

STATE OF NEW YORK  
SECOND DEPARTMENT HEARING  
THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

October 4, 2012

Nassau County Supreme Court  
100 Supreme Court Drive  
Mineola, New York 11501

B E F O R E :

HONORABLE JONATHAN LIPPMAN  
Chief Justice of the State of New York

HONORABLE A. GAIL PRUDENTI  
Chief Administrative Judge

KENNETH G. STANDARD, ESQ.  
Past President, New York State Bar Association

1 JUDGE LIPPMAN: Good morning. It's a pleasure  
2 to see all of you. This is the third year of our  
3 hearings on civil legal services. I want to make clear  
4 at the outset that there is nothing more important to me  
5 as the Chief Judge than civil legal services for the poor  
6 and those most in need in our state.

7 The template that we've developed in New York  
8 is a combination of more public funding for civil legal  
9 services, that this year we are so pleased that we have  
10 \$40 million in funding for civil legal services; by far,  
11 the most public funding in the country. We're very happy  
12 about that, yet it's just the tip of the iceberg in terms  
13 of the need for civil legal services in our state.

14 These hearings are held every year through the  
15 hard work of the task force to enhance civil legal  
16 services, headed by Elaine Barnett -- Elaine, you want to  
17 stand up -- who's the former head of the Legal Services  
18 Corporation, and we're so pleased that she's here with a  
19 number of the members of the commission: Steve Banks,  
20 Barbara Finklestein, who's here somewhere, who did such  
21 great work at pulling this together; Fern Fisher, the  
22 state-wide Deputy Administrative Judge for Access to  
23 Justice; Emily Franchina, from here in Nassau County;  
24 Denise Kronstadt I think is here. And -- there's Denise.  
25 I know you're here.

1           So the task force put together these hearings  
2           every year. They have been necessitated by the loss of  
3           funding in Washington from the Legal Services  
4           Corporation, by the reduction in IOLA funding in New York  
5           State, which went from 36 million to \$6 million in one  
6           year due to the financial crisis in our state and  
7           country.

8           For the judiciary and the profession, we  
9           understand that it is our responsibility, our mission, to  
10          stand up for civil legal services for the poor, and that  
11          this is really our very reason for being, equal justice  
12          for all. This is what we're all about. And this is what  
13          these hearings are all about.

14          In addition to public funding, which, as I  
15          said, we're so pleased to have \$40 million this year from  
16          Governor Cuomo and the legislature, we also believe that  
17          the crisis that we have in legal services requires  
18          volunteer service on the part of the bar.

19          And, as many of you know, we've instituted a  
20          new 50-hour pro bono requirement for law students to  
21          serve before they could be admitted to the bar. And the  
22          whole purpose of this is to let aspiring lawyers  
23          understand that being a lawyer is all about, at least  
24          here in New York, is all about a culture of service. And  
25          serving others has been so much a part of our profession

1 from time immemorial, and it is very important that law  
2 students at the very inception understand that this is  
3 what we are all about in this profession.

4 The bar has stepped up to the plate in terms of  
5 giving over two million hours of pro bono service, and  
6 it's our hope that we are able to imbue in a new  
7 generation of lawyers that same culture of service. And,  
8 again, this is all about core values of our profession,  
9 and certainly pro bono service is a part of that.

10 Again, equal justice is the focus of this  
11 hearing. The economy has hurt the most vulnerable in our  
12 society. Certainly they're the ones most impacted by the  
13 poor economy. And equal justice for all, high and low,  
14 rich and poor alike, is what our society is all about and  
15 certainly what our court system is all about. Every  
16 civilized society is judged by how it treats its most  
17 vulnerable citizens, and we certainly will be judged  
18 accordingly.

19 We are delighted -- let me just introduce the  
20 panel.

21 Chief Administrative Judge A. Gail Prudenti  
22 from Suffolk County, Second Department. She never gets  
23 any applause, so it's good. So we're so pleased that  
24 she's here.

25 And Ken Standard, the former president of the

1 State Bar Association, is here. Equal justice.

2 I do want to recognize Appellate Division  
3 Justice Peter Skelos, who's here. Thank you, Peter, for  
4 being here, from Nassau County. Judge Tom Adams is here  
5 sitting in the back. And I want to welcome you all to  
6 the hearing.

7 And we are particularly pleased and honored to  
8 have as our lead witness today the District Attorney of  
9 Nassau County. She has dedicated her life to this  
10 concept of equal justice for all. It is particularly  
11 appropriate that she be the lead witness, in that her  
12 role as the District Attorney here in Nassau County is so  
13 fundamental to this idea that everybody is entitled to  
14 their day in court, so to speak, and everyone is entitled  
15 to equal justice, and it doesn't matter what their  
16 station in life is, this concept of the rule of law, a  
17 society based on a system of justice that doesn't favor  
18 one side or another, and that it is so appropriate that  
19 our terrific District Attorney here in Nassau County be  
20 the lead witness.

21 And we welcome you, District Attorney Rice.  
22 We're so pleased that you're here.

23 D.A. RICE: Thank you very much, Judge.

24 I want to thank you Chief Judge Lippman, Judge  
25 Prudenti, former state bar president Ken Standard, for

1 your invitation to be here today and for your admirable  
2 concern for and dedication to our state courts' steadfast  
3 commitment to access, fairness and superior legal  
4 representation for all New Yorkers.

5 Some people out there may not understand how  
6 someone like me, a criminal prosecutor, fits into a  
7 proceeding like this, a hearing on civil court access and  
8 representation. Thankfully, under the guidance and with  
9 the vision of this esteemed panel, those of us in this  
10 room and those working on this issue across the state do  
11 understand why this issue matters to law enforcers and to  
12 progressive criminal justice policymakers like myself.

13 DAs like me are truly fortunate to have  
14 judicial and state bar leadership who understand the  
15 interplay and the connections between local and state  
16 public policy, our civil courts, our criminal courts and  
17 our various jurisdictional law enforcement and criminal  
18 justice theories. As our court leadership and  
19 like-minded advocates know, New York needs comprehensive,  
20 multi-disciplinary public policy responses to complex  
21 individual and family cases that in many instances will  
22 not only dictate the future of a life but also the safety  
23 of that person's community and family.

24 Our courts, both civil and criminal, often fall  
25 at the nexus of our government's public policy

1 breakdowns. They often serve as the last stop in a long,  
2 vulnerable, tortured road for someone who needs our help.  
3 They are frequently the setting for our community's last  
4 stop for helping litigants achieve remedy, the last stop  
5 for protecting members of our community from wrongdoing  
6 and from injustice.

7 Our courts in many ways also represent the  
8 pillars of our nation's greatest commitments, to  
9 fairness, to equality and to justice. They can also  
10 represent a microcosm of our state's unparalleled  
11 appreciation for reformation and transformation, for  
12 second chances, for dispositions that honor the wealth of  
13 the human contribution and the value of each person to  
14 our communities, no matter their condition, their past or  
15 their wealth.

16 Courts are the guardian of our nation's promise  
17 to value people more than it values politics, power or  
18 process. At the heart of that commitment is access,  
19 equal access, access without regard for wealth or social  
20 standing, court access and access to professional  
21 counsel, access and counsel that uphold the spirit of  
22 what we have promised to each other and what we say to  
23 the world, and access and counsel that acknowledge both  
24 the role the courts play in the lives of our people and  
25 also the unfortunate moments in their lives in which the

1 courts are of most importance.

2 Access to civil courts and legal counsel for  
3 indigent New Yorkers don't only uphold our commitment to  
4 fairness and justice, they also make more real our search  
5 for broader, more sustainable public policy solutions to  
6 some of New York's most vexing challenges. When this  
7 access is denied we have broken our promise to each  
8 other. We have failed to live up to the standard of our  
9 nation and of our social contract.

10 And let us be clear; when that access is denied  
11 or when professional assistance is made unavailable, we  
12 have made our communities weaker, more dangerous places.  
13 Because courts don't only serve as the last line of  
14 defense, they are also frequently the first line of  
15 security against victimization. They are also the first  
16 line of prevention against exploitation. They are  
17 frequently the first opportunity for remedy of what could  
18 eventually turn into a disaster. Courts are, therefore,  
19 not only the adjudication of public policy and societal  
20 failures, but also many times the gateway to them.

21 And that's why I'm here today, to support your  
22 attempts to shut down that gateway and reaffirm and  
23 support unfettered civil court access and legal  
24 representation as a way to turn lives around and  
25 strengthen New York communities. I am here to support a

1 theory and a belief that access to civil courts and legal  
2 counsel can often close that gateway to future personal  
3 or public safety crises for many New Yorkers.

4 Improved civil court access can make these  
5 courtrooms the first and the last stop for families in  
6 distress, rather than the first stop in what is all too  
7 often a long continuum of personal and community  
8 suffering. Access and quality representation for all of  
9 those in front of the court is at the heart of a  
10 preventative front-end public safety strategy.

11 As a DA, without such a strategy and without  
12 such civil court access and representation I can tell you  
13 that our communities will be more dangerous and will be  
14 eschewing a sustainable model with a long-term vision for  
15 a theory that will continue to repeat public policy  
16 failures at great financial and human cost to New  
17 Yorkers.

18 The most obvious scenarios in which civil court  
19 access and success can help dissolve future public and  
20 private crises centers around family settings. Whether  
21 they are matrimonial or Family Court proceedings or  
22 whether they are in integrated parts or child custody  
23 cases, these fluid, dynamic cases are frequently the  
24 first interactions with situations that can deeply  
25 disturb families and eventually pose grave safety risks

1 to the litigants involved.

2 We see the results of these failures in our  
3 domestic violence courts and in the victim care rooms of  
4 our child advocates and child abuse prosecutors. Failing  
5 these families and these children in civil court by not  
6 guaranteeing their access or their professional  
7 representation sews the seeds of future criminality,  
8 future criminality that will not only victimize those  
9 involved in these things but that will very often cascade  
10 down a violent spectrum, possible even to future  
11 generations.

12 Another typically civil court issue with a  
13 public safety impact is in housing. Foreclosed and  
14 abandoned homes erode the cohesion and physical state of  
15 safe neighborhoods and provide easy targets for those  
16 seeking illegal shelter or from those looking to steal  
17 from or vandalize these properties.

18 Access and professional representation in our  
19 civil courts can mitigate the impact of our nation's  
20 foreclosure crisis. This is a crisis -- make no  
21 mistake -- that has, unfortunately, hit our community  
22 here on Long Island especially hard. By guaranteeing  
23 access and representation to litigants in foreclosure  
24 situations, we can better help law-abiding families stay  
25 in their homes and we can keep neighborhoods cohesive,

1 inhabited and vibrant. These qualities are frequently  
2 the cornerstones of neighborhoods that are also safe  
3 neighborhoods.

4 The connections between family and housing  
5 crises and the eventual crises in the public safety and  
6 criminal justice community are unmistakable.

7 Guaranteeing court access and representation at the  
8 earlier stages and the eventual outcomes of these legal  
9 matters are equally related. And that is why I'm here  
10 today, to make sure that our state understands these  
11 relationships, to make sure that we understand the  
12 opportunity we have in front of us and also the price we  
13 will pay for inaction.

14 The public safety price we will pay for eroding  
15 access and representations in these courts is steep and  
16 the moral price of such erosion is unaffordable. It is  
17 my sincere hope that other DAs will join me in supporting  
18 civil court access and guarantees of representation.  
19 It's smart on crime, and it's this type of forward-  
20 thinking progressivism and comprehensive understanding of  
21 modern criminal justice theory that I believe will mark  
22 the future of the 21st century prosecutor's job.

23 Here in Nassau County I have tried to breath  
24 some of that preventative community-oriented progressive  
25 style into our local criminal justice system. Whether

1 it's our involvement in reentry for ex-offenders, our  
2 drug market diversion initiative -- which has since been  
3 adopted by DOJ -- our creation of a one-stop social  
4 service access point for the community, our mentorship  
5 programs, our development of a peer counseling network  
6 for those with justice system interactions, or whether  
7 it's our work with the court system in setting up a youth  
8 court or a veterans court, I want those allies and  
9 advocates of criminal justice reform, including improved  
10 civil court access and representation, to know that they  
11 have a partner in our county.

12 I am proud to support and defend civil court  
13 access because it fits in with our commitment to  
14 prevention, our need to address the root causes of crime  
15 and our focus on the type of long-term crime reduction  
16 strategies that, quite simply, work and that help us  
17 dismantle the revolving door system of decades past.

18 I want to thank you for your time here today,  
19 to this distinguished panel, and I want to thank you for  
20 coming to Nassau and hearing from us on the ground about  
21 how we can best keep our neighborhoods and our families  
22 safe. Thank you very much.

23 JUDGE LIPPMAN: Thank you, District Attorney  
24 Rice.

25 You really, I think, eloquently have described

1 the connection between your role as the District Attorney  
2 and everything else in this community. Do you think you  
3 can be a District Attorney today without having this kind  
4 of wholistic approach, that tries to put the different  
5 pieces together that ultimately may result in the  
6 defendant who winds up in your courtroom? But in  
7 understanding how that all comes about, is that what  
8 being a District Attorney is today?

9 D.A. RICE: I can tell you that I don't know  
10 how you can be a District Attorney with any other  
11 philosophy in mind. You know, every single one of my  
12 colleagues, all 62 of us DAs throughout this state, are  
13 facing decreased resources and increased issues. And I  
14 think when you have a time like we are going through now,  
15 the worst thing that you can do is squander the  
16 opportunity that we have to all get on the same team, on  
17 the same page and work together so that -- I'm a big  
18 believer in front-loading, putting the money up front,  
19 because every dollar that you spend now is going to save  
20 immeasurable dollars down the road, whether it's the  
21 adolescent diversion part -- that, Judge Lippman, I give  
22 you enormous credit for starting, and I thank you for  
23 hearing my literal begging to allow us to have it here in  
24 Nassau County. It's using progressive policies,  
25 partnering with agencies that already exist, that have

1 the services that we need to get these early intervention  
2 programs off the ground so that we stop this cycle of  
3 recidivism, because that is the way that we keep crime  
4 down and we keep communities safe.

5 And I literally cannot think -- I don't  
6 understand the argument against or for precluding people  
7 representation when it comes to civil matters that I've  
8 discussed just here, just a handful of them, that have  
9 such a role in eroding families, eroding communities,  
10 eroding public safety. So I think it makes sense, and I  
11 think that a lot of my colleagues probably feel the same  
12 way. I'm proud to be the first one to come out and state  
13 this publicly.

14 I'm a firm believer in civil access to --  
15 because I think it makes sense. I think it makes my job  
16 easier. I think it -- the cost, the human cost -- forget  
17 about the financial cost, we don't know what the  
18 financial cost will be. But at its core we have a moral  
19 obligation, starting with kids at a very young age. So I  
20 believe it's the only way to be a 21st century  
21 prosecutor.

22 JUDGE LIPPMAN: Do you think particularly that  
23 this economy plays into all of this, that when you talk  
24 about civil access and people falling off a cliff, and  
25 God knows what happens, and some of them wind up in front

1 of our courts, and the District Attorney prosecuting, do  
2 you think the economy has had an impact on all of this?

3 In other words, is it more dangerous today not  
4 to provide civil legal representation to deal with so  
5 many of these problems than maybe in more plush times?

6 D.A. RICE: What the enormously difficult  
7 economic situation that we face right now has done is  
8 increased the need to offer civil access to people.  
9 Because people are without jobs, they're facing losing  
10 their homes. There are so many issues that -- you know,  
11 look, I get it. When times are plush, you say, oh,  
12 everything is fine. But I truly believe that we are all  
13 going to be defined not just as professionals in public  
14 service but as human beings.

15 When we go to meet our eventual maker we're  
16 going to be judged not by how we treat each other during  
17 the good times, because that's easy. It's how we treat  
18 each other during difficult times. Unfortunately,  
19 economic crisis very often estops that whole conversation  
20 about coming up with creative solutions to problems,  
21 because it's all a money issue. I think we have to kind  
22 of reframe it and put it in terms of the human toll that  
23 it's taking and focus more on the fact that issues like  
24 public safety, that no one would really make the  
25 connection to if you're talking about civil access in a

1 vacuum -- people don't think that way.

2 So I think it's important for people in my  
3 position to come out and remind people about the nexus  
4 between the crises that families are facing all across  
5 this state and the issue of public safety that everyone  
6 cares about.

7 JUDGE LIPPMAN: And we've tried to make clear  
8 to our partners in government that now is the time when  
9 you need the funding for legal services, not the -- gee,  
10 times are tough we'd love to help you, but -- this is the  
11 time, because the impact is so much greater during these  
12 times.

13 One other question I have for you particularly.  
14 It's an issue that you spoke about in your comments but I  
15 think is so relevant to your particular role. And that's  
16 family issues, in particular domestic violence. And it's  
17 been our experience, and at least in the testimony that  
18 we've had in going around the state, that domestic  
19 violence issues don't exist in a vacuum, and domestic  
20 violence victims have just a panoply of civil legal  
21 crises in their lives that have to be addressed at the  
22 same time that there may be a criminal aspect in a  
23 domestic -- can you talk a little bit about that and what  
24 you see on that issue?

25 D.A. RICE: I can speak from personal -- I

1 think everyone can speak from personal experience. Each  
2 one of us, I'm sure, knows a family that has gone through  
3 a divorce, that implicates potential domestic violence  
4 issues, child abuse issues, custody issues. These are  
5 really, really complicated issues. And I can just, from  
6 my role as prosecutor in trying to get women the help  
7 that they need to address domestic violence issues, very  
8 often those issues are compounded by all of the other  
9 court appearances that they have to make and the lack of  
10 representation that they have. I think they all -- it  
11 all goes hand in hand.

12 And a loss in this whole thing is the victim's  
13 -- not only the victim's -- status of the person in the  
14 domestic violence situation, but the children that are  
15 the primary victims, in my opinion, of all of these  
16 issues.

17 I think that especially when it comes to  
18 domestic violence issues, because they are often coupled  
19 with all of the other civil legal proceedings that are  
20 going on, I can't think of an area where there is more of  
21 a desperate need for civil access to representation than  
22 in that area. You're dealing with so many family issues,  
23 individual issues, financial issues, physical safety  
24 issues.

25 And I get the whole, you know, concern with

1 money, money, money. But if we're not willing to invest  
2 now and show by our investment the value that we place on  
3 people and families -- you can have laws on the books and  
4 say this is what we care about. But in practice, in  
5 everyday dealing, if you are ignoring and not hearing the  
6 cries of families and individuals that are in need, then  
7 really what is it all worth?

8 So the investment that -- you used that word,  
9 Judge Lippman, and I think it's a very important, if you  
10 focus on that, how everyone gets it, if you're making an  
11 investment now pays off in the future. That's where  
12 people make investments. You don't invest in the stock  
13 market and expect a return right now, you expect a return  
14 20 years from now.

15 So it's bringing that whole issue home. But,  
16 yes, we see that issue very often, every day in our  
17 cases.

18 JUDGE LIPPMAN: From a practical perspective,  
19 how do you deal with that? What do you do with someone  
20 who comes to you on obviously a, you know, what could be  
21 a very, very serious criminal matter? Is there an  
22 infrastructure in Nassau County to get these people the  
23 vital legal service? What do your people do, who do they  
24 go to?

25 D.A. RICE: We created a place called The Safe

1 Place here in Nassau County. The whole concept behind  
2 that -- it was really incredibly groundbreaking -- was to  
3 address issues -- there's a first-time coalition between  
4 the organization that advocates on behalf of the domestic  
5 violence victims and child abuse victims. It's one-stop  
6 shopping; law enforcement, medical doctors,  
7 psychologists. Totally service-oriented.

8 But right now the only thing that we can do for  
9 someone who says, "I have a court date in civil court"  
10 is, "Go to the bar association and see if you can get  
11 representation there." Obviously we cannot get involved  
12 for the -- obviously the ethical restrictions that we  
13 have in representing people in those matters. But that  
14 is really what we're left with.

15 And it's difficult, because very often they  
16 meet with an inability, they call up or they say, "No  
17 one's going to help me there." You know, because they're  
18 dealing with a lot of other psychological issues. And  
19 getting them -- our primary focus is to keep them  
20 involved in the case that we're trying to prosecute.

21 JUDGE LIPPMAN: But you can't do your job  
22 unless you get that kind of assistance.

23 D.A. RICE: They need the representation, and  
24 we just are not able to give it to them. We can help  
25 them, we can try to give them access to, you know, other

1 service providers that may be able to help them. But the  
2 only thing we can do right now is point them in the  
3 direction of the bar association.

4 JUDGE LIPPMAN: Judge Prudenti?

5 JUDGE PRUDENTI: Just one quick question,  
6 District Attorney Rice. I'd like to take this  
7 opportunity to commend you on these problem-solving  
8 courts. And I know recently you were very supportive of  
9 the veterans court that has been started here in Nassau  
10 County. And I was wondering if your assistants have  
11 reported back about how they feel that court is running,  
12 as well as the need for representation of veterans in  
13 that court.

14 D.A. RICE: Well, I'm happy to report that I  
15 think the part is going very well. I don't think that  
16 anyone doubts that there are specific issues. The whole  
17 goal behind it was to get people in services that they  
18 need.

19 Everyone knows how difficult it is for veterans  
20 coming back or veterans who have served stateside in  
21 terms of getting the services that they need. So I think  
22 it is going well. But, obviously, people who find  
23 themselves in that situation, a lot of veterans who are  
24 coming home are dealing with a lot of psychological  
25 issues as well as physical issues. They then often morph

1 into drug dependency, alcohol dependency, and that leads  
2 to the breakdown of the family and civil access  
3 necessitated in that respect, as well.

4 JUDGE PRUDENTI: Have the assistants told you  
5 that these individuals are represented or are not  
6 represented?

7 D.A. RICE: Well, most of them are represented  
8 in criminal court, but again, a lot of them do have  
9 corresponding civil cases and they don't -- criminal  
10 defendants are specific practitioners. They don't often  
11 cross over into the world of marital issues or custody  
12 issues; things like that. So I think it's -- anyone who  
13 comes into the criminal justice system has the potential  
14 to need some kind of civil access and legal  
15 representation. My hands are tied. There's not much  
16 that we can do.

17 We try to -- this is why I think the specialty  
18 parts are so incredibly important, because it is -- as I  
19 talked about getting to the root causes of problems and  
20 crime, this is what we're talking about, addressing the  
21 specific day-to-day needs that people have in their  
22 individual lives and their family lives.

23 We're not talking about recreating the wheel,  
24 social services that our tax dollars pay for. What we  
25 don't pay for is civil access and legal representation.

1 And I think it's incredibly shortsighted not to, since we  
2 offer all of these other services. Yet in the one area  
3 where they actually need a professional to represent  
4 them -- because most of you people are not lawyers and  
5 don't know their way around the court system -- we are  
6 falling woefully short.

7 JUDGE LIPPMAN: We heard testimony Tuesday in  
8 Syracuse about a lot of specialty legal service providers  
9 starved for funds but have sprung up just to serve the  
10 needs of veterans, because they have so many more  
11 problems coming out of -- not only medical ones that come  
12 out of their service, but so many related civil matters  
13 that particularly need representation.

14 D.A. RICE: You know, look, the veterans part,  
15 I think, is -- it's important that it be a success,  
16 because I think if you talk about how we want to define  
17 ourselves as a community, as a state, as a nation, if we  
18 can't protect those who risk their life on behalf of our  
19 democracy and us so that we can live our lives every day  
20 with the freedoms and the benefits that we do, shame on  
21 us.

22 JUDGE LIPPMAN: I'm with you.

23 Ken Standard, do you have any questions?

24 MR. STANDARD: Yes, I do have one.

25 Thank you for coming here today and for having

1 such an encompassing view of your role and not viewing  
2 yourself as someone out there simply to prosecute people  
3 and do justice in that way, but looking at the bigger  
4 picture.

5 One of the long-term concerns that I've had has  
6 been with the collateral consequences of people becoming  
7 involved with the criminal justice system. And with your  
8 view I'm wondering if there is something that the  
9 District Attorneys Association -- and I understand you're  
10 going to be leading that association relatively soon --  
11 could do with the defense bar, to be sure that criminal  
12 defendants, for example, are advised -- and I know we  
13 have limited civil legal services available -- but are  
14 advised of the consequences of a conviction, of a plea,  
15 and what that means for them in the future, and their  
16 reentry into the system and what that means about  
17 recidivism.

18 D.A. RICE: My office, the assistants that  
19 serve the great people of this county of ours here, know  
20 that it is incumbent upon them that any time there is an  
21 ancillary implication as a result of a conviction that  
22 they are to make sure that that is stated completely on  
23 the record in open court with the judge present. Because  
24 I just don't think that you can take -- you can assume  
25 that they are being given all of the information in ways

1 that convictions can possibly affect them. I don't know  
2 if you're also talking about in terms of record  
3 expunction?

4 MR. STANDARD: Records, loss of voting rights,  
5 employment opportunities lost.

6 D.A. RICE: Well, the one-shop stopping that I  
7 have set up in the Village of Hempstead is all about  
8 that. It is to help people who are trying to re-enter  
9 their communities and those who have never come into  
10 contact with the criminal justice system and want to  
11 prevent themselves from doing that. It's marrying them  
12 up with all the Social Services they have.

13 But I also came out in support very vocally of  
14 the concept of expunging defendants' records after a  
15 certain period of inaction in the criminal justice  
16 system, just for that reason, to allow them to go and get  
17 hired, get a job. I wrote extensively -- I was asked by  
18 a local lawyer here who was on the committee, the State  
19 Bar Association committee talking about the sealing of  
20 certain convictions, because I -- a misdemeanor  
21 conviction can prevent someone from getting a family-  
22 supporting job.

23 But, of course, under certain circumstances, if  
24 someone can stay out of trouble and they understand that  
25 there is this possibility for them to stay out of trouble

1 and have their record expunged, I think it's important  
2 that they know that up front and have that explained to  
3 them. Short of my assistants doing that, it really is up  
4 to -- I think we could probably do a better job working  
5 together with the defense bar to -- when you're working  
6 out a plea, as most cases are disposed of through pleas,  
7 where you make it very clear about what the ramifications  
8 are of a plea.

9 But I'm a big believer in giving people a  
10 second chance. I think that if people make a mistake and  
11 they've shown that they want to turn their life around,  
12 it's incumbent upon the community to do what we can to  
13 put them on the right track. Not for the rest of their  
14 life, I'm talking about giving them that hand to help  
15 them get up and back on track.

16 I think there are a lot of conversations going  
17 on about that right now, and I'm looking forward to being  
18 the head of the DA's Association next year. I'm serving  
19 as a deputy to Cy Vance right now and working on a lot of  
20 issues, some of which relate to what you're talking  
21 about. And hopefully the DA's Association will be able  
22 to come out and be a progressive voice in that area.

23 MR. STANDARD: Thank you. We're hopeful.

24 D.A. RICE: With me there will be, and with Cy.

25 JUDGE LIPPMAN: Absolutely. I have no doubt.

1 I want to thank you, District Attorney Rice,  
2 for coming and talking to us and for being our lead  
3 witness, and for all the creative things you're doing  
4 here in the veterans court, adolescent diversion court,  
5 sex-trafficking part which will be opening soon. It's a  
6 pleasure to work with you. Thank you so much for being  
7 here.

8 D.A. RICE: Thank you.

9 JUDGE LIPPMAN: I know that Judge Phoenix is  
10 here today somewhere. There she is. Norman St. George  
11 was here, Judge St. George. And the former president of  
12 the Nassau Bar, Doug Good, is here somewhere. Okay. And  
13 Judge Kase just walked in. Okay.

14 Our next witness, I'm so pleased, is Steve  
15 Bellone, the Suffolk County Executive. And I'd ask you  
16 to come into the witness box, County Executive.

17 COUNTY EXECUTIVE BELLONE: I'm not accustomed  
18 to this, judge.

19 JUDGE LIPPMAN: And I'm so pleased. I know the  
20 county executive for many years, and he is a creative and  
21 resourceful leader. And in his former roles I think we  
22 put a very effective community court out in Suffolk, and  
23 clearly an outstanding county executive who's dedicated  
24 to equal justice for all the residents of his county, and  
25 particularly, I think, so important in our state and in

1 all of the county, and particularly, I think, in Suffolk  
2 County and the economic crisis. He confronts every day  
3 the problems of people who need civil legal services,  
4 whether it be the roof over someone's head that's  
5 threatened, or their livelihood, or the physical safety  
6 or their right to entitlements. It's an everyday fact of  
7 life for the County Executive in a large, important  
8 county like Suffolk County.

9 So I'm so pleased that you're here. We're so  
10 pleased that you're here, and delighted to hear from you  
11 today.

12 COUNTY EXECUTIVE BELLONE: Thank you very much,  
13 Chief Judge Lippman, and it is an honor to be before you  
14 in this setting. As you had mentioned, we've had the  
15 opportunity to work together, and you truly are an  
16 innovator.

17 JUDGE LIPPMAN: Thank you.

18 COUNTY EXECUTIVE BELLONE: And your selection  
19 as Chief Judge, when it happened, I can tell you you  
20 couldn't have had a happier person than me knowing that  
21 you were leading our court system in New York. We are in  
22 very good hands as a result of that.

23 And Judge Prudenti, as well, it's great to see  
24 you, of course.

25 JUDGE LIPPMAN: You like to see fellow Suffolk

1 County --

2 COUNTY EXECUTIVE BELLONE: Yes, even though  
3 we're in Nassau County.

4 Mr. Standard, a pleasure to be here with you.

5 Thank you for the invitation to join you this  
6 morning to talk about this very important subject.

7 Meaningful access to justice, which includes  
8 being represented by qualified and effective counsel, the  
9 ability to understand court proceedings, and the  
10 opportunity to have claims heard is of paramount  
11 importance to everyone for a number of reasons. Access  
12 to legal representation can be the difference between  
13 losing a home or keeping it, succumbing to an illness or  
14 obtaining a cure, remaining in an abusive marriage or  
15 finding refuge, or remaining hungry or securing food.

16 In most civil cases a person is not entitled to  
17 an attorney notwithstanding that civil actions can result  
18 in the loss of custody of a child, loss of a home, loss  
19 of some benefit that puts food on the table. Essentially  
20 we are talking about the essentials of life.

21 Many low- income individuals are not even aware  
22 that they have legal rights in our county or that an  
23 attorney can help them. Lawyers are critical to advise  
24 clients of their rights that they may not know they have  
25 and to help them navigate through our judicial system.

1 Lawyers can also help clients solve problems before they  
2 turn into court cases, saving time and money. Every day  
3 legal services are provided to individuals who can afford  
4 them, and low income people deserve those, as well.

5 Having unmet legal needs can impose substantial  
6 financial burdens on local, state and the federal  
7 government, and society as a whole. For example, the  
8 low-income person who's abused and unable to get a  
9 divorce and continues to live with the abuser may need  
10 emergency medical care at an emergency room that he or  
11 she cannot afford, with the taxpayers ultimately  
12 absorbing the cost of the medical expenses associated  
13 with that care.

14 Moreover, the county and/or state may have to  
15 pay for emergency shelter for a low-income person who was  
16 wrongfully evicted from his or her home as a result of  
17 having no legal representation and being unaware of his  
18 or her legal rights.

19 Providing legal services to the low-income  
20 community not only benefits those individuals but also  
21 benefits the courts and society as a whole, I believe.  
22 Said services help to do the following: Lower the  
23 incidence of domestic violence, as you were discussing;  
24 assist survivors of domestic violence to obtain  
25 protective orders; regain custody of children and obtain

1 child support; decrease the amount of pro se litigation  
2 in the courts, which is time-consuming for the  
3 adversary's attorney and, of course, as you know, the  
4 judge on those cases; help pro bono cases flow through  
5 the court system faster; save taxpayer money by lessening  
6 the reliance of low-income individuals on government  
7 assistance as a result of wrongful evictions, improper  
8 foreclosures, domestic violence and the like; lessen the  
9 financial strain on health care of the criminal justice  
10 system and the social welfare system; and lessen the  
11 strain on employers who experience decreased productivity  
12 and increased absenteeism due to employees' inadequate  
13 access to the courts.

14 With the 2008 collapse of the stock market and  
15 the economic crisis, the decline in Suffolk County has  
16 been severe, affecting all residents, both wealthy and  
17 poor. However, the poor, having been hit the hardest,  
18 are left with, among other things, being evicted from  
19 their homes, having their homes foreclosed upon, having  
20 to go on public assistance and/or being forced to  
21 discontinue health insurance.

22 In my former role as Supervisor of the Town of  
23 Babylon, in communities like Wyandanch I witnessed the  
24 aftereffects of the economic decline and the devastating  
25 impact that it had on that community. Suffolk County has

1        been one of the hardest hit counties in the state in the  
2        foreclosure crisis. According to the Federal Reserve  
3        Bank, as of March 2011, 12-1/2 percent of Suffolk County  
4        homes were seriously delinquent or in foreclosure  
5        already.

6                    The situation is worse in poorer communities in  
7        Suffolk County, where the rate of homes with a mortgage  
8        that was seriously delinquent or in foreclosure was 20  
9        percent. The impact upon these neighborhoods is severe,  
10       and overall property values suffer as a result. The  
11       Neighborhood Economic Development Advocacy Project  
12       analyzed the Department of Financial Services data on  
13       90-day pre-foreclosure notices in 2011, and in its 2012  
14       report found that 52,378 notices had been issued.  
15       Suffolk County had by far the highest number of notices  
16       issued in the downstate area, including all of New York  
17       City, Nassau and Westchester County, 15 percent of the  
18       statewide total.

19                    The foreclosure crisis hits the low income  
20        population of Long Island in two ways. Those who  
21        purchased homes with unconventional mortgages or  
22        predatory mortgages during the mortgage are losing their  
23        homes in record numbers, at the same time non-delinquent  
24        tenants are being evicted from their homes because of  
25        foreclosures on their landlords.

1           According to the New York State Unified Court  
2 System's 2010 annual report, Suffolk County District  
3 Court handled over 10,000 evictions in 2010, the highest  
4 of any county or city outside of New York City. This  
5 statistic does not even include the case loads in the  
6 justice courts which exist in the five eastern-most towns  
7 in Suffolk County.

8           My County Attorney, Dennis Cohen, who is here,  
9 who served as a District Court Judge in Suffolk County  
10 and handled landlord-tenant matters, has informed me that  
11 tenants who were represented were much more likely to  
12 settle their cases, allowing them to remain in their  
13 homes for at least some period of time or to prevail at  
14 trial.

15           In addition, as a result of the economic  
16 downturn, county government is experiencing significant  
17 financial issues that are unprecedented. And I'm sure  
18 that is something that you've heard around the state.  
19 Sales tax revenues and mortgage tax revenues are down as  
20 people are not spending money or purchasing real estate  
21 as they would in normal economic times, while government  
22 health care expenses and pension costs continue to rise  
23 at enormous rates. In light of this fiscal dilemma, it  
24 is more difficult for the county to provide needed  
25 funding to support legal services programs.

1           But notwithstanding the economic challenges  
2           that we face, the County of Suffolk is and has been  
3           committed to providing the necessary funding to assure  
4           access to our legal system. And I'm keenly aware that  
5           the cost to run county government is lowered, and,  
6           therefore, the cost to the county's taxpayers is lowered  
7           by providing attorneys to those in need.

8           The following services are provided by the  
9           County of Suffolk in order to provide low income persons  
10          access to lawyers and our judicial system:

11          A pro bono foreclosure settlement conference  
12          project, where we commit \$45,000 to the Suffolk County  
13          pro bono foundation to provide assistance.

14          Elder law assistance, where we have a contract  
15          with Touro Law School to provide legal services for the  
16          elderly.

17          Child support services programs where the  
18          county has budgeted over \$45,000 for 2012 for paralegal  
19          services under the guidance of a panel of volunteer  
20          attorneys for all residents on matters of child support,  
21          enforcement of court orders for child support.

22          Other criminal and legal services that we  
23          provide, the county contracted with the Suffolk County  
24          Legal Aid Society in 2011 and 2012 for services for the  
25          needy, at a cost in excess of \$11 million each year.

1           In addition, since 2011 the county has  
2           contracted with Legal Aid to provide legal services for  
3           the poor through its defender advocacy program. The  
4           total county commitment there is over \$360,000.

5           And, additionally, the county on average  
6           commits approximately \$4 million each year towards the  
7           18-B program for the retention of prior attorneys on  
8           those cases where Legal Aid has a conflict.

9           In an environment in which Suffolk County is  
10          facing and has faced this year a deficit in the hundreds  
11          of millions of dollars, unprecedented in the county's  
12          history, where virtually everything in county government  
13          has been cut, we are taking great pains to make sure that  
14          funding for Legal Aid and the associated funding like  
15          that has not been cut because of the importance. And we  
16          recognize the importance of that funding.

17          The county has a contract with Nassau-Suffolk  
18          Legal Services covering the period from 2012 to 2014 to  
19          provide legal services for Social Security housing,  
20          accessing medical care, Medicaid, food stamps, TANF, the  
21          mental health advocacy and family court representation  
22          where 18-B services and Legal Aid are not available. And  
23          nearly \$200,000 was budgeted for fiscal year 2012.

24          Judge Lippman, I want to commend you for  
25          requiring prospective lawyers to perform at least 50

1 hours of Legal Aid -- of law-related pro-bono services  
2 before being admitted to the New York State Bar. I  
3 believe this requirement could go a long way in providing  
4 low-income individuals with representation that they  
5 need.

6 In conjunction with this requirement, I wonder  
7 whether we can convince local law schools here on Long  
8 Island, and perhaps across the state, to create clinical  
9 programs which would represent low-income persons in  
10 civil matters and require all students to participate,  
11 while, of course, receiving credits for their work.

12 I'm a lawyer but I do not practice, as my  
13 county attorney reminds me when I offer legal opinions on  
14 some things in the county. I would have welcomed the  
15 requirement in law school that I participate in a clinic  
16 that would have provided me with real legal experience  
17 while at the same time helping those less fortunate  
18 navigate the legal system.

19 I want to thank you again for giving me the  
20 opportunity to participate in this hearing and to express  
21 my views and support on this very important issue. Thank  
22 you, Judge.

23 JUDGE LIPPMAN: Thank you so much. And I'm so  
24 pleased that your testimony, which so recognizes -- what  
25 we've gotten from some people is, you know, times are

1 bad, we can't afford civil legal services. And the point  
2 is that access to justice is not a luxury that's only in  
3 good times.

4 COUNTY EXECUTIVE BELLONE: Right.

5 JUDGE LIPPMAN: And I think you recognized it  
6 and made that connection. But maybe we can talk about it  
7 a little more, about the bottom line.

8 I think, you know, we had testimony in Albany  
9 from Steve Aquario, the Association of Counties, and he  
10 was making the same point that you're making. Maybe you  
11 could spell it out a little bit for our audience, that  
12 this is not just about that you feel an ethical  
13 obligation and a moral commitment to doing this funding,  
14 which I know you do --

15 COUNTY EXECUTIVE BELLONE: Right.

16 JUDGE LIPPMAN: -- and which we all feel, but  
17 that this idea that we try to get across, that for every  
18 dollar invested, you know, if we turn so much to our  
19 economy, that this -- putting everything else aside, a  
20 bottom line issue, that we estimate every dollar, that's  
21 a return for lots of reasons, because if you don't help  
22 people to deal with their life-threatening problems you  
23 have more homelessness, incarceration.

24 COUNTY EXECUTIVE BELLONE: That's right.

25 JUDGE LIPPMAN: You're not getting entitlement

1 dollars from Washington that come into our state. But,  
2 literally, you believe that the economic health of the  
3 county is better by having an infusion of public funding,  
4 or whatever else is needed, or volunteerism, into  
5 representing those people who have these life-threatening  
6 legal problems?

7 COUNTY EXECUTIVE BELLONE: Judge, I think  
8 that's absolutely right. And I think it's probably a  
9 combination of those two things that is necessary to deal  
10 with the staggering problem that we face.

11 I think, first and foremost, it is the right  
12 thing to do, it is a moral issue, and I think that is  
13 important to state, and I do believe that it is  
14 important. But we have to justify to the entire county  
15 what we do and how we do it and how we spend every single  
16 taxpayer dollar.

17 JUDGE LIPPMAN: Exactly.

18 COUNTY EXECUTIVE BELLONE: And what I have  
19 said, repeatedly, and what you were just speaking about,  
20 is that this makes financial sense for the county, that  
21 making this kind of investment at a local level or at the  
22 state level is critically important, because the impacts  
23 that have happened as a result of the economic downturn,  
24 the worst recession that we've had since the great  
25 depression, are felt in all the ways that you listed.

1 But oftentimes they're hidden costs because they're  
2 diffused throughout our system. And oftentimes the  
3 agency that is responsible for a certain function, the  
4 costs are resulting from another source or another  
5 agency.

6 JUDGE LIPPMAN: Right.

7 COUNTY EXECUTIVE BELLONE: So, for instance,  
8 you know, the lack of legal representation may cause  
9 people to end up in emergency rooms. Well, that may not  
10 necessarily be an issue for the county, per se, in its  
11 bottom line this year. But that is a significant cost  
12 for all of us in Suffolk County and all of us across this  
13 state.

14 So I've always felt that we need to look at  
15 these problems in a comprehensive manner. You know, we  
16 have, obviously, different branches of government and  
17 many different levels of government. But I truly believe  
18 it is critical that we are working together and planning  
19 together, because each of the things that we do is  
20 different branches and different agencies impact each  
21 other. That's why I've been talking with our county  
22 attorney and working with Suffolk County court system to  
23 move more closely together, integrate some of our  
24 problems and work together.

25 The people that we are talking about, low

1 income individuals that have been impacted here, are the  
2 same people that we see all the time in our social  
3 services programs, that we see in many cases that are in  
4 the criminal justice system, that we deal with on parole.

5 So I think it is so important that we look at  
6 these things wholistically and comprehensively, and when  
7 we do that understand that we are doing something  
8 important and significant for taxpayers, because when we  
9 provide those services like that we are reducing costs,  
10 without question.

11 JUDGE LIPPMAN: And I think, aside from -- I  
12 think it's such an important issue to understand that  
13 this is not the time to say we can't spend on civil, this  
14 is exactly the time to spend it.

15 I think your point about collaboration, and  
16 certainly between the branches of government, is so true.  
17 And we talk about equal justice, while in some ways that  
18 term, obviously -- justice talks about our court system.  
19 You're in the business of equal justice, too.

20 COUNTY EXECUTIVE BELLONE: Certainly.

21 JUDGE LIPPMAN: And obviously what you're  
22 trying to do as the executive in charge of your county.

23 COUNTY EXECUTIVE BELLONE: That's right.

24 JUDGE LIPPMAN: So I think we're all in this  
25 together, which is the point which you so rightly make.

1 COUNTY EXECUTIVE BELLONE: I take that oath to  
2 the constitution as well, and I take that very seriously.  
3 You know, at the end of the day we want to do what's  
4 right for the county and what's the right thing to do.

5 And, you know, the District Attorney was here  
6 before and she's put forward some really innovative  
7 programs that we've used. I think she gets it and  
8 understands that we have to look at things in a  
9 comprehensive way and stop, you know, sort of working in  
10 vacuums.

11 JUDGE LIPPMAN: Exactly.

12 COUNTY EXECUTIVE BELLONE: See that the things  
13 we do with the county don't impact the court system and  
14 vice-versa, and the things that happen in the state are  
15 not impacting at the local level. We have to think --  
16 particularly in times when funding is limited and there  
17 isn't a lot of money, that we need to take that  
18 opportunity to figure out how we can do things better and  
19 more efficiently. I think the collaboration is  
20 important.

21 I'm looking forward to, as we've in the last  
22 nine months, my first nine months as county executive,  
23 been dealing with really on a crisis level, being able to  
24 get in and work with the court system more closely on  
25 these programs.

1 JUDGE LIPPMAN: Oh, we look forward to that,  
2 too.

3 Talk about collaboration, one other question.  
4 I see the dean of Touro Law School, Patty Salkin, is  
5 here. And we're hoping that -- they're one of the two in  
6 the state that require pro bono work. But we really are  
7 hoping with the new 50-hour requirement sort of  
8 highlights everyone's sensitivity to this issue to have  
9 collaborations between the local law schools,  
10 particularly out here, where you have Touro and you have  
11 Hofstra down here in Nassau County, to provide the kind  
12 of assistance that may be, if there are limited public  
13 dollars and we're all trying to get as much as we can  
14 get. But I think that's an area that's so ripe in this  
15 economy, and, again, emphasis on pro bono. And I know  
16 with you as the County Executive and Dean Salkin, who I  
17 know so well for many years, this will be a great  
18 alliance, I think, in terms of helping the county.

19 COUNTY EXECUTIVE BELLONE: I agree. And Touro  
20 Law School has been at the forefront of this, and we've  
21 enjoyed a great partnership with them. And I think, as  
22 you said, with this new commitment of 50 hours that  
23 there's going to be opportunities for even deeper  
24 collaboration that I think will be beneficial for  
25 everybody.

1 JUDGE LIPPMAN: I know it and I hope so.

2 Judge Prudenti?

3 JUDGE PRUDENTI: Well, I concur, and I have to  
4 just say, County Executive Bellone, I want to thank you  
5 for your commitment to maintaining the legal services as  
6 existing and expanding upon them. I couldn't be more  
7 delighted with your choice of county attorney, because  
8 he'll will always be Judge Cohen to me.

9 COUNTY EXECUTIVE BELLONE: You know, I have to  
10 work with him. Thank you, Judge.

11 JUDGE PRUDENTI: I understand. But I have to  
12 tell you, as we're preparing our budget to go forward for  
13 the next year, and in that budget, as you know, the Chief  
14 Judge is so committed to our civil legal services, that  
15 we are going to be requesting some additional moneys for  
16 civil legal services. And I would just ask you and your  
17 county attorney, if you have any questions, we need your  
18 support, we ask for your support, but if you have any  
19 questions with regard to that budget, please don't  
20 hesitate to contact me. And I would love to share any  
21 information that we have about what we've done in the  
22 past with that legal service money and what we plan to do  
23 in the future.

24 COUNTY EXECUTIVE BELLONE: Thank you, Judge.  
25 And I would say the same thing; anything that we can

1 provide in terms of assistance or support or answering  
2 questions, we're prepared and ready to do so.

3 JUDGE PRUDENTI: I appreciate that.

4 JUDGE LIPPMAN: Mr. Standard, do you have  
5 anything?

6 MR. STANDARD: I have one question for you, Mr.  
7 Bellone.

8 I want to congratulate you on what you've been  
9 doing. But what's your secret? How have you gotten the  
10 voters in Suffolk County to support what you've been  
11 doing in light of the economic situation that we're in?

12 COUNTY EXECUTIVE BELLONE: Stay tuned, they  
13 haven't had an opportunity to vote again. We will see.

14 But I've always felt that you cannot just, as a  
15 leader, say this is the right thing to do, therefore  
16 we're doing it, that you have to take the time to explain  
17 to people why it makes sense, and why not only is it the  
18 right thing to do but that it makes sense for our  
19 community and our society. And I think when you take the  
20 time to do that -- and we did this in Babylon, where  
21 we've made huge investments in Wyandanch, the most  
22 economically distressed community on Long Island, and we  
23 had widespread support for those investments from the  
24 communities throughout Babylon. The reason was we took  
25 the time to explain why this is not just about investing

1 in Wyandanch, which is the right thing to do and  
2 important in and of itself, but that it affects you and  
3 your family and your property values.

4 MR. STANDARD: Out in East Hampton?

5 COUNTY EXECUTIVE BELLONE: I didn't quite make  
6 the argument that far when I was in Babylon. But that's  
7 exactly right. I always made the case that what happens  
8 on the east end and the investments out there, even  
9 though Babylon, we're a fully developed town, investing  
10 in open space even though we don't get those dollars, it  
11 makes sense. I really believe that we do best when we  
12 think of our systems as integrated systems and not  
13 separated.

14 JUDGE LIPPMAN: I want to thank you, County  
15 Executive Bellone, for coming and for all you're doing in  
16 this critical area, in these really very difficult  
17 economic times for all of us, and for -- again, for lack  
18 of a better word -- for your wholistic view on this issue  
19 and on collaborative issues for all of us working  
20 together, and we really appreciate it, and it's such a  
21 delight that you're here today.

22 COUNTY EXECUTIVE BELLONE: Thank you, Judge.  
23 It's an honor, and thank you for your leadership.

24 JUDGE LIPPMAN: Thank you.

25 COUNTY EXECUTIVE BELLONE: Thank you.

1 JUDGE LIPPMAN: Appreciate it.

2 I note that Anne Erickson, who thinks she's  
3 leaving the room, who's on the task force -- I want to  
4 make sure and introduce her. Now, Anne, you can do what  
5 you have to do.

6 Our next witnesses will be an immigration and  
7 language access panel, and we have: Martha Maffei,  
8 Executive Director of the Services For the Advancement of  
9 Women, SEPA Mujer, Inc.; Rose Leandre, Executive  
10 Director, Haitian American Cultural and Social  
11 Organization, HASCO; Alizabeth Newman, Director of  
12 Immigrant Initiatives and Clinical Professor of Law at  
13 CUNY Law School.

14 Great to have you all here. Why don't we start  
15 with Martha Maffei. Am I pronouncing it right, Martha?

16 MS. MAFFEI: Yes.

17 JUDGE LIPPMAN: You're on, Martha.

18 And don't feel, with any of the witnesses,  
19 don't feel that you have to read your prepared statement.  
20 We've read it already. You can just tell us, you know,  
21 what you're here to say and we'll ask you a few  
22 questions, and however you'd like to proceed.

23 Martha.

24 MS. MAFFEI: Thank you very much for having me  
25 here today to address the concerns from my community.

1 I am Martha Maffei. I am Executive Director at  
2 Services for Advancement of Women, a Latina immigrants  
3 rights organization. We are located at the advocacy  
4 center of Touro Law in Central Islip.

5 In addition to the community education and  
6 empowerment to Latina women, we also offer legal  
7 assistance for survivors of domestic violence through  
8 immigration relief, like self-petition under the Violence  
9 Against Women Act and U-Visas. I will say that 99  
10 percent of my clients, they have limited English  
11 proficiency, and 40 percent of them have a minimum  
12 education and have problems even in their own language.

13 Every day I hear the complaints, frustrations  
14 and confusion of my clients after they go to Family  
15 Court. As we all know, understanding the court system is  
16 hard for anyone, but it's worse for someone who is  
17 suffering domestic violence, because many times they are  
18 still intimidated by the abusers and threatened with  
19 deportation. The lack of sufficient number of attorneys,  
20 advocates, and interpreters means the women cannot  
21 express themselves, don't understand the process, and  
22 often give up because of continued threats from the  
23 abuser. These pressures combined often mean that those  
24 who most need assistance are not getting served.

25 The lack of communication for those with

1 limited English proficiency make an already difficult  
2 task harder. When victims go to court they are seeking  
3 protection, and safety is the forefront of their minds.  
4 They are worried if they can key keep the children with  
5 them and how they will be able to raise them. They are  
6 not thinking about how to explain the situation in a  
7 foreign language because their emotional state does not  
8 allow it. When they are unavailable to communicate what  
9 happened in the home leading to the need of protection,  
10 many cannot use the process. If these woman had an  
11 attorney in court with them, this kind of situation would  
12 not happen.

13 JUDGE LIPPMAN: How many attorneys do you work  
14 in the office?

15 MS. MAFFEI: How many what?

16 JUDGE LIPPMAN: How many attorneys do you have?

17 MS. MAFFEI: We have -- we work with pro bono  
18 attorneys.

19 JUDGE LIPPMAN: In all, how many volunteers?

20 MS. MAFFEI: We have five pro bono attorneys,  
21 immigration attorneys.

22 JUDGE LIPPMAN: And they all have their own  
23 private practice and they're doing it on their own?

24 MS. MAFFEI: One of them were -- some of them  
25 are private practice. The chief of my -- Alizabeth

1 Newman, she is director of CUNY law school. And we also  
2 work with pro bono students from the Touro Law that they  
3 are willing to help our organization.

4 JUDGE LIPPMAN: So you really depend on pro  
5 bono work?

6 MS. MAFFEI: That's true.

7 JUDGE LIPPMAN: Go ahead.

8 MS. MAFFEI: Even if a woman can speak some  
9 English, her communication is not likely to be fluent and  
10 much will get lost. She will not have limited her  
11 information to the parts of her story that she does have  
12 the vocabulary for, which means that the judge will hear  
13 a very distorted, partial and often toned-down version of  
14 the facts.

15 Judges can also be frustrated by the lack of  
16 communication and may think a woman is uncooperative. I  
17 remember a case in which a woman was seeking for an order  
18 of protection. Her children had been taken away because  
19 of the domestic violence inflicted on her by her husband.  
20 The judge asked where the children were, and the mother  
21 answered day care. The judge got very angry. And the  
22 advocate said, I think she means foster care. The mother  
23 was trying to participate but was unable to come out with  
24 the right word because of the language barrier.

25 Women with limited English proficiency cannot

1 fully protect their rights in court with the assistance  
2 of an attorney, interpreter and bilingual advocate. And  
3 certainly when the abuser is also present and is  
4 proficient in English, he's usually advantaged in the  
5 process. His story may often seem more plausible, not  
6 necessarily because it's true, but because he can express  
7 himself more clearly and has a stronger grasp on the  
8 process.

9 In addition to the difficulty of expressing  
10 herself without an attorney or a bilingual advocate, the  
11 lack of a lingual information often impedes an  
12 applicant's ability to use the Court process. Many times  
13 orders of protection fail because the clients had no --  
14 doesn't know how to fill out an application, and there is  
15 nobody available to explain it to them. Women do not  
16 have a basic understanding of the Court procedures and  
17 don't know what constitutes a family offense, much less  
18 how to meet the legal elements of claim. There is little  
19 information given to women on what to expect in the  
20 process.

21 I remember a time where a woman filled out a  
22 request for an order of protection in Spanish and it was  
23 only noted when the judge got it in his hands. This  
24 women was waiting for a whole day in that court, and  
25 finally when she saw the judge he told her, you have to

1 go back to the clerk's office. Many women who are  
2 seeking help at the court without counsel have to go back  
3 two or three days and nobody helps them.

4 Only after failing to get relief, women come to  
5 SEPA Mujer, where they are fully described their  
6 situation in their native language. Sometimes our staff  
7 is able to accompany women back to court or provide  
8 referrals to an attorney at Nassau-Suffolk Legal  
9 Services. However, these referrals are not enough  
10 because Nassau-Suffolk Legal Services doesn't have enough  
11 staff, and unfortunately there are not enough attorneys  
12 to fully explain the court process to them. This extra  
13 service must be provide by our already overextended  
14 nonprofit because it is basic information not being  
15 provided by the Court in Spanish.

16 To file for custody in the Family Court,  
17 clients are advised by court personnel to bring someone  
18 to speak English. Otherwise they are often unable to  
19 file for custody due to the shortage of bilingual  
20 assistance. This is a huge problem because most of our  
21 clients don't have anyone that is fluent in English who  
22 they can trust and who can leave work or family  
23 responsibilities to help her.

24 My clients often reported that when they  
25 approach personnel in court to ask for information, the

1 staff member simply chants at them, English, English,  
2 English, adding a hostile tone to the already difficult  
3 language barrier. Again, with an attorney or a bilingual  
4 advocate, this kind of difficult situation would not take  
5 place.

6 Lastly, many women with limited English  
7 proficiency are immigrants who are still being harassed  
8 by their abusers. Several women have simply given up on  
9 petitions for child support in order to stop abuse or  
10 harassment. It is common that when the courts serve an  
11 abusive father with papers to pay child support, he finds  
12 ways to harass the mother in retaliation. While  
13 technically it is not requested from her, the abuser  
14 knows that she has initiated the process. The difficulty  
15 that women with significant language barriers face when  
16 using the court system without representation of an  
17 attorney and with the continuing threats of the abuse or  
18 harassment prevent many women from using the legal  
19 system.

20 In addition, my clients said that some  
21 attorneys who were not working through Nassau-Suffolk  
22 Legal Service, private attorneys, they are advising to  
23 stop requesting custody of their children or to not  
24 pursue an order of protection because of lack of  
25 immigration status. When we work with our local civil

1 legal service office this does not happen, so we need to  
2 make sure that our vulnerable clients receive counseling  
3 from lawyers who are trained to bridge the gap between  
4 Immigration Law and the New York State family law.

5 From SEPA Mujer's perspective, the best way to  
6 do this is, one, greater support for civil legal  
7 services, and, two, more training for attorneys. When  
8 there are not enough attorneys, competent interpreters  
9 and advocates for women suffering from domestic violence,  
10 the costs are high. Women suffer because they cannot  
11 protect their children, their homes or their safety.  
12 Courts suffer because they cannot make accurate findings  
13 and because the community loses faith in the justice  
14 system.

15 I still have faith in the justice system. This  
16 is why I'm here today. I know that the provision of  
17 adequate services to immigrant women suffering from  
18 domestic violence is critical, and I applaud Chief Judge  
19 Lippman for opening this dialog and giving us the  
20 opportunity to speak for my community that I represent.  
21 I know you will pay attention to these issues that I  
22 bring here today. I would be willing to help you, and I  
23 look forward to working with you. And thank you very  
24 much for this opportunity.

25 JUDGE LIPPMAN: Thank you for being here.

1 Appreciate it.

2 So really the problem is the language problem  
3 mixed with, obviously, a lack of knowledge of the legal  
4 process. So it's -- we have to attack both of those  
5 problems together.

6 MS. MAFFEI: Yes, and the big gap that exists  
7 between Immigration Law and New York State Family Law,  
8 that has created fear to women to apply for --

9 JUDGE LIPPMAN: We have heard that in other  
10 cases.

11 MS. MAFFEI: It's very hard when I hear a woman  
12 that calls me back to let me know that she was advised,  
13 don't apply for an order of protection. They already  
14 have had many, many difficulties in their life, lost  
15 their apartment, don't have transportation, don't have  
16 the language. Some much of them, much of them, they are  
17 living in shelters. They don't know where to go and they  
18 don't have protection.

19 JUDGE LIPPMAN: So it's kind of -- in addition  
20 to the legal and the language barriers, there's also --  
21 they need nurturing, they need emotional support.

22 MS. MAFFEI: Yes.

23 JUDGE LIPPMAN: They're hesitant to -- they  
24 need bilingual advocates.

25 MR. STANDARD: Attorneys, interpreters. They

1 noticed to get equal justice.

2 JUDGE LIPPMAN: But in your particular  
3 organization, you're very dependent on volunteerism as  
4 opposed to help from a provider directly, where those  
5 moneys -- and, you know, we're trying to do both, to  
6 increase the public funding so that the providers can  
7 specialize in different areas like the one you're talking  
8 about, and yet at the same time emphasize the importance  
9 of pro bono work and volunteerism. And that's what we're  
10 trying to do with the law students. And you have some of  
11 them, probably a perfect example of where it can work --

12 MS. MAFFEI: That's right.

13 JUDGE LIPPMAN: -- with supervision, assisting  
14 people with these kind of very difficult life crises that  
15 they have.

16 MS. MAFFEI: That's right.

17 JUDGE LIPPMAN: Okay. Thank you.

18 MS. MAFFEI: Thank you very much.

19 JUDGE LIPPMAN: Thank you.

20 Okay, now, Rose Leandre from the Haitian  
21 American Council.

22 MS. LEANDRE: Good morning. Thank you for the  
23 invitation to be able to speak to you all today regarding  
24 this important issue.

25 As you said, my name is Rose Leandre, and I'm

1 the Executive Director for the Haitian American Cultural  
2 and Social Organization, d/b/a HACSO Community Center.  
3 HACSO was founded back in 1974 to serve the needs of the  
4 immigrant community in Rockland County. Our mission has  
5 expanded to serve immigrant and low income families that  
6 are underserved in the county.

7 Our mission is to partner with existing  
8 services, including civil legal services, to increase  
9 access to immigrants with language and cultural barriers  
10 and families that are underserved.

11 JUDGE LIPPMAN: So you work with providers?

12 MS. LEANDRE: Yes.

13 JUDGE LIPPMAN: Providers help your  
14 organization?

15 MS. LEANDRE: Yes. We do referrals, we refer  
16 -- we're a multiservice organization. We're mostly a  
17 social service organization. So families come to us with  
18 diverse needs.

19 JUDGE LIPPMAN: But that's so important, and we  
20 want people to understand that. People will come to an  
21 organization like yours, people will come to the church.

22 MS. LEANDRE: Yes.

23 JUDGE LIPPMAN: But they're dealing with  
24 problems that you're not --

25 MS. LEANDRE: Exactly.

1 JUDGE LIPPMAN: -- totally fit to work with  
2 them on, because you need that legal assistance.

3 MS. LEANDRE: Yes.

4 JUDGE LIPPMAN: That's what we're trying to  
5 find. In so many different aspects of life people have  
6 problems, they don't know where to turn, but they turn to  
7 sympathetic entities, whether it be an organization like  
8 yours, the church, whoever they might come to. And there  
9 needs to be off-ramps to go to a provider where you can  
10 send them to be helped on that.

11 MS. LEANDRE: Yes. And I'm very excited to be  
12 here today because of that specifically, really just to  
13 make the connection of the importance of having  
14 bilingual, bicultural civil legal services for  
15 underserved communities.

16 JUDGE LIPPMAN: So not any provider can help  
17 you if there's that language issue; right?

18 MS. LEANDRE: It's very difficult.

19 JUDGE LIPPMAN: Or you need to have an  
20 interpreter.

21 MS. LEANDRE: An interpreter, which kind of  
22 opens up the door for a lot of other complications  
23 sometimes.

24 JUDGE LIPPMAN: But if you have a lawyer who  
25 speaks the language, it's really a tremendous asset.

1 MS. LEANDRE: You know, in my testimony I have  
2 a couple of examples of organizations that we've  
3 partnered with as a result of support, and hopefully  
4 continued support, for their legal services, to be either  
5 able to hire or maintain existing bilingual providers  
6 that we have on staff, that we're losing because of  
7 budget cuts.

8 JUDGE LIPPMAN: So it's not so simple to just  
9 say, okay, we're going to give money to a provider, or  
10 we're going to get a volunteer. It has to --

11 MS. LEANDRE: Or an interpreter. Exactly.

12 JUDGE LIPPMAN: It has to fit into your needs.

13 MS. LEANDRE: Exactly.

14 JUDGE LIPPMAN: I think that's the point.  
15 There's so much need but in so many different forms.

16 MS. LEANDRE: Yes.

17 JUDGE LIPPMAN: And we have to be able to  
18 target the services, whether it's coming from a provider  
19 or coming from a pro bono basis, that meets the  
20 particular need at issue.

21 MS. LEANDRE: Yes. Yes.

22 You know, I couldn't -- I wouldn't be leaving  
23 here too happy if I didn't provide some specific  
24 statistics in terms of the changes in the population that  
25 we're seeing.

1 JUDGE LIPPMAN: Please do. Sure.

2 MS. LEANDRE: Rockland County is considered to  
3 be one of the smallest counties in New York State.  
4 However, it is the 13th largest -- has the 13th largest  
5 population in the world ---in New York State outside of  
6 the boroughs of New York City. And 11.4 percent of  
7 Rockland County's residents, which is about 33,000  
8 people, live below the poverty level. And it's up 9.5  
9 percent from -- in 1999, 9.5 percent. It's up from that.

10 According to the 2010 American Community  
11 Survey, 23 percent of Rockland's population was foreign  
12 born, with more than 31 percent of its people entering  
13 the United States in the year 2000 and later.

14 In addition to that, according to the 2008-2010  
15 ACS survey, in the village where our organization  
16 actually operates, 48 percent of the population of that  
17 village is made up of immigrants, people with language  
18 and cultural needs.

19 Between 2000 and 2010, in the Latino population  
20 only there was an increase of 145 percent in that  
21 village. The county of Rockland's linguistically  
22 isolated households grew 99 percent from 1990 to 2009.  
23 That just shows the drastic changes in the population  
24 that we're dealing with and the need for having  
25 linguistically and culturally appropriate legal services.

1 99 percent of our clientele, they need -- even though  
2 we're a social service organization, they come to our  
3 office with a multitude of civil legal services needs, to  
4 include eviction, mortgage modification, Social Security  
5 disability issues, unemployment issues, divorce, domestic  
6 violence, landlord-tenant, and immigration services.

7 JUDGE LIPPMAN: I think the list of problems  
8 that you raise demonstrates that this is not only about  
9 lawyers to go into court with people, many of the  
10 problems never go to court.

11 MS. LEANDRE: Exactly.

12 JUDGE LIPPMAN: Their entitlements, or they're  
13 dealing with a bureaucracy, or whatever it might be. So  
14 it's not this vision that the only thing that's involved  
15 here is getting a lawyer to accompany you to court, it's  
16 really just one part of this.

17 MS. LEANDRE: You know, we talk about investment  
18 into prevention, and having local civil organizations,  
19 and I'll bring a perfect example.

20 In Rockland County we have the Legal Aid  
21 Society of Rockland County. We work a lot with them. 90  
22 percent of our referrals are made to that organization.  
23 And they actually had a Creole-speaking -- and make sure  
24 that they hired a Creole speaking attorney. They have  
25 Spanish-speaking attorneys to help with the process,

1 understanding the dynamics of the community. And most of  
2 the issues result in having attorneys understanding the  
3 issue and getting these referrals in advance and being  
4 able to call the landlord and try to stop an eviction  
5 before a family of four is out on the street with five  
6 children. And now trying to, with the cost of living in  
7 Rockland County, trying to rehouse them, when it's just a  
8 matter of I just had a job, I had an emergency, I need a  
9 couple of months to make up my rent arrears. And it has  
10 proven to work a lot.

11 I mean, I have examples in terms of mortgage  
12 modification. I have an example of a woman, we're  
13 talking about, again, going back to, you know, dealing  
14 with immigrants. She was married here. Somehow her  
15 husband was able to get a divorce outside of the country,  
16 that she was not aware of. Her mortgage -- the mortgage  
17 is under the husband's name but the deed of the house is  
18 under both their names. And being able to get a  
19 modification -- because now she's living in the house  
20 with her children, and the husband is not paying the  
21 mortgage, and she's having a hard time getting a mortgage  
22 modification.

23 I don't want to compare the importance of  
24 having Legal Aid to a private attorney, I don't want to  
25 go into this, but being able to come into our office

1 cannot resolve her issue. But being able to say, here,  
2 call this organization, they will sit with you and figure  
3 it out. And they had to work with divorce, Family Court,  
4 in addition to her coming just for a modification.

5 So, again, having that entity -- and we do get  
6 a lot of support. We work a lot with the Empire Justice  
7 System. They do legal clinics for us. We have a lot to  
8 do with TPS, so they do a lot of legal -- we get a lot of  
9 pro bono service, but having an entity that we're able to  
10 refer people to certainly makes a big difference.

11 JUDGE LIPPMAN: Okay.

12 MS. LEANDRE: Other issues, I mean, I don't  
13 want to give a bunch of examples, but it's very, very,  
14 very important. We have clients that are preyed upon.  
15 They're charged exorbitant fees when they try to access  
16 legal services, and they're taking away money from food  
17 and shelter to pay, because they're not -- you know,  
18 they're not aware that they may be eligible for free  
19 civil legal services.

20 So having entities involved in the community,  
21 making outreach, educating people so people can access  
22 and not have to take food and shelter money away from the  
23 children to pay for civil legal services, it is -- it  
24 becomes beyond civil legal services, it becomes an  
25 economic issue, where spending exorbitant money or

1 waiting until the problem becomes worse impacts their  
2 economics also.

3 JUDGE LIPPMAN: No question.

4 MS. LEANDRE: Also basic survival, life skills  
5 are impacted for -- by not having civil legal services.

6 JUDGE LIPPMAN: Okay. Thank so much.

7 And, you know, I think it graphically  
8 illustrates the testimony of the problems, and they're  
9 multifaceted and not so easy to resolve, and we've got to  
10 target where the need is.

11 I now ask, Professor Newman, to hear your  
12 thoughts.

13 PROFESSOR NEWMAN: I hope you didn't get tired  
14 of hearing the thanks from the presenters, but I'm  
15 honored to be here today and a part of this fantastic  
16 effort that you've been leading for the past several  
17 years to address this really important issue. So thank  
18 you.

19 JUDGE LIPPMAN: Thank you.

20 PROFESSOR NEWMAN: So, again, you know, my  
21 testimony will focus on one of the most vulnerable groups  
22 to go without representation, those with limited English  
23 proficiency, an immigrant.

24 While I understand that immigration and civil  
25 services are not a part of this being federal, the

1 intersection area that was mentioned becomes really,  
2 really important, and I'd like to highlight that for you.

3 So first a couple of statistics, as well. In  
4 New York State the percent of the population with limited  
5 English proficiency is now about 15 percent. Nearly a  
6 third of families in New York State speak a language  
7 other than English in their homes. And about more than 8  
8 percent of New York State households are considered  
9 linguistically isolated, meaning that no adult in the  
10 household is proficient in English. And that's at least  
11 double what the national rate is for New York State.

12 JUDGE LIPPMAN: Is there a co-- do those  
13 statistics coalesce with poverty statistics? Are a great  
14 part of that population of very limited means, or we  
15 don't really have the correlation?

16 PROFESSOR NEWMAN: I don't know. I'd have to  
17 look into it. But I would assume that there is a  
18 correlation.

19 JUDGE LIPPMAN: To at least some significant  
20 degree.

21 PROFESSOR NEWMAN: I think also our immigrant  
22 population is also growing. Statewide we're at about 21  
23 percent. Nassau and Suffolk counties, I think, are about  
24 20 percent and 15 percent. I think New York City  
25 statistics, were I think this was a combination of

1 immigrant and their offspring, are up to 55 percent of  
2 New York City's population. So it's --

3 JUDGE LIPPMAN: It's a very diverse state, and  
4 becoming more so.

5 PROFESSOR NEWMAN: Yes. And particularly for  
6 immigrants, there's a large -- there's many types of  
7 cases in which the immigration status itself becomes part  
8 of the civil proceedings. I think it's very important  
9 that counsel -- that they have counsel to be able to  
10 contextualize that for the Court and make sure that the  
11 opposing party isn't, you know, exploiting that in a way  
12 that doesn't really make sense.

13 So I wanted to give two examples of one time  
14 when it went really badly and another time where it went  
15 much better. So in one case, a custody dispute, and the  
16 father was bringing a petition for custody, stating that  
17 the fact that his wife was in removal proceedings, the  
18 new deportation proceedings, that meant that she was  
19 about to be deported, and so he wanted custody. And the  
20 Family Court Judge was alarmed at the situation and said  
21 that she would wait for the Immigration Court to finish  
22 its proceedings before she made a determination, because  
23 it was important for her to know.

24 Meanwhile, back in the Immigration Court, the  
25 Immigration Judge wanted to hold off on the results

1 because he was weighing different factors of hardship,  
2 including the hardship to the U.S. citizen child, and all  
3 of the factors when that judge was making a determination  
4 on whether or not to give the mother legal permanent  
5 resident status. So the two courts were waiting for each  
6 other.

7 Fortunately, she was represented and was able  
8 to convince the Family Court Judge that, A, as scary as  
9 removal proceedings sound, first, they could take years  
10 and nothing is imminent, and, second, it's actually an  
11 opportunity to present relief. It doesn't mean that  
12 you're about to be dragged out.

13 So the Family Court Judge was willing to make a  
14 decision based on the facts of the family presented  
15 before her, knowing that she could give the right to  
16 either party to come back to the court if there was a  
17 drastic change in circumstances. So that turned out very  
18 well. The judge made a decision in the Family Court  
19 giving the mother custody, and the Immigration Judge also  
20 gave her status.

21 Where it can be stickiest, I think, is in  
22 situations of domestic abuse. And this is something that  
23 Martha Maffei had referenced. So in general immigration  
24 law, if an immigrant marries a U.S. citizen or a  
25 permanent resident, it's the spouse with status that has

1 almost total control of the petitioning process, so they  
2 can decide whether to petition, if they're ever going to  
3 petition, or to stop that petition midstream.

4 And so if you superimpose a situation of  
5 domestic abuse, you have a recipe for disaster. And,  
6 unfortunately, it's very common for abusers in that  
7 situation to use -- to leverage the immigration status,  
8 to say, if you tell anybody about the abuse I'll have you  
9 deported. If you don't drop that civil suit for child  
10 support you're going to lose your work authorization and  
11 you'll never see your kids again. It's very effective.  
12 Doesn't leave any visible marks. And often times the  
13 judge isn't going to be aware that that's going on behind  
14 the scenes.

15 So without counsel, you have a terrible  
16 situation where the courts are actually becoming an  
17 instrument of abuse unknowingly.

18 JUDGE LIPPMAN: What does the law school do, in  
19 terms of your particular area of initiatives, to deal  
20 with these kind of situations? Where do you go? Do you  
21 get from your own resources within the law school, do you  
22 reach out to the bar? How do you help people in these  
23 situations?

24 PROFESSOR NEWMAN: So first CUNY law school has  
25 a particular mission towards public interest that

1 attracts students who are like-minded. So we have a very  
2 active student body. I teach in the clinical program,  
3 and one thing that we do is, in addition to teaching the  
4 traditional litigation skills, all of our students take  
5 on community projects. And so this definitely is one  
6 area that -- the area of gender violence and immigration  
7 has been an area that I've been working in for many, many  
8 years.

9 JUDGE LIPPMAN: Who oversees the kids?

10 PROFESSOR NEWMAN: I would.

11 JUDGE LIPPMAN: You would oversee on these  
12 types of issues?

13 PROFESSOR NEWMAN: Yes. And we also create  
14 partnerships with many small organizations. Usually  
15 we've found not so much legal services necessarily,  
16 although we do support legal services groups, but we like  
17 to work with ethnic-based groups that have the trust of  
18 the community and then capacitate them with the legal  
19 parts that they don't necessarily have. So the  
20 combination of doing community education, working with  
21 the staff of the organizations to make sure that they can  
22 recognize the different beliefs, and doing the legal  
23 services.

24 JUDGE LIPPMAN: This is exactly -- the kind of  
25 programs that I think are second nature to you at CUNY

1 are exactly what we'd like to have all the law schools  
2 doing. So we're not talking about, when we put in this  
3 50 hour requirement that the people do 50 hours and they  
4 meet their requirement, but more a recognition of how  
5 important pro bono work is to this next generation of  
6 lawyers so it's built into their DNA.

7 PROFESSOR NEWMAN: Yes.

8 And I think, too, like previous panelists had  
9 said, not just the pro bono work, but if we're really  
10 going to reach into these very, very vulnerable  
11 populations, to work through the organizations that  
12 already know the community and can fill in the cultural  
13 pieces.

14 JUDGE LIPPMAN: Cultural and, obviously, the  
15 language pieces.

16 PROFESSOR NEWMAN: Yes, obviously.

17 JUDGE LIPPMAN: That is so critical to this.

18 PROFESSOR NEWMAN: Yes.

19 I don't know if I -- I should go through this,  
20 since it's in my testimony. Just other examples of when  
21 abusers who are citizens can use the element of status  
22 very effectively.

23 You know, in one case, in addition, the abuser  
24 had him and his wife arrested for a shoplifting charge,  
25 and then he told her that it was all resolved and she

1 didn't need to go back to court. Unknowingly, there was  
2 an outstanding warrant. So he learned that. When she  
3 finally left him he used this when she was presenting a  
4 case for an order of protection in Family Court pro se.  
5 He was resourced, hired an attorney to go in, adjourn the  
6 proceedings while he called ICE, the immigration  
7 enforcement branch. And they're thinking, oh, we have a  
8 fugitive here, I have an outstanding warrant. They  
9 showed up in Family Court and arrested her and whisked  
10 her off to a detention center out of state, leaving an  
11 elderly mother and three children. We were able to come  
12 in and get her out.

13 But there's so many times when the abusers can  
14 try to use the court system against their spouses, and it  
15 makes such a difference for the courts to be aware, to  
16 know what to ask and to have counsel to --

17 JUDGE LIPPMAN: And that also borders on the  
18 issue that Mr. Standard asked before, on the criminal  
19 things with the collateral consequences issue. Same  
20 milieu, that immigration problems are used as a weapon --

21 PROFESSOR NEWMAN: Yes.

22 JUDGE LIPPMAN: -- in one fashion or another.

23 PROFESSOR NEWMAN: Right.

24 JUDGE LIPPMAN: It gets very complicated and we  
25 need legal services to help.

1 PROFESSOR NEWMAN: Right. My point exactly.

2 So in juxtaposing that in another case that --  
3 I love the decision from a Bronx Family Court Judge who,  
4 after the U.S. citizen's spouse, insisting on bringing up  
5 the wife's status throughout, started to inquire, and why  
6 is she undocumented, let's look at this. In fact, he was  
7 the cause of that, that he stopped the proceeding --  
8 stopped sponsorship. So she actually was savvy about it  
9 and cited that fact of him interrupting the relationship  
10 between the mother and child as a negative factor in the  
11 custody dispute. So when it works well, it works well.

12 JUDGE LIPPMAN: What part of the SUNY -- CUNY  
13 curriculum is a clinical program? I know you have an  
14 awful lot because --

15 PROFESSOR NEWMAN: We do. And we have a  
16 requirement, every student who graduates with -- has to  
17 do a clinical program. So we have students for at least  
18 one semester, and in my clinics it's two semesters, 8  
19 credits each. So it's a significant time to work with  
20 the family, be with them, to be able to hone their  
21 skills, show different ways --

22 JUDGE LIPPMAN: You say most of the kids at  
23 CUNY do either series of clinics or internships,  
24 externships?

25 PROFESSOR NEWMAN: Yes. It's a requirement for

1 graduation.

2 JUDGE LIPPMAN: The clinical?

3 PROFESSOR NEWMAN: Yes.

4 JUDGE LIPPMAN: Good.

5 PROFESSOR NEWMAN: If I might say one more  
6 thing.

7 JUDGE LIPPMAN: Sure, go ahead.

8 PROFESSOR NEWMAN: So in experimenting over  
9 much time with how to meet the needs in the different  
10 communities, one thing I'd like to open up is the  
11 possibility of New York State revising the ethical code  
12 to expand the possibility of more services. And I'll  
13 explain what I mean.

14 So where there's a group of people that have  
15 similar claims -- say 12 new people walk in with housing  
16 problems to Legal Aid. Either they've got to wait for  
17 the already burdened attorneys to get to that part of the  
18 waiting list or train pro bono counsel to volunteer.

19 JUDGE LIPPMAN: Right.

20 PROFESSOR NEWMAN: But the possibility of  
21 working with them in group -- and it's something that  
22 I've been working with and having to be very careful, of  
23 course, with regard to confidentiality and of the other  
24 obligations of an attorney.

25 Now, in some places New York State's ethical

1 code has already been revised as far as conflict checks  
2 for pro bono counsel, where it doesn't make sense, as far  
3 as giving some assistance and letting the person go pro  
4 se. There are different places where we've been  
5 tweaking. I would encourage us to look a little more  
6 about that.

7 For example, those 12 people, if we could work  
8 with them in a group to at least do some of the education  
9 that an attorney would do individually, if we can work  
10 with them on what type of evidence they're going to need  
11 and why, what elements that meets, and help them do data  
12 collection --

13 JUDGE LIPPMAN: It gets very interesting. Do  
14 you have anything in writing?

15 PROFESSOR NEWMAN: I do. There's an article  
16 that I wrote last year. It works particularly with  
17 domestic violence survivors, where in addition to  
18 efficiency it also gives some of that support to help  
19 them not give up in the process, it's too hard.

20 JUDGE LIPPMAN: Send it to me and send it to  
21 Elaine Barnett, head of the task force, and we can take a  
22 look at that.

23 Judge Prudenti?

24 JUDGE PRUDENTI: No.

25 JUDGE LIPPMAN: Mr. Standard?

1 MR. STANDARD: No.

2 JUDGE LIPPMAN: Great battle. Thank you so  
3 much. Appreciate it.

4 The next panel is dedicated to collaboration.  
5 We're not going to go to the collaboration panel next,  
6 we're going to go to the judges' panel. So can we have  
7 Judge Diamond, Judge Hinrichs, Judge Phoenix and Judge  
8 Fairgrieve, come on up. And then we'll go to the  
9 collaboration panel.

10 As unaccustomed as you are to being in the  
11 witness box, we'll see if we can make this work. Mr.  
12 Standard is particularly anxious to see you all in the  
13 witness box. So watch out for cross-examination.

14 I think what some people don't always  
15 understand is the impact of the lack of legal services on  
16 judges in the courtroom and how it affects the whole  
17 process of our justice system. And so we have four  
18 judges today who are going to give us an idea of how this  
19 all fits together. And we're going to start, unless you  
20 have any prescribed order, we'll start with Arthur  
21 Diamond.

22 Judge, a pleasure to see you. Judge Diamond is  
23 a Justice of the Nassau County Supreme Court and a member  
24 of the New York State Judicial Advisory Counsel.

25 Judge Diamond.

1 JUDGE DIAMOND: Yes. Good morning. Thank you  
2 for inviting me.

3 As you said, I'm in my 9th year on the bench,  
4 and I just -- I don't want to be rude, but I have a jury  
5 deliberating so I'm going to excuse myself after I  
6 finish, if that's okay.

7 JUDGE LIPPMAN: You are absolutely excused.  
8 Tell us -- you don't have to read the testimony. Tell us  
9 what your thoughts are.

10 JUDGE DIAMOND: I read the testimonies of some  
11 previous people, and the one area that I would like to  
12 spend my few minutes on is the area of guardianships, and  
13 indigent people who are the subject of Article 81  
14 proceedings.

15 JUDGE LIPPMAN: Right.

16 JUDGE DIAMOND: I won't use shorthand, but I'm  
17 going to assume that both of you understand the mechanics  
18 of the Article 81 proceedings.

19 JUDGE LIPPMAN: Definitely.

20 JUDGE DIAMOND: Okay. So we have real  
21 difficulties in three scenarios.

22 The first scenario is where the alleged  
23 incapacitated person from the outset, when the petition  
24 is brought, we have no money to appoint a court  
25 evaluator. Now, we do have a public guardian program,

1 and I'll talk about that in a minute. So our initial  
2 option is to appoint Mental Hygiene Legal Service as  
3 evaluator to report to us. If we do that, there is no  
4 money to appoint counsel if the alleged incapacitated  
5 person requests counsel. So a person with Alzheimer's in  
6 a hospital or a nursing home who requests counsel in a  
7 period of lucidity when they're served with the petition,  
8 then can't get counsel because we have no money to  
9 appoint and we need Mental Hygiene Legal Services to  
10 serve as evaluator. If we appoint them as counsel then  
11 we have no money to appoint an evaluator. Without an  
12 evaluator we don't have access to medical records, we  
13 don't have access to doctors, we don't have access to  
14 neighbors or assets. It's a terrible, deprived --  
15 terrible deprecation of a right for these people who are  
16 often not of sound mind or body. So that's the first  
17 instance where we may not have an evaluator.

18 The second instance is where we find somebody  
19 to be a personal guardian, to make personal decisions,  
20 but we can't get the person a property manager because  
21 our public guardian program will not be co-guardian with  
22 someone. So now we have no assets, so I can't appoint a  
23 special guardian to go out and get the person even  
24 qualified on Medicaid. So the person's in a nursing home  
25 or a hospital, can't get benefits that they may be

1 entitled to, can't get on Medicaid, and I have no money  
2 to appoint a guardian for them. Again, it's a very, very  
3 difficult issue.

4 The third example, and one that is,  
5 unfortunately, becoming increasingly difficult, is where  
6 we have a poor person who has no one. So we have no  
7 money, they're in a nursing home or a hospital,  
8 long-term, no prospect of coming out. Public guardian  
9 will not take them because they're not in our community.  
10 They will not take someone who's in a facility. So if  
11 you have no money to appoint an evaluator, personal or  
12 property guardian, and the person is totally alone in the  
13 world, sometimes can't communicate to anybody because  
14 they're either --

15 JUDGE LIPPMAN: Sure.

16 JUDGE DIAMOND: And so now the facility wants  
17 us to appoint a property guardian to get them on Medicaid  
18 or other benefits. We have no money to appoint someone.

19 I have recently at a -- really, I'll say, out  
20 of sheer frustration begun to appoint facilities to be  
21 property guardians and bring the application. Now, they  
22 don't want to do that because technically that may be a  
23 violation of the statute, because they're a creditor and  
24 we're not supposed to appoint creditors as guardians.

25 JUDGE LIPPMAN: Right.

1 JUDGE DIAMOND: But my answer to that, and I  
2 say this -- I'm sorry to say it, but I say to them,  
3 listen, I have no alternative and you're getting all the  
4 money. So there's no conflict in terms of that. So  
5 they're unhappy, but I've begun doing it.

6 The final thing is that we passed -- the  
7 legislature passed the Family Medical Decisions Act two  
8 years ago. What's recently happened where we don't have  
9 personal guardians is that the facilities -- our public  
10 guardian takes the position that if the person is in a  
11 facility long-term they don't need a personal guardian  
12 because under the Family Decisions Act the facility can  
13 make medical decisions for them. Okay?

14 I reject this. I wrote a decision that  
15 appeared in the September 7th Law Journal, where I said  
16 that this is a terrible situation, where you have a  
17 facility making medical or other decisions for an  
18 incapacitated person because we don't have money to  
19 appoint a guardian. A facility that mistreats somebody  
20 is not going to bring a lawsuit against themselves on  
21 behalf of an incapacitated person if they're serving as  
22 guardian. That's really unlikely. And if it comes time  
23 where they want to move the person, the family decisions,  
24 that gives them no authority to do that. We need a  
25 guardian to do that.

1           So because of the lack of funds, you know, we  
2 see all of these kind of attempts to, I will say, end-run  
3 the legal issue.

4           Now, I obviously agree with the tremendous need  
5 for law services for everybody that really needs them and  
6 qualifies. Every judge, from Housing Court to debtor  
7 creditor to matrimonial -- which I did for five years --  
8 raised excellent points about the need. But these  
9 people, this population that I'm talking about,  
10 unbelievably -- listen, a person can go to  
11 landlord-tenant court and speak. These people can't  
12 speak, often. We need somebody to speak for them. You  
13 know. We need money to be able to appoint lawyers as  
14 evaluators and guardians and as counsel.

15           Every case carries with it the potential to  
16 need three or more attorneys. And, you know, it's not  
17 just legal, you know, if you think about the situation  
18 these people are in. I think it's as much of a moral  
19 issue as it is a legal issue.

20           So maybe it's the time of the year -- you know,  
21 our new year just finished. I went to the Red Mass the  
22 other night. And I just want to leave you with this  
23 quote, if I could. This was both Martin Luther King and  
24 Abraham Lincoln. He paraphrased a minister who lived in  
25 the 1800s. This is the quote that Martin Luther King

1 used.

2 "I do not pretend to understand the moral  
3 universe. The arc is a long one, my eye reaches but  
4 little ways. I cannot calculate the curve and complete  
5 the figure by the experience of sight, but I can divine  
6 it by conscience. And from what I can see it bends  
7 towards justice."

8 I really believe -- and I'm not trying to be  
9 melodramatic, but I believe that in our legal universe we  
10 have to just not be legal, we have to be moral. We have  
11 to bend this universe to do justice for these people.  
12 Otherwise we're really doing ourselves as judges, the  
13 system and these people a great disservice.

14 Thank you very much.

15 JUDGE LIPPMAN: Thank you, Judge. I think you  
16 highlight, again, the breadth of this problem, and it is  
17 an area where these people are so just out there with no  
18 one to turn to, and there's so much need and it's so  
19 great, and in particular areas it's almost a crime.

20 JUDGE DIAMOND: Well, they turn to us and we  
21 have no resources. So thank you very much.

22 JUDGE LIPPMAN: Thank you, judge. You can go  
23 back to work now. Thank you. Okay.

24 Our next judicial speaker or witness will be  
25 the Hon. Randall Hinrichs, who is the District

1 Administration Judge from Suffolk County.

2 Randy, great to have you.

3 JUDGE HINRICHS: Thank you very much, Judge  
4 Lippman, Judge Prudenti, Mr. Standard. Thank you very  
5 much for having me speak here today. It's a privilege to  
6 be here.

7 JUDGE LIPPMAN: Honor to have you.

8 JUDGE HINRICHS: Thank you very much.

9 I would just echo, the guardianship parts in  
10 Suffolk County -- just to follow-up on what Judge Diamond  
11 said -- have voiced the same frustration. I know we're  
12 in the middle of setting up a CLE program in early  
13 November through the guardianship program to try and get  
14 increased pro bono attorneys for the exact situation that  
15 the judge was mentioning, so I would just echo those  
16 sentiments. And I thought the best place to start would  
17 be, just briefly, sometimes there's a tendency to think  
18 that the need for unmet civil legal services, it's a city  
19 problem or it's a problem in rural areas in upstate New  
20 York.

21 Just very briefly, some brief statistics about  
22 Suffolk County. It's a county of 1-1/2 million people.  
23 We have close to 200,000 people on Medicaid. Roughly one  
24 sixth of the population, around 250,000 people in the  
25 county, are within the -- what's considered double the

1 poverty line, you know, \$45,000. And that's for a family  
2 of four. \$45,000 for a family of four on Long Island is  
3 not going to go very far. It's double the poverty line,  
4 but just within the cost of living. So there are some  
5 significant unmet needs.

6 JUDGE LIPPMAN: And we use that example, judge,  
7 that the 200 percent, the poverty level, a family of four  
8 earning that kind of money, if you have significant legal  
9 problem in your life you're not going to be able to  
10 resolve it without some kind of legal service.

11 JUDGE HINRICHS: Absolutely.

12 JUDGE LIPPMAN: That's an obvious thing. You  
13 need to put food on the table. And if it's a foreclosure  
14 issue, it can be a real problem.

15 JUDGE HINRICHS: What I'm trying to get at,  
16 when you talk about a county this large, you talk about a  
17 quarter of a million people in that category, so there's  
18 a significant need here. And also just sometimes when  
19 you look at a Family Court and you look at the number of  
20 filings in Family Court, while it's not -- it's  
21 indicative of people that have a need for civil legal  
22 services.

23 And the filings, for instance, in Suffolk  
24 County, they're the fourth highest in the state. They're  
25 higher than Queens, for instance. They're a lot closer

1 to the Bronx than they are to Nassau County, for  
2 instance. So just to give you an idea, there is, by way  
3 of background, a significant unmet need here.

4 I don't want to repeat things from my written  
5 statement or to repeat what others might say about the  
6 pro bono and legal services structure in the county. But  
7 just very briefly, you have Nassau-Suffolk Law Services,  
8 you have Touro, both their public advocacy center and  
9 their clinical programs, and you have the pro bono  
10 foundation at the bar.

11 JUDGE LIPPMAN: Do they work closely with you  
12 in -- I mean, you have -- is there a regular  
13 collaboration?

14 JUDGE HINRICHS: Absolutely. And that's what I  
15 was going to say, actually, is that they work, first of  
16 all, well with the courts. And, very importantly, when  
17 it comes to funding issues they work incredibly well with  
18 each other to avoid any duplication of services, or legal  
19 services. They have quarterly meetings between the  
20 principles that I just said; you know, Touro, the  
21 different groups at Touro, Nassau-Suffolk Law Services.  
22 They meet quarterly with the pro bono foundation just to  
23 see what is the most pressing need and to avoid any  
24 duplication of effort. They work incredibly well, you  
25 know, with the courts. I've met with all the people in

1 my office. They all participated in a Law Day event.

2 JUDGE LIPPMAN: But on the ground, Judge, the  
3 need is far greater than what you have to work with, even  
4 though I understand the efforts are Herculean.

5 JUDGE HINRICHS: Absolutely. And I think maybe  
6 the best is if I touch on some of the areas where there's  
7 the biggest unmet need, if that would be appropriate.

8 I'm not going to bore you with statistics about  
9 foreclosure numbers from Suffolk County.

10 JUDGE LIPPMAN: No.

11 JUDGE HINRICHS: They're through the roof.  
12 There's been great efforts through the Bar Association to  
13 have attorneys, pro bono attorneys, at the foreclosure  
14 settlement conference at the initial stage, the CPLR 3408  
15 conference. They have pro bono attorneys covering those  
16 conferences trying to work out a resolution. It's really  
17 just a fraction, though, of the legal need in the area of  
18 roughly close to 14,000 foreclosure cases pending in  
19 Suffolk County. Under 2,000 are in the conference part.  
20 Also, filings are up this year compared to last year.

21 JUDGE LIPPMAN: I know.

22 JUDGE HINRICHS: And when you get -- when they  
23 leave the conference part they go to an individual,  
24 through the IAS system, to a Supreme Court judge.

25 Each of these cases has individual nuances.

1 The case doesn't end when it leaves the foreclosure  
2 conference part, but, unfortunately, the legal  
3 representation does. And the homeowners in that  
4 situation, when they're before -- when it's getting  
5 closer to the end of the case, there is, despite all the  
6 great effort, there is no representation. And very often  
7 in that setting, if there was representation, it may be  
8 able to work out a resolution other than a judgment of  
9 foreclosure. It increases the likelihood of what would  
10 be better for everyone.

11 So that's a -- you know, the foreclosure area --

12 JUDGE LIPPMAN: In so many parts of our state,  
13 not only Suffolk.

14 JUDGE HINRICHS: So that's one particular area.

15 Also, when you talk about the critical needs  
16 that individuals have, when you talk about in the area  
17 of -- also in the housing area, you know, the last two  
18 full years there were over ten thousand eviction  
19 proceedings in our district courts. And Nassau-Suffolk  
20 Law Services has a couple of attorneys that go from  
21 district court to district court to cover these  
22 proceedings. Again, they do an incredibly great job  
23 doing that representation. They could use a lot more  
24 than what they have.

25 In answer to your question that you posed at

1 the beginning, effects on the court system, the  
2 resolution of the matter is so much easier, better,  
3 actually, for all concerned, whether it's the landlord or  
4 the tenant. The potential resolution is so much better  
5 if there's an attorney involved. So there is in that  
6 also housing, also a significant unmet need.

7 Another separate area that I would address  
8 deals with the domestic violence area. I mentioned how  
9 busy our Family Court is. Just to keep it simple, if  
10 you've got -- on average you have like a hundred family  
11 offense petitions, BO dockets being filed every week.  
12 That's what's coming into the system on a weekly basis.  
13 Law services has an attorney that can pick up the tiniest  
14 fraction of these cases.

15 For all those cases, over 5,000 of these cases  
16 a year that come in, there is just -- because they have  
17 no other resources, there's one attorney to pick and  
18 choose among all those cases to try and identify the most  
19 vulnerable victims, the individual that might need help  
20 with -- obviously there's a lot of related proceedings  
21 very often when somebody is in Family Court. So one  
22 attorney for that volume of cases is just, you know -- it  
23 speaks for itself, I think, that clearly there's a need  
24 there.

25 Also in the matrimonial area, through the pro

1 bono project, there is a significant effort to make --  
2 get pro bono representation for people. And one  
3 unfortunate -- obviously no one's fault, but unfortunate  
4 fallout from the \$170 million cut that we sustained was  
5 that the -- and individuals that work with the bar  
6 association in Nassau-Suffolk Law Services as a pro bono  
7 coordinator and recruiter were eliminated. And that  
8 position, for instance, gives the benefit -- it's like a  
9 multiplier effect, to get an exponential amount of  
10 services from one person coordinating efforts, you know,  
11 among other pro bono attorneys. So there's a significant  
12 effort to try and get representation in this area.

13 I know one of the things that was mentioned  
14 about the hearing was about the new funding that came in  
15 this year. We're moving forward. I've spoken with Judge  
16 Fisher, with Tom Maligno from Touro Law School. We're  
17 hoping to get up and running, in the not-too-distant  
18 future, a clinical program through Touro to deal with  
19 uncontested matrimonials. Because even in that area, we  
20 hear uncontested, it's not that simple to have the  
21 paperwork done.

22 JUDGE LIPPMAN: It's a collaboration between  
23 all the providers, the law school, the volunteer efforts.

24 JUDGE HINRICHS: Absolutely.

25 JUDGE LIPPMAN: And they all dovetail together.

1 I know as Administrative Judge you get to see this kind  
2 of synergy between --

3 JUDGE HINRICHS: They work incredibly well  
4 together. They make incredibly good use of the  
5 allocations that they're given. They do an absolutely  
6 super, super job.

7 JUDGE LIPPMAN: Thank you, and I think I'm  
8 going to ask Dean Salkin to come up now. We'll mix and  
9 match a little.

10 I know she has a tight schedule today but I  
11 think she'll fit in right here, will be perfect in terms  
12 of --

13 JUDGE FAIRGRIEVE: I have a courtroom of people  
14 waiting for me in the criminal part.

15 JUDGE LIPPMAN: Well, come up. We're going to  
16 go -- Judge Phoenix, you can stay a little while?

17 JUDGE PHOENIX: I can stay.

18 JUDGE LIPPMAN: All right. We're going to take  
19 Judge Fairgrieve quickly and so that he can get to his  
20 work and then we're going to take Dean Salkin so she can  
21 get where she has to go but let's start with the judge  
22 because we don't want to leave anyone in the courtroom.

23 JUDGE FAIRGRIEVE: Scott Fairgrieve,  
24 District Court, basically, landlord tenant four months.  
25 I'm in Part 9, Part 9 or 9L because I'm a County Court

1 judge so, basically, I do proceedings of the  
2 landlord-tenant and I've been there for about five or six  
3 years.

4 Legal services is absolutely essential for  
5 protection of the people. We average about between 60 to  
6 80 cases a day.

7 JUDGE LIPPMAN: What percentage are  
8 unrepresented?

9 JUDGE FAIRGRIEVE: You know, it's a gut -- it's  
10 a -- I'd say 50 percent. Well, more than that. I would  
11 say more than 50 percent of the people are unrepresented  
12 and --

13 JUDGE LIPPMAN: That's pretty good compared to  
14 New York City on the representation. They have 90-some  
15 odd percent in evictions.

16 JUDGE FAIRGRIEVE: You know, I never really  
17 counted but the bottom line is we do have complex legal  
18 issues involving landlord-tenants, Section A, whether  
19 families are going to get evicted because of allegations  
20 by the landlord of criminal activity.

21 You also have, you know, the Collier's syndrome  
22 cases. You have seniors who have mental illness. You  
23 have a whole gamut of people and legal services provides  
24 absolutely essential protection, frontline protection for  
25 these people so that the rights are protected.

1 JUDGE LIPPMAN: It would be hard to run the  
2 part --

3 JUDGE FAIRGRIEVE: You couldn't. To be blunt  
4 about it, most cases are settled out by stip but when  
5 people are unrepresented, a lot of times they just don't  
6 understand the legal ramifications, that if they violate  
7 a stip and you have -- one of my jobs, you know, is to  
8 make sure that people are not being taken advantage of.

9 JUDGE LIPPMAN: What we've heard a lot from  
10 judges is that the lack of representation compromises our  
11 role as neutral arbiters --

12 JUDGE FAIRGRIEVE: That's correct.

13 JUDGE LIPPMAN: -- because it's so hard. You  
14 feel, you know, you have to protect the person and that's  
15 not what you're supposed to be doing and it's kind of --  
16 it creates a tension.

17 JUDGE FAIRGRIEVE: Yes, so you need legal  
18 services there. I mean, they are only there four days a  
19 week. On Fridays we have a lot of people come in who  
20 need the services on Fridays and we have to adjourn all  
21 the cases because -- to another day when legal services  
22 are going to be there.

23 The problem is landlords are being also  
24 impacted by this too. You know, landlords are owed  
25 money. They have mortgages to pay and a quick resolution

1 of cases is good for both sides.

2 What I was going to say --

3 JUDGE LIPPMAN: Landlords don't want to be in a  
4 situation when there is an unrepresented tenant. They  
5 want them to have legal representation.

6 JUDGE FAIRGRIEVE: That's right, and also  
7 actually for the attorneys representing the landlord, to  
8 make their life a lot easier to be able to deal with an  
9 attorney who can negotiate a deal.

10 As I said, very few days cases ever go to  
11 trial. Maybe one percent goes to trial. Everything is  
12 stripped out. We absolutely need legal services to  
13 provide the necessary representation for everybody there.

14 JUDGE LIPPMAN: Thank you, Judge. I appreciate  
15 it. Thanks for the tight schedule coming in.

16 JUDGE FAIRGRIEVE: Thank you.

17 JUDGE LIPPMAN: Thank you.

18 Now to the good graces of Judge Phoenix, we're  
19 going to take Dean Salkin and take her a little bit out  
20 of order and Patti, so good to see you here.

21 DEAN SALKIN: Good to see you.

22 JUDGE LIPPMAN: We look forward to working with  
23 you on this issue and I know Touro is also doing a lot in  
24 the whole area of pro bono work by students and also just  
25 active in the community, in general, in terms of

1 providing representation.

2 DEAN SALKIN: I want to thank Judge Phoenix for  
3 yielding some time to me, so thank you very much and  
4 saying hello to my friends on the panel.

5 Judge Lippman, we've worked together, as you've  
6 noted, for a long time in the past and I look forward to  
7 working with you to do some great things in my new space  
8 as Dean of Touro Law Center.

9 JUDGE LIPPMAN: I can't wait.

10 DEAN SALKIN: And Judge Prudenti, we've  
11 recently become acquainted and I look forward to your  
12 continued engagement with the law center and our  
13 relationship with the state bar is just going to go  
14 stronger than ever.

15 MR. STANDARD: I welcome you to downstate.

16 JUDGE LIPPMAN: She thinks this is New York  
17 City.

18 DEAN SALKIN: I want to point out that two of  
19 my colleagues from Touro Law Center are here together,  
20 Tom Maligno, Director of the Public Advocacy Center and  
21 Professor Marianne Artusio, director of our clinic.  
22 Neither one of them had to be here. They both wanted to  
23 be here and I think their presence speaks volumes for  
24 Touro.

25 I have a lot of statistics in my prepared

1 testimony that I'm not going to share with you now  
2 because Steve Bellone did a great job of laying out the  
3 background of what's going on in Suffolk County and why  
4 there is a dire need for civil legal services. So what I  
5 really want to focus on is the highlight, how Touro Law  
6 Center has really become a national leader in providing a  
7 collaborative model in order to help our community better  
8 access civil legal services and I use the word better.  
9 It's better than not at all but we still have a long way  
10 to go, all of us working together.

11 JUDGE LIPPMAN: Rest assured, Dean, that we  
12 view the law schools in our state at the center of this  
13 effort and, you know, we recently had that forum at  
14 Cardozo Law School talking about what is the role of law  
15 schools in filling this justice gap that we have in our  
16 state.

17 DEAN SALKIN: So in 2007, Touro Law Center,  
18 when we moved into our new state-of-the-art facility in  
19 Central Islip, we created an experiment and we  
20 established the William Randolph Hearst Public Advocacy  
21 Center. This center fosters a unique partnership between  
22 the law center and local non-profit agencies and it was  
23 designed to also provide a unique educational training  
24 program and training for our law students while having a  
25 real-time impact on social justice, legal resources and

1 the lives of countless individuals in and beyond the  
2 local community.

3           Housed within the law school, the center  
4 provides furnished offices to local non-profit agencies  
5 at no cost. While the services of each agency are  
6 varied, each participating non-profit must develop a plan  
7 to engage Touro law students who can then work with the  
8 organizations to satisfy their pro bono requirements  
9 while developing an understanding of the problems facing  
10 the local community within a local, state-wide and  
11 federal context. We are the only law school in New York  
12 and, in fact, the only law school in the country to offer  
13 such an innovative program.

14           The Touro College Jacob D. Fuchsberg Law Center  
15 offers a progressive program rich with practical learning  
16 opportunities to a student body already engaged in the  
17 community and the world around them. Taking advantage of  
18 our location adjacent to both the federal and state  
19 courthouse, we offer innovative courses for law students  
20 that bring together the academy, the bar and the bench to  
21 ensure that students are prepared for the practice of  
22 law. Collaboration is the cornerstone of the success of  
23 these programs and our curriculum is dependent on such  
24 collaboration as we continue to develop more  
25 opportunities to involve the bar and the bench in

1 teaching our students about the reality of practicing law  
2 in today's ever changing global society.

3 Our law school has a rich tradition of teaching  
4 the moral and ethical obligations of law while promoting  
5 social justice and community service and, as you noted  
6 earlier, Judge Lippman, Touro Law was among the first in  
7 the country to require pro bono service hours of  
8 students, mandating 40 hours, and up until your recent  
9 mandate on pro bono we were only one of two law schools  
10 in the state to have instituted the requirement and, by  
11 the way, under our existing 40-hour rule, Touro law  
12 students provide 30,000 hours of pro bono work. That's  
13 based on a number of about 750 students in our student  
14 body.

15 JUDGE LIPPMAN: Dean, one thing I think is  
16 important and I'd ask you to -- you know, we don't  
17 believe that the 50-hour requirement, that students are  
18 going to put down their pen and say, "Gee, I've done  
19 50 hours. I've met my requirement. That's the end of  
20 it."

21 Has it been your experience at Touro and your  
22 prior experience in Albany that once the law students get  
23 involved in pro bono, they don't just say, "I'm meeting a  
24 requirement," or anything else? It gets into their  
25 system. Some understand the benefit of serving others as

1 a member of the legal profession?

2 DEAN SALKIN: Yes, and I agree with your  
3 comments earlier that you hope that it will get into  
4 everybody's DNA and my experience has been that once  
5 students get over the hurdle and actually do it, that it  
6 does become a distinct go in a very positive way and the  
7 minimum requirement really becomes the bare minimum and  
8 most students do go well above and beyond that.

9 JUDGE LIPPMAN: That's what we're hoping for.  
10 Go ahead.

11 DEAN SALKIN: So to further Touro Law's early  
12 mission, it planned for and built a wing of the new law  
13 school building to be dedicated to the Public Advocacy  
14 Center and the center is now a working example of a  
15 collaboration of legal resources to serve the community  
16 and provide opportunity for law students developing an  
17 extension of professionalism and responsibility to serve  
18 the community. As I mentioned, it's the only one of its  
19 kind in the nation and serves as a statewide and national  
20 model for successful collaboration of legal services and  
21 resources to serve the community while providing hands-on  
22 opportunity for --

23 JUDGE LIPPMAN: What are the organizations  
24 like? Are they providers or what are they exactly in  
25 this?

1 DEAN SALKIN: Many organizations that you are  
2 familiar with -- in fact, SEPA Mujer who testified  
3 earlier is one of our tenants. Empire Justice Center is  
4 one of our tenants. We have a combination of legal  
5 service providers and we also have organizations that  
6 provide advocacy work and public policy work.

7 JUDGE LIPPMAN: So this is very much the kind  
8 of synergy that we're hoping will go in all the law  
9 schools and the providers because it's everyone's  
10 responsibility together.

11 DEAN SALKIN: One of the unique things about  
12 our center, one, if you look at the cost of operating and  
13 we all know that these legal service agencies operate on  
14 a shoestring budget --

15 JUDGE LIPPMAN: Yes.

16 DEAN SALKIN: -- and we're always going with  
17 our hands out to keep paying the rent for the next month.  
18 So the average rent in Suffolk County is 20 to \$25  
19 per square foot for office space.

20 Our Public Advocacy Center consists of about  
21 2700, 2800 square feet of office space which saves these  
22 non-profit legal service providers approximately \$61,000  
23 per month in rent --

24 JUDGE LIPPMAN: That's great. They live hand  
25 to mouth and this is great.

1 DEAN SALKIN: -- as part of our collaboration  
2 and partnership at the law school.

3 So I want to tell you a little bit about what  
4 the center actually does and how the students get  
5 engaged.

6 As I said, the center, which we call the PAC,  
7 has proven to be a powerful partnership with the law  
8 school. The agencies working within the PAC have seen  
9 many benefits and the PAC has provided enhanced legal  
10 educational opportunity for students and this is  
11 important for legal educators to take note of as well.

12 The PAC has enabled the law students to learn  
13 about the way public interest law works. It doesn't mean  
14 that all of our students will become public interest  
15 lawyers, nor do we want them to, but because public  
16 service is every lawyer's responsibility we at least want  
17 our students to have a firsthand look at how it works.

18 We choose agencies for the PAC that present our  
19 students with the diversity of subject matter; for  
20 example, landlord-tenant, immigration law, education law,  
21 to name a few, and the diversity in the way they provide  
22 their services, so we want our students to understand  
23 that not every public service lawyer goes to court  
24 everyday. Some conduct administrative hearings. Some  
25 organize community education. Some draft legislation.

1 Some do research and advocacy while others do represent  
2 clients and bring class actions. The point is for our  
3 students to see the variety of areas of practice and  
4 provision of legal services.

5 Our students can be involved in the PAC through  
6 several avenues, either working with the agencies to  
7 complete their pro bono requirements, for academic credit  
8 or for pay through work study, through a funded  
9 fellowship that Touro offers or occasionally by being  
10 paid through the agency itself but I'll say that's more  
11 rare with the economic outlook.

12 A critical part of developing the PAC into a  
13 successful model for delivering legal services and  
14 enhancing legal education was the integration of the PAC  
15 into the academic life at Touro Law School and this has  
16 been achieved in several ways.

17 PAC attorneys have become adjunct professors  
18 teaching classes at Touro Law that incorporate the  
19 practical work of their affiliated agency.

20 Law school professors have used the PAC  
21 agencies by bringing them in as guest speakers or by  
22 tying their class work to the work of PAC agencies and  
23 professors have been engaged in the work of the PAC  
24 agencies. For example, one professor is now on the Board  
25 of Directors of one of our PAC agencies.

1           In addition, Touro Law's policy is to allow PAC  
2 agencies, as well as other outside agencies, to hold  
3 conferences and meetings in the building at no charge,  
4 only the promise to allow Touro law students to attend  
5 the events at no charge. This philosophy has brought  
6 major conferences and smaller meetings to the building  
7 that have had an impact on our students as well as legal  
8 services provided. For example, the Keys to the Homeless  
9 Conference annually brings 500 advocates, community  
10 leaders to the school to talk about legal, social and  
11 political issues that surround homelessness and our  
12 students can participate. In many cases, the students  
13 have presented panels or led discussions as part of these  
14 public events assisting both their legal education and  
15 their connections to our community.

16           A true center for public service housed within  
17 and working with a law school has obvious benefits.  
18 However, there are other benefits that have and continue  
19 to occur that should not go unnoticed.

20           More agencies than can be housed in the PAC  
21 applied for space, resulting in a dedicated group of  
22 affiliate agencies. These affiliate members meet with  
23 PAC agencies regularly and enjoy the benefits of  
24 collaborative working partners, although they are not  
25 housed within the law school. As a result of this

1 dynamic group of agencies who strive to work together to  
2 provide legal services efficiently and effectively, some  
3 great things have happened. Clients are able to walk  
4 down the hall from one service provider to another to get  
5 a complete legal solution. Agencies are working together  
6 to service clients most effectively and are aware of each  
7 other's work through regular updates.

8 The Center -- as a result, Touro Law Center has  
9 become known within the local community as an effective  
10 resource. Many agencies have partnered together on an  
11 issue to serve the community and the PAC has been called  
12 upon to provide solutions and/or guidance.

13 Funding for legal services on Long Island has  
14 increased as a direct result of the PAC. Some PAC  
15 agencies never had funding for a Long Island or Suffolk  
16 County office but received funding in order to be part of  
17 this venture and others. Many came in the form of grants  
18 written jointly with various agencies in the PAC,  
19 including donations, private foundations and government  
20 agencies and they have all contributed to this effort.

21 We're not here to replace legal services  
22 programs. Not only are they our strongest partner and  
23 they are strongest in the PAC but they are the main  
24 placement for our students who do public service work and  
25 fellowships. Some of the best experience the students

1 get are at agencies that need to be funded in a strong  
2 and appropriate way. We have strived not to compete with  
3 civil legal services funding for resources but attempted  
4 to bring new sources for structure for the work we all  
5 do.

6 Lastly, Touro Law Center is honored that you,  
7 Chief Judge Lippman, has designated our former Dean and  
8 Professor of Law, Lawrence Raful, for the implementation  
9 for the 50-hour pro bono requirement. We know that  
10 Professor Raful will apply leadership for pro bono.

11 We plan to work on, among other things, a guide  
12 to best practices to assist in the development of working  
13 levels between law schools and public interest providers.

14 As the new dean, part of my vision for Touro  
15 Law Center includes strengthening our commitment to the  
16 PAC and to research and advocacy, to civil legal  
17 services.

18 I invite each of you to visit Touro Law Center  
19 and the PAC. I urge the Office of Court Administration  
20 to further examine our model and to partner with us to  
21 further our knowledge and further advocacy and leadership  
22 so that together we can make a meaningful difference.

23 I also want to respond to some of your  
24 questions to some of the earliest panelists and some of  
25 the topics that come up.

1           On language barrier issues, what I've observed  
2 being at Touro for nine weeks, our Latin-American Law  
3 Students Association put on a street law project in the  
4 community presented all in Spanish. What a wonderful way  
5 for our law students to do outreach to our community and  
6 then I noticed two weeks ago that there was a sign up at  
7 the law school. If you wanted to practice your Spanish  
8 during lunchtime, the student groups were setting up  
9 tables in our cafeteria for students to get together and  
10 practice their Spanish regardless of what their  
11 proficiency level is. This is something that's sorely  
12 needed and that our students are taking upon themselves  
13 to promote. So if you want to ask where the action is,  
14 the future leadership of this profession looks fantastic,  
15 based upon the law students we have at Touro.

16           I also want to mention that we have six clinics  
17 at Touro Law Center. One of them is not operating this  
18 fall, our Veterans Clinic. We hope to bring it back in  
19 the spring but on average we have about 60 students each  
20 semester that have a clinical experience plus about  
21 another 75 that do externship experiences all helping to  
22 provide civil and criminal legal services.

23           JUDGE LIPPMAN: Well, thank you, dean, and I  
24 think it really is a terrific model.

25           I mean very much, as I said, what we have in

1 mind in terms of this collaborative relationship that  
2 there must be between the academy, the profession, the  
3 judiciary and certainly the providers. There are some  
4 examples around the state of the providers being together  
5 in one place so they can provide this kind of one stop  
6 shopping but I think housing some of it at law schools is  
7 a great idea and I think a great model, you know, so  
8 thank you so much for being here and welcome to Long  
9 Island.

10 DEAN SALKIN: Thank you.

11 JUDGE LIPPMAN: You know, downstate is -- great  
12 to see you. Thanks for being here.

13 MR. STANDARD: Patty, do you have another  
14 moment?

15 DEAN SALKIN: Sure.

16 MR. STANDARD: What your students experience in  
17 this market where it's so difficult to gain employment,  
18 are they benefiting from the fact that they had this  
19 extensive opportunity to get some practical training in  
20 the law school, your clinical programs?

21 DEAN SALKIN: You know, I have to say  
22 anecdotally the answer is yes and I base it on two bits  
23 of information and the first was my personal search in  
24 deciding to come to Touro Law School. I called a lot of  
25 the legal service providers and the County Attorney's

1 Office, DA's office, private law firms in Suffolk County  
2 before deciding whether to make the move and I asked them  
3 about Touro's reputation, about Touro students, and they  
4 all said to me that they would hire a Touro law student  
5 immediately because they come with more practical  
6 hands-on experience and they know how the court system  
7 works and they know how the courthouse works because as  
8 part of our curriculum, every first year student is  
9 inside the federal and state courthouses because of our  
10 location and the curriculum that we've developed before  
11 they finish their first year in law school so they have a  
12 different kind of comfort level, a different kind of  
13 knowledge, a different kind of understanding. So part of  
14 that is what employers have told me.

15 The second part is the statistics, and the  
16 unemployment statistics in the New York Law Journal in  
17 June shows we are number four in the state for recent  
18 grads having jobs out of law school that required a JD  
19 and so, on one hand, it's great news that Touro Law  
20 School was number four in the state. You know what's not  
21 so great news? The number was 55 percent so we do have a  
22 major problem within the profession and within the legal  
23 academy but a discussion for a different day, I think.

24 MR. STANDARD: Last question: Are you able to  
25 state whether the students who gained an interest in

1 providing pro bono service while they were students,  
2 whether they have a high incidence of providing pro bono  
3 service after they enter the profession?

4 DEAN SALKIN: I think that's a great question  
5 and my answer is anecdotally I say yes.

6 JUDGE LIPPMAN: We're going to have to track  
7 that. I think that's a very good question and we're  
8 going to have to make that connection.

9 Thank you, dean.

10 DEAN SALKIN: Thank you, and thank you, Judge.

11 JUDGE LIPPMAN: Now Judge Phoenix, I know you  
12 have nothing else today than to be with us but thank you  
13 for your patience and you're on.

14 JUDGE PHOENIX: Thank you, Judge Lippman, and I  
15 want to say thank you, first to you and Judge Prudenti  
16 and to past President of the New York State Bar  
17 Association, Kenneth Standard.

18 I won't be long because by this afternoon I  
19 will have a very, very busy --

20 JUDGE LIPPMAN: I know. I know.

21 JUDGE PHOENIX: -- calendar, but I have some  
22 prepared testimony but the prepared testimony will not  
23 take long so if I can proceed --

24 JUDGE LIPPMAN: Sure. Absolutely.

25 JUDGE PHOENIX: I'm here today and I'm very

1 honored to be here today to present testimony on perhaps  
2 what is the cornerstone of our court system and that is  
3 access to justice.

4 Before being elected to the Nassau County  
5 District Court bench and sitting by designation as an  
6 Acting Nassau County Court Judge, I was an attorney in  
7 private practice handling mostly Family Court cases and I  
8 was an active law guardian and what is known today as the  
9 attorney for the child.

10 Notably, I was a staff attorney at Nassau  
11 County Legal Aid Society and a staff attorney at  
12 Nassau-Suffolk Law Services for quite a few years. In  
13 this capacity I have represented poor people who are  
14 disadvantaged and oftentimes disenfranchised in all  
15 phases of litigation. I have provided representation for  
16 legal issues involving food stamps, public assistance,  
17 Medicaid and homelessness prevention.

18 I had the client who couldn't afford bus fare  
19 to return home from court. I had the client who used her  
20 last disposable diaper at noon that day. I represented  
21 the man who had been turned down a bed for the night in  
22 the middle of January and it was me on the telephone  
23 searching for his lodging sometimes until almost  
24 7:00 p.m. on a given evening. I understand that when the  
25 food stamp allowance is reduced abruptly, that children

1 don't eat. These were my clients and their access to the  
2 justice system overall was very slim and I give you their  
3 background so you can know how close this issue of  
4 expansion of legal access for the poor is to my mind and  
5 to my heart.

6 In the District Court I sit in both a civil and  
7 criminal part. With respect to the criminal part, I  
8 preside over the Nassau County Mental Health Court,  
9 adjudicating both misdemeanor and felonies. All of the  
10 court participants have representation, as the private  
11 bar and Legal Aid play a key role in our court.

12 The participants are persons accused of a crime  
13 who are mentally challenged and they range on the  
14 economic scale but many are low -- in the low income  
15 scale bracket and are Medicaid recipients. We have found  
16 that access to civil legal services outside of our court  
17 has been difficult for them. Reapplication for Medicaid  
18 after being incarcerated, access to civil legal  
19 representation for other civil issues and the like have  
20 proven to be a difficult road for my Mental Health Court  
21 participants. But most of my time is sitting in a civil  
22 part in the District Court presiding over cases that  
23 involve credit card theft, medical necessity of medical  
24 testing such as an MRI, contracts and infant compromises  
25 where I see small children in my chambers. The

1 jurisdictional amount is \$15,000.

2 I must explain to many pro se litigants that I  
3 see, that my court is not a small claims part and it is a  
4 true civil part where pro se litigants must either hire  
5 an attorney to represent their interests or,  
6 alternatively, be held to the standard of an attorney;  
7 knowing how to present testimony, cross-examine witnesses  
8 and the like.

9 These are the things that they will have to  
10 know if they choose to represent themselves. The people  
11 that I'm explaining this to are in my court each day and  
12 are there in the presence of a courtroom filled with  
13 attorneys on other matters. They squint when I speak to  
14 them and have a baffled look upon their face.  
15 Instructions about filing, affidavits of service, motion  
16 schedules and orders to show cause fall upon ears and  
17 eyes that simply don't understand.

18 The majority of orders to show cause that I  
19 read are from pro se litigants. They are oftentimes  
20 poorly written with misspelled words and run-on sentences  
21 and sometimes have to be deemed legally insufficient for  
22 execution of my signature.

23 The District Court is a court of first  
24 impression for many. I see the senior citizens who could  
25 be my grandparents at a loss for words, unprepared to

1 present any plausible legal issue and who are on a fixed  
2 income and unable to afford an attorney.

3 I see the woman who is the head of a household  
4 taking off from work without enough time to do so because  
5 she simply can't afford an attorney. I see the people  
6 who are now way over their head in credit card debt and  
7 can't even negotiate a settlement that they can pay  
8 because they are out of work. Oftentimes, the debt  
9 consists of things like food, essential clothing and  
10 other items of necessity. I see cases with cars  
11 repossessed and families now compelled to use one car or  
12 take public transportation. Before me come litigants with  
13 serious legal issues and no income to retain an attorney  
14 or to even pay to consult one. Most of the legal issues  
15 are too complex for pro se representation in my court  
16 part. An attorney is almost always essential for  
17 litigants to navigate well in a civil part.

18 In my part it is not uncommon to have a  
19 nervous, anxious individual unable to properly comport  
20 themselves before me or to articulate their legal issues  
21 and problems. I am always unnerved by the tears I see  
22 fall. The tears don't fall in English. They don't fall  
23 in Spanish and they don't fall in black nor white. They  
24 just fall from the faces of those Americans plagued with  
25 the impoverished condition preventing them from acquiring

1 legal representation.

2           There are a myriad of problems associated with  
3 access to justice for the poor. The national recession  
4 making overtime in our court system a rarity is a big  
5 problem. Having an extended calendar would give judges  
6 and support staff more time to sort out the issues of the  
7 unrepresented.

8           Another serious concern is the loss of funds  
9 for the day care centers in our courts. The District  
10 Court in Nassau County now has many more children of poor  
11 and unrepresented litigants in courtrooms and court  
12 settings because the parents can't afford child care.

13           Yet, perhaps the biggest problem is the lack of  
14 pro bono or free representation for poor people saddled  
15 with complex litigation issues. There is no such thing  
16 as a free attorney to help them if they can't afford one  
17 and alas, there's no such thing as a free lunch.

18           So what do we do? We continue to support the  
19 task force to expand access to civil legal services. We  
20 as legal professionals committed to justice form a  
21 critical mass to address pertinent and timely issues  
22 affecting access to justice. We must provide pro se  
23 desks in all of our courts to ensure a more equitable  
24 access to courts for the poor and the underserved.

25           Finally, I humbly suggest that we support all

1 efforts for legal services funding and staffing.

2 This past Thanksgiving eve I delivered fully  
3 cooked meals to some of the poorest families on Long  
4 Island on behalf of We Care, the charitable arm of the  
5 Nassau County Bar Association. I witnessed children  
6 shivering under a blanket in a poorly lit small apartment  
7 above a store with no food other than the basket I  
8 delivered. I entered homes colder on the inside than the  
9 outside because there had been no heat for two weeks. I  
10 can tell you stories. In fact, we all have stories to  
11 tell. We know the poor will always be with us and they  
12 are usually the most vulnerable with respect to a loss of  
13 funding and services.

14 Together we must forge ahead to continue to  
15 mold the legal system that brings access to justice for  
16 Americans at every income level. I have every confidence  
17 just by virtue of this proceeding that we're well on our  
18 way towards this success and I want to thank you for  
19 allowing me to present testimony today.

20 JUDGE LIPPMAN: Oh, thank you, Judge Phoenix  
21 for your eloquent testimony.

22 Let me ask you one question. Particularly in  
23 this economy, the consumer credit cases, do you see a lot  
24 of them? More people coming in on credit issues, credit  
25 card issues?

1 JUDGE PHOENIX: Yes, I do. The courts are  
2 flooded with these issues.

3 JUDGE LIPPMAN: And generally, those people are  
4 unrepresented?

5 JUDGE PHOENIX: They are unrepresented and many  
6 times I will conference the case and I will have to  
7 conference it in open court because they are pro se  
8 litigants and we try to reach some type of settlement.

9 JUDGE LIPPMAN: But you wind up not quite being  
10 the neutral arbiter that you'd like to be.

11 JUDGE PHOENIX: That is very true, Judge,  
12 because as you said earlier and you noted it well, it's  
13 very, very hard to preside over cases when you know in  
14 your heart, in your mind, that one or both of the  
15 litigants are saddled with not being -- not having an  
16 attorney and not understanding legal issues, thereby not  
17 being -- being able to navigate the legal system with any  
18 type of ease so many times that does lap and many times  
19 they walk into my courtroom thinking that this is small  
20 claims and that they don't need an attorney and after  
21 five or six people -- attorneys come up and present cases  
22 and we go through motion schedules and things of that  
23 nature, by the time they walk up there they understand  
24 that they are not prepared to present their case in any  
25 reasonable manner because they don't have the legal

1 representation that they need.

2 JUDGE LIPPMAN: Thank you.

3 Anything?

4 MR. STANDARD: I'll just mention one thing. I  
5 think it's also a disadvantage for the attorney.

6 I've defended a number of cases where I've had  
7 a pro se plaintiff against me and I also have felt that  
8 conflict, not wanting to take advantage of the pro se  
9 plaintiff at the same time having the obligation to give  
10 my client full representation and it's just a burden for  
11 everyone involved.

12 JUDGE PHOENIX: Absolutely, I agree with that  
13 and many of the litigants who come in and are pro se and  
14 there is an attorney on the other side, many times they  
15 even refuse to speak to the attorney because they have  
16 the perception that the attorney is going to take  
17 advantage of them and they are looking to me in many ways  
18 to help them with their legal issues because they don't  
19 have an attorney and they don't understand all of the  
20 legal issues that they must deal with.

21 JUDGE LIPPMAN: Okay. Thank you.

22 JUDGE PHOENIX: I appreciate it. Thank you  
23 both.

24 MR. STANDARD: Thank you, Judge.

25 JUDGE LIPPMAN: Thanks for being here. Thanks

1 for taking the time.

2 We're just going to finish off the  
3 collaboration pro bono panel and then we'll go to the  
4 client's panel so William Silverman from Greenberg  
5 Traurig, and the Shareholder and Head of the Pro Bono  
6 Program and John McEntee, the First Vice President and  
7 member of the Board of Directors of the Nassau County Bar  
8 Association and partner at Farrell Fritz.

9 Mr. Silverman, you want to start?

10 MR. SILVERMAN: Gentlemen, thank you very much  
11 and thank you for inviting me here today. It's an honor  
12 to be here today and with everyone here today.

13 I have a different perspective or maybe we do,  
14 in the sense that everyone devotes their entire career to  
15 public service and at least for me it's more of a hobby.  
16 You have my written testimony. I'm not --

17 JUDGE LIPPMAN: Yes, we do.

18 MR. SILVERMAN: I'm not going to read it but  
19 what I want to talk about is a legal clinic that works  
20 very well in New York City Family Court and enlists your  
21 continued support to expand throughout the entire state.  
22 We provide one-on-one counseling with unrepresented  
23 litigants. Each session lasts about 30 minutes. We make  
24 a big impact with a limited -- I think it's a very good  
25 model for finding pro bono commitments from private

1 attorneys. Our volunteer attorneys are from big firms  
2 and companies. They are trained by the Court. We have  
3 dedicated court attorneys who supervise them. The court  
4 services can provide information to unrepresented  
5 litigants but for the reasons you stated cannot provide  
6 advice to litigants and that's something we can do.

7 We started in 2006 and now we're in every  
8 borough but Staten Island. We have 34 firms, over 200  
9 attorneys and we've helped thousands of people. I think  
10 it's a great example of a public-private partnership and,  
11 again, I think what I'd like to do now is just talk about  
12 the kind of expansion that I think we can accomplish

13 First, we're not in Staten Island but I believe  
14 as of January we will be and we're going to do that  
15 through technology. Our volunteer attorneys will be in  
16 Manhattan and they will be helping unrepresented  
17 litigants in Staten Island through Skype or some other  
18 kind of computer technology. I think that this --  
19 hopefully, it will work and it will be a model that we  
20 can use in other parts of the state.

21 JUDGE LIPPMAN: Family Court, that's such a  
22 difficult place.

23 MR. SILVERMAN: Absolutely, and in some Family  
24 Courts there will be local attorneys where we can  
25 replicate this kind of program. In other parts there is

1 not -- the only way to help those unrepresented litigants  
2 is through technology so, hopefully, this is just the  
3 beginning, this expansion, and I do want to recognize  
4 Judge Fisher who really has been the example of this  
5 expansion and an inspiration for all of us who are  
6 involved in this project. We're looking at other sites  
7 and, obviously, we need to rely even more on public  
8 service organizations, law schools, and we need to lean a  
9 little bit harder on the private sector and I think --

10 JUDGE LIPPMAN: We're trying to do that.

11 MR. SILVERMAN: Well, I have a couple of  
12 suggestions but I think just a general observation.

13 You know, we all want more judges, more  
14 resources, more legal services attorneys. We all want a  
15 truly unified court system. I agree with your Honor that  
16 16 and 17-year olds should not be in Criminal Court.

17 These are all great goals that we should all  
18 continue to work for no matter how difficult they are  
19 because they happen to be right but, in my view, we can't  
20 wait for the legislature. We can't wait for the  
21 governor. We can't wait for the economy to improve. We  
22 need to do something now. We need to do something in our  
23 control and I think the beauty of this project is that  
24 it's absolutely in our control and it's absolutely --

25 JUDGE LIPPMAN: It's a great project. There is

1 no question.

2 MR. SILVERMAN: Some standing throughout the  
3 state is something that I think we can do so what I hope  
4 is that we all together can come up with sort of -- we've  
5 been in existence from 2006. We can come up with sort of  
6 a five-year plan where this can be expanded, you know,  
7 throughout the state or at least in the areas of the  
8 state where we feel in Family Court the needs of  
9 unrepresented litigants are the greatest. Perhaps even  
10 having some kind of summit where you call in the heads of  
11 pro bono programs of major firms or companies and give  
12 them a challenge. "I'll pay for lunch." Tell them that,  
13 "In order for this expansion to work, we need your help."  
14 You need to do a little bit more because if you don't,  
15 these litigants really don't have, at least outside of  
16 New York City, don't really have any hope.

17 Another general observation is that what I see  
18 sometimes is a sense of resignation among advocates,  
19 pro bono minded people, that this is the way Family Court  
20 always has been and always will be and I also see  
21 sometimes a resistance to change that, frankly, I don't  
22 understand. I think that we need -- we should not accept  
23 things the way they are. I think we should not accept  
24 the notion that there should be two court systems, one  
25 for the kind of cases that I take in my day-to-day world

1 and another court system for those who can't afford  
2 attorneys. It's really not something that we should  
3 accept.

4 This project is a relatively low cost way that  
5 we can improve the administration of justice. It's not  
6 the perfect solution but I believe it's something that we  
7 should definitely do.

8 If I can just make two other general  
9 observations --

10 JUDGE LIPPMAN: Sure.

11 MR. SILVERMAN: In my experience in these  
12 clinics, obviously, we help people who aren't entitled to  
13 the appointment of counsel.

14 JUDGE LIPPMAN: Right.

15 MR. SILVERMAN: We also help people who are  
16 entitled to the appointment of counsel and for whatever  
17 reason they don't take advantage of it and to this day I  
18 don't understand why. I think some people, some  
19 unrepresented litigants feel that they would rather talk  
20 directly to the judge or maybe it's not communicated to  
21 them as clearly as it should be and that's one thing we  
22 do in the clinic.

23 Sometimes the best thing we do is to tell  
24 someone who is entitled to the appointment of counsel,  
25 "You should take advantage of it," because it really does

1 make a huge difference if someone is aware of the rights  
2 that they are entitled to.

3 I want to plug one other thing while I'm here.

4 JUDGE LIPPMAN: Sure.

5 MR. SILVERMAN: Equal Justice works  
6 fellowships. My firm funds 12 to 15 of these fellowships  
7 which are two-year fellowships for people right out of  
8 law school to do public interest work. I'm a very strong  
9 supporter of pro bono which is great, but I also think  
10 firms and companies should be doing more to fund these  
11 positions that are so rare and whenever we look for  
12 applicants we get a stack this high (indicating) and they  
13 are all tremendous applicants and it's a great way to  
14 make an impact.

15 JUDGE LIPPMAN: Well, number one, I think the  
16 last idea is a very good one and all firms should do the  
17 same thing. It would be wonderful and the Family Court  
18 program is terrific and Judge Fisher has done such a  
19 fabulous job with it. It's an area often neglected  
20 because, as you say, people take the position oh, it's  
21 Family Court and, you know, the Family Court has evolved  
22 so greatly in the last 50 years with all the celebrations  
23 that we've had recently as to the anniversary of the  
24 Family Court Act and, you know, there was a time that due  
25 process was involved in the Family Court and this is very

1 much the final piece of making sure that it's truly a  
2 system where people get all the rights and the  
3 representation is so important so, you know, I agree with  
4 you. It's a great program and I know Judge Fisher will  
5 have this done statewide in no time. Next one, she's got  
6 it, no problem, but it's terrific and I compliment you  
7 and all the people involved in that program with Judge  
8 Fisher and we really should see to it that it's expanded  
9 throughout the state so thank you so much.

10 MR. SILVERMAN: Thank you.

11 JUDGE LIPPMAN: Mr. McEntee.

12 MR. McENTEE: Yes.

13 Good afternoon, Chief Judge Lippman, Chief  
14 Judge Prudenti and Past President Standard:

15 I'm honored to be here today. I'm going to  
16 dispense with any discussion for the need of civil legal  
17 service. It's in my remarks and been discussed here  
18 already.

19 What I'd like to do is discuss what the Bar  
20 Association, particularly the Nassau County Bar  
21 Association is doing.

22 JUDGE LIPPMAN: Well, you've had some great  
23 presidents. You've been very active in this and the  
24 Nassau Bar should be congratulated and Emily Franchina is  
25 here and so many others are involved in this around the

1 state, Bill Savino, one of your former heads and so you  
2 know the Bar Association has a lot to be commended for  
3 and why don't you tell us what you're doing today.

4 MR. McENTEE: I'd first like to say that our  
5 current president, Marian Rice, is doing a great job as  
6 president here. She's here today.

7 JUDGE LIPPMAN: I should have started with the  
8 present president.

9 MR. McENTEE: Yes. One of the things that you  
10 did, Judge, is when District Attorney Rice was  
11 testifying, you asked her, you know, what do you do in a  
12 situation where you have somebody who needs civil legal  
13 services but can't provide that? Obviously, she cannot.  
14 What she said was, "I send them to the Bar Association."  
15 Okay?

16 What it seems is that everybody in the  
17 situation where they don't know what to do is they send  
18 them to the Bar Association so what's happened is the Bar  
19 Association has become sort of the clearinghouse. People  
20 come in who don't have the ability to pay for services  
21 and what we try to do is marshall pro bono services from  
22 our members in order to try and fill at least a portion --

23 JUDGE LIPPMAN: Not every bar association does  
24 that, I can tell you.

25 MR. McENTEE: At the Nassau County Bar

1 Association, it's part of our DNA.

2 JUDGE LIPPMAN: As it should be, yes.

3 MR. McENTEE: What I'd like to do is describe a  
4 couple of these programs that we're doing and then at the  
5 end I just argue that attorneys providing pro bono  
6 services cannot fulfill the vast needs for these  
7 services.

8 The first project to talk about is actually the  
9 project that Judge Fairgrieve spoke about, so the  
10 Volunteer Lawyers Project Attorney For the Day program,  
11 which is operated by Nassau-Suffolk Legal Services,  
12 provides representation to tenants facing eviction in the  
13 Nassau County District Court. The tenants are screened  
14 for eligibility for these services. The project is  
15 staffed with pro bono volunteer members of the Nassau  
16 County Bar Association who appear in court four days a  
17 week. These pro bono attorneys are supervised by an  
18 in-court paid supervisor.

19 To help pay for the costs of that supervisor,  
20 the Nassau County Bar Association every year has what we  
21 call a "Probonothon" where the officers, directors,  
22 committee chairs and others call the 5,000 or so members  
23 asking them to donate an hour of billable time, the cost  
24 of an hour, that amount to be able to fund this position.

25 In 2011, the project handled nearly 850 cases.

1 Of those cases, 324 evictions were prevented and 420 were  
2 delayed giving the tenant time to find alternative  
3 housing.

4 I have to say my firm and I have  
5 participated in this program for a number of years now  
6 and one thing I'd like to emphasize, it's not a one-way  
7 street. Obviously, we provide services to them but we  
8 obtain things in return. Aside from feeling good about  
9 ourselves, it allows me to get associates in my firm out  
10 of there, out from behind their desks, out of the  
11 library, in court on their feet interviewing real people,  
12 real litigants with problems, challenging the facts,  
13 negotiating settlements, going on the record and putting  
14 on stipulations so there is a benefit back and forth.

15 I think Bill and I both struggle sometimes with  
16 trying to get in-court experience for some of our younger  
17 associates but this is an opportunity where people get  
18 into court doing good but it's also helping our firm.

19 The Nassau County Bar Association Foreclosure  
20 Project serves Nassau County residents in two ways.  
21 First, the Association has, for more than three years,  
22 held a monthly clinic where an average of 50 to 60 people  
23 are helped by an average of a dozen attorneys.

24 Bankruptcy attorneys are also available at these clinics.

25 Second, volunteer attorneys attend the  
mandatory conferences in residential foreclosure actions

1 in the Supreme Court to help indigent defendants  
2 understand the legal process, identify and accumulate  
3 documents to support their defenses and identify their  
4 options. To date, volunteer attorneys have appeared at  
5 more than 850 conferences.

6 One of the preceding panels talked about access  
7 to justice issues involving language barriers. Indeed,  
8 increasing diversity of our community has been reflected  
9 in the attendance at the Nassau County Bar Association's  
10 clinics. Several years ago, the Association accepted the  
11 challenge of meeting the needs of this diverse population  
12 by instituting our Bridge Over Language Divides program  
13 known by it's acronym BOLD. Among other things, the BOLD  
14 program provides pro bono attorneys who speak languages  
15 such as Spanish, Korean, Haitian Creole, Russian and Urdu  
16 in an effort to assure that access to justice is not  
17 limited to those who speak English.

18 I will add that task force member Emily  
19 Franchina was one of the key supporters of this program.

20 There are a variety of other programs and  
21 clinics where others are providing pro bono civil and  
22 legal service. For example, the Nassau County Bar  
23 Association holds a senior citizen clinic every month, an  
24 annual  
25 pro bono fair and, in conjunction with the Nassau-Suffolk

1 Legal Services, a bankruptcy clinic six times a year. In  
2 the past year it has also held a clinic for victims of  
3 domestic violence and a clinic for children with special  
4 needs. These are just a few of the many pro bono  
5 programs that the Nassau County Bar Association and its  
6 sister associations in the Second Department hold every  
7 year in an effort to meet the civil and legal needs of  
8 our society. So pro bono attorneys can assist indigent  
9 members of our society facing evictions from their homes.  
10 They can assist indigent members of our society facing  
11 the foreclosures of their homes and pro bono attorneys  
12 can assist indigent victims of domestic violence but what  
13 they cannot do is meet all the civil legal needs of our  
14 society, as the need is great while the ability of  
15 attorneys to bring pro bono services are limited.

16 I recognize that our state legislatures have a  
17 very difficult burden in allocating scarce resources  
18 among the needs of our society but just as there is a  
19 need for roads, tunnels and bridges, there is also a need  
20 for something less concrete but equally vital, meaningful  
21 access to justice for all members of our society and  
22 meaningful access to justice typically requires legal  
23 representation.

24 In closing, I can state confidently that  
25 attorneys throughout the Second Department are providing

1 pro bono legal services to meet the civil legal need of  
2 the indigent members of our society but they cannot  
3 shoulder the entire burden of this obligation. As a  
4 result, our legislature must find a way to provide  
5 consistent and meaningful funding for organizations such  
6 as Nassau- Suffolk Law Services and Legal Services of the  
7 Hudson Valley who everyday struggle to meet the civil  
8 legal needs of the most vulnerable members of our  
9 society.

10 Thank you.

11 JUDGE LIPPMAN: Well, thank you, counsel, and I  
12 think you stated it very well that this is a puzzle which  
13 has different pieces and I think the bulk of this needs  
14 to be public funding for civil legal services and to have  
15 providers all over the state funding that allows them to  
16 begin to meet the needs.

17 Absolutely vital, critical is pro bono  
18 volunteerism by the bar and the kind of wonderful work  
19 that you do in the Nassau Bar. It's a piece of the  
20 puzzle and when there -- and there isn't enough money in  
21 the world to fund the need so it's a combination and I  
22 think you are exactly right in calling on the legislature  
23 and the executive branch to fund civil legal services and  
24 then in our great noble profession to rise to the  
25 occasion and provide volunteer services, so as we've

1 talked about so many times they are so much a part, as  
2 your great Association recognizes, so much a part of  
3 being a lawyer and one without the other is not going to  
4 work so we need to do both. I think this particular  
5 panel and the two of you very much represent that spirit  
6 that we have in the bar that has really been so terrific  
7 and what we're trying to do with the kids -- you'll  
8 excuse the expression, but with the new generation of  
9 lawyers is to inculcate them with the same spirit of  
10 service to others at the very beginning of their careers  
11 so that they can be as they go through their careers, be  
12 so much a part of this, what we think this great  
13 profession that does so much because it recognizes that  
14 our obligation, particularly to stand up for those who  
15 can't help themselves so I thank you both so much.

16 Judge Prudenti, anything? Mr. Standard?

17 MR. STANDARD: I just want to salute these  
18 gentlemen what they do and what the firms do because they  
19 are going above and beyond and helping to keep us our  
20 profession rather than an industry as so many people see  
21 us.

22 JUDGE LIPPMAN: Thank you so much. I  
23 appreciate it.

24 Now for our last panel, we're a little bit  
25 beyond schedule but it's been worth the wait because now

1 we're going to get four clients who will come up: Tenzin  
2 Choezom, a client of the Queens Legal Services,  
3 accompanied by Jennifer Ching; Pamela Sandousky, client  
4 of Nassau- Suffolk Law Services, Inc., accompanied by  
5 Hannah Abrams; Mamie Copeland, client of the Legal Aid  
6 Society, accompanied by Diane Lutwak and Felicia Essix,  
7 accompanied by Linda R. Hassberg.

8 (Brief pause in the proceedings.)

9 JUDGE LIPPMAN: Okay. So now we're going to  
10 hear a little bit about what legal services or pro bono  
11 has done to change the lives or certainly impact  
12 significantly in the lives of human beings facing legal  
13 issues so I'll take Tenzin Choezom, client of Queens  
14 Legal Services to be our first witness.

15 TENZIN CHOEZOM: Hello, your Honor.

16 JUDGE LIPPMAN: Don't hesitate. You can either  
17 read your statement or tell us; however you want to do  
18 it.

19 TENZIN CHOEZOM: My name is Tenzin Choezom. I  
20 live in Queens, New York City. I'm the mother of a  
21 four-year-old daughter. I work as a housekeeper in a  
22 Manhattan hotel. I'm here today because I was very lucky  
23 to find a lawyer and social worker at Queens Legal  
24 Services and I believe the services I received should be  
25 available to everybody who needs them.

1           For many years I was married to a very abusive  
2 alcoholic and gambling man. He did terrible things to me  
3 and I stayed with him because I thought this is what my  
4 responsibility as a wife and I also respect my religious  
5 and my culture and my community in New York. He did not  
6 let me work and he would not let me talk with any other  
7 people. He did not help me with my daughter and he did  
8 not help me and our needs. But I did not know I had  
9 other choices and I was very afraid of him.

10           In 2011, after my husband beat me and I tried  
11 to call the police -- sorry -- but he grabbed my phone  
12 from my hand and he called the police. The police did  
13 not understand me and I was -- my husband spoke to them  
14 in English and my husband left our house and after a few  
15 days I receive a lot of paper from Family Court.

16           JUDGE LIPPMAN: Take your time.

17           Go ahead.

18           TENZIN CHOEZOM: I could not read and  
19 understand the papers but my neighbor told me he was  
20 trying to get order of protection against me. I could  
21 not believe this and for so many years he did terrible  
22 things to me and now he was using American court against  
23 me.

24           My neighbor found the Queens Legal Service for  
25 me and services. The Queens Legal Services helped me to

1 learn everything what was happening in the court. When I  
2 did not understand something, they will stop and explain  
3 it to me so many different ways to make me understand and  
4 even they brought an individual to our meetings so I  
5 could understand everything in my language.

6 When I met my social worker, Tobi, and my  
7 lawyer, Debra, I was afraid of losing my daughter to my  
8 husband. I was very afraid of my husband. I had no  
9 money, no money, and my landlord was telling me she was  
10 going to kick me out.

11 I was very grateful for the work the Queens  
12 Legal Services did for me. We went to court together and  
13 we won. They help me find my voice so I could plan my  
14 future and be totally independent. It was very tough  
15 time to feed myself and my daughter so without that, with  
16 their help I was able to get food stamps and find stable  
17 housing. They help me with my immigration status and  
18 also put me into ESL classes.

19 Before last year, my daughter would not speak  
20 and I was pretty worried about her. Since I separate  
21 from my husband, my daughter has started speaking and has  
22 become very happy girl. She and I are now free and can  
23 do what we want to do now. I have choices now and I'm  
24 very grateful to Queens Legal Services for helping me.

25 I did not know anything about the American

1 courts before coming to Queens Legal Services. I thought  
2 I had to pay for lawyer and I had no money and I did not  
3 think lawyers will understand me and my culture or  
4 everything that happened to me.

5 I know there are many women suffering. I hope  
6 we can make the services like Queens Legal Service more  
7 available to these women and to anyone who is living in  
8 fear and thank you everyone and thank you for Queens  
9 Legal Services. I would never forget your help and this  
10 is unforgettable in my life in helping me out and thank  
11 you so much.

12 JUDGE LIPPMAN: Thank you so much.

13 I think that your testimony really graphically  
14 illustrates what this hearing is all about and why the  
15 legal services are not some abstract concept but are all  
16 about human beings who have problems and difficulties and  
17 you are dealing with issues that are central to the  
18 fundamentals of life.

19 This is not about, you know, someone who  
20 tripped in front of the courthouse and needs a lawyer.  
21 This is about living, what everyone should be entitled to  
22 so thank you so much. I appreciate your coming in and  
23 telling your story.

24 TENZIN CHOEZOM: Thank you so much.

25 JUDGE LIPPMAN: Thank you.

1 Pamela Sandousky, client of Nassau-Suffolk  
2 Legal Services.

3 PAMELA SANDOUSKY: My name is Pamela Sandousky.  
4 I currently reside in Southampton, New York, and I am  
5 originally from California, reared in New Jersey and came  
6 to New York to study marine biology at Southampton  
7 College. After college, I never left the area.

8 I was married but have been divorced now for  
9 eight years. My ex-husband got the house when we lived  
10 -- that we lived in as part of the divorce settlement.  
11 The house is now in foreclosure and after the divorce I  
12 became a renter. I am a single parent of two children.

13 My legal woes began in June of 2012 and I was  
14 sent an e-mail from my landlord that I was to vacate the  
15 premises in 30 days, by July 4th. She also put a paper  
16 on the fence requesting that I vacate the premises. She  
17 did this because I was behind in some of my rent. You  
18 see, my ex-husband had moved to Florida, lost his job and  
19 was behind on child support so I was unable to make the  
20 payments alone.

21 I started making phone calls to see if the  
22 landlord had a proper rental permit and if she had  
23 outstanding code violations. I also made phone calls to  
24 see if I could get assistance in handling this matter. I  
25 called the Southampton Town Attorney's Office and the

1 town attorney referred me to Nassau-Suffolk Law Services.

2 I called Hannah Abrams and she agreed to assist  
3 me. Serendipitously, Law Services received funding from  
4 the Office of Court Administration which enabled them to  
5 fund an attorney to represent clients like me in  
6 landlord- tenant proceedings in the east end Justice  
7 Courts.

8 Ms. Abrams was the attorney assigned to that position.  
9 This was a great relief because I was, because I received  
10 this notice in the middle of the summer and I knew how  
11 difficult it would be to be able to find affordable  
12 long-term housing in Southampton in the summer.

13 After I received the notice, the landlord made  
14 our life miserable. She turned off utilities,  
15 disconnected cable and internet. The police were called  
16 several times and this disruption marred the celebration  
17 of my daughter's high school graduation.

18 In the midst of all of this, we were planning a  
19 celebration for my daughter and guests were invited from  
20 out of town and we had to deal with the turmoil of being  
21 evicted from the home.

22 I met with Ms. Abrams twice before going to  
23 court. She reviewed all the relevant documents with me  
24 and researched the rental permits statutes and code  
25 violation statutes.

1 Ms. Abrams represented me in court. First, the  
2 landlord claimed I owed her \$3,500. She claimed I owed  
3 back rent and utilities and then she dropped the case.

4 The landlord refiled the case five days later  
5 saying I owed her more than \$10,000 and she claimed as a  
6 result of my non-payment she had incurred other expenses.  
7 During the questioning, the judge determined that the  
8 judge did not have jurisdiction over the matter because I  
9 was improperly served the prerequisite rent demand. The  
10 judge declined to determine whether the landlord did or  
11 did not have the proper rental permit or accessory  
12 apartment permit until I determined whether I wished to  
13 waive the defense that had surfaced during the  
14 cross-examination of the landlord.

15 Ms. Abrams advised me of the advantages and  
16 disadvantages of having the case dismissed at that point  
17 in the proceedings. She explained that I could still be  
18 sued in Small Claims Court for other alleged expenses the  
19 landlord had incurred. I asked that the case be  
20 dismissed.

21 The matter is still not settled. I now have to  
22 face the landlord in Small Claims Court. However, with  
23 the advice given to me by Ms. Abrams, I went to the  
24 town's attorney and code enforcement division to inform  
25 them that the landlord was renting the apartment without

1 a rental permit and required accessory apartment permit.

2 As a result, the town has cited her for  
3 numerous code violations and they rarely follow-up  
4 because tenants don't ordinarily have the proper  
5 documentation or knowledge of the relevant law and  
6 statutes.

7 Had it not been for Ms. Abrams' legal counsel,  
8 I would not have known what the law was and what the  
9 recourse would be.

10 My landlord was unscrupulous. Rather than  
11 cooperate with me until I could stabilize my financial  
12 situation, she chose to try to evict me, a single mother  
13 with two children.

14 Thank goodness I have a place to live and,  
15 hopefully, I will prevail in Small Claims Court but, at  
16 the very least, the landlord will have to face  
17 consequences for her actions.

18 Without Nassau-Suffolk Law Services, I shudder  
19 to think what would have happened to me and my family.

20 JUDGE LIPPMAN: Thank you so much. Appreciate  
21 it, and another example. When there's no place to turn,  
22 you turn to people who are able to give you the  
23 assistance you need to again maintain.

24 I assume nothing is more important to you than,  
25 you know, having a place to live and decent conditions so

1 thank you so much for coming in.

2 Our next witness is Mamie Copeland and the  
3 client of the Legal Aid Society.

4 MAMIE COPELAND: Good afternoon. My name is  
5 Mamie Copeland. I'm a 68-year-old widow. I live alone  
6 in an apartment at 774 Driggs Avenue in Brooklyn. I  
7 don't know where I would go if I had lost this apartment  
8 which I have lived there for 25 years.

9 I retired last year from working full-time for  
10 many years at different jobs, first as office file clerk  
11 and then most recently as a home health aide. When I  
12 turned 60, I received a widow's pension from Social  
13 Security. From 2010 till last year I was working  
14 part-time just four hours a day. Now I receive Social  
15 Security benefits. Now I receive Social Security  
16 retirement benefits and two small pension checks every  
17 month.

18 I have been a widow since 1990, the same year  
19 my youngest son sadly passed away from suffering a  
20 massive stroke at 17.

21 In 2010 I fell behind in my rent because I was  
22 only working part-time and I suddenly had a problem with  
23 my Social Security benefits. My checks stopped coming  
24 for over a year and by the time I sorted out the problem  
25 and started getting my check again, I was very far behind

1 in my rent. The only way I was able to eat and survive  
2 during this time was because of my little check from my  
3 part-time work as home health aide.

4 At the same time I was having problems with the  
5 Social Security checks, there was a lot of problems in my  
6 building. The ownership of the building changed hands  
7 but there was a disagreement between the new owner and  
8 the old owner that made it hard for us tenants to know  
9 who was the real owner that we should pay our rent to.

10 Oh, sorry. In August 2010 I received a letter  
11 from two different companies each telling me to pay rent  
12 to them. Meanwhile, there was a terrible condition in my  
13 apartment and neither the old landlord or the new  
14 landlord would fix it.

15 In April of this year the new landlord sued me  
16 for non-payment of rent in the amount of \$15,555.50  
17 dating all the way back to November 2009. I know I owed  
18 the landlord back rent but I did not agree with how much  
19 the landlord said I owed. I went to court by myself to  
20 answer the non-payment petition and I disagreed the  
21 amount owed and also mentioned that I need repairs in my  
22 apartment. I was given a court date of April 16th, 2010  
23 -- 2012. On that day, I went to Housing again by myself.  
24 The landlord was not there but his lawyer was there. He  
25 now claimed that I owe \$17,251.80. I gave the landlord's

1 lawyer three months rent on the spot and also agreed to  
2 sign the rest -- and I also agreed to pay the rest of the  
3 money the landlord said I owed by the end of May. The  
4 agreement I signed gave the landlord a final judgement  
5 and a warrant of eviction, with execution of the warrant  
6 to evict staying through the end of May as long as I paid  
7 my May rent by May 18th, paid the amount 3,000 by May the  
8 15th -- I'm sorry.

9 Okay. I'm sorry -- pay my rent by -- pay my  
10 May rent back May the 18th, pay my addition, 3,000 by May  
11 the 25th and pay the rest the landlord said I owe,  
12 \$11,975.85 by May the 30th, even though I have mentioned  
13 in my answer to the landlord's petition that I need to  
14 repair. The agreement was signed and nothing about this.

15 I did pay my rent for May on time. I also paid  
16 \$2,500 of the payment of 3,000 on time but I could not  
17 pay the rest. I applied -- but I could not pay the rent  
18 so I applied for help from the city. After that, I  
19 received a call from a lady at the Department of Social  
20 Services named Ms. Greenaway. She gave me the name and  
21 the phone number for the lawyer of Legal Aid and said,  
22 "If she can't help you, nobody can." By that time I had  
23 almost reached the payment deadline. If I did not pay  
24 all the money soon, I will be evicted. Because it was an  
25 emergency, the Legal Aid lawyer agreed to meet with me

1 right away but because she was so busy, the only time she  
2 could give me was on the afternoon of Sunday, May 27th.  
3 The lawyer listened to my story. She looked at all my  
4 papers and she told me she would start to write an order  
5 to show cause to present to the jury. She gave me an  
6 appointment to come back to sign the affidavit.

7 Later on that week, June 12th I went back to  
8 court for a hearing on the order to show cause; this time  
9 with my Legal Aid lawyer. This time I walked out of  
10 court with a much more fair agreement. The amount of  
11 back rent I owed was reduced and the agreement included  
12 the landlord had to send someone to make a repair in my  
13 apartment. After that, the landlord did make the repair  
14 and I paid my June and July rent by myself. On July the  
15 18th, my lawyer paid the back rent to the landlord and  
16 the case was discontinued.

17 Not only that, but my Legal Aid lawyer also  
18 contacted the New York City Department of Finance for me  
19 where I had applied in 2009 for SCRIE, Senior Citizen  
20 Rent Increase Exemption. I know I was eligible for SCRIE  
21 because I am a senior citizen. I pay more than one third  
22 of my income for rent and I live in rent stabilized  
23 apartment but I had received no answer to my application.

24 I was very happy when my Legal Aid lawyer  
25 called me in the middle of August to tell me that my

1 SCRIE application had been approved and my share of rent  
2 was frozen at the amount of my old lease all the way back  
3 to 2009 when I applied.

4 I am so grateful that Ms. Greenaway sent me to  
5 Legal Aid and that the Legal Aid agreed to take my case.  
6 Without the Legal Aid, I am sure I would have lost my  
7 apartment. I know that I'm very lucky because now I can  
8 pay my rent in full and on time. I have no more fear of  
9 eviction and all the repairs I needed was done but I know  
10 there are many other New Yorkers like me who also need  
11 the same type of legal help I was fortunate enough to  
12 get.

13 I am here today to ask you to support the civil  
14 legal service in New York and to increase the funds for  
15 organizations like the Legal Aid Society.

16 Thank you.

17 JUDGE LIPPMAN: Thank you so much.

18 It is clear that the Legal Aid Society has  
19 really made a giant impact on your life and that's what  
20 we're trying to allow others to do because, you know,  
21 there are lots of people who come to the Legal Aid  
22 Society in New York who are turned away because they just  
23 don't have enough resources, so we're so glad that you  
24 were able to be helped and thank you for coming in.

25 Our last witness is Felicia Essix, a client of

1 Empire Justice Center.

2 FELICIA ESSIX: Yes. Good afternoon. Thanks  
3 for having me.

4 JUDGE LIPPMAN: Thanks for coming.

5 FELICIA ESSIX: My name is Felicia Essix and I  
6 live in Freeport, New York.

7 When my daughter was 9 and my son was 6, I  
8 applied at the Department of Social Services for child  
9 care for the summer. I needed child care while they were  
10 not in school so I could find a job.

11 My son and daughter have two different fathers.  
12 My son's father was always contributing financially for  
13 his care. My daughter's father has never paid child  
14 support, even though I have a court order against him.

15 When I applied to DSS I was told I could not  
16 get child care service for my daughter unless I took my  
17 son's father to court for child support. I did not  
18 believe that I should have to sue my son's father to get  
19 child care for my daughter. I also did not want to  
20 jeopardize the support and relationship that my son had  
21 with his father by suing him when he was already  
22 contributing.

23 I first contacted Nassau-Suffolk Legal Services  
24 and a representative agreed to request a fair hearing for  
25 me and represent me at the hearing. I lost the hearing

1 but the representative referred me to Empire Justice  
2 Center. The Empire Justice Center wanted to take my case  
3 because they believed that people in my position should  
4 be able to get child care benefits without having to go  
5 to court against the child's father.

6 Susan Antos and Linda Hassberg filed an appeal  
7 on my behalf. The Empire Justice System also worked on  
8 changing the law that required me to sue my father's --  
9 my daughter's father and while my appeal was pending the  
10 law changed. This led to the resolution of my appeal and  
11 I started receiving child care services and was  
12 reimbursed for some of the child care I had paid out of  
13 my pocket.

14 As a result, I found a job and was able to  
15 work. I also obtained justice and fairness for the other  
16 parents in similar situations. I was glad that  
17 Nassau-Suffolk Law Services and Empire Law Service could  
18 help me win my case and proud that I was able to obtain  
19 justice for other parents, and I'd also like to just  
20 include that I thank the Empire Justice System for their  
21 consistency, their honesty and, you know, just whatever  
22 elements it may concern that was -- that makes it  
23 possible for people like myself to get the assistance  
24 they need without money because I know a lot of places  
25 that you go, it's always about what type of insurance do

1 you have or how much money do you have and when you don't  
2 have, you get services that are not good quality, you  
3 know, so I'm really appreciative of Ms. Susan Antos and  
4 Ms. Linda Hassberg that were there for me and they  
5 really, you know, did all the paperwork. They helped me  
6 because I had no clue, you know, that it was possible for  
7 me to obtain services for my daughter and I was able to  
8 get a job. I worked for quite sometime and the  
9 relationship for the both of them, son and daughter,  
10 turned out well and I'm just so thankful for the Empire  
11 Justice System.

12 JUDGE LIPPMAN: Well, thank you so much and,  
13 again, I know that nothing is more important to you than  
14 your children and where do you turn to and you found the  
15 Empire Justice Center can help you as no one else could,  
16 you know, so I thank all of you and I think your stories,  
17 again, are the greatest advertisement we can have for  
18 legal services because everyone sees how it affects  
19 people's lives and changes their lives and in the most  
20 basic and fundamental ways so I want to thank everyone  
21 for coming to this hearing today.

22 We've had a daunting day. We had our two  
23 public official s, the District Attorney of Nassau  
24 County, Kathleen Rice and County Executive Bellone come  
25 in and explain how their jobs are so much involved with

1 this idea of justice for all and how do the different  
2 parts of government work towards that end and both made  
3 crystal clear that without civil legal services, the  
4 district attorney couldn't do her job and the county  
5 could not maintain the fabric of its communities.

6 Then we had the immigration panels which  
7 emphasize the need for not only legal services but the  
8 language recourses to deal with particular problems of  
9 immigrants and just critical to again saving lives and  
10 the law schools and the bar talking about what they are  
11 doing to enhance legal services and pro bono work in our  
12 state and the judge's panel, which I don't think is quite  
13 crystal clear to everybody how it affects judges and what  
14 they are supposed to be doing in their jobs when people  
15 don't have the legal services, and then all of you which  
16 really I think made our day in terms of explaining really  
17 what this is all about.

18 So what we're going to do now is take the  
19 results of this hearing along with the three other  
20 hearings that we've held around the state, figure out or  
21 try to quantify what the need is in our state, what we  
22 call the justice gap between the need as all of you  
23 demonstrated and the resources that are available and try  
24 to figure out what they should be asking the legislature  
25 and the governor for in terms of help for legal services

1 and also figure out what we can be doing further in the  
2 way of providing  
3 pro bono services and how to energize our wonderful  
4 lawyers in our state to give even more pro bono services  
5 and try to find creative ways to do that and we thank you  
6 all and, again, I just would go back to what we started  
7 with, what these hearings are about is equal justice.

8           Whether you have rich and poor, high and low,  
9 whatever one's station in life, everyone is entitled to  
10 help when you are dealing with the necessities of life,  
11 if it's over someone else, physical safety, the  
12 well-being of your families, your livelihood, the right  
13 to entitlements. These are things which are very basic  
14 in our society and they can't happen without having legal  
15 services to those who need it so it is our hope that  
16 these hearings and our efforts to provide funding for  
17 civil legal services and the efforts of lawyers and law  
18 students and everyone else to volunteer their time  
19 towards giving people the help that they need will be  
20 fruitful and productive in the year ahead and we thank  
21 you all for being here.

22           On December 1st, the court system, or  
23 thereabouts, will put out the report, the third report of  
24 the task force to enhance legal services and put in our  
25 new request for this year for monies from the governor

1 and the legislature for legal services so this has really  
2 been helpful.

3 Thank you all, and it's been really an honor  
4 for us to be here today. Thank you.

5 (Hearing concluded.)

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