Director of the Feerick Center for Social Justice at
10 Fordham Law School.

11 We also want to acknowledge and express our
12 appreciation to the law firm of Sullivan & Cromwell. We
13 owe such an enormous debt of gratitude and appreciation
14 to them. In particular, Christopher King, Jessica Klein,
15 and Alana Longmoore, who keeps us apprised of all of our
16 needs and interests by email. So thank you all for that.

17 Now to the substance of our Public Hearing
18 today. We are fortunate today to have a very diverse
19 group of knowledgeable presenters. We have judges, bar
20 leaders, government officials, legal service attorneys,
21 and individual clients, very important individual
22 clients, who offer their invaluable experiences and
23 observations on the progress we have made to address
24 civil justice needs of low-income New Yorkers, the real
25 life impact of Civil Legal Services on the individuals

1 who are actually served, on the well-being of their
2 communities and on our State's economy, and, of course,
3 we will hear presentations regarding the existing
4 deficiencies and challenges that do, indeed, lie ahead of
5 us.

6 The information gathered today from the
7 presenters' oral testimony, together with the
8 significant written material that have been submitted to
9 the Commission, and all of the additional work and
10 research conducted by the Commission throughout the year,
11 will form the basis for the mandated Chief Judge's Annual
12 Report, which is submitted to the Governor and the New
13 York State Legislature on December 1st of each year.

14 The Annual Report documents our findings and
15 puts forward our considered recommendations about the
16 monetary resources, as well as the non-monetary measures,
17 that are essential to achieving a fair and accessible
18 civil justice system for all New Yorkers.

19 Over the last decade, I think it's fair to say
20 that New York State has become the acknowledged national
21 leader in meeting the civil legal needs of low-income New
22 Yorkers, thanks to the innovative programming and ideas
23 that have frequently emerged after the testimony
24 presented at these hearings. Thanks to the strong
25 commitment and education of legal service providers and

1 their attorneys, the steadfast support from the Governor
2 and the New York State Legislature, and, of course, the
3 strong commitment and pro bono contributions of the New
4 York Bar. The \$100 million that has been provided
5 annually in our Judiciary budget has had an enormous
6 positive impact on the stability, the capacity and the
7 quality, the quality, of our Civil Legal Service system,
8 and together with IOLA, the Judiciary distributes grants
9 to dozens of legal service organizations who provide
10 legal assistance to low-income people in every county of
11 our state in virtually all matters involving the
12 essentials of life.

13 Each year, there are many complex factors that
14 are carefully considered and weighed and evaluated before
15 we make our funding recommendations. There are two
16 constants in this equation that everyone here, and those
17 tuning in, who will ultimately read our Annual Report
18 should be aware of.

19 First, the Judiciary takes its grant-making
20 and financial oversight responsibilities very seriously.
21 Because we have a fiduciary duty to spend taxpayer
22 dollars responsibly, we have adopted strong internal
23 controls and audit procedures. All grantees and
24 stakeholders understand that they are accountable for the
25 wise and efficient use of our limited funding dollars.

1 Second, we have shown year after year how every
2 public dollar invested in civil legal services is
3 returned to our state many, many times over as a result
4 of reduced social services expenditures and other public
5 spending, as well as the increased flow of Federal
6 benefits into our state.

7 But let's remember that money is only one part
8 of the solution. The reason that New York is the
9 national leader in expanding access to justice comes down
10 to our vision and our broader pursuit of non-monetary
11 measures, and very importantly, in our ability to
12 leverage our limited funding through strategic planning,
13 collaboration, innovation and technology.

14 We know that these efforts are, indeed, making
15 a real difference in bridging the justice gap. We are
16 encouraged, but we also need to be realistic because we
17 still do have a long road ahead of us. The gap between
18 the number of people who are in need of legal services
19 and the resources available to meet their needs remains
20 enormous. In Washington, D.C., we have an administration
21 which appears to interested observers to be indifferent
22 to the plight of millions of low-income people who
23 cannot afford a lawyer to help them with life-altering
24 legal problems, including children and families stuck in
25 abusive homes and relationships, veterans seeking

1 benefits they earned through their military service,
2 homeowners and tenants facing wrongful foreclosure and
3 eviction, immigrants facing deportation, seniors dealing
4 with consumer scams, or facing barriers to safe, quality
5 elder care, and families trying to recover from recent
6 devastating natural disasters, to name just a few.

7 As judges, lawyers, and people who believe in
8 our nation's promise of equal justice under the law, we
9 are cognizant of, and have accepted, our legal and moral
10 obligation and responsibility to act.

11 And so, as we begin our 10th Annual Public
12 Hearing on Civil Legal Services in New York, let us all
13 carefully consider what our presenters will have to say
14 to us about how we can all move forward together and take
15 the actions that are necessary and appropriate to ensure
16 that all New Yorkers have equal access to justice. Thank
17 you all for being here.

18 Before we move along to the presenters, we have
19 a very infamous timekeeping system here at the Court of
20 Appeals. For those of you who have been lucky enough to
21 argue before this Court, or simply observe an argument
22 here, you are familiar with the system. For those who
23 are first-timers here, we have two lights. We have a red
24 light and we have a white light. The white light will
25 come on to alert you that your time is coming to an end.

1 You actually have about two minutes between the white
2 light and red light, and the red light will signal time
3 has expired.

4 We ask you to please be conscious of your time
5 and respectful of the timekeeping system so that we can
6 give everyone an opportunity to have their full time
7 allotment and be mindful of the train schedule back to
8 New York for many of you.

9 Once again, thank you all on behalf of my
10 colleagues and Judiciary and the lawyers across this
11 state for being here and for your work.

12 Our first presenter will be Judge Edwina
13 Mendelson. As I said, she is our Deputy Chief
14 Administrative Judge for Justice Initiatives. She wears
15 many, many hats for those of you who don't know her. She
16 discharges all of her responsibilities exquisitely,
17 including her leadership on Child Welfare Reform and her
18 leadership in the area of Juvenile Justice Reform. She
19 has just recently led the first portion, and will
20 continue to follow through to its end, of the
21 implementation of the Raise the Age legislation, and, of
22 course, her primary responsibility is ensuring that our
23 judges and our professional staff across the state have
24 what they need to ensure meaningful access to justice for
25 all New Yorkers and users of our civil, criminal and

1 family courts.

2 Judge Mendelson, it is a pleasure to see you
3 here.

4 HON. MENDELSON: Thank you. Good afternoon,
5 Chief Judge Janet DiFiore, Presiding Justices Acosta,
6 Scheinkman, Garry and Whalen, Chief Administrative
7 Judge Marks, and New State Bar Association President,
8 Hank Greenberg.

9 It is my delight to be with you this afternoon.
10 As the Chief had mentioned, I do lead the Office of
11 Justice Initiatives. Our goal is to ensure meaningful
12 access to justice for all court users in all types of
13 court cases, regardless of background, income or special
14 needs. We do this work in very close partnership with
15 the Permanent Commission on Access to Justice.

16 The Permanent Commission examines the extent
17 and nature of current unmet legal needs and makes
18 thoughtful culture changing recommendations for system
19 improvement. As part of the mission of the Office for
20 Justice Initiatives, our job is to actualize,
21 operationalize and implement these thoughtful system
22 improvement recommendations.

23 As our Chief just mentioned, our State
24 Judiciary, first under the leadership of Chief Judge
25 Jonathan Lippman and expanded and strengthened under

1 Chief Judge Janet DiFiore, provides directly \$100 million
2 yearly from the Court's own budget to provide civil legal
3 services for the essentials of life.

4 We are talking about assistance in housing,
5 family matters, assistance income and access to health
6 care and education. This funding is critical. The
7 consequences of appearing in any of our courts without
8 legal representation can be devastating, and we are
9 grateful, deeply grateful, for this funding. It has
10 enabled legal service providers to handle more than
11 one-half million cases this past year. You will be
12 hearing, and I am eager to hear from those clients, about
13 the life-changing impact of these legal services. And
14 they, who will be speaking today, are representatives of
15 the thousands who have been helped directly by this
16 funding.

17 However, for every person who is assisted,
18 there are many, many more who are turned away; vulnerable
19 populations, including the elderly, those with physical
20 or mental disabilities, and individuals who reside in the
21 rural areas of our state, are especially challenged in
22 receiving access to legal assistance. Our court system
23 does a great deal to try and close that justice gap.

24 We have found court resources to support and
25 promote pro bono programs, self-help services,

1 technological tools, and outreach programs to help
2 overcome the barriers faced by so many who are pursuing
3 their civil justice needs.

4 Our staff, our Court staff in our 31
5 court-based help centers located throughout the State of
6 New York assist court users by providing free legal
7 information, procedural information, referrals, court
8 forms, and helpful explanatory publications.

9 In 2014, we assisted 135,000 people in our
10 court-based help centers. That number grew to 234,000 in
11 2018. The flood of people who are coming to our courts
12 for assistance attest to the vast unmet legal needs.
13 Many who are coming to our help centers are seriously
14 frightened. They're desperately seeking help with urgent
15 matters, such as child support, eviction from their
16 homes, bank accounts recently frozen by debt collectors,
17 and other matters. They are frightened, and they
18 should be frightened because we only can provide limited
19 assistance in our help centers.

20 Despite undergoing a life-impacting legal
21 crisis, they are most often not able to access full legal
22 representation and must continue on their own. We were
23 able in the New York State courts to open three new help
24 centers this year, and we plan to pilot our first remote
25 help center in Saratoga soon. But as we sit here today,

1 there are three judicial districts that do not yet have
2 help centers, and so, we are not able to provide even
3 that basic level of assistance.

4 We have other Access to Justice Program
5 initiatives that we believe are helpful to our community.
6 The do-it-yourself document assembly program generates
7 completed personalized forms for self-represented users
8 in matrimonial, consumer debt, family law, housing, name
9 change, foreclosure, and small estates matters. I'm
10 particularly proud of our CourtHelp website. It
11 offers legal information and guidance in easy to
12 understand language about the law, about court
13 procedures, and also other matters that are helpful
14 for our court users.

15 CourtHelp generated 10.8 million page views.
16 10.8 million, it's worth repeating, page views this
17 past year. Our courts also oversee supervised volunteer
18 attorney programs, volunteer law student programs, and
19 our very popular Court Navigator Program. These are
20 volunteer programs serving a variety of courts and with a
21 variety of subject matter areas.

22 The assistance that we provide in our
23 court-based programs range from legal information and
24 advice, to document preparation, to actual representation
25 through the Lawyer for the Day program. We also oversee

1 a volunteer Guardian Ad Litem Family Court program, and
2 we collaborate with Center for Social Justice on the
3 Attorney Emeritus program providing volunteer attorneys
4 to many in need.

5 We are especially proud of our partnerships
6 with Civil Legal Services funding providers, such as our
7 court-based consumer debt volunteer Lawyer of the Day
8 program. That program assisted 5,000 litigants last
9 year.

10 So our overarching goal is to expand this very
11 helpful Access to Justice program throughout the state
12 and open more help centers. While these programs are
13 very helpful, they do, as I mentioned, provide only
14 partial relief. They cannot alone close the justice gap.
15 That can only be achieved by funding Civil Legal Services
16 attorneys to help our many New York residents facing
17 these life-altering legal problems; those at risk of
18 losing their home, their children, their income, their
19 healthcare.

20 In my leadership role, Judge DiFiore, you
21 mentioned the child welfare reform that I lead. I
22 oversee our Statewide Child Welfare Court Improvement
23 project, and just last week I received an example of the
24 need that we are talking about today.

25 I was here in Albany, just a few miles from

1 where we are, at a statewide meeting of kin caregivers,
2 many of them grandparents and great-grandparents. They
3 told me about how desperate they are when they are trying
4 to seek guardianship or custody of their loved ones when
5 their parents are involved in the child welfare system.
6 They cannot navigate our complicated family court system
7 on their own.

8 The impact of the opioid epidemic on children
9 and families has created a huge need for grandparents and
10 other relatives to step in and care for children when
11 their parents are simply unable to do so. Very few legal
12 service providers provide representation for free to kin
13 caregivers. One of those is the Empire Justice Center, a
14 grantee of our judiciary Civil Legal Services funding.
15 Today you will hear from one of its clients, Miss Shanell
16 Yarde. She was able to gain emergency custody of her
17 infant niece when the child's mother was unable to care
18 for her.

19 Attorneys make a difference. Without legal
20 representation, vulnerable children enter foster care to
21 live with strangers instead of safely being cared for by
22 loving kin. Additional funding would increase access to
23 lawyers in this important area.

24 There is national context to this work. The
25 Conference of Chief Justices and the Conference of State

1 Court Administrators of 2015 issued Resolution 5,
2 providing for an aspirational goal of 100 percent access
3 to effective assistance for essential civil legal needs
4 through a continuum of meaningful and appropriate
5 services.

6 Now, this esteemed group recognizes, and I'm
7 going to directly quote from what they said: They
8 recognize, "That the judicial branch has the primary
9 leadership responsibility to ensure access for those who
10 face impediments that they cannot surmount on their own."

11 You mentioned, Chief, that New York State is a
12 leader in this area. We are the national
13 access-to-justice leader by providing such substantial
14 funding to provide direct legal services to those most in
15 need. It is unique. It is powerful. It is significant,
16 and it shows a true commitment to closing that justice
17 gap. So, we do go further and deeper than any other
18 state in this nation, and we should take great pride in
19 that. I personally do, however, think we can go further.
20 We cannot rest with the wonderful work we are doing
21 because, as you mentioned, we are nowhere near our lofty
22 yet increasingly critical goal of 100 percent effective
23 and efficient legal assistance to every single person in
24 legal need. That's our goal, and that is our mandate.

25 Hundreds of thousands of New Yorkers continue

1 to appear in our court unrepresented, intimidated by the
2 court, lacking legal knowledge and procedure, suffering
3 from low reading comprehension often, and many with
4 limited English proficiency. When I think about the
5 experienced attorneys who are often intimidated by coming
6 into amazing courtrooms like this, let's just imagine an
7 unrepresented person facing a life crisis having to go
8 into court to try to secure the essentials of life
9 without an attorney on their side and in their corner.

10 So, we are working toward a court system where
11 everybody needs that type of legal assistance from an
12 attorney who will receive that help, and further
13 Judiciary funding from direct legal services is the
14 means to reach our goals.

15 I look forward with all of you to listening
16 directly from those who have benefited from our Court's
17 leadership in this area. I'm going to end on a personal
18 note, one of deep, deep gratitude, it is a privilege, it
19 is an honor to do this great work. Thank you.

20 CHIEF JUDGE DiFIORE: Thank you, Judge
21 Mendelson. I just want to exercise Chief Judge
22 prerogative. Your professional plate is obviously very
23 full. You oversee a lot. If we were to ask you which
24 area you would prioritize going forward or within the new
25 year, which area would it be? Would it be kinship?

1 HON. MENDELSON: I was just touched. It was
2 just last week I was still reeling from the power of the
3 words. The kinship work and the absence of attorneys to
4 represent relatives ties very closely into other work
5 that we are engaged in New York State, the interim report
6 on Justice Peters' mission on parental representation.
7 Later this week, we will be in Minneapolis at a National
8 Chief Justice conference talking about the groundbreaking
9 reports where it has been recommended in New York State
10 that will increase and strengthen our representation that
11 is entitled for parents in child welfare cases. There
12 isn't a right to counsel with a kin caregiver, so I
13 would focus on that because it actually ties into the
14 other really important justice system work we are
15 engaged in this area.

16 PRESIDING JUSTICE GARRY: I want to further
17 address the help centers and the lack of them in three
18 judicial districts. I was concerned. I believe that two
19 of those are within my Third Department. I think the 6th
20 and the 4th District, am I right about that?

21 HON. MENDELSON: You are correct.

22 PRESIDING JUSTICE GARRY: Do you know offhand
23 what the third one is?

24 HON. MENDELSON: The 5th.

25 PRESIDING JUSTICE GARRY: So all really in

1 rural parts of New York State, and I'm wondering about
2 whether you have considered partnering with the law
3 libraries.

4 HON. MENDELSON: We are working on that.

5 PRESIDING JUSTICE GARRY: Because that would
6 seem to be, perhaps, an effective way to reach the
7 population since there are in most of the counties, at
8 least in the 6th, public law libraries, with some hours,
9 at least, of trained personnel being available there.

10 HON. MENDELSON: Yes, we are actually engaged
11 in work with Mr. Huth, who leads our statewide library
12 work. We actually were planning for the 6th as one of
13 our early library help centers. There was a change in
14 court leadership on the clerical side, and we decided to
15 look at the pilot in Saratoga for the remote help center.
16 We want to help every single judicial district in our
17 state, and that is our goal, and we are looking at
18 libraries.

19 PRESIDING JUSTICE GARRY: Thank you.

20 PRESIDING JUSTICE ACOSTA: My question is
21 related to the help centers. It seems that the service
22 need is there, right, from 2104 serving 135,000 folks to
23 2018 over 234,000. Maybe I'm begging the question. The
24 need is increasing, isn't it?

25 HON. MENDELSON: The need is increasing, and I

1 believe our reach is increasing. We are increasing the
2 number of publications we provide. We are updating our
3 technological tools, but the need is absolutely there.

4 PRESIDING JUSTICE ACOSTA: So 100 million has
5 not been sufficient to meet all those needs, right?

6 HON. MENDELSON: Right.

7 PRESIDING JUSTICE ACOSTA: Are there other
8 partners we should be looking at in government, or
9 other private sectors, etcetera, to partner with us in
10 delivering justice to these folks?

11 HON. MENDELSON: I think that we already do
12 partner with all of our government partners in this
13 area, and I just think that it's a matter of the -- the
14 need is great, and \$100 million is a significant
15 investment, and if we increase that investment we will
16 be able to reach more people.

17 CHIEF JUDGE DiFIORE: Thank you, Judge, and
18 thank you for appearing today.

19 HON. MENDELSON: My pleasure.

20 CHIEF JUDGE DiFIORE: Our next presenter is
21 Roger Maldonado. Mr. Maldonado currently serves as
22 President of the New York City Bar Association, and in
23 particular, Mr. Maldonado has been a very important
24 partner in our effort to bridge the justice gap. Of
25 course, by the way, he does have a day job. He is a very

1 fine lawyer who practices at Smith, Gambrell & Russell.
2 Thank you for being here today, Mr. Maldonado.

3 MR. MALDONADO: Your Honor, it is an honor to
4 appear before this Public Hearing on Civil Legal
5 Services. Particularly so, accompanied by Judge
6 Mendelson and Jordan Dressler. I say that because the
7 combination of sustained funding from the Office of
8 Court Administration for Civil Legal Services, together
9 with the Access to Justice programs, and the
10 implementation of the Right to Counsel for low-income
11 tenants and eviction proceedings in New York City, has
12 served to narrow the justice gap to a degree that I never
13 would have imagined when I first set foot in Brooklyn
14 Housing Court many, many years ago.

15 Chief Judge DiFiore, Chief Judge Mendelson,
16 the Office of Court Administration, and everyone
17 responsible for the passage, funding and implementation
18 of the Right to Counsel Law, are to be commended for your
19 vision regarding and your commitment to the attainment of
20 justice in New York State.

21 I am prepared to summarize the key points in
22 my testimony, however, I am open, as I did last year,
23 too, receiving questions from the panel and getting to my
24 testimony through that manner.

25 I do know that among the issues I would like

1 to focus on is the need for, believe it or not,
2 improvement in the implementation of the Right to Counsel
3 Law. As I think most persons know, right now we are in
4 our second year of a five-year implementation. The Civil
5 Legal Services providers are gearing up to be able to get
6 to the point in 2022 to have the numbers of attorneys
7 needed to be able to fully represent all low-income
8 persons in eviction proceedings in New York City.

9 The problems that we are encountering,
10 however, are several. One, are the courthouses
11 themselves. When I was practicing in Brooklyn Housing
12 Court in 1981, I was told then that that courthouse was
13 slated to be renewed and changed within a matter of a few
14 years. They're still in the same place, and it is
15 equally inappropriate now as it was back then, and it's
16 impossible for an attorney to have a confidential
17 communication with his or her client because you're stuck
18 in either a completely crowded hallway, or in a courtroom
19 that is jam-packed. There is an absolute need for a
20 change of circumstances.

21 PRESIDING JUSTICE WHALEN: Mr. Maldonado, just
22 a quick question, and you invited questions.

23 MR. MALDONADO: Yes.

24 PRESIDING JUSTICE WHALEN: How does the
25 deterioration of the facility impact the litigants

1 when they come in to have their cases heard, or does it?

2 MR. MALDONADO: I can give you a perfect
3 example. In Bronx Housing Court, the City Bar has a Task
4 Force on Civil Right to Counsel. Representatives went to
5 that courthouse and observed a hearing, a trial, taking
6 place in the hallway of the Bronx Courthouse. Beyond
7 just the limitation on the ability for communication,
8 there is the appearance of respect for the judges who sit
9 in that courthouse, the attorneys who appear before the
10 judges, but more importantly, the litigants. If you walk
11 into a courthouse where, beyond having to go through a
12 cattle line just to get in, you then are subject to what
13 one former Chief Judge described as a bizarre-like
14 atmosphere in the courthouse itself. You don't get the
15 sense that you are in a place where justice is being
16 done. You get the sense that you are just part of a mill
17 that is being pushed through.

18 PRESIDING JUSTICE WHALEN: Thank you.

19 MR. MALDONADO: The other issue that needs to
20 be addressed is the period of time prior to the first
21 appearance by those to be represented by counsel, and
22 to give them the opportunity to meet with their
23 attorneys. Another observation of the Task Force on
24 Right to Counsel was we went to a courthouse in Queens
25 where the tenants who were entitled to the right to

1 counsel were being told to first go to put in an answer
2 to the non-payment proceeding before being directed to
3 meet with the attorneys who would end up representing
4 them, which goes completely against the concept of right
5 to counsel, when the key thing an attorney is supposed to
6 do with their client is to assist them in the preparation
7 of an answer and/or motion that fully presents the
8 offenses and claims, and many of these tenants have
9 claims for improper conditions in their apartment. So,
10 there must be an opportunity for the tenants to be
11 informed of the fact that they have a right to counsel.
12 There are landlord attorneys who will target those zip
13 codes knowing that they're going without an attorney, and
14 they will talk to the tenant before they actually have
15 been directed to the room where they can meet with
16 counsel to try and get them to settle the case before
17 they ever reach trial.

18 The third issue that needs to be addressed is
19 increased funding for training. The Civil Legal Aid
20 attorneys who are appearing in Housing Court now, many of
21 them are recently hired, and they are in a position that
22 I was not when I was in legal services. They must
23 represent everyone who is from that particular zip code,
24 and that means you have to take on cases that are no
25 longer the slam dunk I'm going to win. You need to be

1 able to understand how to counsel a tenant in situations
2 where there is no other possible viable results other
3 than moving from the apartment, preferably at a point in
4 time that makes sense, that works for the family.

5 You need to be able to have supervisors who
6 can properly oversee the work being done by all these
7 young attorneys, and right now there is not sufficient
8 training available. These attorneys are being thrown in
9 because of the increased need for assistance without
10 having gone through the training that I received when I
11 was in legal services. And among the reasons for
12 increased funding from the Office of Court Administration
13 is to ensure as Right to Counsel is fully implemented,
14 that it is implemented in a way that works.

15 As you indicated, Judge DiFiore, New York State
16 is the leader in access to justice right now, and New
17 York City is being focused on by the rest of the nation
18 in terms of how is this going to work. We need to ensure
19 that it works well. We also need to ensure that we are
20 able to communicate about its implementation in ways that
21 are accurate and compelling, and for that we need better
22 data. There has to be a mechanism by which the cases
23 that are being heard in Housing Court now are
24 differentiated. Are they within the zip codes? Did the
25 attorneys meet with the tenant prior to submitting an

1 Answer? Did the tenant have an attorney? How long did
2 it take for this case to be resolved, whether there was
3 an attorney versus those cases where there was no
4 attorney? What issues were being addressed? Among the
5 benefits of Right to Counsel now is that the legal
6 services and Legal Aid attorneys are raising issues in
7 numbers that have never been dealt with before, to the
8 point they are educating the court system, both the
9 judges before whom they appear and the Appellate Term
10 judges who hear the appeals from those cases brought.
11 This is all to the benefit of the judicial system, and in
12 order for the judicial system to be able to completely
13 justify to itself and to the world the investment that
14 it's making, it really needs to come up with a mechanism
15 to be able to tell the story.

16 I want to further encourage the Office of Court
17 Administration in terms of the increase in funding. It's
18 not just because of all the benefits that have been
19 described and will be described. It's because of your
20 role as leaders. The sustained funding, the \$100 million
21 that the Office of Court Administration has allocated for
22 the last few years to Civil Legal Services, is a signal
23 to the rest of New York State as to how important
24 access to justice is to the Office of Court
25 Administration and the judges that work within it.

1 Absent continued leadership by the Office of Court
2 Administration, my concern is that the rest of New York
3 State will say they're satisfied with where they're at,
4 we should be, too. And as everyone has testified here,
5 we cannot be. There must be continued progress, and
6 there must be continued support for Civil Legal Services.
7 Unfortunately, the cost of doing business in New York
8 State, notwithstanding all of the benefits of an economy
9 that has been working well, continues to increase.

10 You can't just have flat funding. There must be
11 increase in funding to be able to keep pace with the
12 service needs.

13 CHIEF JUDGE DiFIORE: You raised some fair
14 criticisms, a number of them. If there were increased
15 funding or funding to remain constant, what would your
16 order of priority be to address it?

17 MR. MALDONADO: I would focus first on the
18 Civil Legal Services providers. As much as the bar
19 associations of the world can do in conjunction with
20 attorneys in private practice who do pro bono work, we
21 cannot substitute for the work being done by the Civil
22 Legal Services providers in certain areas where it's
23 either complicated, holdover proceedings in Housing
24 Court, or where there are perceived conflicts of
25 interest, if not actual conflict, in consumer debt cases.

1 It is very difficult to get an attorney to represent
2 an individual consumer debtor where the other side is a
3 bank represented by that person's firm. So that is the
4 priority, increased funding for Civil Legal Services.

5 PRESIDING JUSTICE ACOSTA: Do we know the
6 latest numbers in terms of the percentage of tenants or
7 litigants that are still not represented?

8 MR. MALDONADO: The answer is yes, and Mr.
9 Dressler is going to address that in great detail, but I
10 can tell you that when there was a prior report saying
11 that something like one percent of tenants were
12 represented by attorneys in Housing Court, that
13 percentage has gone up to at least 30 percent, if not
14 more. In the zip code areas where there is a right to
15 counsel, it's closer to 50 percent.

16 It's making a difference, but that still leaves
17 either 70 percent of all tenants or 50 percent of tenants
18 in ZIP code areas without counsel. In theory, there will
19 be more persons represented come 2022. However, that's
20 only for persons at I think it's 20 percent of the
21 poverty level. Anyone who has gone to Housing Court
22 knows that it's impossible to hire a tenant's attorney in
23 many cases, even if you have the money, because there are
24 just not enough of them out there to do the work. So
25 there is continued need for improvement in this area,

1 too.

2 PRESIDING JUSTICE SCHEINKMAN: I was wondering
3 if you can speak to the program that provides legal
4 assistance by pro bono attorneys to visitors at the help
5 center, and how well that works, and what are the pluses
6 and minuses. The second part of it is, there will be
7 later panels that are discussing the need for legal
8 assistance proactively before a litigation arises, and
9 whether the help center and pro bono assistance via the
10 help center could be a vehicle for addressing that.

11 MR. MALDONADO: The answer is yes, Your Honor.
12 The City Bar Justice Center has a hotline that, thanks
13 in part to funding from OCA, now services 90 percent of
14 the callers, and among the things that the hotline does
15 is to alert them to the help centers. The Justice Center
16 also now has, I think it's Kings County and Manhattan, we
17 now send our attorneys, our full-time staff, to sit at
18 the help center to provide advice and counsel to the
19 persons who are appearing at the help center. What we do
20 is we inform the public of the availability of the help
21 center, and then we help staff the center itself.

22 On occasion, we will take cases online and
23 actually provide some limited assistance in completing a
24 pleading, which an attorney can do without having to
25 worry about do-it-yourself ones. Then, we can actually

1 file these pleadings on behalf of the otherwise pro se
2 litigants, but then they're on their own.

3 I think there is no question that the help
4 centers are a vehicle to help assist, but if you could
5 combine the help centers with the volunteer programs, or
6 a volunteer lawyer for the day, or other volunteer
7 programs, so that the help center can then direct those
8 persons who really need a lawyer to go to another room to
9 meet with a lawyer, and to be able to walk into a
10 courtroom with them, even if it's just for that day,
11 would make an enormous difference.

12 CHIEF JUDGE DiFIORE: Thank you for appearing,
13 and thank you for your work.

14 Our next presenter is Jordan Dressler, who is
15 the Coordinator to the Office of Civil Justice, which is
16 responsible for allocating and monitoring the City's
17 investments in Civil Legal Services, and is here today to
18 update us on the incredible progress that is taking place
19 and challenges. Mr. Dressler, thank you for being here.

20 MR. DRESSLER: Thank you, Chief Judge DiFiore.
21 My name is Jordan Dressler, and I am the Civil Justice
22 Coordinator in New York City. In that capacity, I am
23 honored to lead the City's Office of Civil Justice,
24 New York City Human Resources, Department of Social
25 Services.

1 Before I begin, I would like to thank the
2 Office of Court Administration and Judiciary for its
3 stalwart leadership in the area of improving access to
4 justice in New York City and State, particularly as we
5 implement the historic Universal Access to Counsel
6 Initiative. We are especially grateful to Chief Judge
7 DiFiore for convening the Special Commission on the
8 Future of the New York City Housing Court last year to
9 identify ways to reform and reinvigorate the Court, and
10 for implementing reforms to improve efficiency and
11 effectiveness in the delivery of justice in one of New
12 York City's busiest courts. The New York City Housing
13 Court, where we are implementing universal legal access
14 to counsel, will be the focus of my remarks today.

15 In August of 2017, New York City made history
16 and became the first city in the United States to make a
17 commitment to every tenant facing eviction in Housing
18 Court and public housing administrative proceedings that
19 they would face this potentially life-changing legal
20 challenge with the legal help and guidance they need,
21 regardless of their means.

22 New York City's Universal Access Law mandates
23 that the City provide access to legal services for
24 every tenant facing eviction in New York City Housing
25 Court and administrative proceedings at the New York City

1 Housing Authority.

2 Two years later, the landscape for access to
3 justice for tenants in New York City and elsewhere has
4 been transformed, and for the better. Since New York
5 City's enactment of Universal Access, Newark, New Jersey
6 and San Francisco, California have enacted their own
7 Tenants Right to Counsel legislation that resemble New
8 York City's. Other cities, including Cleveland, Ohio,
9 Philadelphia, Pennsylvania, and Washington, D.C. are
10 exploring their own tenant legal services initiative.

11 In New York City, we have made substantial
12 progress in bridging the justice gap for tenants facing
13 potential eviction in court and displacement from their
14 homes and neighborhoods, and these efforts in which OCJ,
15 my office, has partnered with over a dozen nonprofit
16 legal services organizations to make these critical
17 services available, have already delivered positive and
18 promising results.

19 In City Fiscal Year 2018, the last year for
20 which we have analyzed data, OCJ-funded legal
21 organizations provided legal assistance to 33,000
22 households across New York City facing housing
23 challenges, providing representation or advice to over
24 87,000 New Yorkers. This includes 26,000 households
25 facing eviction in Housing Court and NYCHA administrative

1 proceedings, 69,000 New York City residents who were able
2 to face the threat of eviction with the assistance of a
3 legal defender.

4 As of June 30, 2018, nearly a quarter-million
5 New Yorkers have received free legal representation,
6 advice or assistance in eviction and other
7 housing-related matters since the start of the de Blasio
8 Administration in 2014 through tenant legal services
9 programs administered by the Human Resources
10 Administration.

11 When the lawyers have represented tenants in
12 court, they have been successful in preserving the
13 homes of thousands. In Housing Court eviction cases
14 resolved by OCJ's legal services providers, 84 percent of
15 households represented in court by lawyers were able to
16 remain in their homes, not only saving thousands of
17 tenancies, but also promoting the preservation of
18 affordable housing and neighborhood stability.

19 As New York City dramatically increased its
20 investments in legal services for tenants, residential
21 evictions by marshals in New York City have drop by 37
22 percent, representing an estimated 100,000 New Yorkers
23 who remained in their homes as a result of decreased
24 evictions.

25 In Housing Court, the uneven and unfair dynamic

1 that left so many tenants unrepresented by counsel is
2 changing through OCJ's implementation of Universal
3 Access. In the last quarter of Fiscal Year 2018, 30
4 percent of tenants appearing in Housing Court for
5 eviction cases were represented by attorneys in court.
6 This is a substantial increase from the representation
7 rate for tenants of 1 percent in 2013 as reported by the
8 State Office of Court Administration. We are also seeing
9 that increases in housing legal services are having an
10 impact in the courts. In York City Housing Court, the
11 number of eviction cases filed continues to fall, with
12 approximately 29,000 fewer eviction proceedings filed in
13 calendar year 2018 than in calendar 2013, a decline of 12
14 percent.

15 At the same time, court statistics provided by
16 the Housing Court reflect increased substantive
17 litigation. The number of pretrial motions filed in 2018
18 was 19 percent higher than in 2014, while emergency
19 Orders to Show Cause declined to 24 percent over the same
20 period.

21 With these encouraging results, we are now
22 looking forward toward the future as we continue our
23 five-year implementation plan for Universal Access. The
24 rollout is now under way. Currently, all low-income
25 tenants facing eviction proceedings in Housing Court in

1 20 ZIP codes across the City, identified based on
2 factors, including the number of evictions, the
3 prevalence of rent-regulated housing, number of homeless
4 shelter entries, and the number of eviction proceedings,
5 have access to free full legal representation accessible
6 in court and in the community. OCJ is establishing
7 Universal Access through implementation by ZIP code,
8 identifying neighborhoods across New York City where
9 eviction and displacement risks and pressures are acute,
10 and focusing first on these communities.

11 This ZIP-by-ZIP approach has enabled us to
12 partner with the Housing Court administration and legal
13 services providers to facilitate meaningful and effective
14 methods for providing access to counsel, and we have seen
15 a substantial impact in these communities in need. As
16 Mr. Maldonado pointed out, whereas the legal services
17 representation rate for tenants in Housing Court to face
18 eviction cases was 30 percent citywide at the end of City
19 Fiscal Year 2018, the rate was 56 percent for tenants in
20 the fifteen zip codes targeted in the first full year of
21 implementation of Universal Access.

22 In addition to expanding Universal Access for
23 tenants in Housing Courts to additional zip codes later
24 this year, we are also looking forward to gauging the
25 impact of increased awareness of the availability of free

1 legal assistance through the Housing Court's new revised
2 plain language Notice of Petition form. We are very
3 grateful for the Judiciary and the Office of Court
4 Administration for championing this critical reform,
5 which was one of several key recommendations made by the
6 Chief Judge's Special Commission on the Future of New
7 York City Housing Court, and we appreciate the
8 opportunity we have had to work with the Court on the new
9 Notice. This will be the first thing a tenant sees in
10 every eviction case properly filed in New York City
11 Housing Court, and with the Court's leadership and
12 assistance, it now includes information that will guide
13 and encourage tenants to access OCJ's legal services.

14 Specifically, we have partnered with the court
15 system to establish a telephone hotline that is included
16 in the Notice of Petition for tenants to call and find
17 out more about free legal assistance in New York City,
18 learn about program eligibility, and connect with free
19 counsel as quickly as possible. With use of the new form
20 starting last week, we are now monitoring the impact that
21 this new pathway to early access will have on demand for
22 the legal services we provide.

23 Universal Access is expected to be fully
24 implemented in 2022, and we are on track. At that point,
25 every tenant in eviction proceedings in Housing Court and

1 at NYCHA will have access to free legal services.

2 I will conclude here. I see my light is on.
3 I want to thank you again for the opportunity to discuss
4 New York City's work providing access to justice for
5 tenants in need. We look forward to continuing working
6 alongside the New York City's legal providers, the
7 Judiciary, and other stakeholders towards the goal of a
8 fair and equitable justice system for all.

9 CHIEF JUDGE DiFIORE: You left us breathless.
10 We thank you for your extraordinary work and leadership,
11 and it's a privilege for us to work closely with you on
12 the issues.

13 What has been the most significant
14 implementation challenge, and does that continue today?

15 MR. DRESSLER: We've had several, some
16 logistical, but the facilities issues, as Mr. Maldonado
17 pointed out, are real. We understand they are in the
18 process of changing. Just last week I was in Bronx
19 Housing Court in, quote, unquote, the new building,
20 which, of course, is an older building on the corner of
21 161st Street and the Grand Concourse in the Bronx, where
22 I got to witness a trial in one of the new trial parts
23 for Bronx Housing Court. So we know that is a work in
24 progress. We know that Brooklyn is also in progress.
25 It is the two largest Housing Courts in the City of New

1 York. Those logistical issues remain. Early access is
2 an issue that we are eager to tackle through the
3 implementation of the new Notice of Petition form, and
4 we hope that will make for quicker access, more robust
5 access, and a better job of connecting lawyers and
6 clients earlier in those cases for better outcomes for
7 all.

8 Probably the biggest challenge has been
9 cultural. For so many years legal services providers,
10 quite rightfully, have been saying no to so many cases
11 due to a lack of resources, and a program approach that
12 said use your powers, use your energies, and use your
13 efforts where they can be most impacted. Shifting from
14 that appropriate triage model to one that is an assigned
15 counsel model, the kind we see in family court, like a
16 neglect proceeding, and the kind we see in criminal court
17 every day, is a cultural change to every stakeholder in
18 the system.

19 Fortunately, the influx of new attorneys being
20 hired by an array of new services providers, part of the
21 culture is changing because those attorneys new to the
22 work, they don't know any other way. They grow up in a
23 world of assigned counsel for tenants facing eviction,
24 and they know to come to court for their UA day. They
25 know that they're on rotation, similar to the way we

1 approach arraignments in all the city's criminal courts.

2 It is a work in progress. It is changing. We
3 have to partner with the bar associations, with the
4 Judiciary, most of all, the legal services providers. So
5 we think we are on the right track to making that change.

6 CHIEF ADMINISTRATIVE JUDGE MARKS: Two
7 questions. Mr. Dressler, you mentioned that there's some
8 jurisdictions outside of New York that either have or are
9 considering adopting the Universal Access Law. What
10 about other municipalities in New York State, because
11 aside from avoiding tremendous human toll that results
12 from evictions, there obviously are tremendous Social
13 Services costs that can arise when someone is evicted.
14 So you would think an argument can be made that it's in
15 the financial interest of a municipality to ensure that
16 every tenant facing eviction has a lawyer. Have other
17 municipalities reached out to you in your office to
18 discuss doing something similar in their jurisdiction?

19 MR. DRESSLER: Yes. We've had good and I think
20 productive conversations with folks from Westchester
21 with some interest. We actually think that that is due
22 to increase with the change in the rent laws recently.
23 One of the major undertones of the Universal Access Law
24 is the ability of lawyers to make the most of existing
25 law. With the change in the law, and I'm not asking for

1 opining on this law, but we know that there are
2 procedural barriers that might have interfered with the
3 connection between lawyers and clients that are now
4 different. There is, of course, different bodies of
5 substantive law. There may be increased interest on the
6 part of other local governments. Our door is open. Our
7 phone lines are open. Our in-boxes are open to provide
8 any assistance that we can in terms of lessons learned,
9 partnership, and we are happy to have this conversation.

10 CHIEF ADMINISTRATIVE JUDGE MARKS: Okay, thank
11 you. The second question, you mentioned changing the
12 culture, and Mr. Maldonado mentioned the crowding in the
13 courthouses. Just by the way, I just want to make clear
14 that the state court's system does not maintain
15 courthouses, local governments do. We work very closely
16 with them, and there are plans in place to address the
17 most egregious problems with respect to the Housing Court
18 facilities. But, with changing the culture and
19 overcrowding in Housing Court, has any consideration been
20 given to, you know, now when a tenant is served with an
21 eviction petition, the first thing they do is they rush
22 to court to file an Answer themselves, and they return to
23 court for every court appearance, and anyone who has
24 practiced in civil courts in this state other than
25 Housing Court knows that the litigants themselves don't

1 necessarily have to be in court for every single court
2 appearance. They have to be there when testimony is
3 provided. They may have to be there when settlement
4 negotiations are happening, but otherwise, they don't
5 have to go to court for every single appearance.

6 With the advent of more and more lawyers
7 representing tenants in Housing Court in New York City,
8 has any thought been given to taking steps to not require
9 that tenants immediately rush to court in the first
10 instance, and then be there for every single court
11 appearance where it's not necessarily required that they
12 be there?

13 MR. DRESSLER: I think there are a few
14 components there. One is the pre-answer period, and one
15 is the post-answer period, and one when the case is
16 calendared and moves through the court. In the
17 pre-answer period, we are hopeful that between extension
18 of times to actually submit an Answer and the
19 introduction of an access point on a Notice of Petition
20 that is much easier to understand, I cannot emphasize
21 enough how critical we think it's going to be, to at
22 least give tenants an opportunity to connect to the legal
23 providers prior to that first interaction with the case
24 in the court itself. So we are waiting on the scene. We
25 are waiting to go with phone lines that are literally

1 open, and we look forward to monitoring that impact on
2 that.

3 On the cases in court, Your Honor is absolutely
4 right, there is no legal reason why a represented tenant
5 needs to be in court. Because there has been decades of
6 a certain kind of practice in Housing Court, even
7 involving the lawyers themselves, there is the sense that
8 if I don't have my client next to me, and perhaps some of
9 the providers can speak more correctly, if I don't have
10 my client next to me, I may not be in a position to
11 execute a resolution in this case in my client's
12 interest, if the landlord is okay with it, and most
13 importantly, in an efficient way to the Court. I as
14 counsel don't want to be on the wrong side of having to
15 tell the Court that, yes, we can work this case out but
16 for the fact I can't reach my client.

17 So we think that's something that is changing.
18 We certainly hope it changes, and we are aware that
19 whether it's a low-income tenant or a moderate income
20 tenant, certainly the overwhelming majority of litigants
21 in New York City Housing Court, that day in court may be
22 a day out of work. That day in court may be having to
23 move heaven and earth to have kids picked up from school.
24 These are burdens that can be avoided with the connection
25 between an attorney and a client and a culture that

1 allows for that kind of approach much in the same with
2 the other civil courts in the City of New York.

3 CHIEF JUDGE DiFIORE: Thank you, sir. That
4 concludes the first panel.

5 Our next group of presenters is Hind Mohammed.
6 Ms. Mohammed is a client at the Legal Services of the
7 Hudson Valley. She is accompanied here today by her
8 attorney, Danielle Brown, and Ms. Finkelstein, of course,
9 CEO of Legal Services of the Hudson Valley.

10 Ms. Mohammed, we'll start with you. Try to
11 speak into the microphone, because everyone wants to hear
12 what you have to say.

13 HIND MOHAMMED: My voice is loud. My name is
14 Hind Mohammed and I am a former Legal Services of the
15 Hudson Valley client. I am a resident of Yonkers, New
16 York and a mother of two girls. Thank you for letting me
17 speak today about the need for free legal help for
18 victims of domestic violence and their children.

19 I came to the United States with my husband
20 in 2012 as a refugee from Iraq. My husband started
21 abusing me soon after we got married, and it continued
22 even after we came to the United States and had two
23 beautiful daughters.

24 I lived in fear of my husband for years. He
25 beat me, raped me and he said he would kill me. One time

1 when he beat me, he also attacked me with a knife and he
2 cut me.

3 My sister called the police that time and he
4 was arrested. We were living in Colorado at the time and
5 the Court there issued me an Order of Protection, but my
6 husband, he didn't care and violated the order. My
7 husband wanted me to leave Colorado so the criminal case
8 against him would go away and said he would kill my
9 family if I stayed in Colorado. So I left without my
10 daughters. At this time, I had nothing. I was never
11 allowed to get a job, or even learn English. My girls
12 were two and three years old but my husband wouldn't let
13 me see or speak to them.

14 I moved to Yonkers and started building my
15 life in New York. I got an apartment, learned English
16 and started working. I used all my savings to hire a
17 lawyer in Colorado to file for custody of my daughters.
18 But soon, I ran out of money and could not pay the lawyer
19 anymore.

20 One day, my husband told me to take my
21 daughters because he couldn't take care of them no more.
22 I got my daughters back to New York and was so happy that
23 I finally had my children back with me. But soon, my
24 husband told me to bring the kids back to Colorado.

25 By this time, my daughters had told me that

1 he abused them, too, and they cried and said they were
2 afraid to go back with him. I knew that I had to protect
3 myself and my daughters, and so I filed for custody and
4 an Order of Protection in Yonkers Family Court. The Pace
5 Women's Justice Center helped me file my petition in
6 court and then sent me to Legal Services of the Hudson
7 Valley and Daniela Israelov, a staff attorney with the
8 Domestic Violence Unit.

9 Daniela helped me in both my custody and
10 family offense cases. Daniela filed papers and argued in
11 court so that I was able to get temporary emergency
12 custody of my kids and have the custody case heard in New
13 York instead of Colorado.

14 Daniela also made sure that any visits that
15 the children had with their father would be supervised so
16 they could be safe. Then, for the next two years,
17 Daniela and Legal Services of the Hudson Valley stood up
18 for me and my children as my husband fought me at every
19 turn, all the way to trial.

20 By this time, another staff attorney at Legal
21 Services of the Hudson Valley, Danielle Brown, was also
22 helping me in these cases. With their help, my children
23 and I were able to get a five-year Order of Protection,
24 and I was given sole physical and legal custody of my
25 daughters with no visitation allowed for their father.

1 My daughters and I are so happy now that
2 there is no more violence in our lives. We are able to
3 laugh again. We help each other and are happier and
4 healthier. I help them with their homework and they
5 helped me study so I could finally get my citizenship on
6 my own.

7 I know now that I have rights, that there are
8 laws to protect me here. Legal Services of the Hudson
9 Valley saved me and my kids. I am so thankful that I had
10 access to free legal help in my cases. Not only did
11 Legal Services of the Hudson Valley give me excellent
12 legal help but also the support and understanding that
13 helped me go through the court process and win.

14 I now believe in myself and know that my
15 daughters and I will never go back to a situation like
16 the one we were in. It is my hope that my testimony
17 today shows how important it is that legal services
18 programs in the state receive the funding they need so
19 that the services I received are available to anyone and
20 everyone who needs them. Thank you.

21 CHIEF JUDGE DiFIORE: Thank you. And thank
22 you for traveling here to Albany from Yonkers. Tell me,
23 Ms. Mohammed, what was the first inkling, what was the
24 first piece of information that you had that there were
25 legal services available for you? Where did you learn

1 about that? When you returned to New York, not in
2 Colorado. Here in New York.

3 MS. MOHAMMED: When I start first with them.

4 CHIEF JUDGE DiFIORE: How did you learn about
5 it? How did you know that the help was available to you?

6 MS. MOHAMMED: I learned first from the
7 Court, Yonkers Family Court, and I start from the
8 probation side and then they send me to Legal Services of
9 the Hudson Valley.

10 CHIEF JUDGE DiFIORE: You made the connection
11 by walking through the courthouse door?

12 MS. MOHAMMED: Yes, Daniela, she took the
13 case and she start with the case.

14 CHIEF JUDGE DiFIORE: Okay, very compelling
15 story. Very compelling story. You are the
16 personification of why we are here doing this work. So
17 thank you very much.

18 Ms. Finkelstein.

19 MS. FINKELSTEIN: Thank you, Chief Judge.
20 And I think Ms. Mohammed points out the coordinated
21 system we do have in Westchester County. As a former DA,
22 we're very, very lucky to have that system.

23 Thank you, Ms. Mohammed, for coming today and
24 sharing your story. As you heard, Ms. Mohammed lived in
25 constant fear of her husband while living in Iraq and

1 then in Colorado as a refugee. It was only when she was
2 able to escape to Yonkers and obtain services through
3 Legal Services of the Hudson Valley that she was able to
4 consult with a lawyer and really begin to understand what
5 her rights are and the full range of civil legal services
6 that were available to her.

7 Like many Judiciary Civil Legal Services'
8 providers, Legal Services of the Hudson Valley is able to
9 provide holistic, comprehensive, free civil legal and
10 advocacy services to victims and survivors of domestic
11 violence like Ms. Mohammed, and it takes many years. And
12 I think all of you know that the representation of
13 victims of domestic violence is not a 30-day type of
14 representation. Resources and time have to be available
15 for the attorneys at legal services' programs to spend
16 that kind of time and to work with victims of domestic
17 violence. Without Legal Services of the Hudson Valley's
18 ability to obtain temporary emergency custody of her
19 children in Yonkers, and then a five-year Order of
20 Protection and full custody, Ms. Mohammed would not have
21 the safety and stability that she has today.

22 But it was the perseverance not only of her
23 lawyers but of Ms. Mohammed that helped us to achieve
24 that. Civil Legal Services' programs know that the work
25 that we do has a ripple effect and a long-term effect on

1 the clients that we serve.

2 It is part of our charge and part of our
3 mission to make sure that the clients we help achieve
4 stability, achieve long term positive life-changing
5 effects from our representation. This long-held belief
6 really has been confirmed recently by a groundbreaking
7 study that was done by the Center for Community Solutions
8 which found that over half of the clients responding to
9 the survey seeking information about impacts of civil
10 legal representation by legal services' programs in Ohio
11 reported long-term stability in one or more areas,
12 including financial, family, health, housing, education
13 and civic engagement.

14 I think Ms. Mohammed's testimony affirms
15 those findings. She happens to be a unique person. I
16 think she is an empowered person. Danielle is her
17 attorney, but when I met her, I was immediately impressed
18 with her determination to be empowered and to proceed.
19 And even though Legal Services represented her in all of
20 her family cases, she had she insisted on proceeding
21 with her immigration proceeding on her own and so now she
22 is a U.S. citizen.

23 She's very thrilled. She feels like she has
24 control of her life. She's studying to be a real estate
25 agent. And we really feel that she is empowered and she

1 will have stability for the remainder of her life.

2 But she's one of thousands of survivors who
3 need our representation. And while we appreciate all of
4 the funding that comes from the Judiciary Civil Legal
5 Services' funding, there are so many more clients, so
6 many more victims of domestic violence that need our help
7 as the Chief Judge and Judge Mendelson acknowledged. We
8 thank you for all the funding that you do provide.

9 CHIEF JUDGE DiFIORE: There are different
10 layers of services in your provision of services with
11 different providers, for example, and your organization.
12 What efforts are made to avoid duplication of services?
13 I mean, every dollar is needed, we know that, but what do
14 you all do -- do you have stakeholder meetings? How do
15 you make certain that there's no duplication?

16 MS. FINKELSTEIN: Well, in Westchester
17 County, we all work very closely, so Legal Services of
18 the Hudson Valley, Justice Center and My Sisters Place
19 are really the organizations that provide free civil
20 legal services to victims of domestic violence.

21 The JCLS funding in Westchester County flows
22 through Legal Services of the Hudson Valley. We use the
23 funding for My Sisters Place and Justice Center. They
24 see the clients referred from probation, they do the
25 temporary Orders of Protection and then immediately refer

1 the client to Legal Services of the Hudson Valley.

2 We will refer any overflow clients to My
3 Sisters Place. And My Sisters Place, which is a domestic
4 violence agency in Westchester County, represents the
5 clients who are in their shelters. So we have a very
6 coordinated system. We regularly meet. We have an
7 Office for Women which many other counties don't have.
8 So we meet regularly and we make sure we're not
9 duplicating services.

10 PRESIDING JUSTICE SCHEINKMAN: You say in
11 your testimony that New York State has had the highest
12 demand for domestic violence services in the country.
13 Why not other states? Is that because it's reported more
14 or is that because there is a higher incidence of it in
15 New York and what can we do about it?

16 MS. FINKELSTEIN: Well, I have statistics
17 from the New York State Coalition Against Domestic
18 Violence and so I think it's probably reported more.
19 This is a very robust state and I think there's a lot of
20 opportunity for people to report. I don't think it's a
21 higher incidence than other places. I'm sure it's kind
22 of a uniform problem around the country.

23 PRESIDING JUSTICE WHALEN: First, I'd like to
24 commend Ms. Mohammed on her very courageous testimony
25 here today. Thank you. It's important for our panel to

1 hear from those that are receiving the services and we do
2 appreciate your attendance here today.

3 My question, though, is, Counsel Brown, if I
4 could, do you find in your practice -- we have
5 obviously a very vulnerable population that is coming in
6 to seek services. Do you find that simply by having
7 representation that that empowers and that makes the
8 client in many instances more courageous and more able to
9 move forward through the system? If you can talk to that
10 a little bit, I'd appreciate it.

11 MS. BROWN: Absolutely. I think that in the
12 relatively short time I've known Ms. Mohammed, and
13 certainly, since my colleagues couldn't be here today, and
14 going through this process with her, I've seen her
15 transform. And I know she's always been a strong
16 determined person, but I've seen her transform even more
17 so into that.

18 And I think that the clients that come to us
19 are oftentimes -- I mean, they're always in crisis,
20 they're scared. They're facing a court process that
21 they've never been through before as many of the
22 panelists are speaking of today, and it's so important to
23 have attorneys there as legal advocates, advocates for
24 the court and just generally as resources for survivors
25 of domestic violence to be able to guide them through

1 this process.

2 And I will say even in the last few days,
3 I've had clients who have come back. It takes an
4 average of about seven times for a victim of domestic
5 violence to leave an abuser, and there are women that
6 come back that choose not to go through the court
7 process, ultimately. But if you have the time and the
8 ability to build those relationships with the clients,
9 they will come back to us. And a lot of times, they do
10 eventually go forward with the process and obtain that
11 sort of protection.

12 CHIEF JUDGE DiFIORE: You've attested that
13 the provision of services on noncriminal domestic
14 violence issues has helped you reduce your dismissal rate
15 in the criminal cases for the services, helping to
16 support the victims through a difficult process on the
17 criminal side.

18 MS. FINKELSTEIN: Yes.

19 CHIEF JUDGE DiFIORE: Thank you so very much.

20 Our next group of presenters is Mary Brown
21 and C. Kenneth Perri. Ms. Brown is a client of Legal
22 Assistance of Western New York. She is accompanied by
23 her attorney, Lori O'Brien who is the co-deputy director
24 of operations of Legal Assistance of Western New York.
25 And our second presenter is Ken Perri who is the

1 executive director.

2 Ms. Brown, I'm going to start with you.

3 MARY BROWN: Good afternoon, Your Honor.

4 Thank you for the opportunity to be here today and to
5 allow me to speak about my experience. My name is Mary
6 Brown. My apartment complex at 447 Thurston Road in
7 Rochester had been in need of repairs for many years.
8 Some of the problems in my apartment included mold in the
9 bathroom, rodent infestation, clogged pipes and a ceiling
10 in disrepair.

11 The landlord had failed to make repairs
12 despite my repeated requests. I finally decided to
13 withhold my rent until the problems were fixed.
14 Unfortunately, my absentee landlord failed to make the
15 repairs, instead, taking legal action to have me evicted
16 from my apartment.

17 In February of 2018, I sought help from LawNY
18 after receiving a lease termination notice from the
19 landlord for nonpayment of rent. LawNY agreed to open a
20 case on my behalf. They immediately notified the
21 landlord of the outstanding violations and agreed to hold
22 my rent in an escrow account for safekeeping.

23 In response to LawNY's intervention, my
24 landlord finally responded but failed to fix the problems
25 in my apartment. In September of 2018, my landlord

1 brought me to court seeking six months of back rent. Bob
2 Vitale from LawNY appeared on my behalf at Rochester City
3 Court. He argued that the landlord failed in his
4 obligation to provide a safe home for me to live in.

5 Bob had gathered documentation showing the
6 code violations to my apartment and provided them to the
7 Court. The Court stopped the eviction and ordered the
8 landlord to make repairs to my home. We went to court on
9 many occasions to make sure that progress was being made
10 to make repairs.

11 The Court allowed me to stay while the
12 landlord attempted to fix the problems. Thanks to the
13 efforts of the team at LawNY, the Court forgave eight and
14 a half months back rent and I was moved to a new
15 apartment while repairs were finished. With LawNY's
16 efforts, my home was made more safe and I received
17 justice for the years of neglect by the landlord.

18 During my legal battle, I realized that the
19 issues within my apartment were part of a much larger
20 problem. I knew that the problems I was dealing with
21 extended to the building's common areas as well. Garbage
22 cans overflowed because pickup service was irregular.
23 Our common area floors, ceilings and steps were
24 crumbling. The front and back entrances to the building
25 had broken locks and door frames, allowing drug dealers

1 and squatters to enter our building and reside in vacant
2 apartments.

3 I began speaking with other residents about
4 the problems I was dealing with and what I saw in the
5 common areas. What struck me was that other residents
6 were experiencing similar problems that I was dealing
7 with in my own home. One resident told me that her
8 bathroom ceiling had caved in on her and her daughter.
9 She was withholding rent and was being threatened with
10 eviction.

11 Another resident told me that he had been
12 without water for weeks. I was upset because many of my
13 neighbors are vulnerable. They are elderly, disabled,
14 single parents, most are on fixed incomes. If they
15 complained to the landlord, they were being threatened
16 with eviction. Without knowing their rights, they
17 could be left homeless and in a shelter or on the
18 streets.

19 Our landlord, Thurston Road Realty, and its
20 New York City-based partner, Peter Hungerford, owns
21 several other Rochester area complexes that are known to
22 have health and safety violations. The tenants at my
23 building were fed up with our landlord's neglect. We
24 spoke with a tenant organizer to discuss the formation of
25 a tenants association to protect all of our rights.

1 Bob at LawNY came to our building and gave
2 presentations to the residents about tenants' rights and
3 answered questions. Many of our residents were concerned
4 about the landlord retaliating against tenants for
5 asserting their rights.

6 Bob assured us that LawNY would represent the
7 tenants association and individual tenants who were
8 retaliated against by the landlord. LawNY followed
9 through and represented many of my neighbors being
10 threatened with eviction.

11 It was a great day when the 447 Thurston Road
12 Tenants' Association was formed. Yes, I am the
13 President of the Association. By that time, we had
14 already repeatedly asked the City of Rochester to conduct
15 inspections of the property. The City had done so before
16 but nothing seemed to ever come of it. This time, with
17 the help of LawNY, the City responded by filing a lawsuit
18 against Thurston Road Realty, LLC, demanding they correct
19 more than 175 code violations.

20 On behalf of our Tenants' Association, LawNY
21 filed court paperwork for us to join the City's lawsuit
22 to allow us to be heard. We became a plaintiff in the
23 case and finally had a voice to demand justice.

24 Bob spoke up on our behalf and made the legal
25 case but also fought for our dignity. The Judge

1 understood our arguments. The Judge threatened our
2 landlord with fines and with removing control over the
3 property. We appeared in court monthly to check the
4 progress. This all seemed too much for our landlord.

5 First, Mr. Hungerford was removed from his
6 position of overseeing the property for his company.
7 Then, our landlord sold the property to a responsible
8 local company. The first thing they did was make
9 temporary repairs to the common areas and provide new
10 locks for the main doors. They also provided security.

11 Then, the new landlord informed us and the
12 Court that they were going to do a complete
13 rehabilitation of our building. Work has already begun.
14 All the tenants have been transferred to safe apartments
15 elsewhere while the building is being renovated.

16 Our case has received media coverage online
17 and on TV. Even the Wall Street Journal has
18 interviewed me about our story. Our story is about
19 standing up for your rights and demanding to live this
20 life with dignity and respect.

21 I am grateful for all of the support LawNY
22 provided throughout this ordeal. They appeared at
23 dozens of court appearances, presentations and
24 conferences to make sure that we had a safe home to live
25 in. Bob and the team at LawNY gave us the knowledge and

1 confidence to recognize when our rights are being
2 violated and that something can be done about it.

3 Without Bob Vitale and legal services from
4 LawNY, I don't know where we would be living today. I
5 can truly say that we all appreciate all of the support
6 that was given to us by Bob and his associates. Myself
7 and all of the tenants are living in better living
8 conditions.

9 Thanks again to God, Bob Vitale and his team,
10 our organizers, the City-Wide Tenants Union and the
11 Rochester City Court Judge who handled this case. Thank
12 you.

13 CHIEF JUDGE DiFIORE: Well, Ms. Brown, I have
14 so many questions for you. First of all, how did you
15 learn about LawNY? What brought you to them at the start
16 of this code issue?

17 MARY BROWN: Because, as I said, we had many
18 violations within the building, I decided to stand up and
19 do something about it. So I began to decide how to
20 organize the building.

21 CHIEF JUDGE DiFIORE: So who told you about
22 LawNY? How did you learn about them?

23 MARY BROWN: Through the City-Wide Tenants
24 Union, they saw me on TV because I had complained about
25 everything, they came to my house and they told me about

1 LawNY.

2 CHIEF JUDGE DiFIORE: I think it's such a
3 terrific story. Not, of course, every group of tenants
4 in a building has a Ms. Brown there to start rabble
5 rousing and focusing peoples' attention on the very real
6 issues that arise by irresponsibly maintaining of a
7 building.

8 And I think what you've done is really,
9 really terrific. I'm sure on behalf of everyone up here,
10 I commend you. Good for you.

11 MARY BROWN: Thank you.

12 CHIEF JUDGE DiFIORE: Mr. Perri, you have a
13 real advocate here.

14 MR. PERRI: Yes. I have a red light, so I'll
15 be very brief. So I just want to say first thank you for
16 permitting me to provide brief comments today. My
17 program is a sprawling 14-county service area that has
18 offices in the 6th, 7th and 8th judicial districts, about
19 10,000 square miles, and I just want to talk about when
20 Ms. Brown had a problem with private housing and
21 substandard conditions that led to an eviction.

22 Our office also provides representation to
23 tenants in federally subsidized housing, public housing
24 and mobile home parks which are a huge issue in our area
25 where owners of mobile homes rent the lot that they're

1 in. And mobile homes are really not mobile. So if
2 they're evicted, there are all kinds of issues.

3 The need for services in our 14-county
4 service area and throughout the state far outstrips our
5 capacity to provide services.

6 There are some stats in my written
7 submission. I just want to highlight some of them.
8 Eviction proceedings, as you know, are held in many parts
9 of the state in town and village courts. There are more
10 than 1,275 town and village courts in the 57 counties
11 outside of New York City. In the LawNY service area, we
12 have 450 town and village courts and 18 city courts.

13 In the 13 rural counties, those numbers
14 compared to the 50 attorneys that we have in our six
15 staffed offices that we have who, in addition to working
16 in housing cases which are an incredibly important
17 essential in life, are representing clients with
18 government benefits, family law, health law, consumer law
19 and employment law. So our capacity is far below what it
20 needs to be in order for us to effectively service our
21 clients.

22 I'm just going to give you a couple more
23 statistics. There are no statistics that are compiled by
24 town and village courts, but in the 37 counties that have
25 city courts outside of New York City, there were 124,000

1 landlord-tenant cases disposed of in 2018.

2 In the LawNY service area, there are 450 town
3 and village courts and 18 city courts. This is compared
4 to a total staff of 50 attorneys, paralegals and support
5 staff to handle a broad variety of cases. So we do need
6 an increase in funding. I'm hoping that that would be
7 given consideration as you make your recommendations in
8 the fall.

9 To Justice Marks, there is a movement afoot
10 in Rochester to develop an action plan to provide
11 everyone in Monroe County with meaningful access to
12 effective and fair resolution of housing matters. It's
13 very preliminary and part of the Justice For All pilot
14 that the Chief Administrative Judge is spearheading with
15 the Permanent Commission on a number of panels.

16 It was noted earlier we do now have the new
17 Housing Stability and Tenant Protection Act of 2019, new
18 rights, procedural and substantive, resulting in the need
19 for more attorneys to represent clients. And I will stop
20 there.

21 PRESIDING JUSTICE WHALEN: Outside the city,
22 the housing cases in town, village and city courts, what
23 has been your experience as you've been trying to get
24 basic information to people who have cases in those
25 courts? Could you speak to the challenge that that

1 brings about?

2 MR. PERRI: It's nearly impossible in rural
3 counties to get information to tenants about our services
4 that are available. In the City of Rochester where cases
5 are in City Court, the Center For Justice was mentioned,
6 we do have a collaboration. All of those legal services
7 providers are co-located in one building, and so we do
8 coordinate our services.

9 Volunteer Legal Services Project has an
10 attorney for the day program. Legal Aid Society of
11 Rochester represents typically private tenants than
12 LawNY. But to your point that tenants don't know that
13 they have access to an attorney either, so I know we
14 piloted a program in the City of Elmira with respect to
15 tenant issues. I don't know that there's data on how
16 effective that was.

17 CHIEF DiFIORE: Is the availability of
18 services better in the community?

19 MR. PERRI: The plain language notice that
20 was discussed today earlier that happened in New York
21 City, statewide, that would be really an effective way to
22 get information out there.

23 PRESIDING JUSTICE SCHEINKMAN: So even in the
24 town and village courts, which are really controlled by
25 municipalities, are they hard to even get information

1 through them to let people know what their rights are?

2 MR. PERRI: That's correct. And it's hard
3 for us to even access documents. Some are so small that
4 literally, the business hours are 4:00 p.m. to 6:00 p.m.
5 Thursday and you have to physically go there to get
6 copies of documents in cases.

7 PRESIDING JUSTICE ACOSTA: Is your
8 representation limited to individual cases? I mean, it
9 sounds like in Ms. Brown's case, it's something that she
10 basically responded to by withholding rent. Are you able
11 to represent tenants in all types of tenant-initiated
12 proceedings?

13 MR. PERRI: We can represent individual
14 tenants. We do triage and so we do, of course, give
15 priority to particularly tenants in subsidized public
16 housing whose rents are affordable and mobile homes that
17 are in our rural counties.

18 As I said, if you're evicted from a mobile
19 home park and your mobile home is not mobile, really, in
20 most instances, there's limited access that you have.

21 CHIEF ADMINISTRATIVE JUDGE MARKS: In the
22 town and village courts where many, if not most, of the
23 judges are not lawyers, is it more difficult to litigate
24 housing cases in courts where the judges are not lawyers?

25 MR. PERRI: I would say my gut reaction to

1 that years ago would have been yes. I really want to
2 commend the Office of Justice Court Support for the
3 training that they're doing and I think the level of
4 practice. It's getting better because of the existence
5 of that organization.

6 PRESIDING JUSTICE GARRY: I was going to say
7 because I know that the town and village court resource
8 center did embark on a really concerted effort to
9 instruct all of the town and village judges about the
10 changes in the law. And I was wondering about the
11 opportunity that there might be to teach the judges about
12 the availability of other resources, legal resources, for
13 representation and having that, perhaps, become part of
14 their training program. I don't know that that's being
15 done.

16 When I was town judge, it was not done. The
17 judges were not told about what the other resources might
18 be.

19 MR. PERRI: And I just want to note there are
20 other providers besides legal services providers that we
21 work in concert with. So there are housing agencies that
22 provide housing assistance to tenants who wind up getting
23 evicted. So we do partner with our community
24 organizations to address more than just the civil legal
25 end.

1 CHIEF JUDGE DiFIORE: Thank you, Ms. Brown,
2 Mr. Perri and Ms. O'Brien for all of your legal work.
3 Excellent.

4 The next group of presenters is Ms. O.M.S.,
5 and Adriene Holder. Ms. O.M.S. is accompanied today by
6 her lawyer, Beth Krause, who serves as supervising
7 attorney to the Immigrant Youth Project. And of course,
8 we all know Ms. Holder; she's the attorney-in-charge with
9 The Legal Aid Society. Welcome and thank you.

10 Ms. O.M.S., we'll begin with you.

11 MS. O.M.S.: Good afternoon. Thank you
12 for --

13 CHIEF JUDGE DiFIORE: Try to keep your voice
14 up so that everyone can hear and appreciate what you've
15 come to tell us.

16 MS. O.M.S.: When I was four years old, I
17 came to the U.S. to be reunified with my parents. I
18 don't remember much about the trip and I have never been
19 back to Mexico since then. When I arrived to the United
20 States, I lived with both my mother and my father for a
21 short time.

22 My father had a lot of problems because he
23 drank a lot of alcohol and was always drunk. At home, he
24 was aggressive towards my mother and to me. I remember
25 my father punching the wall and breaking things in the

1 kitchen or the living room. My father would hit my mom
2 and she would get bruises on her body and, once, he left
3 a bruise on her face.

4 During the time my father lived with us, he
5 hit me, too. Almost every time my parents started
6 fighting, my older sister would take me out of the room
7 so that I wouldn't watch them fight, but I could still
8 hear them fighting and I would cry in another room until
9 it passed.

10 In about 2003, I was about five years old
11 when my mom contacted the police after my father
12 threatened her. My father ended up leaving and I
13 continued to live with my mom. It wasn't until 2006 when
14 my father was outside of our apartment yelling threats at
15 her that she not only called the police again but filed
16 for an Order of Protection to protect herself, my
17 siblings and me.

18 Around that same time in 2006, the New York
19 City Administration for Children Services came to my
20 house. In 2007, when I was nine years old, the Family
21 Court Judge gave my mom custody of me. The Judge ordered
22 visitation for my father. I remember that the few times
23 I saw him, I had to meet him in the police precinct to
24 make sure he wasn't drunk.

25 By the time I was around 14 years old, my

1 father stopped visiting me almost completely. When I
2 graduated from high school, my father did not attend. My
3 father never helped pay for my school or clothes or
4 necessities that I needed on a daily basis. My mom was
5 my only source of support.

6 In 2016, my mother was appointed as my
7 guardian, because even though I was 18, I still needed
8 her help. She is the only person who has consistently
9 taken care of me and been there for me. My mother
10 encourages me to achieve better things. She always made
11 sure that I was on track to finish school.

12 In 2016, I took the SAT and I applied to
13 three colleges: Mercy College, New York City College of
14 Technology and Borough of Manhattan Community College.
15 My mom paid the application fees. I was accepted to all
16 three of these schools, but I could not afford the
17 tuition. My mom helps me with some of my college
18 expenses but cannot afford to pay the full tuition.

19 In 2017, I applied for Special Immigrant
20 Juvenile Status. Later, I was told by my attorney that
21 U.S. Citizenship and Immigration Services wanted to deny
22 my application. My Legal Aid attorney worked with me to
23 provide USCIS with additional information. I waited for
24 so long, more than a year from the time I submitted my
25 application, for a response in my case. Then, I found

1 out that USCIS had denied my application in June of 2018.
2 My attorney told me that USCIS was denying applications
3 for most kids like me who applied after turning 18.

4 I was shocked and upset to learn that my SIJS
5 application was denied. I felt upset given everything
6 that my mom and I have gone through. I was sad because I
7 felt that by denying my application, the government did
8 not acknowledge what my mom and I have suffered. The
9 denial was also disorienting for me because of the goals
10 I have. I want to finish school, become more
11 independent and begin my career.

12 SIJS would have provided me with a pathway to
13 get permanent residence here in the United States and
14 that would have meant a lot of security for me as I try
15 to reach my goals. Though I did not choose to come to
16 the United States, the United States has become my home
17 and I want to be able to stay here.

18 Although I was granted protection under the
19 Deferred Action for Childhood Arrivals, that status is
20 only temporary. It does not provide me with any
21 assurance that I can stay in the country long term with
22 any form of permanent status. If I had to go back to
23 Mexico, I wouldn't be able to go to school and it would
24 be hard to work, because I struggle to speak Spanish. My
25 grandmother, who I lived with as a child, passed away a

1 couple of years ago. It would be extremely difficult for
2 me to live in Mexico, because almost all of my family
3 lives here in the United States.

4 My Legal Aid attorney asked me if I would
5 like to represent other young people, like myself, who
6 had been denied SIJS in a class action lawsuit. I did,
7 because I was angry and I thought what USCIS did was
8 unfair. I met with more attorneys from Legal Aid and
9 they explained what they were doing in court and what it
10 would mean if we won and if we lost. Luckily, we won.

11 In August, I learned that my SIJS application
12 was approved. Even though I'm not yet a permanent
13 resident, to me, this felt like a new beginning, knowing
14 that soon enough, I will be able to become a permanent
15 resident. I finally feel like I will be able to finish
16 my education and get the financial aid that I need to
17 start my career.

18 I chose to study to become a paramedic at
19 Borough of Manhattan Community College. I want to be a
20 paramedic because I want to make a career of helping
21 people. Thankfully, I still have my mom's support and
22 the legal assistance of The Legal Aid Society.

23 I hope that The Legal Aid Society will be
24 able to continue helping so many people, like myself,
25 through continued funding for important work like their

1 SIJS lawsuit. Thank you.

2 CHIEF JUDGE DiFIORE: You are an
3 extraordinary young woman.

4 MS. O.M.S.: Thank you.

5 CHIEF JUDGE DiFIORE: It sounds like you have
6 a wonderful, wonderful role model in your mom. Does
7 anyone have any questions for Ms. O.M.S.?

8 PRESIDING JUSTICE SCHEINKMAN: I wanted to
9 ask: Did you find out about the SIJS process and did Ms.
10 Krause's organization help you with the family court
11 piece of it as well or was there a separate attorney?

12 MS. O.M.S.: So my mom got guardianship of me
13 but we did not know -- we had no idea about applying for
14 SIJS. When I graduated from high school, I was looking
15 for college and they told me about the program, so I
16 e-mailed them and I got into the program and I got to
17 meet up with them. I was very happy and I got a job and
18 I started working at Marshall's. And then after that, I
19 was talking to my attorney more about my like personal
20 stuff, because I was going through a lot, and she had
21 like mentioned the application. I felt like my mom's the
22 only person that helped me with everything. And she is
23 the one that helped me and I'm really thankful. If not,
24 I would never have been able to stay here.

25 PRESIDING JUSTICE SCHEINKMAN: Thank you for

1 your perseverance and for sharing your story.

2 CHIEF JUDGE DiFIORE: Ms. Holder, aren't
3 these women extraordinary, Ms. Brown, Ms. Mohammed, Ms.
4 O.M.S.?

5 MS. HOLDER: Oh, yeah, they're inspirational.
6 I didn't get a chance to speak to Ms. Mohammed, but I did
7 get a chance to speak to Mary Brown. She's an
8 inspiration and an activist. She was able to pull
9 together other folks to know they can be empowered in an
10 association. She's moving on and she's doing a lot for
11 her community. I feel blessed to be able to speak to her
12 today and so very glad to meet her.

13 You see with Ms. Mohammed, you see with our
14 client, O.M.S., you know, they are changing their lives
15 with the assistance and the tools we're able to give them
16 through court and having really good judges, but also
17 with the legal services that are comprehensive.

18 And I just wanted to completely answer your
19 question. The Legal Aid Society was able to represent
20 O.M.S. through the immigration as well as the family
21 court process and so, yes, we do appear in family court.

22 It's an honor and privilege to be here, it
23 really is. We'd like to thank all of you for all of your
24 wonderful work in supporting this wonderful initiative
25 and we hope it continues flourishing under the Chief

1 Judge and really providing and making a real investment
2 in civil legal services.

3 O.M.S.'s case really does show in many ways
4 that this was a lawsuit in defense of the authority of
5 the New York Family Courts and the legitimacy of New York
6 law in order to ensure that young vulnerable immigrants
7 throughout New York would be able to continue to benefit
8 from their access to the New York Courts.

9 In 1990, Congress created Special Immigrant
10 Juvenile Status, also known as SIJS, as a means to
11 protect vulnerable immigrant youth who have been abused,
12 abandoned or neglected by their parents, and to provide
13 these vulnerable youth with a pathway to permanency in
14 the United States.

15 In 2008, Congress expanded many important
16 SIJS protections for vulnerable immigrant youth,
17 including making explicitly clear that SIJS was available
18 to immigrant children under the age of 21 years who were
19 abused, abandoned or neglected by one or both parents.

20 For a young person in New York to apply for
21 SIJS, a New York Family Court must first determine that
22 the applicant was abused, abandoned, neglected or
23 subjected to similar maltreatment under New York State
24 law, that the applicant cannot reunite with one or both
25 parents, and that it's not in the applicant's best

1 interest to be returned to the applicant's country of
2 birth.

3 The Court must also declare that the
4 applicant is dependent on the Court or place the
5 applicant in the custody of a caretaker. In the case of
6 O.M.S., it was her mother. This order is then submitted
7 to the United States Citizenship and Immigration
8 Services, USCIS, as part of the SIJS application.

9 Without any prior announcement, however,
10 USCIS narrowed its interpretation of the law starting in
11 2017. Under the policy change, the federal government
12 began to unlawfully deny class members' petitions for
13 relief by refusing to recognize the authority of New York
14 family courts to issue decisions for youth ages 18 to 20,
15 even though New York State law authorizes the family
16 courts to do so both pursuant to statute and a
17 substantial body of appellate case law.

18 The USCIS policy change was implemented
19 without any notice or any public announcement and
20 undermined the current federal statute. The policy
21 change effectively eliminated access to SIJS for
22 vulnerable New York youth over the age of 18 despite
23 there being no change in the federal law or regulations
24 related to SIJS. This was a sharp departure from a
25 decade of consistent policy, where SIJS applications

1 filed by young immigrants under the age of 21 in New York
2 were consistently and properly granted.

3 In June of 2018, with the knowledge that
4 dozens of our own clients and estimates that hundreds of
5 young people statewide had been or would be impacted by
6 this abrupt change in policy, The Legal Aid Society, with
7 co-counsel, Latham & Watkins, filed a federal class
8 action in Federal District Court of the Southern District
9 of New York challenging USCIS's unlawful actions.

10 In March of this year, the Federal District
11 Court found in favor of the plaintiffs, certifying the
12 class and finding the government's new policy unlawful as
13 having exceeded its authority and having misconstrued New
14 York State law.

15 In May of this year, the Court issued an
16 amended judgment, granting final declaratory and
17 injunctive relief to the class. To class counsel's
18 surprise, the government estimates that there are over
19 6,600 class members, over 6,600 young and vulnerable New
20 Yorkers impacted by the government's unlawful policy that
21 denied the authority of the New York Family Court.

22 This class action was the first of its kind
23 and first litigated to completion. Several other
24 advocate groups have filed similar challenges contesting
25 USCIS's policy in California, Washington State,

1 Massachusetts and New Jersey. In each of these cases,
2 the plaintiffs have heavily relied on the Court's
3 findings that USCIS must defer to state courts in regards
4 to the meaning of its own state law.

5 So much of this would not have been possible
6 without the consistent investment of Judiciary Civil
7 Legal Services' funding since 2011. This funding helped
8 support the creation and expansion of our Immigration
9 Youth Project at The Legal Aid Society to meet the
10 increased needs of vulnerable young immigrants.

11 The exponential increase in the number of
12 SIJS applications filed in New York State Family Court
13 has skyrocketed over the past decade from 1,646 in fiscal
14 year 2010 to over 21,000 applications in fiscal year
15 2018. This is enormous.

16 And so I thank you all again and I am so very
17 proud of the work that we're doing here in New York State
18 to continue to make this investment. In this particular
19 case, you see what is happening to our clients, but
20 overall, whether it's immigration law, whether it's in
21 housing, whether it's tax consumer practice, this
22 investment we're making here in New York is having a
23 significant impact on a lot of New Yorkers and serving to
24 be a model in which other parts of our country can learn.

25 So I thank you very much for allowing us to

1 provide you with remarks this afternoon.

2 CHIEF JUDGE DiFIORE: You have a right to be
3 proud of your work, Ms. Holder. Is there any
4 indication USCIS would be appealing the District Court's
5 decision?

6 MS. HOLDER: No, they will not be appealing.

7 PRESIDING JUSTICE ACOSTA: Have we identified
8 the 6,600 --

9 MS. HOLDER: Well, we're in the process of
10 doing that.

11 PRESIDING JUSTICE ACOSTA: You did the hard
12 work.

13 MS. HOLDER: Yes, we did. We did the hard
14 work. We were very shocked, but we're very proud. And,
15 again, we would not even have been in the game to be able
16 to address this to have that kind of impact if The Legal
17 Aid Society Immigration Law Unit hadn't been able to
18 expand our Immigration Youth Project and bring over this
19 wonderful supervising attorney, Beth Krause, to continue
20 to grow this. She's a partner in helping us grow our
21 immigrant youth practice at The Legal Aid Society. But
22 yes, it's coming.

23 CHIEF ADMINISTRATIVE JUDGE MARKS: One quick
24 question. Did The Legal Aid Society get money from
25 Federal Legal Services Corporation?

1 MS. HOLDER: No, we do not. You're talking
2 about legal services corporation funding?

3 CHIEF ADMINISTRATIVE JUDGE MARKS: Yes.

4 MS. HOLDER: No, we don't. We don't receive
5 funding from -- we had a little bit, a very small amount
6 of funding and we were able to -- you know, it was
7 painful at the time, but at the time the decision came
8 down, we opted out of receiving that funding.

9 Unfortunately, some organizations were not in
10 a position to be able to do that.

11 CHIEF ADMINISTRATIVE JUDGE MARKS: That's
12 what I was going to ask. If you were receiving the
13 federal funding, you wouldn't have been able to bring the
14 class action lawsuit you're describing, right?

15 MS. HOLDER: Not a class action lawsuit but
16 we are very creative in the ways in which they are able
17 to advocate, and we do so oftentimes in tandem. So
18 there's a lot of things that are going on right now,
19 whether it's challenges to improvements in the housing
20 laws in the State of New York or other things where we
21 are able to come together as a provider community in
22 understanding how we all can come together as advocates
23 and find creative ways in which to address these issues.

24 So despite the fact so many of them do have
25 restrictions, they still are able to come together with

1 other stakeholders, other providers that have access in
2 the community. We find ways to address the issues our
3 clients have.

4 And I would like to on the record state as a
5 bit of a departure, but I'm providing an answer to a
6 question asked earlier. I feel very strongly when we
7 talk about expansion of a lot of services in the court
8 that our clients really do, if possible, attend those
9 courts.

10 Of course, we don't want our clients to have
11 to miss work and find themselves being penalized by their
12 employers or leaving children unattended or not being
13 able to be picked up or if they're sick, not having to
14 come and expose themselves to even more harm by going to
15 the forums when they actually have counsel, but it is
16 important.

17 And what I think so many of us recognize is
18 that with the expansion of rights to legal services in
19 these various forums, our clients and stakeholders,
20 whether they're activists like Ms. Brown, organizers and
21 others, come into the spaces and they're able to really
22 make sure that the assistance is going to be truly
23 representative of what their needs are and understand
24 them and also broadcast to other folks on how they can be
25 empowered through that process.

1 That's what all of this to us is about, the
2 idea it's not going to be just about judges and lawyers
3 on both sides but really have significant meaning and be
4 responsive to the needs of our client community. These
5 cases, in particular, the work we do through service
6 providers, whether it's family, criminal or civil courts
7 and have such a real impact on everyone's day-to-day life
8 and we're seeing that through testimony here today.

9 CHIEF JUDGE DiFIORE: Thank you. That
10 concludes this panel. We will move to Panel Number 3.

11 Good afternoon, panel. We will be starting
12 with Mr. O'Malley, who serves as the Executive Director
13 of the IOLA fund. I'm certain Mr. O'Malley will describe
14 a little bit about who you are and what you do and what
15 we do. I want to acknowledge how grateful we are to be a
16 partnership.

17 MR. O'MALLEY: Thank you very much. Chief
18 Justice DiFiore, Members of the Panel, I've been asked to
19 present about the importance of infrastructure to Civil
20 Legal Aid providers, both to individual organizations and
21 to the entire network of organizations that provide civil
22 legal aid throughout New York State, as well as the need
23 for funders to appreciate and support infrastructure
24 spending.

25 I'm aware that this is a topic that normally

1 is not considered scintillating, but that's one of
2 the problems faced in talking about infrastructure.
3 As you heard today from the client panel, the
4 issues that Legal Aid organizations address are so vital,
5 literally the essentials of life that the
6 PCAJ has made its goal to support, and the results
7 are so compelling. Domestic violence survivors
8 whose lives have changed completely, families that avoid
9 eviction and homelessness, that there is a tendency for
10 funders to fund only the attorney salaries needed to
11 serve these clients. But no organization, nonprofit or
12 for-profit, can function in this manner.

13 I'd like to start by talking about what is
14 infrastructure in the context of a nonprofit, look
15 at what can go wrong when infrastructure is neglected,
16 and then look at examples of where infrastructure is
17 working to help bridge the access to justice gap.

18 Just like in the for-profit sector, nonprofits
19 have indirect non-programming expenses; infrastructure.
20 These include information technology, building
21 maintenance, program evaluation, accounting and finance,
22 employee training, all of which play a critical role in
23 delivering services. But unlike the for-profit
24 world, nonprofits are often asked by funders to minimize
25 these costs so that 80, 85, even 90 percent of every

1 dollar goes to programming, but that's both unrealistic
2 and unsustainable.

3 Let me provide an illustration. Let's say you
4 purchase a \$3.00 latte from a national chain. I suspect
5 you won't be surprised that only about 77 cents goes
6 directly to the cost of your latte, the espresso, the
7 steamed milk, the cup. The rest, \$2.23, goes to
8 overhead, including marketing and sales, distribution,
9 rent, labor, administrative costs, and, of course,
10 profits, which is fine, as you might enjoy the
11 convenience or the ambience of the coffeehouse. But
12 crucially it's understood that the direct cost of a
13 product is only a small part of what you pay for. Now,
14 if instead, you went to the cashier and offered 80 cents
15 with the explanation that you are only interested in the
16 latte costs, most likely your offer would not be well
17 received. But in effect, that's what many funders offer
18 to nonprofits.

19 And this approach to funding nonprofits
20 results in serious consequences. A 2018 national survey
21 of over 3,400 nonprofit leaders found that 62 percent
22 considered financial stability a top challenge; 75
23 percent had 6 months or less of cash on hand, and most
24 importantly, only 43 percent of all nonprofits and only
25 35 percent of nonprofits working in low-income

1 communities were able to meet demand for their services.

2 The dangers of this type of hand-to-mouth
3 existence were shockingly demonstrated in March of
4 2015 when the Federation Employment and Guidance Service
5 (FEES), a \$250 million nonprofit and one of the largest
6 human service providers in New York State, filed for
7 bankruptcy and closed. In response, a report by the
8 Human Services Council highlighted the risk factors for
9 FEES and for all nonprofits, finding that government
10 contracts and philanthropic grants rarely cover operating
11 costs, and payment is often late and unpredictable
12 resulting in chronic underfunding, which leads to
13 inadequate and obsolete equipment and technology,
14 understaffed and underskilled administrative offices, low
15 staff salaries, and high turnover resulting in lower
16 quality of services, and ultimately increased financial
17 vulnerability and organizational failures.

18 In recognition of the importance of infrastructure
19 in sustaining a vibrant Civil Legal Aid community, last
20 year the Permanent Commission included as part of the
21 Justice for All Strategic Planning Guidance Materials a
22 section focusing on resource planning. It highlighted
23 that for Civil Legal Aid providers to achieve the goal of
24 effective assistance for 100 percent of those facing
25 legal challenges, they must expand their capacity, and

1 this would require strong internal operations and
2 infrastructure, as well as the recruitment, retention and
3 development of a diverse Legal Aid workforce that will
4 better represent the community it serves. The
5 recommendation went beyond the infrastructure needs of
6 organizations and embraced statewide, regional and
7 collaborative efforts that strengthen the capacities of
8 the overall delivery system.

9 Lastly, the PCAJ report requested that all
10 Civil Legal Aid funders should consider this full
11 spectrum of funding needs in formulating and awarding
12 grants. What might this look like for funders? At IOLA,
13 over the last decade it has meant the awarding of general
14 operating support grants. This means that IOLA doesn't
15 support a legal project. IOLA funds the entire
16 organization and everything that goes into supporting the
17 legal work. IOLA lets its grantees know that funding for
18 the grants manager who can assure compliance with the
19 often complicated requirements of government contracts,
20 while also tracking results and helping assure cash flow,
21 can be just as important for the success of a program as
22 having the right attorneys in place.

23 IOLA has encouraged coalitions of organizations
24 working either statewide or regionally to seek funding
25 for infrastructure projects. One such project is led by

1 the New York Legal Services Coalition, 48 providers from
2 across the entire state, who wanted to create a program
3 around the critical infrastructure need of identifying,
4 training and supporting diverse equal justice leaders.
5 To give some context, for the last 10 years IOLA has been
6 collecting employee diversity data at all levels from its
7 grantees.

8 One encouraging trend over the last several years
9 is that the number of staff attorneys identifying as
10 people of color has more than doubled from 228 to 526.
11 However, the challenge is how can organizations retain
12 these attorneys and make sure that they become future
13 leaders. The Coalition working with the Shriver Center
14 developed an innovative program entitled Leadership for
15 Justice.

16 This past spring, 30 public interest leaders
17 from 17 legal service organizations from across the state
18 became the first cohort to receive the training, which
19 included an online program, as well as an intensive five
20 day in-person training and group follow-up work. In
21 October, another 30-member cohort will receive this
22 training, with the program to continue next year and in
23 the following years, with the goal to identifying and
24 support a talented and diverse network of equal justice
25 leaders.

1 While the initial evaluations of the program
2 have been excellent, and participants have spoken with
3 great enthusiasm about the skills they learned, the full
4 benefits of this program almost by definition will not be
5 realized for several years. But this type of
6 infrastructure investment, and frankly, just as vitally,
7 efforts to create competitive salary structures, are
8 what's needed to develop the diverse leadership to best
9 serve New York's communities.

10 Another exciting collaborative infrastructure
11 project comes from Mobilization for Justice and Lenox
12 Hill Neighborhood House, who have requested funding for a
13 technology project that responds to the increased
14 representation of low-income tenants in New York City
15 Housing Courts spurred by the Universal Access program
16 that you heard about earlier today.

17 Currently, there is a huge amount of building
18 data publically available that attorneys could use
19 to enhance representation: Housing violations,
20 vacate orders, multiple dwelling registration
21 information, and housing preservation and development
22 litigation information. Right now, to get this
23 information advocates must click through multiple
24 websites to gather information, and there is no method
25 for collecting or aggregating data to run reports and

1 identify trends.

2 Fortunately, technological advancements have
3 made it possible for computer systems to communicate with
4 each other through APIs, Application Programming
5 Interfaces. This project seeks to use this technology to
6 realize a number of important goals.

7 First, they will use an API with their case
8 management system, in this case, Legal Server, used by
9 many providers to quickly pull the available housing data
10 directly into their case notes.

11 Second, they will develop an easy to use tool
12 that gives an assessment of the eviction and housing
13 violations of a client's address, as well as identify
14 whether that client qualifies for Senior Citizen or
15 Disability Rent Increase Protection.

16 Third, they will roll out this tool to all the
17 New York City civil legal service organizations that also
18 use Legal Server, and eventually to all agencies
19 regardless of their case management system. This project
20 has the potential to be an extremely useful tool for
21 housing advocates, and likely would lead to time and cost
22 efficiencies with tenant representation, but it can only
23 be realized with infrastructure investment. These are
24 just two examples of the many interesting infrastructure
25 projects underway in New York.

1 But mindful of my time constraints, I hope
2 this overview of the importance of infrastructure
3 and how it can improve access to justice has been
4 helpful to the panel.

5 CHIEF JUDGE DiFIORE: Thank you, Mr. O'Malley.
6 You make a very important point by underscoring our
7 relation between the infrastructure funding and the
8 sustained ability to service and the equality of the
9 service. Do you think providers are thinking -- I mean,
10 everyone is very busy trying to make do with what they
11 have. Do you think the providers need education about
12 that correlation and the importance of advocating for
13 that?

14 MR. O'MALLEY: To be perfectly frank, I think
15 that funders need education about that issue. Whenever I
16 meet with grantees, which I do frequently, they are
17 keenly aware of their infrastructure needs, and they are,
18 frankly, very grateful to receive general operating
19 support and have the building to invest in particular
20 areas that need support.

21 CHIEF JUDGE DiFIORE: Can you divvy up the
22 available funding into different areas, one would be on
23 the automatic side, and one would be on general operating
24 support grants?

25 MR. O'MALLEY: In fact, what we do is all of

1 it is in the form of a general operating support. We ask
2 for and obviously we get information about the specific
3 programs and projects that they're going to be running.
4 In fact, we gather quite a bit of data from all our
5 grantees, as they will attest to. The money is released
6 in a form that allows them to spend it across all of
7 their needs, and we are very, frankly, a small minority
8 of funders that do that. So for our grantees it's really
9 a lifeline, really, to be able to have that flexibility.

10 CHIEF JUDGE DiFIORE: Any questions?

11 (No response.)

12 CHIEF JUDGE DiFIORE: Thank you. Neil
13 Steinkamp is no stranger to this hearing and this
14 courtroom and this business. Neil is the Managing
15 Director of Stout Risius Ross, LLC. He is an
16 extraordinary partner and extremely generous consultant
17 to the Commission. Thank you, Mr. Steinkamp, for being
18 here.

19 MR. STEINKAMP: Thank you, Your Honor. It is
20 an honor for me to have the opportunity to provide
21 remarks before you and the panel today. As you
22 mentioned, my name is Neil Steinkamp. I am a Managing
23 Director at Stout Risius Ross, LLC, and also lead the
24 firm's pro bono and social consulting practice.

25 I am here to speak about the Commission's work

1 on the Justice For All Project, for which I and my
2 colleagues at Stout have been engaged as a consultant, as
3 well as to provide an update on our annual calculations
4 regarding the significant economic impact that
5 investments in Civil Legal Aid have in the State of New
6 York.

7 As I discussed in my remarks to you last year,
8 the Permanent Commission's Strategic Action Plan was
9 finalized in December of 2017. The year-long process of
10 developing that Strategic Action Plan focused on
11 acquiring a more in-depth knowledge and understanding of
12 the justice gap through research and analysis of the
13 current delivery system, and using this knowledge to
14 devise an integrated and coordinated framework for a
15 statewide Civil Legal Services delivery system that
16 provides for effective assistance to 100 percent of
17 low-income New Yorkers in need. In every phase of that
18 process, the development process, the extent of the
19 justice gap has been evident, and just as evident
20 was the realization that closing that gap is, indeed,
21 possible.

22 The Commission is now working closely with
23 stakeholders at both the statewide and local level
24 to develop Justice For All Initiatives designed to lead
25 the state toward that vision of effective assistance for

1 100 percent of people in need. Over the last year, the
2 Commission, working with Administrative Judges in each
3 Judicial District, has successfully launched local
4 Justice For All Initiatives in all 8 Judicial Districts
5 outside of New York City, and has launched an initiative
6 within New York City to further explore ways to learn
7 about access to justice gaps in the City, and to develop
8 strategies to close that gap, working closely with both
9 local stakeholders, as well as the City and its Office of
10 Civil Justice Coordinator, Jordan Dressler, who just
11 spoke earlier. This expansion of the local Justice For
12 All Initiative represents an important new
13 development on the path to comprehensive, integrated
14 statewide network of Justice For All initiatives that
15 will be able to inform the Commission's recommendations
16 and work collaboratively to share best practices,
17 identify systemic barriers, develop and evaluate new
18 innovations, and develop measurements demonstrating
19 progress toward closing the justice gap statewide.

20 Already, we are seeing how this statewide
21 network and local efforts can provide opportunities
22 for collaboration. Seven of the local Justice For
23 All leadership groups are developing local resource
24 guides to document the resources available in their
25 communities, which identify ways to share that

1 information within the communities.

2 Six of them are developing plans for community
3 outreach to communicate and improve accessibility
4 to effective assistance. Three of them are collaborating
5 to develop new programs to prevent the need to resolve
6 issues with the court by addressing them at an earlier
7 stage.

8 Three of them are working on plans to close
9 the justice gap, specifically in landlord-tenant or other
10 housing matters, by providing effective assistance and
11 representation inspired, of course, in part by the
12 success of Universal Access in New York City.

13 Local Justice For All leadership groups that
14 have launched throughout the state are also working
15 on new projects and programs related to consumer debt,
16 family law, immigration, town and village courts, ADR,
17 collaborations with initial points of entry, such as
18 schools and libraries, providing effective assistance to
19 persons of modest needs, developing new court staff
20 education and training, conducting community needs
21 assessments, developing a community justice council,
22 analyzing city court data to better understand the
23 unrepresented population, and expanding effective
24 assistance through pro bono panels. There is a
25 significant amount of great and new activity that is

1 happening across New York State through these local
2 efforts.

3 The development of these initiatives, which
4 did not previously exist across the state, represents an
5 exciting indicator of the progress of the Justice For All
6 initiative in closing the justice gap. These efforts
7 have been done and developed and sustained to date
8 without any supplemental funding, other than the initial
9 \$75,000 received from the National Center for State
10 Courts associated with the initial implementation of the
11 Suffolk County Library Project. No other funding
12 specifically targeted toward these efforts.

13 However, there is still much work to do if the
14 Commission seeks to expand this initiative geographically
15 and into additional subject matters or initiatives.
16 While the momentum developed to date has been tremendous
17 and shows great promise to making a significant and
18 permanent impact on the justice gap in New York,
19 effectively sustaining and integrating such an effort
20 statewide may require supplemental resources.

21 Initial progress which the Permanent
22 Commission has been focused on over the course of
23 this year, those have included things such as new
24 community interaction and collaboration that have
25 been created, programs that have been expanded and

1 new programs initiated, new data that has been collected
2 that has never before been collected, new materials
3 created and distributed to the community that has never
4 been created before, mechanisms for community feedback
5 that are new and being used within the communities, new
6 recommendations to the Permanent Commission, new
7 connections across the counties that have not existed
8 before as they work to collaborate on new initiatives,
9 measurements of progress toward effective assistance are
10 beginning to be developed, and written strategic plans
11 are being completed.

12 The objective of providing a quantitative
13 measurement of progress is one of the Commission's
14 primary focus in the coming year. The local JFA
15 leadership groups that have been active for the longest
16 period, Suffolk and Monroe counties, have both indicated
17 that the development of a quantitative measure of
18 progress is instrumental and critical to sustaining and
19 expanding their efforts, and to the development of new
20 priorities and strategies based on emerging gaps or
21 trends.

22 While this effort has only just begun, it has
23 already demonstrated the value of regular collection,
24 analysis and review of information to evaluate progress,
25 observe trends, identify opportunities for new

1 stakeholder engagement, and to develop new programs for
2 community engagement, communication, or other efforts to
3 reduce the justice gap in the county.

4 The court system has an important role to play
5 in this effort. Local Justice For All leadership groups
6 are working to develop strategies to be able to provide
7 assistance to 100 percent of the people in need in their
8 respective counties. In order to do this, they need to
9 understand and know the number of persons who are not
10 represented with as much supporting detail regarding the
11 matter type and substantive issues as possible. If this
12 information was made available quarterly for each county,
13 in combination with data collected from other sources,
14 the local Justice For All leadership groups will be able
15 to measure the impact they are having, the areas in which
16 further progress is needed, the ways in which their
17 efforts are proving successful, and where new and
18 emerging issues are developing.

19 Further, data of this type will enable regular
20 discussion and collaboration among community
21 stakeholders, creating a sustained and persistent effort
22 toward achieving effective assistance for all. Data and
23 related impact measures can then be shared and compared
24 across the state, developing a state dialogue and culture
25 of collaboration regarding common challenges and best

1 practices for addressing those challenges. By enabling
2 this focus on quantitative measurement, collaboration
3 and impact assessment opportunities to amplify the impact
4 of funding can be identified, implemented and expanded.

5 Each year, as you know, I analyze the
6 reasonably quantified economic benefits from investments
7 and funding in Civil Legal Aid. Again, this year my
8 analysis finds that for every dollar invested in Civil
9 Legal Aid, there is a return on that investment of at
10 least \$10. That calculation of this benefit will be
11 further detailed in the Permanent Commission's Annual
12 Report to you later this year. As described above, it is
13 important to note the Permanent Commission's Justice For
14 All Strategic Action Plan, with local and statewide
15 elements, may serve to significantly increase this return
16 on investment. Particularly, I think it can be sustained
17 and expanded and enhanced with an orientation toward
18 quantitative measurement using data from the courts, from
19 2-1-1, from LawHelpNY, from local Legal Aid providers,
20 and other local data. That is, with the full
21 implementation of the statewide and local efforts
22 detailed in the Permanent Commission's Strategic Action
23 Plan, each dollar of current funding could have an even
24 greater impact.

25 The vision of the Permanent Commission is that

1 if all New York counties are developing and implementing
2 local Justice For All plans, if we can encourage and
3 cultivate statewide sharing of best practices and
4 insights gained from the local efforts, if we can use
5 data collected from these local efforts to inform ongoing
6 enhancement of local and statewide strategies, and if we
7 can amplify the work of local efforts with comprehensive
8 statewide pilots and initiatives, the goal of effective
9 assistance for 100 percent of New Yorkers in need can be
10 achieved. Thank you.

11 CHIEF JUDGE DiFIORE: Thank you. So ditto,
12 ditto from me. Here is my question to you. How far away
13 are we from developing statewide the quantitative
14 measurement of progress? That's the first part of my
15 question. The second part, can it be the same form no
16 matter where we are geographically? Is there a
17 foundational form for that?

18 MR. STEINKAMP: On the first question, how
19 far away are we from having a real sense of the impact of
20 quantitative measurement, I don't think we're far. I
21 think the real issue is collection of data and
22 understanding it, or making sure we understand the data
23 we are getting. Suffolk County has effectively
24 demonstrated it can be done. We are looking at monthly
25 data in that county to identify what is being done, where

1 the gaps are, and where progress can still be made.
2 Building capacity to address that is another question,
3 but in terms of understanding it, I don't think we're
4 far. I think with a focus on this year, by the time that
5 I or others may be back here next year, we will have a
6 very good understanding of that.

7 In terms of whether it can be the same, I think a
8 lot of it can be the same. I think there can be
9 standardization across the state. The responses will
10 need to be local, and that's one of the things we clearly
11 see in the local Justice For All work, is that while
12 there are similarities, consistency in the challenges
13 faced by counties across the state, the way in which it
14 responds is dependent on the resources and people and
15 commitment in that county locally. So, people's response
16 to the data, the strategies that they build to close that
17 gap successfully will vary. The way in which you can
18 understand the data, make it available, share it and
19 analyze it can, I think, have a great deal of uniformity.

20 PRESIDENT GREENBERG: Mr. Steinkamp, I want
21 to commend you, as well, for your extraordinary
22 leadership. I want to follow up on a question the Chief
23 Judge asked you with respect to the extraordinary,
24 extraordinary diversity of the state geographically in
25 every way, but especially with respect to the rural parts

1 of the state. 87 percent of the landmass is rural.
2 Three and a half million New Yorkers live in rural
3 settings. Our research at the State Bar Association is
4 that the problems of rural justice and the justice gap in
5 those communities is immense, unique, and wildly
6 different from the experience of downstate, for example.
7 The lack of broadband access, the depopulation, which is
8 at an alarming rate, of attorneys in those communities,
9 with more than half of the attorneys who practice in
10 rural settings at or near retirement age, and I'm just
11 wondering to what extent does your strategic plan take
12 into account the really unique and different aspects of
13 rural justice and the challenges.

14 MR. STEINKAMP: It's an eye-opening
15 experience for me to be there and to hear from the local
16 providers to simply say, as much as you will hear about
17 issues of foreclosure and eviction and other matters that
18 we have heard about, the fact that there just are not
19 lawyers there to hear, representing obviously a
20 significant, different and unique set of challenges.
21 Transportation is another significant challenge. The
22 opioid crisis is another significant challenge in rural
23 areas, as well. There are so many unique factors, so,
24 yes, absolutely, and it needs to continue to be an
25 element of the strategic plan incorporation of the use of

1 those counties in part of what we are doing and enabling
2 those counties to develop those unique strategies. So
3 much of what we are doing in the strategic plan's focus
4 is to enable local strategies to develop. That doesn't
5 mean that it's easy, but to appreciate that this is not a
6 perfect pattern. This is not going to be the same
7 everywhere. It has to be different, and appreciating the
8 significant challenges in rural communities is part of
9 that.

10 CHIEF JUDGE DiFIORE: Thank you.

11 PRESIDING JUSTICE ACOSTA: Just to follow up
12 on the question that was asked before. Do these
13 challenges in rural areas impact the return on investment
14 that you outlined in your testimony with respect to the
15 return on investment of at least \$10? I know in my days
16 when I was in legal services, the return was expected to
17 be less, and there were a lot of reasons that went into
18 that analysis.

19 MR. STEINKAMP: Yes. I think the potential
20 impact in the rural counties may be different. It's
21 certainly something that I think as we continue to get
22 data at the county level and analyzing that on the county
23 level. Obviously, the return on investment is based on a
24 variety of factors. One is direct funds available to
25 people, which I think will also be the case in rural

1 communities, but also access to Social Services. So it
2 depends on the local communities, you know, response to
3 families in need on how that may be different. Of course
4 it will be different, right? The ratio will be different
5 in every county, and I think part of what we need to do
6 as opposed to the local impact analyses and the ways to
7 develop local strategies will be to understand how each
8 county measures that impact a little bit differently.
9 So, I think the answer is, yes, absolutely. The degree
10 of magnitude of that, I'm not quite sure of that.

11 CHIEF JUDGE DiFIORE: Thank you, Mr.
12 Steinkamp, and thank you for your work and service.

13 Our next presenter is Jennie Kim. She
14 currently serves as Senior Staff Attorney at Queens Legal
15 Services. She really got the start and foundation of her
16 career as a coordinating attorney of Legal Hand. Miss
17 Kim.

18 MS. KIM: Thank you, Your Honor. Good
19 afternoon, Honorable Chief Judge Janet DiFiore and the
20 distinguished guests. My name is Jennie Kim. You have
21 already given an introduction to what I do, so thank you
22 so much. I am deeply grateful for this opportunity to
23 speak about the work of Legal Hand.

24 At Legal Hand, our trained community
25 volunteers, who are not lawyers, provide free legal

1 information, assistance and referrals to help resolve
2 issues like housing, family law, immigration, domestic
3 violence, benefits, and prevent problems from turning
4 into legal actions.

5 The Legal Hand strives to address the unmet
6 legal needs in New York State and break down the barriers
7 to access to justice by educating and empowering people
8 in low-income and disenfranchised communities. Legal
9 Hand also works to unburden the New York State Court
10 System by reducing the number of cases and unassisted pro
11 se litigants and ensure the fair administration of
12 justice in New York State.

13 Legal Hand provides these services in, as you
14 can already hear, a unique and very powerful way.
15 We do this by operating accessible storefront walk-in
16 sites in neighborhoods where people need us. We also do
17 this by focusing on providing information and self-help
18 strategies instead of legal representation. We do this
19 by training community volunteers, who are not lawyers,
20 who are going to listen to community visitors, conduct
21 interviews, find information resources and referrals, and
22 communicate the information effectively and respectfully
23 to the visitors.

24 We do this by operating the site as a
25 collaboration between Center for Court Innovation and

1 legal services providers. The organizations, legal
2 services providers, or organizations' attorneys train
3 community volunteers. They monitor and supervise
4 information that our volunteers provide, and also develop
5 Know-Your-Rights workshops for the community.

6 In the four years of this operation, and
7 that's already four years, Legal Hand has proven to be an
8 effective program in addressing unmet legal needs in
9 low-income communities. The numbers of sites that we
10 have developed and people served and issues handled by
11 Legal Hand is impressive. Legal Hand operates five sites
12 all over New York City where there are needs. Also,
13 Legal Hand handled 13,036 sessions in 2018, and 12,729
14 sessions in eight months of 2019. We are growing very
15 fast.

16 Issues handled were consumer law, housing,
17 family law, employment, immigration, government benefits,
18 senior citizen issues, and others, and many legal issues
19 under the bucket of others. In 2018 and 2019, Legal Hand
20 assisted with 8,403 housing issues. Even with universal
21 representation, housing issues that New York City
22 residents face is substantial. The Jamaica Queens site
23 alone handled over 10,000 issues in the last three years.
24 We hosted and participated in over 150 legal education
25 events with close to 2,000 Queens residents. We have

1 trained over 60 community volunteers, 60 percent of whom
2 stayed with the program for the three-month period that's
3 allotted out for them, and had extended stays with us
4 from over six months to three years.

5 Legal Hand Jamaica is well known in the
6 community where we serve and receive referrals from
7 150 local organizations. And importantly, Legal Hand
8 seeks to unburden the New York State Court System by
9 reducing the number of cases and the number of unassisted
10 pro se litigants. Legal Hand is most effective when
11 engaging in preventative work. Legal Hand resolves
12 problems before they turn into legal issues in the
13 following way:

14 First, Legal Hand identifies and provides access
15 to critical resources and programs to help people solve
16 problems, such as government benefits, services targeted
17 specifically for those issues and for certain
18 populations, and legal assistance. So, for example,
19 Legal Hand prevented evictions by connecting people who
20 have fallen behind in rent payment to government
21 assistance, and also, we provided people who are in
22 unaffordable housing with financial counseling and
23 assisting them in applying for more affordable housing.

24 We have prevented potential harm to seniors and
25 people living with disabilities by connecting them to

1 resources to help them stay safe and healthy,
2 independent, and keep them in their homes. We also
3 prevented a multitude of problems stemming from having no
4 income by assisting people who lost employment by
5 applying for government assistance with job search and
6 application, and discrimination complaints when
7 necessary.

8 Also, we do this by helping vulnerable populations
9 as they are facing problems, not when problems have
10 festered into legal action. For example, Legal Hand
11 helps seniors to respond to utility shut-off notices,
12 bank and debt letters, property assistance
13 recertification form, notice to cure, and more. We also
14 assist people who are limited English proficient to
15 respond to legal demands that would have negative
16 consequences if they did not respond in a timely manner.
17 We also have people write demand letters and respond to
18 notices from landlords, credit card companies, banks,
19 mortgage companies, and schools.

20 Also, and very importantly, Legal Hand educates
21 and empowers people to exercise their rights as tenants,
22 students, victims of crime, consumers, employees, persons
23 with disabilities, and immigrants. Often, with the
24 information, people prevent harm and further down the
25 line, legal action.

1 We also reduce the number of unassisted pro se
2 litigants. Local courts have referred pro se litigants
3 to Legal Hand to assist them in filling out court forms
4 and explain legal processes, such as, what forms to fill
5 out, where to file them, and how to serve court papers.
6 And very importantly, Legal Hand also finds and refers
7 people to available legal services providers and lawyer
8 referral services, and thereby better facilitating the
9 court's efficiency.

10 Before I close my statement, I want to give you a
11 glimpse of people we serve at Legal Hand: Residents in
12 quickly gentrifying areas facing eviction and
13 displacement, including elderly who lived in the
14 community for over 30 years; people of color facing
15 housing discrimination, and thereby bearing the most
16 substantial burden of unaffordable housing; domestic
17 violence survivors, including elderly and immigrant
18 spouses of U.S. citizens who live in fear for their lives
19 but don't know how to escape the situation; low-income
20 immigrant workers who live without basic healthcare and
21 don't know where to turn when they are injured; children
22 with disabilities who are not getting the support to
23 thrive at school; black and brown children facing school
24 discipline and suspension unfit for their age and
25 disproportionate to their actions, as some of the worst

1 forms of racial discrimination; and immigrant children
2 who are not getting the language support that are quickly
3 losing interest in school and an opportunity of their
4 American dream; elderly residents who are being scammed
5 of their greatest possession, their home, by mortgage
6 companies and their own families; people with criminal
7 histories who face barriers to work and sustain
8 themselves; and immigrants who face challenges due to
9 their unstable immigration legal status.

10 The challenges that indigent and disenfranchised
11 people in New York State face are seemingly
12 insurmountable, and the unmet needs for Civil Legal
13 Services in New York State are substantial, as this panel
14 knows very well. Legal Hand can provide the means to
15 meet these needs. We seek your continued and increased
16 support as Legal Hand aims to increase its presence in
17 more communities and its staff to meet these needs.
18 Thank you.

19 CHIEF JUDGE DiFIORE: Thank you, Miss Kim. I
20 think that you are aware that we are very supportive of
21 the prevention model, in particular the model that is
22 delivered through Legal Hand, and you cite as one of the
23 benefits of the work that is done through Legal Hand the
24 lessening of the burden on the Court.

25 MS. KIM: Right.

1 CHIEF JUDGE DiFIORE: And, of course, we agree
2 with that, but some would argue that even more important
3 than reducing the burden on the Court is reducing the
4 toll that litigation has, particularly when litigation is
5 unnecessary on individuals who seek their help. So, if
6 you had one suggestion as to how to improve the
7 prevention model that is delivered through Legal Hand,
8 what would that be?

9 MS. KIM: Well, I think as I had just asked for,
10 in looking to going into more communities, and hoping to
11 also go into rural communities and support for us to
12 expand our services. So that would be my number one ask.

13 One of the things that we have is a lot of
14 court forms are not translated in many different
15 languages. It's only in English, and that also puts
16 a lot of burden on the people who are able to assist
17 people in that process. So, that would be my second ask.

18 CHIEF JUDGE DiFIORE: I'm sorry, I missed that
19 last part.

20 MS. KIM: That would be my second ask, that the
21 court system becomes more accessible to people with
22 limited English deficiency.

23 CHIEF JUDGE DiFIORE: So in Jamaica, Queens, I
24 can't imagine how many. I don't know the number of how
25 many languages.

1 MS. KIM: We have many. We have access to
2 language line which speaks actually 180 languages, and we
3 are a very active user of that service.

4 CHIEF JUDGE DiFIORE: So your experience has been
5 good with the line?

6 MS. KIM: Yes.

7 CHIEF JUDGE DiFIORE: Not perfect.

8 MS. KIM: Yes, with the caveat, I think more and
9 more of those services are getting better as we use them
10 more, and for the Court and our system to use them and to
11 facilitate language access in that way and making it
12 acceptable everywhere, I think will also increase how the
13 services will work better.

14 PRESIDING JUSTICE SCHEINKMAN: I was wondering how
15 you coordinate court-based programs and your program in
16 order to avoid duplication of effort, having people go
17 from one place to another place in search of answers to
18 their question.

19 MS. KIM: Very good question. We do get a lot of
20 referrals from the Court to assist people not just with
21 the court forms, but to try to get more resources for
22 them. I think one of the things we definitely need to do
23 is more coordination with the different kinds of programs
24 out there, but I think one of the things that makes our
25 site unique is that it's a storefront open site that

1 anyone in the community can come in. We provide services
2 in many different areas. So, for example, if someone
3 comes in with a housing issue, most often they have
4 another government benefit issue, sometimes family issue,
5 immigration issue, and many different issues going on at
6 the same time. We are a site where we actually sit down
7 with people to talk about all those issues together
8 comprehensively. So, coordination is very important, but
9 our site itself also is very unique in that it provides
10 that kind of comprehensive service.

11 PRESIDING JUSTICE GARRY: You have described that
12 the volunteers are trained by attorneys, but I'm
13 wondering who is it that volunteers, and how do you
14 recruit and find those people?

15 MS. KIM: That's a very good question. So, that
16 is something that each site struggles with a little bit
17 because as we go into these communities, and volunteers
18 are from the community, so depending on how accessible we
19 are, our community volunteers vary in many ways from all
20 walks of life. So, we have some students who are
21 interested in going to law school who are volunteering.
22 We also even have high school students who became
23 interested in our services through either their parents
24 or someone who received our services and understanding
25 that they can volunteer with us. We have a lot of

1 community activists who are in the area, and who became
2 very emotional about our structure and legal system and
3 how to effectively assist people with legal issues, so
4 they are also with us. As I was talking about, many of
5 our volunteers have stayed with us for three years, and
6 these are activists in the area. So, it really will
7 depend on the sites and where we are in the community,
8 but it's the community folks that we are actually
9 recruiting.

10 CHIEF JUDGE DiFIORE: Thank you, Miss Kim.

11 Next, we have Professor Rebecca Sandefur.

12 Thank you for traveling from Arizona. Professor Sandefur
13 is a Professor at Arizona State University Sanford School
14 of Social and Family Dynamics. She is a faculty fellow
15 at the American Heart Foundation, a recipient of the
16 MacArthur Genius Grant in her research of civil legal
17 services. We thank you for traveling from Arizona to
18 share your expertise with us.

19 MS. SANDEFUR: Thank you, Chief Judge DiFiore,
20 distinguished panel. It's an honor to be speaking before
21 you today, and I want to thank you for the opportunity to
22 share some of the things that we are learning and
23 research about civil legal needs and the kind of services
24 that can assist people.

25 Everyone in this room knows that scores of millions

1 of Americans every year face civil justice problems that
2 affect their ability to make a living, have a place to
3 live, care for people in their life who cannot care for
4 themselves. In our democracy, we have made laws that are
5 meant to order these fundamental parts of human life,
6 being able to secure basic needs like food and medicine,
7 having shelter, caring for dependents, because we believe
8 that these issues are so important that society as a
9 whole has an interest in what happens to them. But many
10 millions of people in this country struggle outside the
11 protection of these laws that we have made about issues
12 that we believe are so important.

13 Our best estimate suggests that low-income Americans
14 in this year, the one we are about to come to the end of
15 in a month or two, will experience 40 million new civil
16 justice problems, and they will seek lawyers' help for
17 less than 20 percent of those 40 million new civil
18 justice problems.

19 What gets to courts and to lawyers right now is
20 the tip of an enormous iceberg of civil justice activity,
21 just a small proportion of the problems that people face.
22 So in the access to justice policy world as everyone in
23 this room knows, we often use a measure of unmet need,
24 the people who are turned away. So the number of people
25 who try to get help from some service get turned away for

1 lack of resources. Again, that's just at the tip of the
2 iceberg.

3 We can think about this concretely if we think
4 about New York State. So, in New York State you have
5 nearly 3 million people who live below the federal
6 poverty line, and using the statistics that we have, we
7 know that these folks will experience between 2 and 2.3
8 million new civil justice problems this year. Think
9 about the service numbers you've heard from the Courts
10 and from Legal Aid offices. They're not serving most of
11 those people, and they're turning half of the people who
12 come to them away because they don't have the resources.

13 When New Yorkers and Americans confront civil
14 justice problems, they navigate them on their own. This
15 is not simply because of the scarcity of affordable
16 lawyers, or because some people are suspicious of the
17 justice system. Rather, Americans often do not recognize
18 the legal aspects of their justice problems.

19 For example, they think that an employer's
20 failure to pay overtime wages reflects his bad character,
21 rather than the legal problem we know as wage theft. Or
22 they believe that an informal eviction where a landlord
23 tosses their belongings into the front yard and change
24 the locks is not a violation of the law, but rather their
25 bad luck in having that nasty landlord.

1 This is an enormous problem, and tackling it will
2 require not only new resources but also new thinking. In
3 particular, that thinking will require us to think more
4 like the people who have the problems and less like the
5 people who provide the services, and also to recognize
6 that more than lawyers and legal services from lawyers
7 are necessary to solve this problem.

8 We need to start meeting people where they are, and
9 one place we can meet them is, of course, the courthouse.
10 You heard earlier today about New York City's path for a
11 Court Navigators Program. It is a tremendously effective
12 and useful program that New York has started and is
13 spreading around the country reflecting what Mary
14 McClymont calls an emerging consensus that people who are
15 not lawyers can provide meaningful and effective
16 assistance to folks who are involved in a wide range of
17 different kinds of problems; domestic violence, eviction,
18 consumer debt, family issues, and more. Technology is
19 another way of meeting people where they are. Our best
20 research suggests that it works best when
21 it has a human next to it, but often people would use it
22 on their own.

23 New York City is a leader here, as well. I'm
24 sure you're all familiar with probono.net, which provides
25 many of the statewide Legal Aid websites in this country,

1 but also LawHelpNY, and it also provides a range of
2 software applications that help people in handling
3 immigration, citizenship, elder abuse.

4 New York City is home to one of the most creative
5 and interesting technological intervention into the
6 housing problems in this country, and that is JustFix.
7 JustFix takes technology directly to people in
8 communities to assist with issues of housing conditions,
9 eviction, and systematically bad landlord behavior.

10 We heard today, and you all know if you ever
11 practiced, it would be much better if many things never
12 made it to court for many people and communities. Legal
13 Hand does important work with non-lawyers and lawyers to
14 serve people in neighborhoods around New York City.

15 So, when you're thinking about what you would
16 like to fund, I would encourage to you to fund things
17 that are not lawyers, in addition to things that are
18 lawyers, not only because they expand the capacity of the
19 programs that you fund to do more stuff, but they expand
20 the entry points for people sitting out there who are not
21 making it to the justice system or to address resolution
22 now.

23 I would also like to make one more observation
24 that relates to Chief Judge DiFiore's remarks about
25 how there are monetary interventions that this body might

1 make, and then there are non-monetary things about it. I
2 just want to offer one thing to you for your
3 consideration. All of these programs that involve things
4 and people that are not lawyers could be more effective
5 than they are.

6 One thing that would, of course, make them more
7 effective is funding to expand their reach, but they are
8 also all hampered, even though they are very different
9 from each other, by one thing, and that thing is the
10 current regulation of the practice of law. None of these
11 helpers are permitted to give even limited legal advice,
12 yet research here and in other countries show that
13 specialized helpers who have focused training, as
14 well as sophisticated computer programs, could be sharing
15 legal expertise with communities around the country. In
16 many other countries, for example, the United Kingdom,
17 people who are not lawyers are, in fact, permitted to
18 give legal advice.

19 And so, the simple change allowing some people
20 who are not lawyers to give some types of legal advice
21 would empower individuals in communities to actively and
22 effectively use the laws that they elected those
23 representatives to write. Engaging with those laws might
24 also encourage those communities to think about how to
25 change them and so revitalize our democracy, as well as

1 expand access to justice. Thank you.

2 CHIEF JUDGE DiFIORE: Thank you, Professor.
3 Before we get to the regulations, you said we should
4 think more like the people who have the problem and less
5 like the people that provide the services. In your work,
6 have you seen any collaboration between the faith
7 communities and programs like Legal Aid that try to keep
8 people out of the court process and what that kind of
9 collaboration might look like? Because my suspicion is
10 many people when they have a terrible thing going on in
11 their life turn to their faith leader, counselors.

12 MS. SANDEFUR: That's absolutely right. Folks who
13 work in immigration will be familiar with the many
14 partnerships between faith-based organizations and
15 immigration citizens providers, both legal advocates and
16 legal assistants of different kinds, but in different
17 states around the country, Access to Justice commissions,
18 which are kind of like the zero point zero of Justice For
19 All, recognizing this idea that when we are in trouble we
20 go to the places who help us deal with ultimate issues,
21 are working to find ways to train church secretaries, in
22 essence, to be issue spotters. So, not here is what we
23 should do, but to say, wow, sounds like part of the
24 problem you're describing might need the assistance of an
25 attorney, and here is the number to the Legal Aid office.

1 I think there is a lot of scope there. It's a great
2 example of a general thing we need to think about more
3 ways to try, which is finding people where they already
4 go when they're in trouble. Schools would be another
5 place because teachers and principals and school
6 counselors can be trusted sources of advice. So, what
7 are those places in different communities where we can
8 embed knowledge that there is help outside.

9 CHIEF JUDGE DiFIORE: Judge Marks.

10 CHIEF ADMINISTRATIVE JUDGE MARKS: I could not
11 agree with you more. We have to make greater use of
12 non-lawyers if we are going to end the justice gap, but
13 there's not universal agreement on that, by any means.
14 Lawyers, I think, look at that very parochially and think
15 that's going to be bad for them in the long run. Also,
16 some think that greater reliance on non-lawyers will
17 undermine efforts to try to get more funding for lawyers.

18 Do you have any thoughts on that, how we can
19 work to get more consensus on this that we need to
20 make greater use of non-lawyers so that the legal
21 profession can be much more like the medical profession,
22 which strikes me as relying to a much greater extent on
23 non-physicians than we in the legal profession rely on
24 non-lawyers.

25 MS. SANDEFUR: The medical profession was just as

1 resistant at the beginning as lawyers are now. I think
2 the different situation there was that there was a clear
3 shortage of physicians, and so, being able to have a
4 phlebotomist draw blood or a nurse practitioner prescribe
5 something expanded access to medical care in many places
6 where there were no or very few physicians.

7 I think what I would encourage lawyers to think
8 about is two things. First, none of these people are
9 being assisted by lawyers now. So if there is a
10 parochial or market concern, the evidence suggests
11 lawyers are not in that market anyway, and I think in
12 terms of getting people on the same page and working
13 together, there are examples even in the United States of
14 how lawyers and non-lawyers working together can expand
15 their capacity.

16 I'll give you an example from Washington State.
17 Washington State was the first state to create something
18 I often call a junior varsity lawyer. This is somebody
19 who can give legal advice, who can prepare a document for
20 you, and who can handle things in some ways but cannot
21 represent you. They can't talk to the other side, and
22 they can't appear in court and question. They gave this
23 thing the name of limited license legal technician.
24 At this time, they were only in family law, only in some
25 areas of family law, assisting people with divorce

1 decrees, and so on. Of course, the state bar set this
2 up. This is a for-profit independently practicing
3 limited license lawyer. And, of course, there was
4 tremendous resistance in some corners of the bar to this,
5 and that resistance was countered at first by saying,
6 listen, you're not serving these people anyway so this
7 doesn't create any market excitement. But what Tom
8 Clarke and I, who studied that program a few years ago,
9 discovered was that there were many law firms that took
10 this as a way of expanding their firm's market share. So
11 now they could serve different groups of people at a
12 lower rate than what a lawyer would serve, so they were
13 actually getting more revenue by doing this. So finding
14 a limited license legal technician, I help you with
15 the part that I can help you with, but we really need to
16 send a lawyer into the courtroom, or one of the lawyers
17 in the firm takes up only that part of the case.

18 So, you get all the representation you need at a
19 price that is much more affordable if you do it that way.
20 I think there are many different instances where
21 navigators and lawyers could work together, where Legal
22 Hand and lawyers could work together in a kind of a
23 tiered service structure.

24 I think there's a lot of opportunities there that
25 most jurisdictions have not explored.

1 MS. KIM: If I may?

2 CHIEF JUDGE DiFIORE: Of course, Miss Kim.

3 MS. KIM: Thank you so much for that question. I
4 know there's a lot of confusion about what Legal Hand
5 itself does and our limits and if we are doing the work
6 of lawyers. We are not. I do want to make that very
7 clear. We supplement each other. Legal Hand is there to
8 reach more people and empower and inform people.
9 Most often they are in the court system and they do need
10 a legal services attorney, and that's not something we
11 take lightly. A lot of the things that we do at Legal
12 Hand and why we try to make it 100 percent at the site is
13 because we do monitor and supervise information that is
14 provided.

15 For example, in housing situations, even if there
16 are definitely defenses that people have, unfortunately
17 they will not be able to assert on their own, even with
18 the information, so in many ways what we do, the best
19 work that we do is preventive work, which is not what
20 lawyers do. We inform people, and even when people are
21 in the court system, oftentimes what we find is that
22 people are not really understanding what exactly is going
23 on in court. In many ways we actually supplement that by
24 informing and educating. That doesn't mean we are doing
25 the same work.

1 CHIEF JUDGE DiFIORE: That's very important, the
2 difference. Thank you very much to the panel.

3 The next panel up is Panel Number 4. In the
4 interest of time, as Panel 4 is coming up, we're going to
5 segue to our presenter from Panel Number 5, and we're a
6 little bit out of order. Please come up and take your
7 seat.

8 Stacey Friedman is Executive Vice President and
9 General Counsel for JPMorgan Chase. We appreciate your
10 time today, but more importantly, we appreciate your
11 recognition of the value and importance of lawyer pro
12 bono services and the ways in which JPMorgan Chase is
13 honoring that responsibility and commitment. So thank
14 you for joining us today.

15 MS. FRIEDMAN: Thank you for having me. Would you
16 like me to give my remarks?

17 CHIEF JUDGE DiFIORE: Certainly.

18 MS. FRIEDMAN: Okay. Well, again, thank you to
19 the Chief Judge and esteemed members and the Bar. My
20 name is Stacey Friedman. I'm the General Counsel of
21 JPMorgan Chase and I'm grateful for your public service
22 and for all the work you do to promote justice in our
23 state.

24 I'm honored to offer my personal support for the
25 critical work of the Permanent Commission on Access to

1 Justice and its Chair, Helaine Barnett. I strongly
2 believe that increased funding for civil legal services
3 benefits our courts and individuals, families and
4 businesses. It benefits each of us.

5 In 2010, when the Task Force to Expand Access to
6 Civil Legal Services was created, our state faced a
7 crisis of the unrepresented in our courts. Each year,
8 more than 2.3 million New Yorkers tried to navigate our
9 state's complex civil justice system without a lawyer.

10 In New York City, 99 percent of tenants were
11 unrepresented in eviction cases; 99 percent of borrowers
12 were unrepresented in consumer credit cases; 97 percent
13 of parents were unrepresented in child support cases; and
14 44 percent of homeowners were unrepresented in
15 foreclosure cases.

16 And what that meant were our courtrooms were full
17 of frightened, unrepresented people facing the loss of a
18 home, job or even a child.

19 But thanks to the efforts of the Task Force and
20 the Permanent Commission, and with the support of our
21 judiciary, we have begun to close that gap. Through the
22 judiciary budget, the state now provides a hundred
23 million dollars in critical funding to support civil
24 legal services. In an effort to fulfill that obligation
25 that everybody have access to justice regardless of

1 economic circumstances, the result is by 2018, the
2 program that you have supported led to a half million
3 cases involving disputes over the essentials of life, a
4 half million cases where people had lawyers to assist
5 them with this.

6 And you should also be commended as stewards of
7 the state's very scarce resources. As set forth in the
8 Commission's annual report, there's been a ten-dollar
9 return to New York State for every dollar spent towards
10 civil legal services. Experts estimate that roughly
11 10,000 jobs have been created as a result of this
12 funding. It's led to retroactive awards of child and
13 spousal support to benefit women and children that
14 desperately need these funds.

15 There have been meaningful indirect benefits,
16 including savings on shelter costs for families who can
17 stay in their homes, fewer home foreclosures, less
18 domestic violence and increased wages. All told, this
19 funding has had an estimated positive economic benefit
20 for New York State of close to three billion dollars.

21 But what I know personally, looking beyond the
22 numbers, is we can clearly account for the
23 significant positive impacts that flow from this funding
24 that you have put forward is the backbone of pro bono
25 services in New York.

1 At JPMorgan, like many other companies, we
2 are blessed to have hundreds of lawyers in New York who
3 dedicate thousands of hours of pro bono time to civil
4 legal services. But it is very hard for those lawyers on
5 their own to connect with clients in need. It is not
6 something that just happens. It happens because those
7 lawyers, whether at a company or the law firm, actually
8 connect with the programs you fund and then get connected
9 to people.

10 And so when I think of JPMorgan, and this is just
11 one example, we have a program, a Legal Day of Service,
12 where we take a day and we tell everybody in the
13 department take the day off, spend time doing pro bono.
14 This year in 2019, a thousand members of our legal
15 department participated across 17 countries and 27
16 different cities, including New York.

17 When we went back and looked at the programs we
18 worked with this year, we found nearly a dozen programs
19 that you had funded. Thanks to your efforts and support,
20 we had the opportunity to advise on visa applications at
21 clinics run by Her Justice, Legal Services for New York
22 City and Safe Horizon.

23 We had the opportunity to advise on housing,
24 government benefits and wills under the leadership of the
25 Volunteers of Legal Service. We worked closely with The

1 Legal Aid Society to provide for the needs of the poor
2 and have worked to provide young immigrants with
3 representation through the Safe Passage Project.

4 And finally, we assisted low-income LGBT
5 immigrants who were victims of persecution in their home
6 countries to gain legal status in the United States
7 through Legal Services NYC.

8 So the work that these programs undertake is
9 life-changing for those in need and it is entirely
10 because of your support that those programs are there to
11 help fill those needs. But despite these extraordinary
12 efforts by these programs and our community, there
13 remains a significant need for additional funding for
14 legal services to assist low-income New Yorkers in
15 meeting the essentials of life, and sometimes they tap
16 into the legal system to get there.

17 So in addition to being here to thank you for all
18 you have done, I'm here to support your efforts to do
19 more to close the justice gap. There remains a vast
20 unmet need for legal services in New York. And as the
21 Chief Justice noted in the most recent report, legal
22 service providers are still turning away far more people
23 than they can serve.

24 Individuals in New York, as we see around the
25 country, just do not have the means to retain an

1 attorney. According to the Federal Reserve, nearly 40
2 percent of Americans cannot cover \$400 to meet an
3 unexpected cost. The practical reality means that there
4 isn't legal representation for most New Yorkers who are
5 going in the justice system to meet their needs and there
6 is much more to do.

7 If you go to the Supreme Court of the United
8 States, we have a building that says "Equal Justice Under
9 Law". I think this encapsulates what the Permanent
10 Commission can do for New York, namely to ensure access
11 to justice is the same for everyone, regardless of your
12 economic status.

13 And this isn't just an inspiring goal. This is
14 the way the legal system is supposed to operate. But
15 there is work to be done. And so while I am deeply
16 grateful for your efforts, I respectfully urge that you
17 seek to increase the funding for the 2020 fiscal year for
18 civil legal services.

19 Thank you for the opportunity to make these
20 remarks and for your continued support and for supporting
21 the mission to provide legal services. I'm happy to
22 answer questions if you have them.

23 CHIEF JUDGE DiFIORE: Thank you for your
24 testimony. My question is if we were to focus on
25 future recruitment efforts of organizations such as

1 JPMorgan Chase, in your mind, is there a connection
2 between the health and well-being of your organization
3 and the work that we are doing to close the justice gap
4 and what would you advocate as the most beneficial of
5 that?

6 MS. FRIEDMAN: Yeah, it's hard to say,
7 because it happens on many layers. I guess at the very,
8 very top layer, a just civil society is essential to the
9 economic well-being of business. So the access to
10 justice cornerstone is a layer for sure.

11 That is where the ability of any business to
12 successfully operate within the state, workers,
13 employees, customers, they need access to justice. I
14 think a fundamentally healthy economy has as one of the
15 pillars a healthy access to justice and so a hundred
16 percent, there's a benefit there.

17 But I think on the other side of the equation, on
18 a more personal level, I think part of being a lawyer is
19 pro bono, it is giving back. And I think part of a
20 healthy legal department within any company, whether
21 their legal department is five people or five hundred
22 people, is making sure that the folks that do give back
23 and provide pro bono services have the ability to serve
24 the needs of the community.

25 That's where that intersection of programming

1 support is vital. I don't think a typical lawyer can
2 find efforts and need without those programs in the
3 middle to make that connection.

4 CHIEF JUDGE DiFIORE: Thank you, Ms. Friedman.
5 Thank you for your time, for your interest and for your
6 dedication, and thank you for your words.

7 Okay, back to our panel. We will start with Panel
8 4. The first presenters will be Mr. and Mrs. Connors,
9 Donna Connors and Donald Connors. They're accompanied by
10 their lawyer here today, Shruti Joshi and, of course,
11 Lillian Moy, who we all know is Executive Director of
12 Legal Aid Society of Northeastern New York. So let's
13 start off with Mr. and Mrs. Connors.

14 DONNA CONNORS: Good afternoon. Thank you for
15 inviting me to participate in this hearing. My name is
16 Donna Connors and I am here with my husband Donald. I'm
17 here today to tell you how Legal Aid Society of
18 Northeastern New York secured our home and our future.

19 We are homeowners in Claverack, New York, a rural
20 area of southern Columbia County. In 2017, we were
21 facing foreclosure. Our involvement with the Legal Aid
22 Society began when we were convinced our options to
23 retain our home were at an end and we had reached a
24 crisis point.

25 After being denied a loan modification by HSBC, we

1 reached out to a local housing resource agency. With
2 their help and support, we submitted more documentation.
3 But we were denied again. At this point, we felt our
4 only choice was to face foreclosure and a bleak,
5 uncertain future.

6 Our housing counselor advised us to contact the
7 Legal Aid Society of Northeastern New York. It is with
8 profound gratitude and respect for this amazing
9 organization that I can say they saved our home and
10 secured our future.

11 In 2004, my husband and I purchased a modest ranch
12 house in Columbia County. Our small business was doing
13 very well. We were confident this was the right
14 decision. Not long after, several things happened to
15 create the perfect storm that left us struggling to
16 survive while drowning in insurmountable debt.

17 A few months after the closing, our variable rate
18 mortgage was sold. Our payments nearly doubled and we
19 began to despair. Our business, mainly centered on
20 renovation and new installation, became focused on repair
21 and maintenance. Many of our customers were struggling
22 financially as well. We started falling behind on our
23 mortgage payments and rapidly reached a point where we
24 were too far behind to be able to catch up on our
25 arrears. We could not afford an attorney and had given

1 up all hopes of keeping our home until we were advised to
2 contact Legal Aid Society.

3 After we met Shruti Joshi, we began to feel a
4 glimmer of hope. Our last scheduled settlement
5 conference, which we assumed would be the final nail in
6 the coffin, turned out to be the beginning of this
7 awesome attorney's work to turn our lives around. At the
8 time, our mortgage was in the process of being sold
9 again. Ms. Joshi was up against two teams of attorneys
10 from two different banks. Thanks to her diligence and
11 skill, we were granted not only a modification but one
12 with a lower interest rate and payments we could afford.

13 After this miracle, we were able to restructure
14 our lives and move forward. My husband is the lead
15 plumber at a local company. I started a doggie daycare
16 where I get to play with dogs all day and actually get
17 paid. Our two giant goofball dogs have become certified
18 therapy dogs. They currently visit a local assisted
19 living facility where we have been bringing therapy dogs
20 since 2010.

21 Having a safe, secure home is the foundation for
22 everything we're able to do. It allows us to remain
23 productive members of our community. The Legal Aid
24 Society gave that to us. The need is great. The Legal
25 Aid Society strengthens communities and ultimately our

1 society as a whole by providing their services to people
2 like us who may otherwise have nowhere to turn.

3 CHIEF JUDGE DiFIORE: Great story. Thank you.
4 Anyone have any questions for Ms. Connors?

5 (No response.)

6 CHIEF JUDGE DiFIORE: Congratulations to you and
7 congratulations to getting back to your strength and
8 getting back to your feet and being productive. I see
9 that smile on your face.

10 DONNA CONNORS: Thank you so much.

11 CHIEF JUDGE DiFIORE: Ms. Moy, Legal Aid Society.

12 MS. MOY: Thank you, Your Honor, and to the
13 distinguished panel for your time and for your
14 unwavering commitment to access to justice. I'll be
15 brief; the hour is late. So thank you, Donald and Donna
16 Connors, for sharing your story and to my colleague,
17 Shruti Joshi, who's an awesome lawyer.

18 And I agree with so much of what Rebecca
19 Sandefur said and I just want to have all of us recall
20 there are still a few things that only lawyers can do.
21 And I think other people might have been able to
22 painstakingly review the Connors' application for budget
23 modifications, but Ms. Joshi did those things by using
24 that kind of detailed work and coupling it with the legal
25 standard for providing a budget modification.

1 So I think it's just another point to make about
2 the importance of the lawyers and especially given the
3 crisis that clients in our rural New York face.

4 We gave you some statistics to consider. There
5 are 17 people for one lawyer in New York County and 72
6 people for one lawyer in New York City. There's 179
7 people for one lawyer in all of northeastern New York and
8 in your Columbia County, for every 229 people, there is
9 one lawyer. And I think we all know that Columbia County
10 is not the most rural county in the State of New York.

11 This is a crisis for rural New Yorkers,
12 particularly for those who are low income and rural
13 residents like the Connors at that moment of crisis.

14 Our 2019 intake census showed over a full period
15 that we could not serve 66 percent or serve fully 66
16 percent of the people who applied for services and whose
17 cases were determined. Over 12 months, that is about 816
18 cases.

19 And I'm skipping over the part where I describe
20 the 16 counties where we serve in northeastern New York.
21 But in terms you will understand very well, it's all of
22 the Fourth JD and most of the Third JD, 35 percent of the
23 square miles of the State of New York. And I think the
24 Connors really represent about the 76 percent of rural
25 New Yorkers whose legal problems center around real

1 property. Who is going to help them? The Connors have
2 spoken about what our representation meant for them. I
3 think now you see how legal services in rural New York
4 contribute both to the local economy, to an individual
5 life and to the emotional well-being of a small
6 community.

7 Helaine asked me this question: What would you do
8 if a miracle occurred and there was even more generous
9 judiciary legal service funding? I know that for us at
10 Legal Aid Society of Northeastern New York, we would try
11 to put that money to support staff and provide
12 representation to rural New Yorkers who need services.

13 It is obviously extremely needed and you've
14 already seen, I think, the benefit of our work all
15 around the state, in New York City and in rural New York.

16 So thank you for all you do for us and thank you
17 for your time.

18 CHIEF JUDGE DiFIORE: So Ms. Moy, you heard what I
19 believe was shared in this room, expressed by President
20 Greenberg, about the lawyers in rural New York, and is
21 money a way to solve that? I'm sure you've thought about
22 that a great deal and how you develop a pool of lawyers.

23 MS. MOY: Well, I think money unfortunately does
24 have something to do with it. Even for the
25 publicly-minded lawyer here in Albany, it is difficult to

1 compete against New York State for those who have the
2 heart for public service.

3 And honestly, we just lost someone to the Council
4 for the Adirondack Park up north, so it's hard everywhere
5 in rural New York. So money and stability does make a
6 difference.

7 It's hard when I try to hire a gifted attorney and
8 I can't have enough money for more than one year. Not
9 everybody can do that over the long haul and it is the
10 long haul that creates competence. Of course, we realize
11 that's what we need more of at Legal Aid.

12 CHIEF JUDGE DiFIORE: Thank you very much, Ms.
13 Moy.

14 MS. MOY: Thank you.

15 CHIEF JUDGE DiFIORE: Our next panel of presenters
16 is Shanell Yarde and Kristin Brown. Ms. Yarde is a
17 client of Empire Justice Center. She's accompanied by
18 her attorney, Saima Akhtar. And Ms. Brown, of course, is
19 the President and Chief Executive Officer of Empire
20 Justice Center. Welcome. Thank you for being here. Ms.
21 Yarde, you're up.

22 MS. YARDE: Hello. My name is Shanell Yarde.
23 Thank you for giving me the chance to tell my story today
24 about how having access to a lawyer was helpful to me and
25 my family. In 2016, I was contacted by Child Protective

1 Services in Albany County and asked to take care of my
2 niece when my sister was unable. CPS had asked several
3 times and I was not willing because I was dealing with my
4 own family.

5 But then there was a crisis and my infant niece
6 was going to be removed from her mother and placed
7 somewhere. I took emergency custody of my niece when she
8 was just nine months old. The circumstances were not
9 ideal. I was pregnant myself, with two small children
10 and going through a separation from my husband.

11 I needed help to manage all of this and I
12 needed to get help for this new child in my house. I
13 reached out to Rensselaer County Department of Social
14 Services, DSS, to get any help they could give for my
15 niece. The worker asked me about what benefits I already
16 had and I was told the child could be put on my SNAP
17 case. No one said anything about cash assistance even
18 when I asked if there was anything else.

19 I was in a really difficult place and had also
20 called DSS in addition to talking to them in person, but
21 I couldn't get any assistance for my niece. I was
22 spending my own savings to make sure she had diapers and
23 clothes that fit her. Months went by and I thought that
24 if I got certified to be a kinship foster care provider,
25 I could get some type of help.

1 After several months of classes and a home visit,
2 I did finally get certified as a kinship foster care
3 provider. It was only after I became a foster care
4 provider that I was told I could not get the kinship
5 foster care payments because I already had custody of my
6 niece under Article 6, but the worker from the foster
7 care office at Rensselaer County told me I could get what
8 is called the Other Than Guardian, or OTG grant. The
9 foster worker told me that I had to say the words OTG
10 grant.

11 I went to DSS the next day after hearing about the
12 OTG grant. I asked at the counter for an application to
13 apply for an OTG grant and was given the form. I applied
14 for the OTG grant and the DSS issued it promptly. But
15 after that, I went back to ask a supervisor about why I
16 could not get the grant all the times in the beginning I
17 asked.

18 At that time, more than a year had passed and I
19 had been borrowing money from my own mother to help
20 support my niece. The supervisor said that I didn't get
21 the grant because I didn't ask for it and I decided to
22 call a fair hearing because that seemed unfair. How
23 would I know what specifically to ask for when I don't
24 work at DSS?

25 Before going to the fair hearing, I connected with

1 Kari Correa from the Kinship Navigator who helps support
2 relative caregivers taking care of children in their
3 homes. She came with me to the fair hearing for support,
4 but I had to do the hearing all myself. DSS also brought
5 in two people who work in the office who said it wasn't
6 their job to tell me how to get the OTG grant for my
7 niece.

8 The Administrative Law Judge asked the workers how
9 was I supposed to know all the things that they knew
10 about public assistance or where I could get the form to
11 apply for the OTG grant. One of the workers said that
12 kids in the DSS waiting room were playing with the forms
13 so the staff just put all the application forms away.

14 I didn't know what questions to ask in my hearing,
15 but I did my best to tell the story of how many times I
16 had asked them for help and how no one actually told me
17 anything about this grant.

18 At the end of the hearing, the Administrative
19 Judge encouraged me to get help if I needed to keep
20 fighting. I felt okay about the hearing when it was
21 done, but I ended up losing the hearing and felt like
22 giving up. I had a lot going on in my life and I had no
23 idea what to do next. It was just a really bad time in
24 my life where I needed help.

25 I had gotten contact information for the Legal Aid

1 Society of Northeastern New York when I was going through
2 my separation and decided to give them a call to see if
3 they could help me after I lost my fair hearing. The
4 attorney at Legal Aid talked to me and made a referral to
5 Empire Justice. I was so happy that someone was
6 taking my case and would help me take the problem before
7 a judge. Before this, I felt like I had been dismissed
8 and how I was treated at DSS did not matter.

9 I met with Susan from Empire Justice and Liz from
10 Legal Aid several times to draft my statement for the
11 case and explain my story to them. And then we waited.
12 It took another six months before I got into court and
13 proceeded before a judge. But when I went to court, the
14 attorneys from Empire Justice and Legal Aid met with me
15 to prepare me and they all came with me to the hearing.

16 When I went to court, the Judge asked the lawyers
17 from the State and the DSS a lot of really good, hard
18 questions. He paid attention to what my lawyer was
19 saying and knew the details of my case. It made such a
20 huge difference for me, that someone was listening and
21 thinking about what my family needed and would help me
22 get it even if I couldn't pay.

23 With the help of my lawyers, I felt heard and I
24 felt understood. It was a real turning point for me. We
25 got a decision quickly and we won. The Judge awarded all

1 the money that DSS owed me, but the DSS appealed. Empire
2 Justice was ready to take the appeal with me, too, but
3 the county eventually withdrew its appeal and agreed to
4 issue the assistance payment to me. I remember exactly
5 where I was when Saima from Empire Justice called me to
6 say the county would withdraw the appeal and we could get
7 the payment, and what a relief it was to get the money
8 for my niece.

9 I learned so much from this process. Just a
10 couple weeks ago, I got to tell someone else how to do
11 the same exact thing. My neighbor took in two kids as
12 well. She was looking for help and I knew to tell her to
13 add the kids to her SNAP case and go to DSS to apply for
14 an OTG. I could tell her what to do the way I wish
15 someone would have done for me.

16 CHIEF JUDGE DiFIORE: Thank you. So it's great
17 that your neighbor had you to talk to. Now, looking
18 back, you're stronger, smarter, you're more savvy for it.
19 Looking back, what was it that could have helped you in
20 referral in New York State when you were struggling?

21 MS. YARDE: Well, I would say DSS. I feel like it
22 is DSS services. Because when I went there, they were
23 like the first people I looked to for assistance, because
24 that's what I knew, you know. When I first got my niece
25 and I started going there, they just really were of no

1 help. They didn't really give me a place to go, a
2 direction and I advised this is my first time that I had
3 someone that was other than my child and I was looking
4 for more resources, you know, some type of help.

5 They said we can't help you. They didn't say but
6 you can go here or something like that. It was just kind
7 of like we can't help you and nothing else. I said
8 there's nothing else? They said, no, that's it.

9 But I trusted and believed them because they work
10 there for a living. So I just feel like them at the
11 front desk, they should have known more to help me or
12 send me to someone that could.

13 CHIEF JUDGE DiFIORE: You have four children in
14 your home?

15 MS. YARDE: Yes, I have more now, because I
16 foster.

17 CHIEF JUDGE DiFIORE: Good for you.

18 MS. YARDE: Thank you.

19 CHIEF JUDGE DiFIORE: Anything?

20 (No response.)

21 CHIEF JUDGE DiFIORE: Ms. Brown.

22 KRISTIN BROWN: Thank you, Chief Judge DiFiore and
23 esteemed panel. I want to thank you so much for creating
24 this forum for Ms. Yarde and for the others that we heard
25 from here today to bear witness to the ways in which

1 civil legal aid has made such a significant impact on
2 their lives.

3 I also want to thank you, Ms. Yarde, for being
4 here and for sharing your story with us. It really
5 clearly illustrates the variety of barriers that were
6 placed in your way by a system that is seemingly designed
7 to make it difficult to access the assistance that you
8 and so many others seek on a daily basis.

9 Your story also shows us all how having access to
10 a lawyer can make all the difference in cutting through
11 the confusion and getting meaningful results.
12 Ultimately, thanks to the JCLS funding that we receive at
13 Empire Justice, we were able to help. But at each point
14 in Ms. Yarde's journey, her case got more complex and she
15 and her family had to face avoidable stress and financial
16 uncertainty that could and should have been avoided,
17 which is not what we need to have happen here in New York
18 State.

19 I want to touch quickly on some of the research
20 that supports the essential role that civil legal aid
21 plays in sustaining stability. Ms. Finkelstein mentioned
22 earlier the Center for Community Solutions' study. There
23 were a couple of impacts I thought were important to
24 highlight once again.

25 So what the study found is that providing legal

1 assistance has immediate, intermediate and long-term
2 impacts on individuals and families with some changes
3 that were found to be just as strong or even stronger 10
4 years after services had been provided. That's
5 particularly important.

6 The impacts were found to cut across
7 intersectional stability for those served; for example,
8 those helped with financial issues, such as wages, income
9 supports and consumer debt. Those folks not only
10 reported an increase in financial stability 10 years
11 after the initial legal need was handled but they also
12 reported greater stability in their health, which means
13 that they're more stable and resulted in being able to
14 take better care of their health and families' health.

15 Then, also in the specific area of family law,
16 where we heard from Ms. Yarde and Ms. Mohammed, clients
17 receive assistance in issues ranging from foster care,
18 adoption and guardianship to domestic violence and
19 divorce, the report found that not only did the majority
20 of clients report having a positive impact in family
21 stability but, again, they reported improvements in
22 economic and health stability.

23 I just want to underscore that I think the most
24 significant outcome in this report was that a greater
25 percentage of clients that were part of the report found

1 that or shared that their financial stability in two to
2 five years and six to ten years was more significant than
3 at the initial day they received help.

4 So I also want to touch quickly on what's
5 happening for the Legal Aid Society and Empire Justice
6 Center specifically as the cost of doing business
7 increases. We're absolutely incredibly proud that New
8 York continues to lead the nation in its commitment to
9 funding civil legal aid. I go to conferences in other
10 parts of the country and they all are wowed by what you
11 all have been able to do here in New York.

12 As we all know, the JCLS funding has been a game
13 changer in terms of the ability to meet the legal needs
14 of low-income New Yorkers. But as we heard so eloquently
15 from Mr. O'Malley, each year, rents go up, the cost of
16 health care rises, employee's salaries go up, the cost of
17 making a living rises and it's getting more and more
18 difficult for us to be able to be both a remote help
19 center and meet both our employees' salary needs in terms
20 of recruitment and retention as well as our client needs
21 in terms of how many people we have to turn away that
22 come to us for help.

23 So I just want to say that as we go into the
24 fourth consecutive year of getting stable JCLS funding,
25 which is entirely important in our world, we really want

1 to be able to continue the progress as we seek to close
2 the justice gap.

3 I also want to reference the new emerging and
4 evolving needs that are happening in the legal field that
5 are really critical for civil legal organizations to be
6 able to respond to, and we've heard about it a little bit
7 here today.

8 Policies are changing at the federal level left
9 and right and the basic protections from marginalized
10 client communities are being stripped on a daily basis.
11 Empire Justice Center is incredibly proud of our state's
12 efforts and steps that are being taken to provide
13 protections at the federal level, and we're also
14 incredibly proud of our goal helping the state to do that
15 through changes in the law.

16 But every time the federal laws change and new
17 state laws are enacted, the civil legal aid community has
18 to have the capacity to adapt, to learn the changes in
19 the law, to be nimble and, ultimately, we need the
20 resources to be able to enforce those new laws on behalf
21 of our client communities, particularly our client
22 communities who are increasingly targeted and at risk.

23 We heard earlier about The Legal Aid Society's
24 groundbreaking case in terms of representing immigrants
25 and the changes here in New York. The legal landscape

1 continues to shift and we need to be able to react. We
2 also are seeing that the federal policies that are in
3 place to provide rights and protections to communities of
4 color and other marginalized communities are being eroded
5 as well as consumers and homeowners are steadily being
6 dismantled.

7 So just as New York is taking steps to expand our
8 goal to pass groundbreaking laws, we really need to be
9 sure that we can be able to monitor the laws as they're
10 being implemented, particularly in the areas outside of
11 New York City where we don't have as many resources and
12 we don't have as many attorneys.

13 Clearly, there's much to be done and, once again,
14 I want to thank you, Chief Judge DiFiore, for your
15 leadership in this important area. Our community stands
16 ready to do anything we can to help you all in being
17 successful in closing the justice gap.

18 CHIEF JUDGE DiFIORE: Thank you. And to your
19 points, I assure everyone up here and folks that they
20 represent we are mindful and focused on the changing
21 legal landscape and working double time to figure out
22 ways that we honor our responsibility.

23 Any questions?

24 (No response.)

25 CHIEF JUDGE DiFIORE: Thank you so very much. We

1 appreciate it. Thank you.

2 Our final panel with just the two presenters is
3 Linda Carrasquillo, who is a client of Legal Services in
4 NYC, accompanied by Johnson Tyler, her lawyer, who is an
5 attorney at Legal Services NYC; and Raun Rasmussen,
6 Executive Director of Legal Services NYC. Thank you very
7 much for being here.

8 MS. CARRASQUILLO: Thank you for inviting me here
9 to testify on the very important issue of the legal
10 services of New York City. I am 62 years old, and I live
11 in Queens. Around 2001, my daughter called me up and
12 said she needed some money so she could finish graduating
13 college.

14 At that time, I worked for a bus company in
15 Queens. I cleaned floors and windows and chairs. I
16 cleaned the bus out. I made about 25,000 a year, so I
17 decided to apply for a loan. So, I was given a \$4,000
18 Parent Plus loan, and she was able to graduate.

19 Things were getting worse. About 2005, I got
20 hurt on the job, so I was no longer able to work.
21 It took about approximately two years for me to
22 finally get my Social Security Disability check.
23 So, I received it, and around 2010, I started to
24 notice that my check was not increasing, even though
25 every year the government gives you something more on

1 your check.

2 So, when I finally called the company, the
3 non-profit student loan collection agency, I called them
4 up and asked them why are you garnishing my check? I'm a
5 disabled person. They said, well, even though you got
6 paid more than what you have borrowed, you still owe more
7 than what you borrowed. Very confusing. I said, Okay,
8 let's see.

9 So, by then I got very ill. In 2012 I went
10 into dialysis, so I definitely couldn't do anything. So,
11 for many years I was on dialysis and dealt with it. I
12 couldn't pay anything. I was a very low-income family,
13 and I kept on.

14 By this time, my landlord -- this is around 2017,
15 and I was behind. I was way behind, and he was ready to
16 evict me and my daughter. By this time, I only had one
17 in the house. So, I went to the court, and I realize I
18 need help. I can't lose what I have been living at for
19 almost 20 years. I can't be out on the streets. I'm
20 sick. So, I went across the street. Fortunately, the
21 Legal Aid Society of New York City was right across the
22 street from the Housing Court.

23 So, I went across the street, and I went and made
24 an appointment and asked for help. I ran into a
25 paralegal, and she helped me with my housing issue. The

1 Legal Services of New York State saved my home of 22
2 years, and at the same time, they looked through my case
3 and saw what my benefits were. She looked and said, Wait
4 a minute, you could get all your benefits back to
5 yourself. You can get them all. How? She said, You're
6 disabled. The government. You qualify or you may
7 qualify for forgiveness. Forgiveness? She said, Yes,
8 didn't you ever hear of that? I said, No, I have called
9 the company before.

10 They say that I paid a lot, but I still owe more
11 than what I borrowed, which initially was \$4,000. So
12 she, Miss Pozel, passed me to the people that are with me
13 now, that helped me in recuperating that money that the
14 government had taken away from me, and we won our
15 lawsuit, okay? We sued the Department of Education in
16 Federal Court and won.

17 I got \$4,000 back. There were eight other
18 plaintiffs with me. They got \$18,000 back between them,
19 and we won. But not only did we win, but the government
20 had to change. They had the chance to tell us, and they
21 never did. There are over 200,000 disabled recipients
22 that owe student loans and did not know that you can be
23 forgiven. You may qualify because you're disabled
24 to be forgiven for those loans, and they never told
25 us. They never told us, but because of the Legal

1 Services of New York City, we knew, and they had to
2 change their policy. So this was a victory. It
3 made me angry, very angry that why hadn't the government
4 told so many people that are on disability, apply and you
5 might qualify. You may not, but you may. We never got
6 that opportunity, and yet we struggled because in the
7 beginning they took out \$35.

8 At that point in my life, \$35 was a lot of money
9 for me. Things were cheaper. You got milk. You got
10 eggs. You got things you needed for your child, and as
11 the years increased, it kept on going up, almost to a
12 \$106 a month out of the \$750 check. I never saw an
13 increase in my check, and this was unfair not only to me
14 but to a lot of other people, that are in my situation.

15 So, I feel that by having the Legal Services
16 of New York City help me and a lot of other people
17 in different aspects, and not only did they help, but the
18 government had to tell their recipients on disability
19 that they had an option, an option to apply to have their
20 loans forgiven. They did wrong by us. It was an
21 unconstitutional wrong.

22 So I am here now to thank the Legal Service of
23 New York, and hopefully you can continue and help them
24 continue helping disabled, abused, all kinds of people
25 that need the services that cannot afford it. So please,

1 think of us. Think of everyone that you have heard today
2 and help us. Help this society, and help the Legal
3 Services of New York continue their work.

4 Thank you so very much for inviting me here to
5 testify in front of you. Thank you.

6 CHIEF JUDGE DiFIORE: Thank you, Miss Carrasquillo,
7 and you need not worry. We will continue our work, and
8 we will continue to invite presenters such as yourself to
9 remind itself every day about our obligation. Thank you
10 for being here.

11 Mr. Rasmussen.

12 MR. RASMUSSEN: Yes. First, thank you, Miss
13 Carrasquillo for telling your story, and thank you, Mr.
14 Tyler, for your aggressive and highly effective
15 litigation skills. Thank you everyone here today for
16 your patience and for inviting us all to speak with you.

17 The case that you just heard about is a
18 perfect example of the work of the Legal Services
19 community statewide. With funding from the Office
20 of Court Administration, we helped tens of thousands of
21 clients, low-income New Yorkers, defined under the
22 Federal Poverty Guidelines as \$25,000 for a family of
23 four, the same as the poverty level in Mississippi, by
24 the way.

25 We help our clients get and keep the essentials of

1 life; shelter, safety from domestic violence, stable
2 incomes, immigration status, and access to health care
3 and education. We also work hard every day to try to
4 expand the impact of our services by bringing affirmative
5 litigation to challenge the roots of the problems our
6 clients face, changing the laws, practices and policy
7 that hold our clients back.

8 The continuity and holistic nature of the services
9 that we provide, which you have been hearing about today,
10 is what makes our work so powerful, and so cost
11 effective, whether there is legal information to help
12 people like Miss Carrasquillo solve their own problems,
13 paralegal assistants preparing forms for disability
14 waiver, awesome litigation skills by the lawyers suing
15 and defending against eviction in Housing Court,
16 bringing affirmative cases in Federal Court to collect
17 disability assistance, and to get affirmative relief for
18 thousands more throughout the state.

19 This afternoon and in hearings in previous years,
20 you have heard about the powerful partnerships between
21 the Courts, the private bar, corporations, health care
22 facilities, the religious institutions, and law school,
23 technology innovators, community based organizations, and
24 legal services providers like those you have heard from
25 today. We work together to solve the problems created by

1 poverty. We have a historic opportunity right now for
2 you to make an even greater difference than ever before.
3 With your help, we have built a powerful network of
4 advocates and partnerships, but we are still meeting far
5 less than half the need.

6 With the power of our staff, our partnership
7 with the Courts, the private sector, our clients
8 and their communities, and with the continued and
9 increased support from the Office of Court
10 Administration, there should be no end to what we can
11 accomplish in attempting to achieve the core values of
12 our country, fairness, equal opportunity, and justice for
13 all.

14 Thank you all for making our work possible.

15 CHIEF JUDGE DiFIORE: Thank you. Any questions?

16 (No response.)

17 CHIEF JUDGE DiFIORE: Thank for your continued
18 dedication and focus on the work that you all do
19 together. I think that as anticipated, today's
20 presenters, both the lawyers who presented and
21 particularly the clients who presented, were compelling.
22 They are inspirational stories. They are informative,
23 and they will inform our work as we move forward.

24 On behalf of the panel here today, again, I
25 want to thank the client presenters for coming here today

1 and sharing what are deeply personal and oftentimes
2 difficult stories to tell in a public forum such as this
3 one. So, thank you. I hope you have come to realize
4 that it is your stories and your strength coming out to
5 share them that inspires all of us and informs the
6 foundation of the work that we do.

7 Thank you all very much. This concludes the
8 2019 Public Hearing on Access to Justice, and we
9 thank you all for being here. Thank you very much.

10 (Whereupon, the proceedings concluded at 5:00 p.m.)
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