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COURT OF APPEALS

STATE OF NEW YORK

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CHIEF JUDGE'S HEARING ON CIVIL LEGAL SERVICES

IN NEW YORK

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COURT OF APPEALS  
20 Eagle Street  
Albany, New York  
September 13, 2021

Before: HON. JANET DIFIORE,  
Chief Judge of the State of New York  
  
HON. ROLANDO T. ACOSTA,  
Presiding Justice of the First Department  
  
HON. HECTOR A. LASALLE,  
Presiding Justice of the Second Department  
  
HON. ELIZABETH A. GARRY,  
Presiding Justice of the Third Department  
  
HON. GERALD J. WHALEN,  
Presiding Justice of the Fourth Department  
  
HON. LAWRENCE K. MARKS,  
Chief Administrative Judge  
  
T. ANDREW BROWN,  
President of the New York State Bar Association

Karen Schwarzlose  
Official Court Transcriber



1 THE CLERK: All please rise. Welcome to the 2021  
2 public hearing on civil legal services. President of the  
3 New York State Bar Association, T. Andrew Brown, Presiding  
4 Justice of the Appellate Division, First Department,  
5 Justice Rolando T. Acosta, Presiding Justice of the  
6 Appellate Division, Second Department, Justice Hector A.  
7 LaSalle, Presiding Justice of the Appellate, Division Third  
8 Department, Justice Elizabeth A. Garry, Presiding Justice  
9 of the Appellate Division, Fourth Department, Justice  
10 Gerald J. Whalen, the Chief Administrative Judge of the  
11 Unified Court System, Judge Lawrence K. Marks, and the  
12 Chief Judge of the State of New York, Judge Janet DiFiore.

13 The hearing will now begin.

14 CHIEF JUDGE DIFILORE: Good afternoon everyone,  
15 and please be seated for those of you who are present.  
16 Welcome to our 2021 public hearing on civil legal services  
17 in New York.

18 Joining me today in person are the leaders of the  
19 judiciary and the legal profession in New York State, and  
20 it's my privilege to introduce them to you, starting with  
21 the Chief Administrative Judge of the Courts, Lawrence K.  
22 Marks, the far right, Presiding Justice of the Appellate  
23 Division, First Department, Rolando Acosta, the Appellate  
24 Division, Second Department, our most recently appointed  
25 presiding justice, Hector LaSalle, Presiding Justice of the



1 Appellate Division, Third Department, Elizabeth Garry, and  
2 Presiding Justice of the Appellate Division, Fourth  
3 Department, Gerald Whalen. And we also have, as is our  
4 tradition and our model, the President of the New York  
5 State Bar Association, T. Andrew Brown, who leads the  
6 largest voluntary bar association in the country and is a  
7 most important partner in our collective efforts to close  
8 the justice gap.

9 And while once again, this year's public hearing  
10 will be conducted in a hybrid fashion, the presence in  
11 person of the leaders of the judiciary and the State Bar,  
12 we hope underscores for all of you, our deep commitment to  
13 the institution and the issues of access to justice in  
14 supporting the civil legal service and pro bono providers  
15 who are working on the front line in the face of many, many  
16 extraordinary challenges presented by the pandemic.

17 Before we begin hearing from our presenters  
18 today, I do want to express on behalf of all of us our  
19 gratitude and appreciation to Helaine Barnett, the  
20 absolutely incomparable chair of the Permanent Commission.  
21 Her foresight and inspiring leadership and service over so  
22 many years in guiding our collective efforts, both at the  
23 federal and the state level, has been simply extraordinary.  
24 Thank you, Helaine for your service.

25 And of course, I want to extend our deepest



1 thanks and appreciation to the thirty-two members of the  
2 Permanent Commission for their unfailing dedication,  
3 particularly over the last eighteen months, notwithstanding  
4 all of the disruption and the change that's been caused by  
5 the pandemic.

6 The Commission has never faulted in its mission,  
7 organizing our hybrid public hearing last year and this  
8 year, advancing our issues by convening our technology  
9 conferences and our stakeholder meetings, offering free  
10 webinars for legal service providers on how to make  
11 effective use of remote technology, highlighting and  
12 sharing and expanding innovative access to justice  
13 solutions in response to the pandemic, and importantly,  
14 surveying clients of legal service providers to learn about  
15 and from them of their experiences in our virtual courts.  
16 I think we'll all agree that it's been strong proactive  
17 work, guided by a strong motivated membership.

18 And there is a Commission member present in this  
19 courtroom today who deserves special mention. Edwina  
20 Mendelson, who is our Deputy Chief Administrative Judge for  
21 Justice Initiatives, has done an absolutely outstanding job  
22 working on multiple fronts and with multiple justice  
23 partners to help us bridge the digital divide and to ensure  
24 meaningful, meaningful access to our virtual courts during  
25 this pandemic.



1           So thank you, Judge Mendelson, and thank you for  
2 being present today.

3           Finally, we are keenly and fully aware that the  
4 Commission relies on outstanding staff to carry out its  
5 mission so effectively. And we have three members from the  
6 Office of Court Administration who we would like to  
7 highlight and thank for their service, Barbara Mulé,  
8 Rochelle Klempner, and Barbara Zahler-Gringer.

9           And what can we say about the magnificent support  
10 of Sullivan & Cromwell? The Commission is so very  
11 fortunate to benefit from their outstanding and generous  
12 pro bono support, and there is a special thanks from us to  
13 the firm for lending us Jessica Klein and Alana Longmoore.  
14 And of course, to Bob Guiffra, as always, an active and  
15 interested partner in all of our initiatives.

16           Finally, as part of today's public hearing, our  
17 twelfth, we'll hear oral presentations and receive into the  
18 record written statements from many of our experienced and  
19 knowledgeable individuals and organizations. That  
20 information and data, along with the Commission's research  
21 and observation, will help us to present our findings in  
22 our mandated Chief Judge's report to the Governor and the  
23 Legislature on that state of affairs, and will help us with  
24 our funding and programmatic decisions.

25           We are fortunate today to have a very diverse



1 groups of experts to present to us. And they will be  
2 presenting on the topics that are of enormous moment at  
3 this time: the legal needs of the large numbers of tenants  
4 facing eviction; the importance of bridging the digital  
5 divide for litigants seeking access to our virtual courts;  
6 and how the disparate impact of the pandemic has affected  
7 communities of color and how that underscore is why the  
8 access to justice crisis is in so many vital respects, a  
9 racial and equal justice crisis affecting the legitimacy of  
10 our system.

11 And of course, in the latter part of this  
12 afternoon, we will hear the voices and experiences from  
13 clients who are all committed to serve and make certain  
14 that access to justice is at a maximum, and we are grateful  
15 and appreciative to each of them for having the courage to  
16 come forward and share their intimate stories and their  
17 personal experiences.

18 So before we get to the substantive portion, one  
19 final matter of housekeeping. To ensure that our hearing  
20 proceeds smoothly and that we're being respectful of  
21 everyone's time, for our virtual presenters, and I see our  
22 first presenter waiting very patiently for us to begin,  
23 when it's your turn to speak, I want to remind you that our  
24 IT staff will be transferring you from our virtual waiting  
25 room into our virtual hearing room, and that might take a



1 few seconds.

2 I also want to remind you to turn on your video  
3 and unmute your microphone. And once you're in the hearing  
4 room, I'll briefly introduce you. You'll present your  
5 statement, and I hope you are amenable to our panel teasing  
6 out perhaps a little more information on things of interest  
7 to them.

8 We've asked each presenter to limit their times.  
9 You will see right in front of me is the evidence of our  
10 notorious Court of Appeals' timekeeping system. There's a  
11 red light and a white light. The white light will go on.  
12 That signals you have about a minute left to wind down your  
13 comments. And the red light, unfortunately, means that  
14 your time has expired. We ask everyone to be very  
15 respectful of the time.

16 So now, moving to the substantive portion of our  
17 hearing, our first presenter is Darren Walker, President of  
18 the Ford Foundation.

19 Mr. Walker runs the leading international  
20 philanthropy focused on fighting inequality in all of its  
21 forms. He recently received the Wall Street Journal's  
22 Philanthropy Innovative Award in 2020 after the Ford  
23 Foundation—and this is stunning each time that I think  
24 about this and read about it—issued a first of its kind, \$1  
25 billion social bond in the capital markets to support local



1 nonprofits hit hard by COVID-19.

2 Mr. Walker has enjoyed a most distinguished  
3 professional career and we look forward to hearing, sir,  
4 your insights, and your recommendations. Thank you for  
5 taking the time to be with us today.

6 Mr. Walker.

7 MR. WALKER: Good afternoon, Chief Judge DiFiore,  
8 Presiding Justices Acosta, LaSalle, Garry, Whalen, Chief  
9 Administrative Judge Marks, and New York State Bar  
10 President, Mr. Brown.

11 Thank you for convening this urgent conversation  
12 and thank you for your visionary leadership and your  
13 sustained commitment to New Yorkers, especially those New  
14 Yorkers who are low income.

15 As president of a foundation that is  
16 headquartered in New York, and a foundation that is  
17 committed to reducing inequality and inequity in the world,  
18 I am truly honored to be a part of today's presentations.

19 Now, each of us shares a strong, powerful love  
20 for New York, and yet each of us is intimately familiar  
21 with the inequalities and inequity that exist in our great  
22 state. And we know that these inequalities and inequities  
23 have only deepened throughout this pandemic.

24 So, New Yorkers who already lacked access to  
25 healthcare now face the highest risk of COVID-19. New





1           Yorkers who are already stretched to make unaffordable  
2           rents faced the threat of looming eviction. And as all of  
3           you know, and many know better than most, the  
4           criminalization of poverty presents a pressing threat to  
5           justice. Even before the pandemic, poor families were  
6           twenty-two times more likely to be involved in the Family  
7           Court system than their wealthier counterparts.

8                         And these rippling disparities impact the  
9           experiences of New Yorkers who engage our civil justice  
10          systems in countless, often invisible ways.

11                        I'd like to call attention to something I am  
12          particularly passionate about, and that is access to  
13          technology. Access to technology is one important example  
14          of the ways in which inequality manifests in our justice  
15          system.

16                        Now, to some, it may seem immaterial to talk  
17          about the digital divide alongside the many visceral  
18          realities of poverty: hunger, displacement, and family  
19          separation, to name a few. But according to our partners  
20          at the Bronx Defenders, these disparities in access to  
21          technology can end up sending more people to prison. And  
22          that's because clients without internet cannot attend pre-  
23          trial meetings, access social services supports and  
24          programming, communicate with their lawyers over video, and  
25          even get basic and crucial information about their



1 proceedings.

2 We need to fund infrastructure, especially  
3 technologies, to bridge the digital divide and allow access  
4 to justice for all New Yorkers. And because of the  
5 structural reality of racism in our justice system, this  
6 isn't just about access. It's about racial equity. Black,  
7 brown, and poor New Yorkers are impacted  
8 disproportionately, and simply for their circumstances and  
9 their core identities.

10 To confront the compounding challenges of the  
11 pandemic, poverty, and persistent racism, we believe that  
12 government and philanthropy must be bigger, bolder, and  
13 more innovative than we've ever been before. In a time  
14 where many want a return to normal, we need to reject calls  
15 to decrease support for civil legal services, and instead,  
16 let's recommit ourselves and our resources for this  
17 critically important work. Because in supporting these  
18 services, we support the foundations of a more just, a more  
19 equal New York, and a more accessible, equitable justice  
20 system.

21 And that's why the hearings you have called here  
22 today are so very important. We have an opportunity to  
23 center our solutions around the people who are closest to  
24 the challenge, and I believe that foundations can play a  
25 critical role in supporting this work. As funders, we have



1 the resources to experiment, the agility to take risks, and  
2 the platform to break through old constraints towards new  
3 possibilities.

4 But foundations cannot take the place of  
5 government. Let me say it again. Foundations and private  
6 philanthropy cannot take the place of government, but we  
7 can work together creatively, experimentally.

8 One example is the work that we are doing with  
9 the Bronx Defenders, who are activating a network of  
10 community groups and government institutions to distribute  
11 affordable cell phone plans to New Yorkers experiencing  
12 homelessness. Or we could talk about our hundred million  
13 dollars' commitment to the justice and mobility fund, which  
14 invests in widescale efforts to boost economic mobility and  
15 life outcomes for justice-involved New Yorkers.

16 One in three American adults has a criminal  
17 record, and as a result of the misguided—I believe  
18 misguided—tough on crime laws, they face major barriers to  
19 employment, leading to cycles of recidivism that are rooted  
20 in poverty. In fact, up to fifty percent of people with a  
21 criminal record lost their job during this pandemic.

22 And so in collaboration with formerly  
23 incarcerated activists, advocacy groups, and partners in  
24 the philanthropy community, government and philanthropy  
25 should support wholistic services for returning citizens,



1 to break the cycles of poverty and ensure better outcomes.

2 To quote my friend Bryan Stevenson, "The opposite  
3 of poverty is not wealth. The opposite of poverty is  
4 justice." The pursuit of justice, true justice for all New  
5 Yorkers, is what brings us here today.

6 We are so grateful for your visionary leadership  
7 and the opportunity that you've given us. Thank you.

8 CHIEF JUDGE DIFIORE: Thank you. Thank you, Mr.  
9 Walker.

10 Mr. Walker, first of all, thank you for the work  
11 you lead at the Ford Foundation on behalf of all of us.  
12 And I think you would find that we all do agree to your  
13 concept about working collaboratively and, of course, to  
14 the notion that foundations can play a critical role, but  
15 they can't take the place of government. We are first and  
16 foremost responsible in our space.

17 But let me ask you this, sir. How should we as  
18 leaders of the New York State court system, the justice  
19 system, what should we be doing to encourage greater  
20 support from folks who are similarly situated to you, who  
21 can move the - - - help us move the needle in important  
22 ways? Are there certain strategies that we can use to  
23 approach folks in positions of importance? What would you  
24 suggest we think about?

25 MR. WALKER: Thank you very much for that



1 question. I believe that there is tremendous interest in  
2 philanthropy in addressing issues of access to justice.  
3 And I believe that the court system itself could be better  
4 organized. It could organize in a way that created a  
5 mechanism for working in partnership with government.

6 So one example might be to create an office of  
7 philanthropy or to task a high-level official in the system  
8 with being a liaison to organized philanthropy.

9 For example, there is a national organization  
10 that I was a cofounder of that has brought together what is  
11 now over thirty large foundations, high net worth families  
12 that represents billions of dollars in assets, who are  
13 investing in the criminal justice and the civil justice  
14 systems.

15 So I do believe that there are proactive things  
16 that you could do, and certainly, we here at the Ford  
17 Foundation would be delighted to work with you in  
18 partnership.

19 CHIEF JUDGE DIFIORE: We will take you up on that  
20 very generous offer, sir.

21 Anyone have any question for Mr. Walker?

22 MR. BROWN: If I may, Chief?

23 THE COURT: Yes. Mr. Brown?

24 MR. BROWN: Mr. Walker, let me also commend you  
25 and the foundation for your contributions over the past



1 many years, which has been of a significant magnitude.

2 One of the things that you mentioned in part of  
3 your comments to the Chief just now, spoke to this. You  
4 indicated that philanthropy and government must work  
5 together more going forward. Are there other specific  
6 obstacles that you think have been in the way in the past  
7 to that, and are there things that you see now that can  
8 help address some of those obstacles? And more importantly,  
9 speaking on behalf of the New York State Bar Association,  
10 is there anything that you see in associations such as  
11 ours, can do to facilitate better workings between  
12 philanthropy and the government going forward?

13 MR. WALKER: Well, Mr. Brown, as you probably  
14 know, the New York State Bar is the leading, most  
15 innovative, and entrepreneurial bar in the country. And  
16 there have been many, many positive and constructive  
17 contributions through partnership with the private sector,  
18 and government, and law firms that your organization has  
19 led, that the Ford Foundation over our history, has  
20 participated in.

21 I don't believe there are necessarily obstacles  
22 or formal barriers. I believe that we have not looked at  
23 the opportunities to leverage as affirmatively as we could.  
24 And I just simply would offer that those opportunities  
25 exist.



1                   And one of the exciting things I see in  
2 philanthropy, especially among younger philanthropists, is  
3 they are committed to justice issues. They are more likely  
4 and more comfortable to engage on issues of racial justice,  
5 of inequality, than older philanthropists.

6                   So I believe that now is a ripe time to engage,  
7 and again, the Ford Foundation stands ready to serve.

8                   MR. BROWN: Thank you.

9                   CHIEF JUDGE DIFIORE: Thank you. Any other  
10 questions?

11                  PRESIDING JUSTICE ACOSTA: Yeah.

12                  CHIEF JUDGE DIFIORE: Justice Acosta?

13                  PRESIDING JUSTICE ACOSTA: I thought I heard a  
14 more expansive definition of what constitutes  
15 infrastructure. I know that traditionally, we have looked  
16 at infrastructure, particularly the funding of civil legal  
17 services, only to include other than personnel services.

18                  Is that something that, I mean, I had not heard  
19 that before. Generally, you think of infrastructures are  
20 very limited thing. I mean, universal pre-k, I think  
21 developing leadership, that's more inclusive and diverse,  
22 can constitute infrastructure.

23                  Am I redefining infrastructure in that?

24                  MR. WALKER: No, Judge Acosta. We believe  
25 infrastructure constitutes what you have described and



1 more. We believe that in a system of justice,  
2 infrastructure must include the social infrastructure, the  
3 systems that support healthy families, healthy communities,  
4 and a healthy economy. And so infrastructure is most  
5 certainly the human capital, the physical infrastructure  
6 and beyond.

7 All of this is necessary and essential to a  
8 healthy, functioning democracy, at which our justice system  
9 sits at the center.

10 CHIEF JUDGE DIFIORE: Thank you. Anyone else?

11 Mr. Walker, we thank you for taking the time to  
12 present to us and your testimony has been very enlightening  
13 and powerful, and we will be taking you up on your offer to  
14 perhaps engage in a session or two with us to think about  
15 how we should strategize going forward.

16 So thank you very much, sir.

17 MR. WALKER: Thank you. I look forward to it.

18 CHIEF JUDGE DIFIORE: Thank you.

19 Okay. Our next presenter is Doug Lankler,  
20 General Counsel and Executive Vice President for Pfizer.

21 We'll take a moment for Mr. Lankler to enter our  
22 virtual hearing room.

23 MR. LANKLER: I'm hoping you can see and hear me.

24 THE COURT: I can see you and hear you. Can you  
25 see us and hear us?





1 MR. LANKLER: I can. I can. Thank you.

2 THE COURT: Okay. Thank you, Mr. Lankler.

3 As I mentioned just a moment ago, Doug Lankler is  
4 General Counsel and Executive Vice President at Pfizer.  
5 And in addition to all of the phenomenal work he has been  
6 leading at Pfizer, Mr. Lankler has had a distinguished  
7 career in the private practice of law, and in fact, in the  
8 United States Attorney's office for the Southern District  
9 where he received the Attorney General's Distinguished  
10 Service Award, indeed a high honor.

11 Mr. Lankler is also important to today's  
12 proceedings as one of the founding members of our New York  
13 State Business Council for Access to Justice, which was  
14 first announced at this public hearing last year.

15 Mr. Lankler, we thank you for your participation,  
16 and we look forward to your comments, sir.

17 MR. LANKLER: Thank you so much. Good afternoon,  
18 Chief Judge DiFiore, Justices Acosta, LaSalle, Garry, and  
19 Whalen, Chief Administrative Judge Marks, and New York  
20 State Bar President Brown. It's my genuine honor to be  
21 with you today and I'm sorry I'm not with you in person in  
22 Albany.

23 I'm Doug Lankler, General Counsel and Executive  
24 Vice President of Pfizer. And while a global company,  
25 Pfizer is very much a New York company, discovered in



1 Brooklyn, and with its headquarters in Manhattan, we have  
2 proudly been in the state for 170 years.

3 I'm here to discuss the important role that the  
4 business community, and in particular, the lawyers and  
5 legal professionals at New York-based companies can play to  
6 help low-income New Yorkers have access to much needed  
7 civil legal services.

8 In my view, the business community should take a  
9 leadership role in seeking to improve access to legal  
10 services for the underserved for one simple reason. It's  
11 the right thing to do.

12 The business community can leverage its resources  
13 to help in two concrete ways. First, to mobilize  
14 volunteers to engage in pro bono work, and second, to  
15 provide philanthropic support to legal services  
16 organizations that work tirelessly to help New Yorkers in  
17 need.

18 Our pro bono work is one of the most impactful  
19 ways that we can improve access to justice, and as  
20 corporate general counsels in partnership with our outside  
21 law firms and legal services organizations, we have the  
22 ability to encourage our lawyers and legal professionals to  
23 get involved.

24 I'm happy to say that at Pfizer, we have done  
25 just that. I'm immensely proud to be part of a company



1 committed to helping the community and to lead a legal  
2 division that makes that a priority through a wide array of  
3 pro bono projects and yearly contributions to nonprofit  
4 organizations.

5 Our commitment is deeply rooted in one of  
6 Pfizer's core company values, equity. We believe that  
7 every person deserves to be seen, heard, and cared for.  
8 And that goes beyond the workplace and healthcare deliver,  
9 which is why we have had a robust pro bono program for over  
10 two decades. It includes not only work by many Pfizer  
11 colleagues, but strategic partnerships with our partnered  
12 law firms and with legal services organizations.

13 Our program currently centers on three key areas,  
14 healthcare, racial justice, and COVID-19 assistance. In  
15 recent years, Pfizer colleagues have worked on election  
16 protection efforts to help historically disenfranchised  
17 communities of color, mentored under-resourced high school  
18 students who are considering careers in the law, and we've  
19 sponsored a range of medical-legal fellowships, including a  
20 recent fellowship that will address racial disparities in  
21 healthcare.

22 We spearheaded a monthly clinic for over a  
23 decade. It helped nearly 2,000 cancer patients with a  
24 broad range of legal needs, and helped individuals impacted  
25 by COVID-19 with housing, employment, and estate planning



1 needs. We've helped veterans, immigrants, and many other  
2 New Yorkers in need of assistance.

3 I'm also proud that Pfizer joined the New York  
4 State Business Council for Access to Justice, established  
5 by Chief Judge DiFiore almost a year ago. I want to take  
6 this opportunity to commend the Chief Judge for  
7 establishing the Council and to thank her sincerely for  
8 appointing me to serve as a member. The Council has made a  
9 difference and will continue to do so.

10 In addition, I'd like to thank Business Council  
11 co-chairs, Kim Harris, the general counsel of NBC  
12 Universal, and Eric Grossman, the chief legal officer of  
13 Morgan Stanley, for their strong leadership, and in  
14 particular, for their leadership on an upcoming pro bono  
15 project that will marshal corporate legal departments and  
16 law firms to help low-income New Yorkers with housing  
17 cases.

18 I should also note that I'd like to thank Robert  
19 Fiske, who I'm proud to call a mentor and friend, for his  
20 leadership in this regard as well.

21 As a result of the COVID-19 pandemic, many New  
22 Yorkers are behind on rent and at risk of losing their  
23 homes. As part of the Business Council's program, in-house  
24 legal departments will, among other things, partner with  
25 outside counsel to represent clients in eviction



1 proceedings as those cases start to move forward and offer  
2 clinics to assist clients applying for emergency rental  
3 assistance.

4 Pfizer looks forward to joining fellow New York  
5 corporations in supporting this important initiative.  
6 Giving back is not only the right thing to do, but it also  
7 helps improve corporate legal departments in a number of  
8 important ways. We found that colleagues who work on pro  
9 bono projects feel more connected to each other and to  
10 their communities.

11 Pro bono work offers opportunities for our  
12 attorneys and legal professionals to sharpen and broaden  
13 their skills. It also creates a sense of satisfaction  
14 about one's workplace, which is a very important tool in  
15 the recruitment and retention of talented and purpose-  
16 driven colleagues.

17 And finally, we found that our volunteers simply  
18 find it deeply gratifying to help others in need. The work  
19 is genuinely its own reward.

20 In addition to sponsoring important pro bono  
21 projects, corporations can and should provide philanthropic  
22 support to the public interest organizations that are on  
23 the front lines of providing legal assistance. We  
24 regularly contribute to and partner with New York-based and  
25 national organizations that are dedicated to providing pro



1 bono assistance to low-income individuals and communities  
2 on issues related to healthcare, racial justice, COVID-  
3 related assistance, domestic violence, and other critical  
4 civil legal needs.

5 I can list these organizations for you during the  
6 question session if you'd like. There is a long list of  
7 great organizations, and we're very, very proud to get to  
8 partner with them. These organizations largely depend on  
9 donations from corporations, law firms, and others to  
10 continue their important work. The need for donations has  
11 become even greater during the pandemic and funding sources  
12 have narrowed, and the need for free legal representation  
13 has continued to increase.

14 At Pfizer, we know that corporations do not exist  
15 in a vacuum. We are part of a society. And as such, we  
16 have an affirmative obligation, would genuinely call it a  
17 moral obligation, to give back and to improve the quality  
18 of life of the people in small and big ways.

19 We believe that with privilege comes  
20 responsibility. We have the privilege to operate in a  
21 society, and in turn, we have a responsibility to those in  
22 need, making it a positive and potentially life-changing  
23 impact, in this case by providing vital legal assistance to  
24 underrepresented communities and individuals.

25 I didn't come here today to merely recite a list



1 of good things that Pfizer does. We do not seek credit for  
2 doing what we're supposed to do. The support is not about  
3 credit indeed. I think we all believe we should all be  
4 doing more at Pfizer.

5 And this opportunity to speak with you today is a  
6 chance to underscore your call to action and an affirmation  
7 of the uniquely important role corporate America and the  
8 legal profession should play in solving this vexing  
9 problem.

10 When Albert Bourla, Pfizer's CEO, directed us to  
11 do everything possible to fight COVID-19 back in March of  
12 2020 through the development of potential vaccines and  
13 treatments, he said to us at that time: "If not us, who?"  
14 He led us to realize our purpose, which is creating  
15 breakthroughs that change patient's lives by delivering a  
16 breakthrough vaccine.

17 While that remains our core purpose, we, like all  
18 corporations, should think beyond that and about ways that  
19 we can use our extraordinary size and scale to positively  
20 impact lives in as many ways as possible. The luxury of  
21 merely, quote, "Doing what we do," end quote, does not  
22 exist. In that spirit then, I say this to my fellow  
23 corporate counsels, indeed to the entire legal profession,  
24 about speaking out and doing something to expand access to  
25 legal services for low-income families and individuals



1 statewide. If not us, who?

2 Thank you, Chief Judge DiFiore, and distinguished  
3 members of this panel, for the opportunity and the  
4 privilege of being with you today.

5 CHIEF JUDGE DIFILORE: Thank you, Mr. Lankler.  
6 And thanks for your service on the Business Council, and of  
7 course, the leadership of Kim Harris and Eric Grossman.

8 You know, you really struck a chord, I believe,  
9 with all of us, when you spoke about one should not seek  
10 credit for the things you're supposed to do. We should try  
11 to extend that notion beyond the things we're supposed to  
12 do. But it is a busy and complicated world, particularly  
13 over these past eighteen months when needs are exacerbated.

14 I asked a similar question to Mr. Walker before  
15 you. What is it that we can do strategically to better  
16 engage general counsel at firms like yours to become more  
17 active and proactive? Do you have any ideas?

18 MR. LANKLER: I genuinely think you're doing it,  
19 Chief Judge, by doing things like these kinds of hearings  
20 and the Business Council. For me, getting an invitation to  
21 that group from you was very important, and it was  
22 important to my company. It was important to my law  
23 division. We take pride in that. And it's a great, great  
24 group of people. It's the kind of people that you want to  
25 get to work with and learn from.





1           We watch with great admiration a lot of companies  
2           and the great work that they do in the pro bono sector, and  
3           we learn from them, and we get great ideas, and we're able  
4           to partner with them.

5           So creating that kind of community in the  
6           business dynamic is tremendously important. It  
7           incentivizes all of us to step up. It makes you want to do  
8           the right thing. At Pfizer, we're proud of our company and  
9           we want to show up well.

10          And, in addition to the number of different  
11          incentives that we already have for being in the space,  
12          that's a big one for us, and we take it seriously.

13          CHIEF JUDGE DIFIORE: And I assume, and I would  
14          hope that we would hear from you, that the current members  
15          are incentivized to leverage their membership to attract  
16          more interest and sharing the word. Thank you.

17          MR. LANKLER: No question. I think in the group  
18          that you've got; you have a collection of companies that  
19          have always taken pro bono very seriously. With Kim and  
20          Eric's leadership, there's genuine strategy there and  
21          drive, and it allows us to kind of come together behind  
22          projects like low-income housing, which are incredibly  
23          important, and really drive our collective resources  
24          towards sometimes specific needs, which is really terrific  
25          approach.



1 CHIEF JUDGE DIFIORE: Outstanding. Thank you.

2 Anyone? Any questions?

3 Thank you so very much, Mr. Lankler and on behalf  
4 of all of us in the Unified Court System, our gratitude and  
5 appreciation is extended to Pfizer and the leadership there  
6 for taking the lead and helping to keep America safe.  
7 Thank you.

8 MR. LANKLER: Thank you.

9 CHIEF JUDGE DIFIORE: Next is Judge Jean  
10 Schneider, who is our Citywide Supervising Judge of the New  
11 York City Housing Court, the court which is obviously in  
12 the eye of the storm right now. Judge Schneider has  
13 decades, thankfully, as a Housing Court judge and civil  
14 legal services attorney, and we are grateful, grateful to  
15 her for outlining today the challenges that lie ahead for  
16 the many litigants seeking services in Housing Court, and  
17 for her extraordinary service, not only across her tenure  
18 as a Housing Court judge, but particularly over the past  
19 eighteen months.

20 Thank you, Judge Schneider.

21 HONORABLE JEAN SCHNEIDER: Thank you, Judge  
22 DiFiore.

23 Chief Judge DiFiore, Presiding Justices Acosta,  
24 LaSalle, Garry, and Whalen, Chief Administrative Judge  
25 Marks, and President Brown, good afternoon and thank you



1 very much for inviting me to participate in this event  
2 today.

3 I want to take a few moments this afternoon to  
4 highlight for you the ways in which the Housing Court has  
5 been affected by COVID-19, and the key role, the essential  
6 role that the availability of civil legal services for  
7 tenants in our court has played during this extremely  
8 difficult period.

9 For most of the last eighteen months, most  
10 evictions in the State of New York have been forbidden  
11 either by administrative orders or by emergency laws of one  
12 kind or another. These laws and orders reflect the  
13 judgment of the political branches of government that  
14 during this crisis, which is both a public health crisis  
15 and an economic crisis, eviction would inflict unacceptable  
16 damage, not just to the individuals evicted, but to the  
17 state as a whole, both by deepening the economic harm of  
18 the pandemic, and by providing greater opportunities for  
19 viral spread.

20 But this has not meant that the New York City  
21 Housing Court has stopped operating, far from it. In mid-  
22 pandemic, New York City expanded the coverage of its right  
23 to counsel law. Before the pandemic, that law was  
24 expanding slowly neighborhood by neighborhood. The legal  
25 services providers that had contracts under that law were



1 gradually hiring more lawyers and able to represent more  
2 folks.

3 When the pandemic, once it was clear that the  
4 pandemic was not going to go away quickly, the City Council  
5 expanded the coverage of that law to everyone. That meant  
6 that we in the Housing Court, had tens of thousands of  
7 pending cases in which tenants did not have lawyers, but  
8 were now entitled to them.

9 What we have done is to focus our efforts in the  
10 first instance on connecting tenants to lawyers. We have  
11 created gateway parts, if you will, in which the primary  
12 purpose is to connect with a previously unrepresented  
13 respondent in an eviction case. We make it possible for  
14 those respondents to appear by video, by telephone, or in  
15 person, depending on what their abilities and preferences  
16 are.

17 The petitioner's counsel appears virtually, and  
18 an assigned legal services provider appears, also  
19 virtually. The legal services provider and the respondent  
20 who appears are introduced to one another, exchange contact  
21 information and arrange to speak immediately following the  
22 court appearance.

23 If they're successful in making contact, the  
24 legal services provider then submits a notice of  
25 appearance, and we are able to move the case into one of



1 our virtual resolution parts, as to attorney case.

2 What we have found is that even in cases in which  
3 the court is stayed from going forward - - - in other  
4 words, imagine a case in which the tenant is sued for  
5 nonpayment of rent, we have appointed counsel, counsel for  
6 the tenant. Counsel has arranged for the tenant to file a  
7 hardship application under state law. And the court is  
8 prohibited from going forward with that case because the  
9 tenant has counsel. The case does not stop moving.

10 There is nothing in the law that prevents a legal  
11 services lawyer and the lawyer representing the landlord-  
12 petitioner from working on the case, from resolving issues,  
13 and we very, very frequently find that we take the case off  
14 our calendars, put it on an administrative hold. And the  
15 next thing that happens in the case is we receive a  
16 stipulation of settlement or a stipulation of  
17 discontinuance because the lawyers have been able to move  
18 the case forward.

19 Working in this way in the first eight months of  
20 2021 with essentially no evictions taking place, we were  
21 able to dispose of more than 30,000 cases. Now, this is  
22 not an amount that in our pre-pandemic world would be  
23 extraordinary, but we think it is extraordinary now.

24 If the tenants in those cases had not had  
25 counsel, the cases would simply have sat. It might be that



1 the tenant would figure out how to apply for emergency  
2 rental assistance. It might not. The current moratorium,  
3 which affects most of those cases, runs until January 15th.  
4 Without counsel available to assist the tenant in reaching  
5 resolution, those cases would've sat until January the 15th  
6 of next year, and when they came back on our calendars, we  
7 would have been overwhelmed.

8 So we are extraordinarily grateful that we're  
9 fortunate enough to work in an environment where there is a  
10 right to counsel, and where cases are able to move forward  
11 because of that.

12 If you will permit me, let me pause to say that I  
13 believe that the courts around the state that handle  
14 eviction cases would find that they would benefit from an  
15 expansion of the availability of counsel for tenants facing  
16 eviction in the way that we have.

17 New York City's right to counsel has made the  
18 Housing Court a fairer and more balanced court. We  
19 understood that; we expected it.

20 But I think less expected was the extent to which  
21 the availability of counsel for tenants in eviction cases  
22 has made the court more efficient and more effective. Even  
23 before the pandemic period, we found that the availability  
24 of counsel helped issues to become clearer, be identified  
25 earlier, applications for benefits were made with the



1 assistance of counsel in a timely and thorough fashion.  
2 Many cases were simpler to resolve when knowledgeable  
3 counsel was available to assess what was available to the  
4 clients. And even where cases could not be settled,  
5 counsel on two sides were able to narrow issues and help  
6 design a way of moving the case forward.

7 So I want to say one thing about the digital  
8 divide. The availability of counsel has helped us to serve  
9 litigants who otherwise would have had a great deal of  
10 difficulty getting access to our court. It is, however,  
11 certainly the case and I have to say that Conrad Johnson  
12 from Columbia Law School has opened my eyes to this. We  
13 probably need to be more aware that there's another digital  
14 divide, which makes it difficult for legal services lawyers  
15 to communicate effectively with their clients across a  
16 digital divide, and that perhaps there's a need to focus on  
17 what kind of support is necessary for the law firms  
18 providing civil legal services to conduct attorney/client  
19 relationships in a successful fashion.

20 In my written submission, I address another issue  
21 close to my heart, which is the need to reform the  
22 notarization laws in New York.

23 I see my time is up and I will ask you simply to  
24 look at that when you get a chance.

25 CHIEF JUDGE DIFIORE: So Judge, against the



1 backdrop and context of the work that you've been doing,  
2 particularly over the last eighteen months, what do you see  
3 or suggest to this Commission, that we prioritize in terms  
4 of assisting you and your judges in providing adequate,  
5 efficient, timely, quality justice services in your court?

6 HONORABLE JEAN SCHNEIDER: I think that a couple  
7 of things are, there are a couple of things that we're  
8 facing going forward. We are beginning to conduct more  
9 court proceedings in the courthouse. This brings back an  
10 issue that we've been able to avoid for eighteen months. I  
11 wouldn't call it a silver lining exactly, but the issues of  
12 the adequacy or inadequacy of some of our physical spaces  
13 are coming back into the fore as we think about inviting  
14 more members of the public into the courthouse. So that  
15 becomes an issue.

16 I think we have learned to use the virtual space  
17 pretty well, and I think that will shoehorn into our  
18 spaces, but not entirely. I also think that as we expand  
19 the work that we're doing, we're aware of, I think that  
20 we're really aware that we're stretching our legal services  
21 providers. We're really depending upon them and we know  
22 that they need support and resources. The City has lots  
23 and lots of funding for them, but there is hiring and  
24 training and supervising and so on. And we are trying to  
25 walk softly there in terms of what they are able to do in





1 terms of their expansion.

2 And I think that we are also calling upon our  
3 nonjudicial staff to do a lot of things that they never had  
4 to do before, in terms of managing Teams' invitations and  
5 doing things in bulk that they've never had to do before.

6 So we have clerks who are proud of their thirty  
7 years of expert service who are starting from scratch and  
8 we're trying very hard to support them as well.

9 Thank you.

10 CHIEF JUDGE DIFIORE: Thank you.

11 Questions for Judge Schneider?

12 PRESIDING JUSTICE LASALLE: I have a question.

13 THE COURT: Justice LaSalle.

14 PRESIDING JUSTICE LASALLE: Your Honor, you  
15 touched on this at the end of your remarks in your  
16 submitted materials. You reference the in-person  
17 requirement for those seeking to have documents notarized.

18 I mean, you indicated this rule has created  
19 additional burden on parties in your court, and while we  
20 certainly aren't legislators, I'd be curious what the Chief  
21 Judge's indulgence to hear about how you would envision  
22 this rule.

23 How would you envision this rule evolve to lessen  
24 obstacles for people in your court, while at the same time  
25 ensuring the reliability this in-person requirement has



1 given us through the years?

2 HONORABLE JEAN SCHNEIDER: The court system  
3 actually has had as part of its legislative agenda for a  
4 number of years, a proposal that New York State adopt a  
5 system more like the federal system, where a litigant can  
6 make a declaration under penalty of perjury without  
7 appearing before a notary in person in order to get the  
8 notary to stamp things.

9 During the pandemic, this just became writ large  
10 for us. We had respondents who either had been illegally  
11 locked out of an apartment or had emergency conditions that  
12 needed to be addressed with repair, and who literally would  
13 have been in those early days risking their lives to travel  
14 out to find a notary before whom they could swear their  
15 petitions.

16 I will confess to you, although I'm afraid to do  
17 so in this is august room, that we may have cheated a  
18 little but on some of those in terms of how we were trying  
19 to do it. But as we reopened and had to reinstitute those  
20 rules, we realized exactly how burdensome they were. And  
21 we heard from some of our upstate colleagues that they were  
22 even more burdensome in places where tenants had to travel  
23 long distances to find a notary.

24 It seems as though the federal system has  
25 survived on the declaration for many years without an



1 explosion of perjury, and I certainly believe that that  
2 would be a major step toward access to justice for many of  
3 our litigants.

4 CHIEF JUDGE DIFIORE: Thank you, Judge.

5 Anyone else? Judge Marks?

6 CHIEF ADMINISTRATIVE JUDGE MARKS: Judge  
7 Schneider, you described, I guess, like, how it's sort of  
8 been a game changer in the New York City Housing Court to  
9 have attorneys on both sides of the case going into these  
10 resolution parts and I think you said thirty, thirty-some-  
11 thousand cases have been resolved as a result of that.

12 And we don't have the luxury of an attorney for  
13 every tenant who can't afford an attorney outside of New  
14 York City, but could you explain, has the court's effort to  
15 resolve the case in a part like the resolution part, why  
16 can't that be effective in cases where there is no attorney  
17 representing the tenant? What's the, why is that so  
18 difficult when there --

19 HONORABLE JEAN SCHNEIDER: It's not that it can't  
20 be done. It's that it is more challenging. I mean, one of  
21 the things that we've found with remote appearances, for  
22 example, is that even with litigants who are able to appear  
23 by telephone or by video, the process of communication  
24 between a judge and an unrepresented tenant, in our case,  
25 it's a challenging communication anyway to explain



1 thoroughly what the options are in a case, and to be sure  
2 that you've got a litigant before you who understands the  
3 option and who is making a knowing choice.

4 On the video platform in which the judge, I  
5 include myself here, is learning new communication skills,  
6 and is perhaps not quite as comfortable as she was in the  
7 courtroom, and the litigant is also struggling with what  
8 may be difficult technology, it's just a more difficult  
9 challenge. So that having the attorney to mediate has been  
10 excellent.

11 The other thing that we've found is that, and  
12 this pre-pandemic, the value of having the attorney. We  
13 did have a significant increase in pre-trial motion  
14 practice coming in cases where there were lawyers. You  
15 would expect that. But what we had was an even greater  
16 drop off in the motion practice after settlement. In other  
17 words, when a litigant without a lawyer settles the case,  
18 there is frequently the need by that litigant to revisit it  
19 and to say, wait a minute, I need to make an adjustment  
20 here, or wait a minute, I need more time for this.

21 When an attorney settles the case, it seems to  
22 stay settled better, and I think that that's been a really  
23 significant thing that we didn't really expect.

24 CHIEF JUDGE DIFIORE: Thank you, Judge.

25 Justice Acosta?



1                   PRESIDING JUSTICE ACOSTA: Yeah. Judge  
2 Schneider, I know that last summer, the Housing Court  
3 adopted NYSCEF.

4                   HONORABLE JEAN SCHNEIDER: Yes.

5                   PRESIDING JUSTICE ACOSTA: And the Administrative  
6 Board was more than happy to, although some of us were  
7 somewhat reluctant, given that the digital divide.

8                   How do we be more helpful to make NYSCEF more  
9 accessible to underrepresented litigants?

10                  HONORABLE JEAN SCHNEIDER: Thank you for the  
11 question. NYSCEF obviously is a statewide system that was  
12 not designed for litigants without lawyers. I know lawyers  
13 using it for the first time who have struggled mightily to  
14 learn it.

15                  I think that if it's possible, I would love to  
16 see us work on making NYSCEF more user friendly, making  
17 more of its materials accessible in plain language.

18                  And there are some other challenges. We have,  
19 for example, a large number of fillable forms that are  
20 available on our website, provided through Justice  
21 Mendelson's operation. Those forms should be able to be  
22 filled out electronically and filed on NYSCEF. Right now,  
23 they cannot be. Right now, a litigant would have to fill  
24 out the forms, print them out, sign them in front of a  
25 notary, then scan them and upload them onto NYSCEF if they



1 could figure out how to use the NYSCEF system.

2 So we have some challenges there in terms of  
3 creating a more seamless environment through which  
4 litigants can use that system.

5 CHIEF JUDGE DIFIORE: Thank you, Judge Schneider.  
6 Thank you very much for your time today.

7 So our next speaker is Judge Kathie Davidson,  
8 Justice Kathie Davidson. She is currently serving as the  
9 Dean of the New York State Judicial Institute, our  
10 statewide center for judicial education and training.

11 Prior to Judge Davidson's appointment to the  
12 deanship, she served as the administrative judge for the  
13 Ninth Judicial District. And under her leadership, the  
14 Ninth JD implemented many, many innovative reforms to  
15 improve the administration of justice and to expand access  
16 to justice.

17 Justice Davidson, thank you for being here today.  
18 We look forward to hearing your presentation.

19 HONORABLE KATHIE DAVIDSON: Thank you. Good  
20 afternoon, Chief Judge Janet DiFiore, Chief Administrative  
21 Judge Lawrence Marks, the Presiding Justices Rolando  
22 Acosta, Hector LaSalle, Elizabeth Garry, Gerald J. Whalen,  
23 and the New York State Bar President, T. Andrew Brown.

24 Thank you for this opportunity to address the  
25 urgent need to provide civil legal services for low-income



1 New Yorkers and other disenfranchised communities. The  
2 lack of civil legal services is a crisis that has been  
3 highlighted and emphasized by the pandemic.

4 Over the last year and a half, leaders worldwide,  
5 such as yourselves, have participated in a campaign to  
6 address, protect, and find safe medical procedures, viable  
7 medical breakthroughs, miracles to fight COVID-19. In  
8 light of this global effort, I will frame my remarks from  
9 the viewpoint of what role does a court system have in  
10 building community.

11 First, what is community building? Community  
12 building is defined as practices directed toward the  
13 creation or enhancement of community among individuals  
14 within a regional area or within a common need or interest.  
15 Our common need and interest today is this hearing, to  
16 evaluate the continuing unmet civil and legal needs of low-  
17 income New Yorkers.

18 The response is that we serve all communities in  
19 our courthouses every day. However, considering the local,  
20 national, and international changes in our world, we must  
21 play an even more significant role through innovative  
22 programs and outside-of-the-box thinking.

23 Community network building will identify and  
24 address the needs of the communities we are highlighting  
25 here today and work towards solutions enhancing the image



1 and perception of the judiciary within our communities.

2 The Faith Based Court Access program (FCA). The  
3 concept of the Faith Based Court Access program was born  
4 many years ago when our Chief Judge, Janet DiFiore, was the  
5 District Attorney of Westchester County. As the DA, she  
6 worked with religious leaders to partner with other  
7 governmental agencies and hosted community events in our  
8 churches across the county. Building upon that idea, the  
9 FCA was designed to ensure that all communities,  
10 particularly the disadvantaged, could access the courts  
11 even if they lacked the technology to do so.

12 At the height of the pandemic, we recognized that  
13 many litigants sought to access the court virtually, but  
14 due to the digital divide, they lacked the technology.  
15 Thus, we started this virtual project with the County  
16 Executive of Westchester County, George Latimer, and five  
17 houses of worship, promoting virtual equal access to courts  
18 for our communities.

19 The mission of the FCA is to provide  
20 disadvantaged persons with remote access to the courts and  
21 to service providers while promoting equal access. The  
22 houses of worship offer safe haven space with electronic  
23 resources to log into court proceedings. Each location is  
24 equipped with a desk, office supplies, as well as a laptop  
25 and printer/scanner donated by the Grace Baptist Church





1 Foundation under the leadership of the Rev. Dr. Franklyn  
2 Richardson. All essential PPE has been provided and safety  
3 measures are observed. Onsite assistance is provided by  
4 trained FCA liaisons.

5 The FCA also provides referrals for legal  
6 assistance in all areas of the law, including landlord-  
7 tenant, family law, Surrogate's, foreclosure, and  
8 immigration matters. The program has expanded to Dutchess  
9 County and Orange County in the Ninth Judicial District,  
10 and we have also assisted with opening of similar pilots in  
11 other judicial districts. Our model has been growing and  
12 being replicated throughout the state.

13 Two: The Virtual Court Navigators program. In  
14 2019, the Ninth JD Access to Justice Family Court  
15 Subcommittee partnered with the Office of Justice  
16 Initiatives to bring the Court Navigators program to the  
17 Westchester County courthouses. In-person navigators were  
18 placed in both Yonkers and White Plains locations to assist  
19 the public on how to access the court and obtain legal  
20 documents. Then the pandemic struck.

21 To continue the use of navigators during the  
22 pandemic, we established a Virtual Court Navigator pilot  
23 project. Designated court staff trained college students  
24 to prepare for their role as navigators. The Ninth JD team  
25 supervised ten virtual navigators who received college



1 credits for their participation. Two court navigators were  
2 assigned to act as a liaison for the FCA program and the  
3 District's Help Center, which opened in the White Plains  
4 courthouse during the pandemic, in May 2021.

5 The program participants, many of whom were new  
6 to the judicial process, felt comfortable having a live  
7 person able to provide answers to their questions, even  
8 virtually. They all participated and appreciated the  
9 attention given to them by the navigators. This program is  
10 another example of community building by involving our  
11 students at local colleges, including the young people in  
12 creating intergenerational connection for young minds on  
13 the importance of access to justice for all New Yorkers,  
14 regardless of their positions in life.

15 Three: The Guardian ad Litem program. The GAL  
16 program is designed to provide access for those persons who  
17 are unable to come to court or to represent their own  
18 interests. The GAL program serves litigants who have, one,  
19 not been declared judicially incompetent; two, are unable  
20 to represent themselves in court; three, have physical  
21 ailments that keep them from coming to court; or four, have  
22 some form of mental illness which causes them to  
23 participate only sporadically. In those cases, a judge may  
24 appoint a GAL to act in that person's stead and to report  
25 their findings to the judge on all aspects of the case.



1           It should be noted that the role of the GAL is  
2 very different from that of an attorney. A significant  
3 difference is that the GAL can help litigants access social  
4 services, can identify programs for litigants appearing  
5 before the court.

6           The law that governs the GAL program charges  
7 local social services departments, such as Adult Protective  
8 Services (APS), to provide those services, regardless of  
9 income, to impaired adults who may be abused, neglected, or  
10 exploited and, in fact, are living in our communities.

11           The Westchester APS program is funded by the  
12 county and is another vehicle to provide protective  
13 services to our vulnerable population. This program gives  
14 APS a head start on cases before they accelerate out of  
15 control, thus avoiding crisis intervention.

16           The GAL program is currently being rolled out  
17 with the training offered to judges, attorneys, lay GAL  
18 volunteers, and family members. The program will be  
19 ongoing and is expected to be especially helpful in an area  
20 of landlord-tenant law.

21           Special thanks to Fern Fisher, the New York City  
22 Bar Association, Access to Justice Initiative, Judge  
23 Walker, and his team -- Judge Kettner, Diane Atkins, and  
24 Deputy County Executive Ken Jenkins.

25           In closing, when I think of building of



1 community, I think of that childhood book *Charlotte's Web*,  
2 which demonstrates change is something that we all expect  
3 and anticipate. But however, as we span our legal web,  
4 these challenging times that have brought hardship to our  
5 communities, the pandemic has inspired us to go beyond  
6 limits of our normal thinking. Spinning of a web as a  
7 metaphor of community building is what these programs have  
8 accomplished. Despite difficult times, we have found ways  
9 to support the most vulnerable amongst us with new and  
10 inventive ideas and resources for our courts.

11 Thank you. And a special thank you to Helaine  
12 Barnett.

13 CHIEF JUSTICE DIFIORE: Thank you, Dean.

14 So Dean, I know that you and I do agree that  
15 faith leaders in our communities are akin to first  
16 responders. And members of congregations turn to their  
17 faith leaders and use them as a source of referral and  
18 reference, and that's been great. My question to you is  
19 regarding the Court Navigators program. Have you expressed  
20 yourself any concern or has there been any concern  
21 expressed in your community, in the Ninth, regarding the  
22 use of nonlawyers as a way to expand our access to justice?

23 HONORABLE KATHIE DAVIDSON: Not at all. And they  
24 don't provide the legal advice. They really are sort of  
25 more of assistants. I think one time, when we had domestic



1 violence victims come into court, there used to be someone  
2 who used to sit next to them, when we had funding for that.  
3 And so I think no one has expressed that. And actually, I  
4 have ten Court Navigators coming to meet me tomorrow and we  
5 talk about it. So they are very clear in their role, and  
6 we have not had any concern whatsoever in that area.

7 CHIEF JUSTICE DIFIORE: Thank you.

8 Any questions for Judge Davidson?

9 Thank you, Dean, for appearing here today.

10 HONORABLE KATHIE DAVIDSON: Thank you, my  
11 pleasure.

12 CHIEF JUSTICE DIFIORE: Our next presenter in  
13 person is Judge Anne-Marie Jolly, our Deputy Administrative  
14 Judge for the New York City Family Court. Judge Jolly has  
15 devoted her entire professional career to serving the  
16 justice needs of New York's families and children.

17 Welcome, Judge Jolly, and thank you for taking  
18 the time from what I know firsthand is a very busy schedule  
19 to appear here today. Thank you.

20 HONORABLE ANNE-MARIE JOLLY: You're welcome;  
21 thank you.

22 Good afternoon, everyone. Thank you so much for  
23 the opportunity to discuss the current state and scope of  
24 the unmet needs for legal services by low-income New  
25 Yorkers, confronting legal issues in the New York City



1 Family Court. I particularly would like to acknowledge the  
2 panel, Chief Judge DiFiore, our Chief Administrative Judge  
3 Lawrence Marks, the Presiding Justices of the Appellate  
4 Division, Justice Garry, Justice Acosta, Justice LaSalle,  
5 and Justice Whalen, as well as the President of the New  
6 York State Bar Association Mr. Brown. Thank you so much  
7 for your time and attention to this critical issue.

8 In his 2017 article published by the American Bar  
9 Association entitled "Access to Justice: Mitigating the  
10 Justice Gap", Leonard Wills wrote: "Access to justice  
11 remains one of the fundamental principles of the rule of  
12 law. Access to justice consists of the 'ability of  
13 individuals to seek and obtain a remedy through formal or  
14 informal institutions of justice for grievances.'" And  
15 "[w]ithout legal assistance, litigants can struggle to  
16 navigate through the complexity of court procedures. An  
17 individual's failure to understand court proceedings and  
18 the substantive law-related issues of their case can lead  
19 to various things, including to the loss of their home,  
20 children, job, income, and liberty."

21 "Legal representation", as we all know,  
22 "continues to remain expensive for most. This lack of  
23 affordability limits an individual's access to justice and  
24 contributes to what some refer to as the justice gap."

25 In my capacity as both the Deputy Administrative



1 Judge of the New York City Family Court and as the chair of  
2 the New York State Advisory Committee on Attorneys for  
3 Children, I am a witness to that justice gap, particularly  
4 in child support and custody and visitation proceedings.  
5 The focus of my testimony will be to give you a sense of  
6 how the lack of available civil legal services most impacts  
7 particular court users and to support funding for the  
8 establishment and enhancement of meaningful civil legal  
9 services in order to close these gaps.

10 While New York State does permit the Family Court  
11 to assign free attorneys to parties who cannot afford  
12 counsel in certain types of cases, the practical  
13 application of this entitlement still leaves many parties  
14 without counsel. This is most often due to the limitations  
15 on the types of cases that are statutorily recognized as  
16 counsel eligible, as well as a dearth of attorneys in  
17 Family Court who are available to accept court assignments.

18 Family Court Act section 262 is entitled  
19 "Assignment of Counsel for Indigent Persons". It  
20 identifies the specific types of cases where a party has  
21 the right to have counsel assigned to them when she or he  
22 is financially unable to obtain the same. And section 261  
23 of the Family Court Act describes the legislative findings  
24 and the purpose behind the assignment of counsel provision  
25 in section 262. And it specifically states, in part:



1 "Persons involved in certain family court proceedings may  
2 face the infringements of fundamental interests and rights,  
3 . . . and therefore have a constitutional right to counsel  
4 in such proceedings." Additionally, "[c]ounsel is often  
5 indispensable to a practical realization of due process of  
6 law and may be helpful to the court in making reasoned  
7 determinations of fact and proper orders of disposition."

8 Despite that legislative recognition of the value  
9 of counsel in support and paternity proceedings, it only  
10 specifies the right to have counsel assigned by the court  
11 to respondents in paternity proceedings and to respondents  
12 who are appearing in a hearing where a willful violation of  
13 a support order is alleged. These two scenarios make up  
14 only a small, small percentage of the support and paternity  
15 matters that are heard in our court. The majority of the  
16 support matters that are heard in the Family Court relate  
17 to the establishment or modification of an order of  
18 support. Accordingly, most of the parties in the support  
19 and paternity matters are not entitled to the assignment of  
20 counsel. And in fact, 2019 data from the Office of Court  
21 Administration indicates that over 90 percent of the  
22 parties appeared unrepresented in both case types.

23 In our Family Court, the lack of entitlement to  
24 assigned counsel in child support cases is particular  
25 egregious since over my 30 years of working in the court, I





1 have observed the majority of families involved with child  
2 support matters to be generally low-income or poor, and  
3 they are persons of color. This observation is consistent  
4 with the findings of the Jeh Johnson Report from the  
5 Special Advisor on Equal Justice in the New York State  
6 Courts, which concluded that the majority of litigants  
7 appearing in Family Court are Black and Latinx.

8 When you consider these facts, the reality is  
9 that a significant number of impoverished persons of color  
10 are appearing in child support proceedings every day  
11 without the benefit of counsel. In 2019 alone, close to  
12 74,000 support-related petitions were filed in the New York  
13 City Family Court. The lack of entitlement to counsel  
14 assigned, I'm sorry, the lack of entitlement to court-  
15 assigned counsel for a majority of these parties has  
16 negative impacts on both the parties and court  
17 administration and could be ameliorated with available  
18 qualified legal representation.

19 Studies on the effect of high-quality legal  
20 representation in Family Court reveals that the early  
21 appointment of qualified counsel in child welfare  
22 proceedings results in improved outcomes and more positive  
23 perception of court experiences. So extrapolating this to  
24 support and paternity matters only makes sense. It is easy  
25 to envision that the early assignment of counsel would have



1 the potential to increase an otherwise reluctant,  
2 uncomfortable, and insecure party to continue their  
3 participation in a meaningful way in their support matters.

4 In fact, a 2021 policy report from Her Justice  
5 reflects some of what we in the Family Court already  
6 anecdotally know. They found that when petitioners are  
7 represented by counsel, there was a reduction in both  
8 dismissals and adjournments due to the lack of service.  
9 They also found that there was a reduction in the number of  
10 adjournments due to lack of financial documentation, likely  
11 due to the fact that counsel was able to ensure their  
12 clients provide the court with the necessary documents.

13 The production of these documents can be  
14 complicated; they can be overwhelming for many  
15 unrepresented court users. The reduction in the number of  
16 adjournments can be critical for both custodial and  
17 noncustodial parties who are living in poverty or living  
18 with limited means, as it minimizes time away from their  
19 jobs, helping to avoid the erosion of their already limited  
20 financial resources.

21 Another potential benefit from having counsel  
22 available to both parties is reduced potential for default  
23 orders and the greater likelihood of more financially  
24 realistic support orders for the prospective of both  
25 parties. The effect of this would be a reduced need for



1 subsequent modification and violation petitions, and  
2 accordingly, families would be spending less time in court  
3 litigating petition after petition and would therefore be  
4 spending less time away from their jobs and less money on  
5 childcare and transportation expenses to attend court  
6 appearances.

7 The impact of this on the court is that jurists  
8 would have more reasonable calendars and could focus more  
9 attention and time on those matters that require more trial  
10 time. It is for these reasons that I strongly support  
11 measures to increase the availability of counsel in child  
12 support and paternity matters.

13 Having counsel on custody matters likewise  
14 results in benefits for parties as well as court  
15 administration. Fortunately, Family Court Act section 262  
16 does provide court-assigned counsel for both petitioners  
17 and respondents in these matters if they are deemed  
18 financially eligible. However, even when the court does  
19 determine that they are financially eligible, it's often  
20 difficult to find an attorney to assign.

21 Over the course of the last several years, the  
22 New York City Family Court has seen a significant decrease  
23 in the number of attorneys on the First and Second  
24 Departments' Assigned Counsel Panels. As of August 2021,  
25 there was a total of only 300 attorneys available to accept



1 court assignments on custody and visitation cases citywide,  
2 and this is just far too few attorneys for the thousands of  
3 cases which require the assignment of counsel. This, in  
4 fact, is a statewide concern, since the Third and Fourth  
5 Departments have also experienced a significant decrease in  
6 attorneys on their Assigned Counsel Panels.

7 The lack of qualified, available attorneys has a  
8 compounding, negative impact on the experience of litigants  
9 who are entitled to assigned counsel. The unavailability  
10 of attorneys to assign to the cases results in needless  
11 delays of cases and additional court appearance. Once  
12 assigned, the attorneys are often overbooked and they're  
13 not often able to appear on all their cases, which again  
14 cause delay. The lack of available time to meet with  
15 clients results in people feeling as if their  
16 representation is not adequate. This sentiment was also a  
17 finding in the Jeh Johnson report.

18 As with support petitions, having available,  
19 high-quality legal representation in custody and visitation  
20 cases would result in more meaningful final orders, greater  
21 litigant satisfaction, less potential for future court  
22 appearances on modification and/or visitation matters, and  
23 a reduction in court calendars. It is for these reasons  
24 that I strongly endorse the addition of more well-trained  
25 attorneys available to accept court assignment on support,



1 paternity, custody, and visitation matters, including civil  
2 legal service providers who are authorized to accept such  
3 cases.

4 For far too long there has been a perception and  
5 a feeling by many, the majority of whom are Black and  
6 people of color, that race and ethnicity inform litigants'  
7 experience of the Family Court. The report commissioned by  
8 our Chief Judge found that Family Courts are historically  
9 and currently under resourced, despite them being high  
10 volume courts and they perpetuate a dehumanizing  
11 experience, which we challenge every single day. This has  
12 had a disparate impact on Black and Latinx litigants, which  
13 has created a second-class system of justice for people of  
14 color in New York State.

15 This perception, this reality, this justice gap  
16 can be changed with the availability and expansion of civil  
17 legal services whose role it is to provide quality legal  
18 representation for the thousands of individuals who come to  
19 our Family Court. Thank you.

20 CHIEF JUSTICE DIFIORE: Thank you, Judge Jolly.

21 HONORABLE ANNE-MARIE JOLLY: You're welcome.

22 CHIEF JUSTICE DIFIORE: Judge Jolly, if I were  
23 asked to venture an educated guess as to what a majority of  
24 this court would think about your argument to expand the  
25 right to counsel, I think you would have us. That said, if



1 you were testifying before a legislative body that might  
2 hold the purse strings for us, what points would you make  
3 to convince them of the value of expanding the right, as  
4 you describe, particularly in the upfront side of the  
5 support cases?

6 HONORABLE ANNE-MARIE JOLLY: I would stress the  
7 value of having lawyers explaining the process to  
8 individuals so that they would understand what their legal  
9 obligations are. There are many who avoid Family Court  
10 because they're afraid. They lack the knowledge. They  
11 don't realize that they can present whatever proof they  
12 actually do have, rather than avoid it and present to the  
13 court this is all I can afford at this particular time, and  
14 that would move the cases along.

15 It's very frustrating for a petitioner who is  
16 dealing with a respondent who hasn't met his or her legal  
17 obligation and he or she who is facing possible  
18 incarceration has a right to counsel, but the petitioner,  
19 he or she, does not have that right and is fully confused  
20 sometimes and not understanding the process. And even  
21 though our support magistrates make their best effort to  
22 explain the law without giving legal advice, it is a  
23 challenge and a struggle. And they look at the clock and  
24 they're trying to move things along.

25 So there would be certain benefits, in that



1 people would become more accountable because they're more  
2 fully knowledgeable about their rights. And there would be  
3 probably fewer people escaping and avoiding their  
4 obligations. And then we would spend less time on the  
5 hearings that involve their possible incarceration for  
6 their failure to comply.

7 CHIEF JUSTICE DIFIORE: Thank you. That was very  
8 thoughtful and a responsible response. Thank you.

9 Anyone? Judge Garry.

10 PRESIDING JUSTICE GARRY: Just briefly. This is  
11 a statement more than a question, but Judge Jolly, I wanted  
12 to thank you, although your duties are primarily New York  
13 City based, of course, for your knowledge and understanding  
14 in the statement about the precarious situation in the  
15 Third and Fourth Departments because that is a matter of  
16 great concern to me. And the State Bar, as you know, had  
17 just put out the study of the rural representation issues.  
18 And particularly in these busy courts are of profound  
19 concern.

20 HONORABLE ANNE-MARIE JOLLY: You're most welcome.

21 PRESIDING JUSTICE GARRY: And thank you.

22 HONORABLE ANNE-MARIE JOLLY: You are most  
23 welcome.

24 THE COURT: Any other questions? Judge Marks.

25 CHIEF ADMINISTRATIVE JUDGE MARKS: Just a quick



1 question. Judge Jolly, does the money that we have in the  
2 judiciary budget, a hundred million dollars, fifteen of  
3 which gets passed on to IOLA, but the remainder is paid out  
4 in grants to some eighty legal services providers, does  
5 that money help in any significant way address the dearth  
6 of counsel that you've described in so many cases in Family  
7 Court?

8 HONORABLE ANNE-MARIE JOLLY: Not those who  
9 represent the parents. There are pockets of money that go  
10 to those who represent the children in the custody and  
11 visitation matters and in some of the support matters, but  
12 not specific representation to the parents.

13 CHIEF ADMINISTRATIVE JUDGE MARKS: Is there some  
14 reason for that or is that an oversight?

15 HONORABLE ANNE-MARIE JOLLY: I don't know. I  
16 wish I knew. I could do some research.

17 CHIEF ADMINISTRATIVE JUDGE MARKS: We'll look  
18 into that.

19 HONORABLE ANNE-MARIE JOLLY: I don't know what  
20 the reason is for that.

21 CHIEF ADMINISTRATIVE JUDGE MARKS: Okay.

22 CHIEF JUSTICE DIFIORE: Thank you, Judge Jolly.

23 HONORABLE ANNE-MARIE JOLLY: You're most welcome.

24 CHIEF JUSTICE DIFIORE: Our next speaker is  
25 Sheila Boston, a most accomplished litigator and, of





1 course, the sixty-ninth president of the New York City Bar  
2 Association. Under Sheila Boston's leadership, the City  
3 Bar has been out front, absolutely out front, on the legal  
4 profession's efforts to meet the pandemic-related legal  
5 needs of low-income individuals and families.

6 And we thank you, Ms. Boston, for your leadership  
7 and for your member service. You have the floor.

8 MS. BOSTON: Chief Judge DiFiore, Judge Marks,  
9 Presiding Justices, and State Bar President Brown, thank  
10 you so much for inviting me to speak today.

11 I have submitted written remarks, which I will  
12 summarize in three parts. First, the City Bar Justice  
13 Center's pro bono legal services work and its focus on  
14 racial justice; second, housing as a racial justice issue;  
15 and third, the digital divide and importance of bringing  
16 WIFI to homeless shelters in New York.

17 So first, how pro bono legal services advance  
18 racial justice. Thanks, in part, to support from judiciary  
19 civil legal services funding, the City Bar Justice Center  
20 provides free, high quality civil legal services that each  
21 year benefit over 24,000 New Yorkers struggling with  
22 poverty and other forms of socio-economic vulnerability.  
23 The Justice Center mobilizes law firms, corporate legal  
24 departments, and other legal institutions to provide pro  
25 bono legal services, educate the public on pertinent legal



1 issues, and impact public policy.

2 Nonprofit legal services providers have a  
3 critical role to play in advancing racial justice. As a  
4 statistical matter, anywhere from a modest majority to  
5 upwards of three quarters or more of the clients served by  
6 the Justice Center are New Yorkers of color. And we  
7 believe the types of needs met by the Justice Center and  
8 many other legal services providers reflect endemic  
9 race-based exclusion from our society's socio-economic  
10 benefits including, unfortunately, in our legal system.  
11 The data supports this belief and is cited in my written  
12 submission.

13 And of course, the pandemic has only worsened  
14 things. There is now a greater need for civil legal  
15 assistance addressing unemployment and public benefits,  
16 small business dislocation, housing issues, veteran's  
17 assistance, and consumer credit problems. So how are we  
18 responding?

19 Well, the Justice Center serves as many New  
20 Yorkers as it can by leveraging the talent and resources of  
21 the private bar. In this past year, we recruited, trained,  
22 and deployed roughly 2,000 attorney volunteers to provide  
23 legal assistance to Justice Center clients.

24 Second, there's the importance of addressing  
25 underlying wounds. The Justice Center leverages policy and



1 advocacy resources of the City Bar to address systemic  
2 issues. From reforming New York's Heirs Property Law to  
3 counteracting race-based exclusion from home ownership  
4 benefits, to bridging the digital divide. Nonprofit legal  
5 services providers, like the Justice Center, also have a  
6 role to play in the mindset change that makes legal  
7 services more culturally sensitive and it makes advocacy  
8 for more thoughtfully informed by grassroots work.

9 For example, the Justice Center has instituted a  
10 standing Diversity, Equity, and Inclusion Committee which  
11 has a mandate to advance the organization's commitment to  
12 DEI principles. And as a quick example, the Center  
13 provides DEI and racial justice-focused pro bono attorney  
14 trainings.

15 Let me hasten on to our work in housing, which is  
16 so vitally important. Because we're talking about one's  
17 home, where we gather with family and friends. It  
18 determines the schools our kids attend and where we  
19 actually lay our heads at night. How we come to live where  
20 we live. How some people, especially people of color,  
21 people of less economic means, and people with criminal  
22 records face barriers to housing.

23 And then there's the mental health impacts of  
24 being forcibly evicted from one's home. On the other hand,  
25 the mental health benefits of stable housing. The economic



1 fallout of COVID-19 and the impending eviction crisis. And  
2 consider the positive access to justice and rule of law  
3 implications when the eviction playing field is leveled by  
4 making sure respondents have legal assistance even if they  
5 can't afford it.

6 In this context, I must also acknowledge the  
7 impact of Secretary Jeh Johnson's equal justice report. I  
8 thank the Chief Judge for that appointment of him and for  
9 accepting the recommendations.

10 The City Bar has established a Working Group on  
11 Racial Equity in State Courts and they're very engaged.  
12 But we need to work together to effectuate change for which  
13 the equal justice report calls. For it warns us, "The sad  
14 picture that emerges is, in effect, a second-class system  
15 of justice for people of color in New York State". And  
16 this is particularly so, unfortunately, with respect to New  
17 York City housing.

18 Legal representation of tenants in Housing Court  
19 that meets the highest standards of our profession is a  
20 powerful response to evictions, racial discrimination, and  
21 the challenges identified in Secretary Johnson's report.  
22 And the City Bar stands 100 percent in support of New York  
23 City's right to counsel law. Why? Because we know it's  
24 working.

25 According to annual reports of New York City's



1 Office of Civil Justice, tenant representation is going up,  
 2 evictions are going down, default judgments against tenants  
 3 have dropped, and tenants with counsel are far more  
 4 successful in being able to retain their homes. So it's a  
 5 gamechanger and it is leveling the playing field in court,  
 6 giving people a fighting chance to assert their legal  
 7 rights and sending a message that all lives and homes of  
 8 all New York City households are entitled to be treated  
 9 with dignity and respect.

10 Let me now pivot from tenants to homeowners and  
 11 highlight how the Justice Center's homeowner stability work  
 12 supports generational homeownership by New Yorkers of  
 13 color. Our homeowner stability project engages in direct  
 14 representation, public education, and law reform work to  
 15 advocate for individuals and families of limited economic  
 16 means who possess heirship interest in intergenerationally  
 17 owned homes. The vast majority of New Yorkers served by  
 18 this advocacy belong to communities historically denied  
 19 equal access to home ownership benefits due to structural  
 20 racism in housing and living policies.

21 Without services like the Homeowner Stability  
 22 Project, many such members of our community face the loss  
 23 of longtime family homes and substantial home equity.  
 24 Following mortgage and tax lien foreclosure or especially  
 25 predatory partition actions brought by third-party



1 investors who purchase heirs' partial interest in the homes  
2 and then sue to force a sale, displacing the heir  
3 occupants.

4 Awareness of these issues led the Justice Center  
5 and the City Bar to take a leading role in the law reform  
6 movement culminating in New York's passage of the Uniform  
7 Partition of Heirs Property Act. With the expanded state  
8 legal protections of heir property owners, we have  
9 successfully secured wins in partition actions staffed by  
10 pro bono attorneys. This work shows the importance of pro  
11 bono supported civil legal services models that engage  
12 broader systemic issues.

13 Finally, I would like to touch on the City Bar's  
14 work in support of efforts to close the digital divide,  
15 particularly as it effects people who are experiencing  
16 homelessness. New York has long been a leader in ensuring  
17 that its individuals experiencing homelessness have access  
18 to shelter. Yet, thousands of residents in temporary  
19 housing lack basic internet access. The consequences of  
20 the stark digital divide in the lives of New Yorkers  
21 experiencing homelessness are devastating. These  
22 individuals and families are unable to search and apply for  
23 permanent housing and jobs, participate in remote  
24 schooling, apply for government benefits, stay connected to  
25 friends and family, or even obtain necessary medical care.



1           The statistics are staggering. Here's one that  
2 just blows my mind and I want to focus on. Nearly one in  
3 ten children enrolled in New York City district or charter  
4 schools were identified as homeless in the 2019-20 school  
5 year. That's over 110,000 children.

6           The COVID-19 pandemic has significantly  
7 exacerbated the barriers resulting from the digital divide,  
8 raising the stakes to literally life or death, particularly  
9 for Black and Hispanic New Yorkers who are  
10 disproportionately represented among those experiencing  
11 homelessness. The Justice Center has documented the  
12 problem of lack of reliable internet access in homeless  
13 shelters in extensive reporting and the City Bar will  
14 continue to advocate for internet access and provide pro  
15 bono representation to individuals and families  
16 experiencing homelessness.

17           We believe the state needs to require and fund  
18 all local social service districts to provide internet  
19 access for all individuals residing in temporary housing.  
20 I thank you for listening. I thank you for your support of  
21 civil legal services.

22           CHIEF JUSTICE DIFIORE: Thank you, Ms. Boston.

23           So, you describe, and for those of us, and we are  
24 all familiar with the Center's work and enviable breadth of  
25 programming that's going on there. But if we asked you,



1 and I am asking you, are there any particular programs  
2 there that you think are particularly promising or should  
3 even be thought about bringing to scale?

4 MS. BOSTON: You're talking about the Center's,  
5 the actual Justice Center's programming? Oh, my goodness,  
6 are you really going to make me pick one or two?

7 CHIEF JUSTICE DIFIORE: All of them?

8 MS. BOSTON: And so first and foremost, let me  
9 just say right to counsel. Right to counsel. That really  
10 is what we emphasize the most. Both at the Center and the  
11 City Bar itself.

12 If there were one program, I'm especially  
13 enamored with what we've been doing in housing, with ERAP  
14 and trying to help those. It's just, and I have to admit,  
15 I'm passionate about it, as I think you can probably hear  
16 and see, but the housing.

17 And, but don't get me wrong, veterans assistance  
18 and all of the other projects we have, we have twelve  
19 projects in particular at the Center, all of them are very  
20 important. But housing, to me, is, like, the crucial issue  
21 that's facing us right now.

22 CHIEF JUSTICE DIFIORE: And one more question  
23 before I turn it over to my colleagues. On the issue of  
24 heirship interest, how do we educate folks on that topic?  
25 I mean, is it through the Bar Association? Do we first





1 start with lawyers? Because my fear is that it's not at  
2 the forefront of people's minds and not - - -

3 MS. BOSTON: I agree.

4 CHIEF JUSTICE DIFIORE: - - - how foundationally  
5 important that is, yeah?

6 MS. BOSTON: I agree. So yes, I think bar  
7 associations certainly should play a role in this. But I  
8 know earlier you were talking about even worship centers or  
9 religious, the religious community. I think that's also a  
10 very good method and way of helping the community,  
11 particularly when we're talking of Black, about Black and  
12 Latinos. We could have lawyers and others come to churches  
13 and educate everyone about what they need to do.

14 CHIEF JUSTICE DIFIORE: Thank you.

15 Any questions for Sheila? Ms. Boston? Excuse me.

16 MS. BOSTON: It's okay. Thank you.

17 CHIEF JUSTICE DIFIORE: Thank you very much,  
18 Madam President. We appreciate you taking the time in  
19 being here today.

20 MS. BOSTON: Thank you.

21 CHIEF JUSTICE DIFIORE: Okay. Our next presenter  
22 is Christopher O'Malley. He is, of course, the Executive  
23 Director of the IOLA Fund, established by the Legislature  
24 in 1983, and which plays a central role in supporting the  
25 efforts of Civil Legal Service providers.



1                   We're grateful to you, Mr. O'Malley, for your  
2 leadership of IOLA and for taking the time to join us  
3 today. Thank you.

4                   MR. O'MALLEY: Thank you very much.

5                   Chief Justice DiFiore, members of the panel, my  
6 name is Chris O'Malley. I'm the Executive Director of the  
7 IOLA Fund and a member of the Permanent Commission on  
8 Access to Justice.

9                   A few years ago, I was given the opportunity to  
10 present to this panel about the importance of  
11 infrastructure spending for nonprofits and the debilitating  
12 effect that chronic underfunding can have for providers.  
13 However, in ways no one ever could have imagined or wished  
14 for, the events of the past few years have made  
15 infrastructure spending even more crucial for the success  
16 of nonprofits.

17                  Today, I would like to look at how organizations  
18 provided services during the pandemic and how much those  
19 infrastructure outlays cost, as well as provide an update  
20 on some of the projects I highlighted in 2019, to  
21 demonstrate the impact that infrastructure spending can  
22 have not only on the essentials of life, but also help  
23 address the broader systemic issues around racial justice.  
24 Finally, I would like to suggest how funders can better  
25 support infrastructure.



1                   During the height of the pandemic, it's no  
 2                   exaggeration to say that without infrastructure spending,  
 3                   the provision of legal services in New York State would  
 4                   have ground to a halt. Providers' innovative use of such  
 5                   platforms as Zoom, Microsoft Teams, document assembly  
 6                   programs, phone upgrades, and case management systems  
 7                   allowed them to work outside the office and serve their  
 8                   clients, whether it was a Zoom presentation on how to apply  
 9                   for benefits, a know your rights webinar, or a remote  
 10                   intake.

11                   There were also collaborative efforts during the  
 12                   pandemic, led by the Permanent Commission's tech working  
 13                   group and working with IOLA and NYSTech. Thirteen free  
 14                   weekly webinars were held, with hundreds of attendees, on  
 15                   topics ranging from how to set up a legal program to work  
 16                   remotely to virtual court hearings and electronic delivery  
 17                   systems. These efforts, in turn, were enhanced by the  
 18                   Office of Court Administration's own efforts to improve and  
 19                   advance e-filing, its installation of technology kiosks in  
 20                   many courthouses, and its own innovative use of video  
 21                   appearances.

22                   But all this great work required money. For  
 23                   licenses, laptops, scanners, printers, voice-over internet  
 24                   protocol systems, virtual private networks, and of course,  
 25                   technological support staff to ensure it was all working.



1           To give an idea of how much organizations spent  
2 during the pandemic on necessary infrastructures outlays, I  
3 surveyed two providers: Legal Aid Society of Northeastern  
4 New York and Legal Services of the Hudson Valley. Both  
5 spent over \$300,000 during the pandemic on infrastructure  
6 expenses. And many of these, especially for staff and  
7 upgrades, will be ongoing.

8           These numbers from just two of IOLA's seventy-  
9 three grantees indicate that overall spending on  
10 infrastructure during the pandemic was well into the  
11 millions.

12           But as we begin to move away from the crisis of  
13 the pandemic, we know that infrastructure spending is much  
14 more than just purchasing technology. So I wanted to  
15 update two initiatives to look at the progress made and  
16 develop some of the ways infrastructure funding can be used  
17 going forward.

18           The Housing Data Coalition is an exciting  
19 collaborative project that was created in response to the  
20 increased representation of low-income tenants due to the  
21 City's Universal Access program. One of the vexing  
22 problems facing attorneys in Housing Court is the vast  
23 amount of publicly available building data which is very  
24 difficult to access. Advocates had to first find and then  
25 click through multiple websites to gather information, and



1           there was no method for collecting or aggregating data to  
2           run reports and identify trends. Working with Mobilization  
3           for Justice and Lenox Hill Neighborhood House, and funded  
4           by a modest grant from IOLA, Housing Data Coalition created  
5           a number of apps, including Who Owns What, which allows an  
6           advocate to simply type in an address, and using a database  
7           of over 160,000 properties, discover other properties a  
8           landlord might own or be associated with, enabling  
9           advocates to decide which buildings in a neighborhood to  
10          organize in and see what communities a landlord might be  
11          targeting or if a building is financially overleveraged.

12                        The development of this app demonstrates the need  
13          to think in an expansive way about what constitutes  
14          infrastructure. While it's important to spend money to  
15          upgrade and build out technological infrastructure, it's  
16          also important to think about how to put together and  
17          support people with legal knowledge and people with coding  
18          skills to develop innovative tools for specific legal  
19          problems.

20                        Infrastructure is also much more than just  
21          technological tools or brick and mortar improvements. In  
22          2018, the Permanent Commission made recommendations  
23          regarding infrastructure as part of the Justice for All  
24          strategic planning guidance. It highlighted that for civil  
25          legal aid providers to achieve their goals, they must



1 expand their capacity. And this would require strong  
2 internal operations and infrastructure, including the  
3 recruitment, retention, and development of a diverse legal  
4 aid workforce that will better represent the community it  
5 serves. While this recommendation was important in 2018,  
6 the events of last summer and the focus on addressing  
7 racial inequities has made it even more vital.

8 The New York Legal Services Coalition, consisting  
9 of forty-eight providers, created a program around this  
10 critical infrastructure need. To give some context, data  
11 from IOLA grantees shows that over the last several years,  
12 the number of staff attorneys identifying as people of  
13 color has more than doubled, from 287 to 589. However, the  
14 challenge is how to retain those attorneys and make sure  
15 that they become future leaders.

16 The Coalition, working with the Shriver Center  
17 and partially funded by a grant from IOLA, developed an  
18 innovative program entitled Leadership for Justice to  
19 address that issue.

20 In 2019, sixty public interest leaders from  
21 seventeen legal service organizations became the first  
22 cohort to receive this training, which included an online  
23 program as well as an intensive five-day in-person training  
24 and group follow-up work. When I first presented to you,  
25 it seemed likely to take several years to realize tangible



1 benefits. However, this summer the Permanent Commission  
2 created a survey for participants, and the results were  
3 very impressive. Participants had overwhelmingly positive  
4 feelings about the program, and a full one hundred percent  
5 reported that they still use lessons learned from the  
6 training.

7 Even more remarkably, fifty-six percent of the  
8 respondents had received a promotion since the training,  
9 including positions such as program director, attorney-in-  
10 charge, director of legal advocacy, and supervising  
11 attorney.

12 Of course, it will still take time and a huge  
13 amount of thoughtful effort to develop civil legal  
14 aid leadership that truly represents the communities they  
15 serve. Resources will be needed for training and ongoing  
16 support for diversity and inclusion initiatives, as well as  
17 efforts to create more inclusive boards and efforts to  
18 create competitive salary structures.

19 To succeed, funders will need to commit to  
20 spending over time to develop the diverse leadership  
21 necessary to best serve New York's communities. How, then,  
22 can funders help support a stronger environment for  
23 nonprofits by supporting infrastructure spending? First,  
24 don't think in a narrow way about how to address a problem.  
25 Using the example of housing legal services, the answer is



1 not always just hiring more attorneys. The most effective  
2 funding will include providing infrastructure support,  
3 whether it's additional staff to handle complex government  
4 contracts or upgrading software.

5 Besides these types of direct expenditures, it  
6 would allow space to develop new tools specific to the  
7 services being offered. This might take the form of a  
8 direct grant for infrastructure or it could come in the  
9 form of general operating support grants, which allow  
10 providers to address all the spending necessary to support  
11 an organization.

12 IOLA takes this approach, and it has allowed our  
13 grantees to function in a more sustainable and effective  
14 manner.

15 Lastly, I would urge funders to take a more  
16 comprehensive view of what constitutes infrastructure. On  
17 a national level, there is a movement away from the notion  
18 of infrastructure encompassing just things like highways  
19 and bridges and recognizing that universal pre-k or  
20 childcare support can also be infrastructure spending.  
21 Likewise, in civil legal aid, we must recognize that  
22 funding to develop more inclusive leadership, either  
23 through a training program like The Leadership Institute or  
24 dedicating funds to improve the recruitment and retention  
25 of diverse attorneys is also an infrastructure issue.





1 I hope this update on the importance of  
2 infrastructure and how funders can support the  
3 infrastructure necessary to improve access to justice has  
4 been helpful to the panel. Thank you.

5 CHIEF JUSTICE DIFIORE: I think it has been  
6 helpful. And Mr. O'Malley, you certainly caught my  
7 attention several years ago when you hazed and implored us  
8 to focus on the importance of infrastructure.

9 So you've done it again today. To Justice  
10 Acosta's point earlier in the proceedings, your expansive  
11 view of infrastructure in the context of civil legal  
12 service providers.

13 MR. O'MALLEY: Um-hum.

14 CHIEF JUSTICE DIFIORE: So as my husband used to  
15 say to my children, there are only so many jellybeans in  
16 the jar, right? There are only so many jellybeans in our  
17 jar. If you had to prioritize a place to start with  
18 expanding this definition of infrastructure and focusing us  
19 on funding here, what would it be?

20 MR. O'MALLEY: I would almost argue for a  
21 philosophical shift. I think that people need to get away  
22 from the tyranny of the project and look at the overall  
23 functioning of an organization.

24 You might recall a few years ago, FECS, which was  
25 one of the largest human service providers of New York



1 State, collapsed. And basically, it was for want of a  
2 nail. There was inadequate infrastructure spending on  
3 finance. Government contracts tend to come in sporadically  
4 and late. There wasn't enough focus on how to develop  
5 other sources of funding. All of these things collectively  
6 caused an over 200-million-dollar organization to fail.  
7 And on a much smaller scale, you can see that with  
8 organizations.

9 And I think what's important is to build on the  
10 momentum of the pandemic. I think it really brought home,  
11 you know, thank goodness we did have these options and we  
12 could provide services in a different way, but all of that  
13 costs money. And so again, think of the entire  
14 organization, not just a particular project and how you can  
15 ensure that it's going to be able to address all of the  
16 needs. And to use your jellybean metaphor, you might be  
17 able to stretch those jellybeans with some of the new  
18 technology that we've introduced.

19 CHIEF JUSTICE DIFIORE: Thank you.

20 Justice Acosta.

21 PRESIDING JUSTICE ACOSTA: Just to follow up on  
22 that. So a more expansive definition. Because I've heard  
23 the Executive Director of the Ford Foundation also asking  
24 for a more expansive definition - - -

25 MR. O'MALLEY: Right.



1           PRESIDING JUSTICE ACOSTA: - - - to include human  
2 capital. You suggested universal pre-k. Is that an  
3 expanded definition that's being adopted in the public  
4 sector, where we find a lot of the money being allocated  
5 for some of this and - - -

6           MR. O'MALLEY: I, you know, I think it's a  
7 process. And I think it's definitely gaining traction.  
8 And so whereas I think a few years ago when, you know, I  
9 first looked at infrastructure and mentioned it in a  
10 context of expanding the future leadership; you know, that  
11 might have struck people, the future leadership. But  
12 infrastructure is, you know, buying a computer for today.  
13 But it's not. And there's no way to get from A to B  
14 without supporting the resources, the staff that can help  
15 you get there in a meaningful way.

16           And while it's fantastic that, you know, the  
17 effort I highlighted, fifty-six percent of the participants  
18 have already received a promotion, that's fantastic. But  
19 that work has got to keep on going and going and going and  
20 it takes resources.

21           PRESIDING JUSTICE ACOSTA: Yeah.

22           CHIEF JUSTICE DIFIORE: Thank you. Anyone else?

23           MR. BROWN: Judge, if I may.

24           CHIEF JUSTICE DIFIORE: Mr. Brown.

25           MR. BROWN: Mr. O'Malley, thank you for the good



1 work that you do. I think we all benefit from that. My  
2 question is, and I appreciate the broader definition of the  
3 word "infrastructure" and I think it's appropriate.  
4 My question is, in light of the efforts that were given to  
5 civil legal services in the sense of this broader  
6 definition, are the civil legal services agencies up to  
7 date, if you will, now from the additional spending?  
8 Because obviously, going forward there is a continuing need  
9 for IT and infrastructure - - -

10 MR. O'MALLEY: Right.

11 MR. BROWN: - - - updating and maintenance that I  
12 think we're all going to face.

13 MR. O'MALLEY: Right.

14 MR. BROWN: But if it's not up to date now and if  
15 there's not additional funding to get there, then I would  
16 fear the result of that and especially to the clients that  
17 are served.

18 MR. O'MALLEY: Right. I mean, you know, again,  
19 you have to look at it across the spectrum. IOLA has  
20 seventy-three grantees. I would say across the board our  
21 grantees are in a better technological infrastructure and  
22 just general infrastructure place than they were several  
23 years ago, and I think that's partly because people are  
24 recognizing all of those needs.

25 Some organizations, like all things in life, some



1 organizations are in a better position, but I think there's  
2 just definitely a general trend of people are focusing more  
3 on infrastructure internally. And in many of these  
4 grantees, not defense, but the reality is, if you have a  
5 funder who says ninety percent of funding has to go to,  
6 strictly to hire attorneys, there's not a lot you can do  
7 about that.

8 So partly, the onus lies on funders to be more  
9 aware of this and to give more flexibility or give direct  
10 technology grants or infrastructure grants or however they  
11 particularly want to do it. But that also has to be part  
12 of the conversation. It's not fair to the providers, who  
13 oftentimes are kind of locked into contracts, frankly, and  
14 they have no choice.

15 CHIEF JUSTICE DIFIORE: Thank you.

16 Anyone else?

17 Thank you, Mr. O'Malley.

18 MR. O'MALLEY: Thank you, Judge.

19 CHIEF JUSTICE DIFIORE: Our next speaker is Neil  
20 Steinkamp, who is a managing director of Stout. It is, of  
21 course, a global financial advisory firm. And thankfully,  
22 they serve as pro bono consultant to our Permanent  
23 Commission.

24 Over the years, Mr. Steinkamp and his firm have  
25 provided us with most valuable data and analyses to help us



1 better understand the full dimension and contours of our  
2 access gap. And this year, I believe Mr. Steinkamp will  
3 speak to the survey that was executed addressing the  
4 experiences of litigants in our virtual courts.

5 Mr. Steinkamp, once again, thank you for being  
6 here and of course, thank you for your extraordinary  
7 service to the people of the State of New York. Thank you.

8 MR. STEINKAMP: Chief Judge DiFiore and  
9 distinguished panelists, it is an honor for me to have the  
10 opportunity to provide remarks before you today.

11 My name is Neil Steinkamp. I'm a managing  
12 director at Stout, where I lead the firms Transformative  
13 Change practice and pro bono practice and serve as a  
14 consultant to the New York Permanent Commission on Access  
15 to Justice.

16 I'm here today to speak about the survey of court  
17 users recently prepared by the Permanent Commission on  
18 Access to Justice in collaboration with members of the  
19 judiciary, the New York Legal Services Coalition, and other  
20 stakeholders across the state.

21 As a result of the COVID-19 pandemic and related  
22 disruption to court activities, the New York Unified Court  
23 System implemented virtual proceedings, expanded e-filing  
24 and other uses of technology intended to allow access to  
25 the courts in a remote setting.



1           The Future Access to Courts Working Group of the  
2           Permanent Commission on Access to Justice set out to learn  
3           about the experience of court users in New York related to  
4           these technological and process innovations by conducting a  
5           statewide survey of represented and unrepresented court  
6           users.

7           I am not aware of any other similar court user  
8           survey deployed during the COVID-19 pandemic, making New  
9           York's statewide court user survey an innovative  
10          development in understanding court user's experiences.

11          In early 2021, members of the working group  
12          recognized the importance of gathering feedback from court  
13          user's, especially as court operations were changing in  
14          response to the pandemic. They recommended that the  
15          working group consider developing a survey to do so. The  
16          working group, members of which are judges, civil legal  
17          service providers, representatives from the Office of Court  
18          Administration, and law firm partners, identified initial  
19          topics for the survey and the demographic information that  
20          would be important to gather to further analyze specific  
21          segments of survey respondents.

22          For approximately twelve weeks, the working group  
23          met weekly to develop survey questions, as well as  
24          electronic and paper versions of the survey in both English  
25          and Spanish. Once the draft survey was completed, the



1 working group conducted user testing asking select civil  
2 legal service providers to identify clients who'd be  
3 willing to complete the survey and provide the working  
4 group feedback.

5 In addition, the working group asked for feedback  
6 from the New York Legal Services Coalition, as well as  
7 organizations interacting with unrepresented court users.  
8 This valuable feedback enabled the working group to refine  
9 the survey in ways that would result in a higher response  
10 rate and more nuanced insights.

11 After several iterations of survey refinement,  
12 the working group reviewed the survey with the Commission,  
13 made minor but important revisions based on members'  
14 feedback. The survey was finalized and distributed to  
15 legal services organizations and other organizations  
16 beginning in December of 2020.

17 It's important to note that legal services  
18 organizations throughout the state extended significant  
19 effort in distributing the survey and collecting survey  
20 responses. Oftentimes, their clients required assistance  
21 with understanding the purpose of the survey or the meaning  
22 to certain questions. In other instances, clients needed  
23 assistance completing the survey, some of whom were only  
24 able to complete the survey on paper due to a lack of  
25 access to technology. Thus, the very administration of the





1 survey serves as a reminder of the time required of legal  
2 services organizations assisting clients with digital  
3 access of all types, which is also reinforced by the survey  
4 responses, as I'll discuss.

5 Generally, the court user survey confirmed that  
6 virtual proceedings and certain online technologies have  
7 made justice more accessible for some court users, but also  
8 indicated that many court users, especially unrepresented  
9 court users, are facing significant challenges accessing  
10 justice remotely. Throughout the working group's  
11 activities, it was clear that there's an important role for  
12 courts to play in assessing the experiences of court users.

13 Today I'll share an overview of certain key  
14 observations from the survey responses. A comprehensive  
15 and detailed analysis of survey responses will be included  
16 in the annual report of the Permanent Commission.

17 As of June 30th, there were 367 full responses to  
18 the survey, 54 percent from represented court users, 46  
19 percent from unrepresented court users. Across the state,  
20 responses were collected from counties all over the state  
21 on a variety of civil case types, and most responses were  
22 household incomes of less than \$35,000.

23 More than half of the unrepresented survey  
24 respondents indicated that they did not have a lawyer  
25 because they could not afford one, twenty percent indicated



1 they did not have a lawyer because they did not know how to  
2 connect with or find a free lawyer, and another twenty  
3 percent indicated they did not have a lawyer because they  
4 tried to connect with legal aid but were told that they  
5 were not able to help them.

6 Overwhelmingly, unrepresented survey respondents  
7 indicated that they were concerned about handling their  
8 cases without a lawyer. The most significant reason for  
9 this concern was that the respondent did not understand the  
10 process.

11 More than eighty percent of represented survey  
12 respondents indicated that the outcome of their case was  
13 favorable to them or that their case was satisfactorily  
14 settled. Fifty percent of unrepresented survey respondents  
15 indicated they were not satisfied with the outcome of their  
16 case, or the outcome of their case was unfavorable to them.

17 A significantly higher percentage of represented  
18 survey respondents, seventy-four percent, indicated that  
19 the information about their court date was clear, compared  
20 to unrepresented survey respondents, fifty-eight percent.

21 Three out of four unrepresented survey  
22 respondents indicated they needed assistance with forms,  
23 while less than half of represented survey respondents  
24 indicated they needed assistance with forms. Twenty-six  
25 percent of unrepresented survey respondents indicated that



1 the reason why they needed assistance filling out forms was  
2 that they did not know which forms they needed to complete.  
3 More than thirty percent of unrepresented survey  
4 respondents indicated sending the papers to the court  
5 online was very difficult. And an additional twenty-six  
6 percent indicated it was somewhat difficult.

7 The overwhelming majority of survey respondents  
8 felt respected by court staff. Twenty-eight percent of  
9 unrepresented court users indicated that they were not  
10 treated with respect by court staff and fifteen percent of  
11 represented court users.

12 Only thirty-eight percent of unrepresented survey  
13 respondents indicated that their court experience was  
14 significantly better than expected, whereas sixty-two  
15 percent of represented survey respondents indicated that  
16 their court experience was significantly better than  
17 expected. Survey respondents who indicated that they were  
18 not treated with respect also overwhelmingly indicated that  
19 their experiences were moderately worse or significantly  
20 worse than expected. This demonstrates that a court user's  
21 belief that they are treated with respect significantly  
22 impacts their court experience.

23 The majority of survey respondents did not have  
24 problems with virtual proceedings, regardless of  
25 representation. However, approximately thirty percent of



1 respondents did report problems with virtual proceedings.  
2 While most survey respondents indicated that they'd be  
3 willing to appear virtually in the future, approximately  
4 twenty-five percent of survey respondents indicated a  
5 preference to not appear virtually. More unrepresented  
6 survey respondents, twenty-five percent, than represented  
7 survey respondents, fourteen percent, strongly disagreed  
8 with the statement, "I would appear virtually in the future  
9 if provided the opportunity."

10 Based on this experience developing the survey,  
11 feedback from court users and the legal services provider  
12 community, and insights gained through its analyses, the  
13 working groups developed the following three primary  
14 recommendations.

15 Continue collecting and analyzing responses to  
16 the court user survey annually, in coordination with the  
17 New York Legal Services Coalition and other legal services  
18 providers and organizations or agencies interacting with  
19 unrepresented court users.

20 Review court notices and forms for purposes of  
21 simplification and translation, first into plain language,  
22 and then into the most common languages spoken by court  
23 users.

24 And three, provide court users the choice to opt  
25 out of remote proceedings if they're unable to participate



1 because they lack the technology or digital knowledge, have  
2 physical, cognitive or language limitations, or for any  
3 other reason, and ensure the availability of local  
4 resources who can serve as trusted sources of information  
5 if court users do not understand the information they  
6 received, or if they need assistance completing forms,  
7 locating supplemental information, submitting forms to the  
8 court, or participating in virtual proceedings.

9 In closing, the court user survey confirmed that  
10 virtual proceedings and certain online technologies have  
11 made justice more accessible for some court users, but also  
12 indicated that many court users, especially unrepresented  
13 court users, are facing significant challenges accessing  
14 justice remotely, challenges that we must work to better  
15 understand and develop effective and sustainable solutions  
16 for. Thank you.

17 CHIEF JUSTICE DIFIORE: Thank you, Mr. Steinkamp.  
18 Thanks for analyzing the responses.

19 Any questions before --

20 So I do have a question. So, with regard to  
21 folks who responded that they were having difficulty  
22 understanding our notices and forms, aside from looking to  
23 possibly streamline them and more easily present them with  
24 more plain language, if that's a phrase that I can use, are  
25 there any other people-directed ways that we can assist



1           those folks? Were you able to glean that from the survey?  
2           For example, the Virtual Court Navigators Program, whether  
3           it's virtual or having somebody on staff to field the  
4           questions?

5                       MR. STEINKAMP: So, the survey responses do not  
6           specifically indicate, you know, what the solutions would  
7           be. Really, the survey is designed to help us ask better  
8           questions. And as you said, understand the contours of the  
9           justice gap in New York.

10                      I do think some of the initiatives that were  
11           discussed earlier and that you just mentioned, in terms of  
12           virtual navigators, faith-based communities, other - - -  
13           public libraries, other local places that people can go.  
14           Trusted places with trusted faces. People who can help  
15           people navigate online forms, virtual proceedings, are key  
16           to helping people understand the information that they're  
17           getting, and to be able to navigate those processes.

18                      CHIEF JUSTICE DIFIORE: Thank you.

19                      Anyone have any questions for Mr. Steinkamp.

20                      Mr. Steinkamp, we continue to thank you and your  
21           firm for your service, and I'll look forward to doing more  
22           important work with you over the course of this year. So,  
23           thank you very much. And thank you for taking the time to  
24           be here person today.

25                      MR. STEINKAMP: Thank you.



1 CHIEF JUSTICE DIFIORE: Our next presenter, the  
2 last presenter before our break, is Professor Conrad  
3 Johnson. Professor Johnson is the director of the Columbia  
4 Law School's Lawyering in the Digital Age Clinic, which he  
5 co-founded in 2001 as the first clinic in the nation to  
6 focus exclusively on the impact of technology on law  
7 practices.

8 In light of Professor Johnson's deep expertise in  
9 this area, we look forward, sir, to hearing your insights  
10 and recommendations. And thank you, Professor, for taking  
11 the time to be here today.

12 MR. JOHNSON: Thank you, all, for having me - - -  
13 having me speak. Asking a law professor to get quickly to  
14 the point is a tall order. But for this august body, I  
15 will try.

16 You know, Chief Justice - - - the Chief Judge and  
17 so many of the speakers have already spoken to the strong  
18 link between inequality and the digital divide. So let's  
19 talk about the digital divide.

20 What is it? For our purposes, it means a lack of  
21 access to three things: the internet, to the devices that  
22 we would use to get to the internet, and a lack of digital  
23 literacy to understand how to use the internet and devices  
24 to participate in virtual court proceedings, to gain access  
25 to free civil legal service, and to get the relief from



1 administrative bodies and others who could help those in  
2 need.

3 The second thing to keep in mind is if the  
4 pandemic were to magically disappear today, the legal  
5 profession is not going to forget everything we have  
6 learned about properly conducting virtual proceedings or  
7 online collaboration with clients. New skills and habits  
8 of mind that we have acquired will continue to be regular  
9 features of the profession long into the future.

10 So, with that, I have a few recommendations. The  
11 first is obvious. Recognize the impact of the digital  
12 divide on access to justice. Technology is still in short  
13 supply when it comes to meaningful access to justice for  
14 huge swaths of New Yorkers. For example, 1.5 million New  
15 York City residents have neither a mobile connection, nor a  
16 home broadband connection; forty-six percent of New York  
17 City households living in poverty don't have broadband at  
18 home. Similar disparities exist throughout the state. And  
19 regrettably, there is a predictable and disturbing overlap  
20 between areas where the digital divide is most pronounced  
21 in under-resourced communities.

22 The barriers created by the digital divide are  
23 not reserved for people living in poverty or communities of  
24 color. They extend to many seniors, as well as those  
25 grappling with physical and cognitive deficits.





1           So, perhaps, a brief thought experiment might be  
2           useful here. Take a few seconds to think of online  
3           resources that would help underserved communities and the  
4           public generally. What comes to mind? Is it the ability  
5           to apply on, to apply online for public benefits? The  
6           ability to access economic relief suffered during the  
7           pandemic, like the emergency rental assistance program,  
8           which has gone underutilized? Is it access to do-it-  
9           yourself forms in multiple languages, or to e-filing? Is  
10          it a lack of information about the notices, the seemingly  
11          endless ebb and flow of administrative and executive orders  
12          related to evictions and foreclosures? Or simply the  
13          opportunity to participate in virtual proceedings?

14                 Now, consider the reality that so many of those  
15          resources are at best difficult to secure without access to  
16          the internet, and to the point that as a practical matter,  
17          they are unavailable to millions of New Yorkers who live on  
18          the unfortunate side of the digital divide.

19                 My next recommendation: equalize access to  
20          virtual proceedings. Many courts recognize the viability  
21          of utilizing virtual proceedings of varying types where  
22          appropriate. These proceedings can include routine  
23          adjournments, status conferences, court-assisted settlement  
24          negotiations, or full-blown trials.

25                 It's worth noting that the courts that handle the



1 most cases, like the Family Court and the Housing Court,  
 2 are typically under-resourced compared to their relative  
 3 use by the public. It is also true that many who come to  
 4 those courts expecting justice are disproportionately  
 5 living on the unfortunate side of the digital divide.

6 These are precisely the litigants who can least  
 7 afford to miss employment, juggle childcare or elder care  
 8 responsibilities, or spend time and money on transportation  
 9 to sit for hours in crowded courtrooms for matters that  
 10 could have taken only a fraction of that time if handled  
 11 online. This is especially critical to everyone's health  
 12 during the pandemic.

13 The bottom line here is that participation in  
 14 virtual proceedings cannot become a matter of preference  
 15 only for those who can afford it. Similarly, it is  
 16 unrealistic and unfair to expect legal services  
 17 organizations to provide proper technology and training to  
 18 their clients absent additional funding for that purpose.

19 And, as Judge Schneider and others have noted, it  
 20 takes a lot more time and energy to prepare folks for  
 21 virtual proceedings than in the traditional way. And it  
 22 would be important for the courts to adjust their  
 23 expectations accordingly.

24 The next recommendation is also obvious.  
 25 Facilitate online access to civil legal services. It's



1 obvious that having the lawyer makes a huge difference.  
2 OCA has been critical to narrowing the justice gap. Still,  
3 as we speak, the digital divide separates legal service  
4 providers from far too many of their current and potential  
5 clients. It's essential that the legislature provide  
6 additional funding to bridge that divide. The keyword in  
7 that sentence is "additional." Funding to bridge the  
8 digital divide cannot come at the expense of current  
9 allocations by OCA to legal services programs that are  
10 already stretched beyond capacity.

11 So, what can we do to bridge the divide? First,  
12 some good news. There's been some progress on the  
13 connectivity front. State and federal initiatives to help  
14 make minimal access to broadband more affordable. Those  
15 programs are helpful, but still beyond the economic reach  
16 of many. So, too, there needs to be done in that area.

17 The second is improve access to devices and  
18 digital literacy. Connectivity is helpful only if people  
19 have the devices and the knowledge of how to use those  
20 devices to gain access to justice. Therefore, funding  
21 innovation and pilot projects that bridge the digital  
22 divide by addressing connectivity, devices, and digital  
23 literacy could be helpful.

24 A year ago, my Clinic got involved with The Legal  
25 Aid Society on the Justice Tablets Projects. The goal is



1 to find the least expensive, user friendly, most reliable  
 2 internet-connected device that could be lent on a  
 3 circulating basis to clients who wish to engage in virtual  
 4 proceedings or are unable to come to the office for  
 5 assistance.

6 We purchased three prototype devices, preloaded  
 7 them with easy-to-use software and cellular technology,  
 8 devised the workflow for circulating the devices, and  
 9 developed user-friendly instructions and support materials.  
 10 We began field-testing the justice tablets with legal aid  
 11 clients and attorneys. The natural next step is to scale  
 12 up the project so that the devices can be deployed  
 13 effectively.

14 It should be noted that 50 justice tablets could  
 15 be purchased for approximately \$17,000 to \$20,000,  
 16 excluding the cost of cellular service for a year. And the  
 17 Clinic will support the Justice Tablets Project by  
 18 continued field testing of the tablets, having law students  
 19 serve as digital navigators by working with The Legal Aid  
 20 Society as liaisons to assist their clients in utilizing  
 21 the tablets to obtain legal services and participate in  
 22 virtual proceedings.

23 So, in conclusion, the use of technology to  
 24 expand access to justice is a pressing need. The need will  
 25 continue into the future, long after the pandemic recedes.



1 The digital divide is a manifestation of inequality and  
2 disproportionably affects communities of colors - - -  
3 color, seniors, and other vulnerable populations.

4 Therefore, with great respect, we encourage the  
5 Chief Judge, and through you, the Legislature, and the  
6 Executive to consider the importance of addressing the  
7 digital divide to ensure equal access to justice.

8 Happy to answer any questions.

9 CHIEF JUSTICE DIFIORE: Thank you, Professor.

10 Okay. Justice Garry?

11 PRESIDING JUDGE GARRY: Professor, the Justice  
12 Tablets. And I know you've only tried it in a very small  
13 sphere so far. But what, what would you envision would be  
14 the length of time that someone would be in possession of  
15 it? Is it, is it given over just for a particular  
16 proceeding and then returned, or is it kept for a number of  
17 weeks or months, or how does that work?

18 MR. JOHNSON: Well, if you're asking for my wish,  
19 it would be just to give it to folks, but that's  
20 unrealistic. Fifty tablets could go a long way to giving  
21 folks who are going to be engaged in virtual proceedings,  
22 or are otherwise, unable to come into an office, an  
23 opportunity on a crisis basis to get ready.

24 We've participated in one of the early virtual  
25 trials, and it involved an eighty-three-year-old woman who



1 was in the midst of a primary-use holdover. It took a lot  
2 of hours to prepare her, but she managed to get through a  
3 four-day trial, and do well, I might add. But it was for  
4 that duration of time, not forever.

5 And, so, I imagine, in the first instance of  
6 this, and I - - - and I - - - you know, this has been said  
7 earlier, it's a process. So we should try to start with  
8 something that could work. Lend it out for - - - to people  
9 who need it while they need it and get it back.

10 The tablets that we have are easy to send back  
11 and forth. They're not bulky like this. They're smaller  
12 tablets, you know, eight-inch, ten-inch tablets. Easy to  
13 send back and forth. And with WIFI connectivity, you don't  
14 need anything else. I mean, with cellular connectivity,  
15 you don't need anything else.

16 So, it could work, I think, on a smaller pilot  
17 basis. And we'll see. We'll learn as we go, and we'll see  
18 whether or not more is better, longer is better. But  
19 without the devices - - - you know, having a cell phone to  
20 be able to arrange for an adjournment, fine. Having a cell  
21 phone to do a four-day holdover, very different animal.

22 PRESIDING JUDGE GARRY: Thank you.

23 CHIEF JUSTICE DIFIORE: Judge Marks?

24 CHIEF ADMINISTRATIVE JUDGE MARKS: Professor  
25 Johnson, would it be more practical, maybe even less



1 expensive, to have people who don't have technology or have  
2 difficulty navigating the technology go to - - - and  
3 keeping in mind the great advantages of not having to  
4 travel all the way to the downtown courthouse and lose a  
5 day at work, and transportation costs, and childcare  
6 problems, and so on; would it be more practical to have  
7 that group of people go to community groups, nonprofits,  
8 religious institutions in their community where they could  
9 use technology there and perhaps receive assistance when  
10 they would need it from people?

11 MR. JOHNSON: That could work for some, Judge.  
12 And it's certainly - - - as I think about, you know, Legal  
13 Aid's Single Stop program, or taking justice out into the  
14 community, those are worthy efforts, and those are things  
15 we ought to try and experiment with. But for a lot of  
16 folks, it's just not practical.

17 And also, I will say that there is a lot of very  
18 private information that gets exchanged during these  
19 interactions. And one needs to feel comfortable with the  
20 people you're with. And maybe third parties at a religious  
21 institution or at a community center would be that person.  
22 But ultimately, the lawyer is going to have to be involved  
23 in this. And ultimately there's going to need to be a lot  
24 of run up to the ability to engage meaningfully in a  
25 virtual process.



1           It took us hours and hours to prepare the client  
2 I just described earlier for that trial. I mean, I  
3 prepared literally thousands of people, clients over my  
4 years. This, this was by, like, a magnitude of ten.  
5 That's why the digital navigators that we're thinking about  
6 might be able to reduce some of that time.

7           But ultimately, it's, what you're suggesting is  
8 part of a solution, but it's not a complete solution. Does  
9 that help?

10           CHIEF ADMINISTRATIVE JUDGE MARKS: Yes.

11           MR. JOHNSON: Uh-huh. Thank you.

12           CHIEF JUSTICE DIFIORE: Anyone else?

13           T. Anthony Brown: Professor, thank you for your  
14 - - - your comments. And I appreciate your discussing the  
15 digital divide in components. And I think you're spot on  
16 there. I think it's easy to - - - to bring the internet to  
17 certain areas, and to provide sufficient broadband. And  
18 it's also - - - within - - - if the dollars are there, it's  
19 easy to provide a gadget and equipment to people. But the  
20 component that is most difficult to fix and to really get  
21 at is the digital literacy component because you can put me  
22 somewhere where there's internet and give me a tablet and  
23 give me all of the online platforms, but if I can't use it,  
24 it's getting me nowhere.

25           The, the part of the population that is most





1 vulnerable also suffers from this greater illiteracy. So  
2 my question that I struggle with is how we fix that. How  
3 we get at that sector of our population, most vulnerable,  
4 and that has suffered most from the lack of digital access  
5 and knowledge.

6 MR. JOHNSON: Well, thank you for the questions.  
7 And it does highlight the fact that when we're talking  
8 about the provision of free civil legal services, we are,  
9 by definition because of income eligibility, talking about  
10 a population that is largely on the unfortunate side of the  
11 digital divide.

12 The good news is, some folks now have, you know,  
13 mobile literacy. They have some sense of how to use the  
14 smartphones. And the reason we chose tablets with - - - in  
15 conjunction with The Legal Aid Society, was that we thought  
16 the tablet was an intermediate step between this and  
17 between the laptop. The tablet is something you could  
18 learn to adjust to. There is some familiarity there. So  
19 there is that, which is a bit helpful.

20 The other piece of it is, it's going to take  
21 folks who are going to spend the time to help bring folks  
22 up to speed. This - - - think about the steps, the  
23 progress that has taken place over the last eighteen months  
24 within the legal profession. There's a lot of things.  
25 Judge Marks and everybody up here knows this. A lot of



1 things that a lot of folks said at the very beginning: No  
2 can do. Won't do it. Can't do it. Not available. And in  
3 eighteen months, that story has changed somewhat.

4 Progress will not be linear, but there will be  
5 some bumps in the road. But it has taken some time of  
6 people getting used to it. And, I think, you know, the  
7 woman that I just used as an example in the holdover  
8 proceeding. By the time it was over with, she wanted to  
9 continue to use the equipment. And so as Judge Garry  
10 mentioned, this is, you know, this was, could have been, an  
11 ongoing process if we had the resources to make it one.

12 And, so, I think that the more inroads we can  
13 make in terms of making things available; law schools can  
14 play a real role in terms of acting as intermediaries,  
15 digital navigators, if you will. Because, you know, my  
16 students, even the ones who would think they were luddites,  
17 are far more comfortable with technology than most people  
18 in the world because they've grown up with it. And they  
19 would find it enriching and helpful to be able to help  
20 someone else along. And I think once you see somebody get  
21 that help, they want more if you've done the job well. Is  
22 that helpful?

23 T. Andrew Brown: It's helpful. Thank you.

24 CHIEF JUSTICE DIFIORE: Yes. Very helpful.

25 T. Andrew Brown: Thank you.



1 CHIEF JUSTICE DIFIORE: Thank you, Professor.

2 MR. JOHNSON: You're welcome.

3 CHIEF JUSTICE DIFIORE: So, we've come to the  
4 point in the proceedings where we will take a fifteen-  
5 minute break. We invite those of you who would like to  
6 remain for the virtual portion of the proceedings to do so.  
7 Just let us know so we can bring you on the other side of  
8 the screen so that you can view the screen.

9 For those of you who must take your leave, we  
10 thank you for being here today. Thank you.

11 (Recess)

12 CHIEF JUSTICE DIFIORE: Good afternoon. We are  
13 back from our break. And now we are to my most favorite  
14 part of the hearings, where we'll hear from clients and  
15 their lawyers.

16 First up is Thania Acosta, a client of Legal  
17 Services NYC. And she is accompanied today - - - excuse me  
18 - - - by her attorney, Luis Henriquez. And they are joined  
19 - - - excuse me. I have a tickle in my throat - - - by  
20 Raun Rasmussen, the Executive Director of Legal Services  
21 NYC. Excuse me.

22 Ms. Acosta?

23 MS. ACOSTA: Yes?

24 CHIEF JUSTICE DIFIORE: Please proceed.

25 MS. ACOSTA: Thank you.



1 Hello. My name is Thania Acosta. Thank you so  
2 much for this opportunity to tell you my story today.

3 I am a mother of four children, two of whom live  
4 with me at Jacob Riis Houses in Manhattan. One of my  
5 children lives with autism. My parents, originally from  
6 Puerto Rico, met in New York City in the 1970s, when my dad  
7 returned from the war in Vietnam.

8 I was born in Puerto Rico but have lived in New  
9 York City since I was six months old. I am a lifelong New  
10 Yorker, and my children are lifelong New Yorkers.

11 As a single mother of four, I need public housing  
12 to continue living in our hometown. Without it, there  
13 would be no life for us here.

14 I used to work as a receptionist in a  
15 dermatologist's office. It was a good job. But because  
16 NYCHA started a nonpayment case against me, I had to take  
17 days off to go to court while also trying to bring my son  
18 to medical appointments. Because I missed work so much, I  
19 lost my job in October 2018.

20 As soon as that happened, I informed NYCHA that I  
21 no longer had any income and that my rent should be reduced  
22 because I knew that I have a right to be charged not more  
23 than thirty percent of my income as rent.

24 I uploaded documents showing my job loss to  
25 NYCHA's online portal, and I also uploaded documents



1 showing that two of my children no longer lived with me in  
2 the home. However, NYCHA repeatedly failed to process my  
3 rent adjustment and continued suing me for rent that was  
4 too high.

5 Time after time, NYCHA's representatives came to  
6 court and admitted to the judge that they still had not  
7 processed my application to reduce my rent. They said that  
8 they did not have enough staff, that my account was somehow  
9 blocked, and an IT person had to unblock it, etc.

10 The judge even wrote in a court order than NYCHA  
11 admitted that my application fell through the cracks. For  
12 the entirety of 2019, NYCHA failed to process my  
13 application, while still suing me for rent that was too  
14 high.

15 Then the worst thing imaginable happened. In  
16 January 2020, two weeks after I missed a court date due to  
17 being in the hospital, a marshal showed up and changed my  
18 locks, telling me that I was evicted.

19 After more than a year of failing to reduce my  
20 rent due to my income change, which is their legal  
21 obligation, NYCHA moved to evict me and my children after I  
22 missed one court date. It's heartbreaking to learn  
23 firsthand that NYCHA prioritizes evicting families over  
24 charging them what's right.

25 On that January day when the marshal changed the



1 locks, I went to Housing Court, to file an order to show  
2 cause to get back into my home. Luckily, I was assigned an  
3 attorney from Legal Services NYC who quickly advocated to  
4 have the apartment unlocked so that I would not need to  
5 spend a night out in the street with my children. I was on  
6 the precipice of becoming a homeless family, but thanks to  
7 Legal Services, that did not happen.

8 In addition to representing me in the nonpayment  
9 case, my attorney told me that I can participate in a  
10 federal lawsuit against NYCHA for their practice of failing  
11 to reduce the rent for tenants like me who lost their  
12 income. It is then that I learned that I was not the only  
13 one going through this. My attorney told me that people  
14 across the entire City were going through the same ordeal  
15 with NYCHA, and so I signed up to be one of the plaintiffs  
16 in their federal case to force NYCHA to stop their illegal  
17 practices once and for all.

18 A year after I joined the case, Legal Services  
19 NYC, together with the law firm, Jenner and Block, were  
20 able to get justice for tenants and forced NYCHA to change  
21 their practices.

22 First, NYCHA agreed to give rent credit to the  
23 plaintiffs they overcharged. In all, NYCHA reimbursed  
24 close to \$60,000 to the plaintiffs.

25 Second, NYCHA agreed to pay \$130,000 to settle



1 the case, part of which went to compensate the plaintiffs  
2 for the ordeal they went through, and part to pay Legal  
3 Services NYC's lawyer fees.

4 Third, NYCHA agreed to change its system to  
5 improve rent adjustments all across the City and to make  
6 sure that whenever tenants request a rent reduction because  
7 they lost their income, NYCHA has to resolve those requests  
8 before they can move to evict people.

9 I am very proud to have been a plaintiff in this  
10 case. After years of anguish of repeatedly being ignored  
11 by my management office, I finally felt heard. I am most  
12 excited about the changes brought upon by this settlement  
13 to improve NYCHA's rent reduction systems, which will  
14 benefit thousands of NYCHA tenants across the City. I hope  
15 that the changes will make sure that what happened to me  
16 will never happen to someone else, and that NYCHA will  
17 adjust tenants' rent on time and stop forcing hardworking  
18 families out on the street. Every family in NYCHA deserves  
19 to be treated with respect, and I'm glad Legal Services NYC  
20 fought for these changes.

21 Thank you.

22 CHIEF JUSTICE DIFIORE: Thank you, Ms. Acosta.  
23 And we certainly do agree that, indeed, every family - - -  
24 NYCHA family does deserve to be treated with respect.

25 Anyone have any questions for Ms. Acosta?



1           Ms. Acosta, I have one question for you. You're  
2 obviously very strong, and you present so well and  
3 persuasive. Do you think in the very begin - - - do you  
4 think in the very beginning that there was a difference  
5 because you were just an ordinary person there? If you had  
6 had a lawyer, would there have been a difference? Do you  
7 think --

8           MS. ACOSTA: Yes.

9           CHIEF JUSTICE DIFIORE: - - - perhaps that  
10 application would not have fallen through the cracks?

11          MS. ACOSTA: Yes. Yes.

12          CHIEF JUSTICE DIFIORE: Okay.

13          MS. ACOSTA: If I had someone in the beginning to  
14 represent and to show me the steps on what I, you know, the  
15 process on where I can go, and lead me in the right  
16 direction, and point me --

17          CHIEF JUSTICE DIFIORE: Uh-huh.

18          MS. ACOSTA: - - - I think I would've, I don't  
19 think it would've gotten as far as it did.

20          CHIEF JUSTICE DIFIORE: Thank you for joining us  
21 today, Ms. Acosta. And good luck to you. Good luck to  
22 each of your four children. We wish them --

23          MS. ACOSTA: Thank you so much. Thank you.

24          CHIEF JUSTICE DIFIORE: - - - and thank you to  
25 your lawyers, and to you, of course, Mr. Rasmussen, for





1 your leadership.

2 MS. ACOSTA: Thank you.

3 CHIEF JUSTICE DIFIORE: Thank you.

4 Our next presenter - - - oh, I'm sorry?

5 UNIDENTIFIED SPEAKER: Raun is speaking.

6 UNIDENTIFIED SPEAKER: Raun is speaking.

7 CHIEF JUSTICE DIFIORE: Oh, excuse me, Raun.

8 MR. RASMUSSEN: Yeah. That's okay.

9 Good afternoon. And thank you all, and  
10 especially Chief Judge DiFiore, for this opportunity to  
11 appear before you.

12 My name is Raun Rasmussen. I'm the Executive  
13 Director of Legal Services NYC.

14 You've just heard a really moving story about the  
15 challenges one woman and her family faced in seeking to  
16 assert their legal rights. After months of trying to get  
17 their rent reduced to the correct amount, months during  
18 which the attorneys for the landlord acknowledged to the  
19 Court that they had not done what they were legally  
20 required to do, a family with four children got evicted.  
21 That should never happen. And it's only because Ms. Acosta  
22 was able to get a lawyer that she and her children were  
23 restored to their affordable apartment at a rent that is  
24 finally legal.

25 Restoring Ms. Acosta to her home after she was



1 evicted was, of course, our primary goal. But fighting to  
2 fix the practices that put her and her children out on the  
3 street, so that thousands of other New York City tenants  
4 would not be similarly victimized, was also essential. And  
5 that work was only possible because of Judiciary Civil  
6 Legal Services Funding.

7           When our lawyers began representing Ms. Acosta,  
8 they knew that her problem was being faced by thousands of  
9 NYCHA tenants every single day throughout the City. When  
10 tenants' incomes change, as was the case for Ms. Acosta,  
11 they are obligated to report those changes. If the income  
12 goes down, the rents are legally required to be adjusted  
13 downward. Instead, we see case after case where tenants  
14 are being sued for rent they do not owe, threatened with  
15 eviction, and all too often, evicted for rent they do not  
16 owe.

17           The federal case brought against NYCHA, in which  
18 Ms. Acosta was a plaintiff, *Fields v. Russ*, was just  
19 settled last month. As she described, it required NYCHA to  
20 set legal, affordable rents, and provide damages for the  
21 named plaintiffs. But most importantly, the settlement  
22 requires NYCHA to fix its illegal practices.

23           They are now required to adjust tenants' rents  
24 within sixty days of receiving documentation of the loss of  
25 income; refrain from starting eviction proceedings while a



1 rent adjustment is pending; inform tenants of the new  
2 rules; train staff; and report to us every six months, so  
3 we can monitor their progress.

4 The continuity and holistic nature of the  
5 services that we provide is what makes our work so  
6 powerful, and so cost effective. In addition to fighting  
7 successfully on behalf of every single family and  
8 individual we represent, we fight to change the laws,  
9 practices, and policies that systemically operate to keep  
10 people poor.

11 I want to conclude by thanking Chief Judge  
12 DiFiore and Chief Administrative Judge Marks, and the  
13 entire Office of the Court Administration, for your  
14 continued commitment to funding for Legal Services.  
15 Without your support, the results you've just heard  
16 described by Ms. Acosta, and which were realized through  
17 the settlement of Fields v. Russ, would never have  
18 occurred.

19 But I also want to say, the tenants throughout  
20 New York State remain desperate for help. COVID has  
21 continued to wreak economic hardship on low-income  
22 families. And it's only because New York State has  
23 continued to provide an Eviction Moratorium, and a variety  
24 of other protections, that we've not yet seen mass  
25 evictions; the tsunami that has been predicted for more



1 than a year. But make no mistake, unless tenants get  
2 representation so that they can get access to emergency  
3 rental assistance program funds, and properly document  
4 COVID-related hardship, and have someone to fight on their  
5 behalf in the courts throughout the State, that tsunami  
6 will occur.

7 So, we thank you for your strong support. And  
8 while we're genuinely appreciative, we also want to be  
9 clear that access to justice is far from secure for so many  
10 in this state. We look forward to continuing our work in  
11 partnership with so many of you to address that ongoing  
12 challenge. Thank you.

13 CHIEF JUSTICE DIFIORE: Thank you. And we look  
14 forward to our continuing partnership with you, sir.

15 Any questions?

16 Thank you. Thank you very much. Good luck.

17 MR. RASMUSSEN: Thank you.

18 Luis Henriquez: Thank you.

19 (Sidebar discussion off the record)

20 CHIEF JUSTICE DIFIORE: Okay. Good afternoon.

21 Our next presenter will be Meagan Boughton. She is a  
22 client of Legal Services of the Hudson Valley, and she is  
23 accompanied here today by her attorney, Adrienne Thiel.  
24 And they're joined today by Rachel Halperin, the Chief  
25 Executive Officer of Legal Services of the Hudson Valley.



1 Good afternoon, Ms. Boughton.

2 MS. BOUGHTON: Good afternoon.

3 My name is Meagan Boughton, and I am many things.  
4 I am a former client of Legal Services of the Hudson  
5 Valley. I am a resident of Ulster County, New York. I am  
6 someone's sister and someone's daughter. I am an employee  
7 at The Arc, a local organization that promotes and protects  
8 the human rights of people with intellectual and  
9 developmental disabilities. I am a survivor of domestic  
10 violence. But most importantly, I am a mother to two young  
11 girls, Gabriella and Zurri.

12 I wanted to thank you for letting me speak today  
13 regarding the need for free legal services for victims of  
14 domestic violence, a need that I believe has grown as a  
15 result of the COVID pandemic.

16 My daughter, Zurri, was born during the pandemic  
17 on September 18th. This should have been a happy time, but  
18 for me it was terrifying. I had separated from her father  
19 prior to her birth after he began to become possessive and  
20 violent toward me. He would threaten to shoot me and  
21 anyone I was close with. He had a quick temper and could  
22 suddenly blow up.

23 Unfortunately, following the separation, he  
24 continued to harass me, saying things such as, I don't want  
25 to hurt a pregnant woman, but I will. He would drive by my



1 house repeatedly to scare me, stating that he would hurt me  
2 if I didn't respond quick enough or listen to him.

3 Following my daughter's birth, he would send me  
4 photos of him holding a gun and threatening to harm my  
5 daughters and me. I was terrified.

6 On one occasion, early in the morning, he  
7 threatened to drive by and shoot up our home knowing that  
8 the baby and I were asleep inside. He did this because I  
9 did not respond properly to a text message.

10 I couldn't take it anymore, and I called the  
11 police to make a report. Criminal charges were filed  
12 against them, but he failed to show for his arraignment,  
13 and a warrant was issued for his arrest, but he was never  
14 arrested. I received an order of protection from Criminal  
15 Court. I was terrified for my family's safety.

16 In retaliation, my abuser filed for paternity of  
17 my infant daughter, stating that he would seek custody of  
18 her since I was choosing to act out. At the time my abuser  
19 filed this petition, there was a warrant for his arrest out  
20 of a local City Court, and he was facing felony charges in  
21 County Court as a multi-time felony offender. But because  
22 court appearances were virtual, and the criminal courts  
23 were overwhelmed as a result of the pandemic, he was free  
24 to continue to threaten me and seek custody of my ten-  
25 month-old daughter. I didn't understand what he had filed



1 and what my options were. I was scared for my safety, but  
2 most of all, my children's safety.

3 The Crime Victims Assistance Program for Ulster  
4 County referred me to Legal Services of the Hudson Valley,  
5 and I was connected to Adrienne Thiel in their Kingston  
6 office. Adrienne walked me through the Family Court  
7 process so I knew what to expect, representing me in the  
8 paternity proceeding and then child support, and then in my  
9 custody case, which eventually went to a hearing. She  
10 drafted and filed petitions on my behalf and communicated  
11 with my abuser so that I would not have to. She assisted  
12 with me setting up the virtual court appearances and  
13 understanding the protocols that resulted from COVID.

14 I now have sole physical legal custody of my  
15 daughter. I have child support for her, and I have the  
16 ability to continue to take whatever steps are necessary to  
17 continue to ensure my family's safety. I can't even  
18 imagine what would have happened without the assistance of  
19 Legal Services of the Hudson Valley.

20 I know that there are other victims out there who  
21 are scared and confused and need help navigating the legal  
22 system.

23 It is my hope that my testimony today shows how  
24 important it is to have funding for legal service agencies  
25 so that they can continue to help ensure other people,



1 other families' safety. Thank you for your time.

2 CHIEF JUSTICE DIFIORE: Thank you, Ms. Boughton.  
3 And thank you for sharing your story. And indeed, sharing  
4 your story does help and assist, so thank you very much for  
5 coming forward.

6 Any questions of Ms. Boughton?

7 Ms. Halperin?

8 MS. HALPERIN: Hello. Thank you to the Chief  
9 Judge and the Permanent Commission on Access to Justice for  
10 holding this hearing.

11 Thank you, Ms. Boughton, for your courage and  
12 sharing your experience with us so that we can highlight  
13 the importance of civil legal services in helping families  
14 stay safe and free from violence and abuse.

15 I would also like to recognize your fearless  
16 attorney, Adrienne Thiel, who works tirelessly on behalf of  
17 survivors of domestic violence and their families in Ulster  
18 County to ensure access to justice and safety. Her  
19 commitment and tenacity to her clients and this work enable  
20 survivors to continue to achieve stability despite a global  
21 pandemic and other seemingly insurmountable odds.

22 This work was even more essential during the  
23 pandemic when survivors of domestic violence were forced to  
24 shelter in place with abusers. This horrific byproduct of  
25 the pandemic left victims completely isolated from any





1 supports they may have established through employment,  
2 religious institutions, their children's schools, or  
3 medical providers.

4 Quarantining at home with an abuser prevented  
5 victims from being able to confidentially access legal and  
6 other supportive services. With courts physically closed,  
7 victims seeking legal relief were not always sure how to  
8 access orders of protection, modifications of custody and  
9 visitation orders, or child support necessary to keep  
10 themselves and their families safe.

11 With limited opportunity to leave their homes  
12 during the pandemic, victims' ability to access supportive  
13 services, including civil legal aid, were limited.

14 The pandemic made one thing crystal clear:  
15 families living in poverty in our region, who are often  
16 communities of color, suffer disproportionately because of  
17 inequities in access to healthcare, technology, education,  
18 and other resources.

19 Indeed, justice is also a resource that low-  
20 income and vulnerable communities are too often unable to  
21 access without the assistance of civil legal aid. During  
22 the pandemic, our neighbors who could not access justice  
23 experienced devastating consequences, including  
24 homelessness, living in apartments in disrepair, foregoing  
25 important medical care, and having to choose between



1 feeding their children and paying their other bills. These  
2 inequities underscored the important role that civil legal  
3 aid played during the pandemic, and how it can be  
4 transformative in maintaining vulnerable communities'  
5 health, wellbeing, and safety.

6 Legal Services of the Hudson Valley is the sole  
7 provider in the Hudson Valley of free, comprehensive legal  
8 services in civil matters for individuals and families who  
9 cannot afford an attorney when their basic human needs are  
10 at stake.

11 In 2020 alone, Legal Services of the Hudson  
12 Valley handled over 12,000 cases affecting over 27,000  
13 people. Nearly 3,000 cases were for seniors. Over 3,000  
14 cases were for victims of domestic violence. And nearly  
15 1,000 were for veterans and military families. At the same  
16 time, LSHV was unable to serve nearly 3,000 people who were  
17 looking for assistance.

18 Lack of access to civil legal services is a  
19 public health crisis. Recent data shows that communities  
20 with the highest eviction rates also have the lowest  
21 vaccination rates. Access to civil legal aid continues to  
22 be a lifeline for people facing the loss of basic  
23 necessities to help mitigate the destruction the pandemic  
24 inflicted on marginalized communities. Legal aid keeps our  
25 neighbors healthy and thriving and plays a transformative



1 role in people's lives.

2 Thank you for the opportunity to testify today to  
3 highlight the essential role of civil legal aid and access  
4 to justice.

5 CHIEF JUSTICE DIFIORE: Thank you.

6 Any questions for Ms. Halperin?

7 PRESIDING JUDGE WHALEN: Well, if I could, Chief?

8 CHIEF JUSTICE DIFIORE: Yes, of course. Justice  
9 Whalen.

10 PRESIDING JUDGE WHALEN: Yeah. Thank you.

11 First of all, I'd like to commend Counsel Thiel  
12 for her representation in this case. I'm sure it is one of  
13 many, many cases that you've handled that is, you know,  
14 incredibly dramatic, and no doubt incredibly emotional.  
15 And so I commend you on your fine work here.

16 MS. THIEL: Thank you.

17 PRESIDING JUDGE WHALEN: I wanted to ask though,  
18 Ms. Halperin, a question. With respect to the 3,000 people  
19 you noted who were unable to - - - you were unable to serve  
20 in 2020, two questions really, is there a triage that takes  
21 place in terms of how you decide how - - - you know, who  
22 you don't serve? And could you talk to us a little bit  
23 about that?

24 And then secondly, are those numbers holding, or  
25 are you aware yet - - - are those numbers holding for this



1 year. In other words, are we faced with the same dilemma  
2 this year as we were last year, or is it easing or getting  
3 worse?

4 MS. HALPERIN: All - - - all great questions.  
5 Yes, we often describe our practice as a legal triage. So  
6 clients will come in. We'll perform a full comprehensive  
7 legal assessment, we call it a legal checkup, to spot any  
8 civil legal issues they may be encountering. And then we  
9 have to prioritize.

10 We try to give everybody at least some advice if  
11 we're not able to fully represent them. But we prioritize  
12 based on factors like protected housing. We know protected  
13 housing is so limited and such a valuable asset in our  
14 communities that, you know, we'll prioritize protecting  
15 subsidized housing. So public housing, Section 8, and  
16 other subsidized housing.

17 So yes, we do a triage, and we have to prioritize  
18 based on our limited resources.

19 Last year, actually, those - - - the 12,000  
20 people that we served was low for us. We did - - - we did  
21 see a slight decline during 2020. In an average year, we  
22 serve usually over 15,000 cases. And we see those numbers  
23 in 2021 going up, certainly. And we anticipate the unmet  
24 need to - - - to grow as well, along - - - along with those  
25 numbers.



1 PRESIDING JUDGE WHALEN: Thank you.

2 CHIEF JUSTICE DIFIORE: Thank you, Ms. Halperin.  
3 And thank you for your strong leadership already at Legal  
4 Services of Hudson Valley.

5 And Ms. Thiel, thank you for your work up in  
6 Ulster. We very much appreciate it, particularly your  
7 assistance during the pandemic and during the quarantining  
8 stages of the pandemic. So thank you.

9 MS. THIEL: Thank you so much.

10 MS. HALPERIN: Thank you.

11 CHIEF JUSTICE DIFIORE: Good luck to you, Ms.  
12 Boughton.

13 MS. BOUGHTON: Thank you.

14 (Sidebar discussions of the record)

15 CHIEF JUSTICE DIFIORE: Okay. Good afternoon.  
16 Our next client presenter is Henry Watala, who is  
17 represented by Sarah Kupferberg of Nassau Suffolk Law  
18 Services, and they're joined today by Victoria Osk, the  
19 Executive Director of Nassau Suffolk Law Services.

20 Thank you.

21 Mr. Watala, we're looking forward to hearing from  
22 you, sir.

23 MR. WATALA: Thank you.

24 My name is Henry Watala. I'm a client of Nassau  
25 Suffolk Law Services. Law Services worked hard on my



1           behalf to ensure that I received my Social Security  
2           retirement benefits.

3                       I was born in a refugee camp in Augsburg,  
4           Germany, after the end of World War II. Both of my parents  
5           are Polish citizens that had been brought to Germany to  
6           provide forced labor during the war. After the war, Poland  
7           refused to allow our family to return.

8                       Luckily, when I was just an infant, my family and  
9           I were able to immigrate to the United States of America as  
10          displaced people. America is the only home that I have  
11          ever known.

12                      When I was seven years old, both my parents  
13          became U.S. citizens. And the lawyers told us that because  
14          I was a minor, I also obtained my citizenship that day. It  
15          was an exciting day to finally be able to claim citizenship  
16          in the country that I loved. And from that day forward, I  
17          never questioned whether I belonged in this country.

18                      As an adult, I have always been an active member  
19          in my community. From 1970 to 1985, I was a volunteer  
20          firefighter at Hempstead Volunteer Fire Department.  
21          Additionally, I raised four stepchildren and worked for  
22          over thirty-five years.

23                      Throughout my career, I paid into the Social  
24          Security system. In 1980, my brother and I opened a print  
25          shop in Queens, New York. We ran the business together for



1           twenty-five years before the changing economy caused the -  
2           - - caused us to close our doors in 2007.

3                       Once the print shop closed, I began working at  
4           Macy's at Roosevelt Field Mall. Unfortunately, in 2011, I  
5           was diagnosed with an aortic occlusion, that's a blockage  
6           in my aortic artery. I had invasive surgery and flatlined  
7           on the operating table twice. I spent a month in the  
8           hospital recovering from my surgery.

9                       Once I recovered, I went back to work at Macy's  
10          and worked until 2017. Due to my failing health, I took  
11          too many sick days and I was fired from my position. By  
12          that time, I was sixty-seven years old, so I decided to  
13          file for Social Security retirement benefits.

14                      Imagine my surprise when I was denied, for  
15          failure to provide - - - to prove my citizenship. I had  
16          provided all my paperwork from the time I was born until my  
17          parents' naturalization and still the local office refused  
18          to process my claim.

19                      I tried to advocate for myself. I called Social  
20          Security but could not determine how to fix the issue.

21                      I went to my local Social Security office on  
22          several occasions. Each time, a different worker spoke to  
23          me. Each worker provided me with different and conflicting  
24          information. I was ultimately told to be patient. None of  
25          the workers were able to advise me on how to get my



1 benefits started.

2 After a year and a half without any income, I  
3 spent my entire retirement savings. As a result, in 2019,  
4 I ended up homeless. I went to the Nassau County  
5 Department of Social Services for help. DSS placed me in a  
6 shelter and gave me SNAP benefits and \$277 in cash benefits  
7 months. Needless to say, it was very tough to make ends  
8 meet with such a limited budget.

9 At the end of 2019, I received a notice from the  
10 Social Security Administration that even my Medicare  
11 benefits had been cut off. By this point, I was feeling  
12 helpless and I knew that I needed legal representation.

13 In late February of 2020, a friend of mine  
14 referred me to the Nassau Suffolk Law Services Community  
15 Legal Help Project. I walked into one of their library  
16 outreach days and explained my issue. The staff was very  
17 friendly and helpful. They advised me that I would be  
18 referred to an attorney for services.

19 Shortly thereafter, I received a call from Ms.  
20 Sarah in the Disability Advocacy Project Unit. Ms. Sarah  
21 became, Ms. Sarah began advocating on my behalf right away.  
22 She was able to determine which documents were required.  
23 We made a plan on how to proceed. We decided that I would  
24 request a passport to prove my citizenship. Ms. Sarah  
25 helped me collect all the required paperwork and fill out





1 the passport application.

2 Unfortunately, the COVID-19 pandemic hit before I  
3 could submit my passport application. The pandemic, along  
4 with my ill health, prevented me from getting passport  
5 pictures and submitting an application.

6 Processing times for all federal applications  
7 were also extended. When Ms. Sarah saw that our plan  
8 wasn't going to work, she changed her tactics and continued  
9 to fight for me.

10 Finally, in 2000, July 2021, I began receiving my  
11 monthly retirement benefits. In addition, I was awarded  
12 almost \$50,000 in retroactive benefits. This money has  
13 given me hope for the future. I'm looking forward to  
14 finally be able to enjoy my retirement. Without the help  
15 of Ms. Sarah and Nassau Suffolk Law Services, I'm certain I  
16 would not have been able to get my retirement benefits.

17 I'm incredibly grateful for the important work  
18 done, that they, for the important work that they do  
19 helping people that are struggling to navigate the legal  
20 system.

21 CHIEF JUSTICE DIFIORE: Thank you, Mr. Watala.  
22 Mr. Watala, if I could be so bold as to ask you this, what  
23 was the plan for you had you not been in a position with  
24 the assistance of your lawyer to secure your rightful  
25 benefits?



1 MR. WATALA: I'm sorry. I really can't hear. I  
2 have no volume here at all on the speakers.

3 CHIEF JUSTICE DIFIORE: Can you hear me now?

4 MR. WATALA: There you go. That's better.

5 CHIEF JUSTICE DIFIORE: Okay. So, what was the  
6 plan, sir, had you not been able to secure your rightful  
7 benefits? What---

8 MR. WATALA: I, I didn't have a plan. I had no  
9 plan whatsoever. Just a lot of hope and then no hope.

10 CHIEF JUSTICE DIFIORE: Yeah. Yeah. Okay. And  
11 I missed how you were connected with your lawyer. What  
12 brought you two together? How did you learn of the  
13 availability of those services?

14 MR. WATALA: There was a, they were at the  
15 Uniondale Public Library.

16 CHIEF JUSTICE DIFIORE: Um-hum.

17 MR. WATALA: And I walked in and told them my  
18 problem and I had, they recommended me with Sarah and here  
19 I am.

20 CHIEF JUSTICE DIFIORE: Excellent. Thank you,  
21 sir, and thank you for coming forward and sharing your  
22 story.

23 Ms. Osk?

24 MR. WATALA: Thank you for helping me. Thank  
25 you.



1 CHIEF JUSTICE DIFIORE: Oh, you're very welcome,  
2 sir.

3 Ms. Osk?

4 MS. OSK: Thank you. My name is Victoria Osk,  
5 and I am the Executive Director of Nassau Suffolk Law  
6 Services. I would like to thank Mr. Watala for sharing his  
7 experience with us, and I would also like to express my  
8 gratitude for this opportunity to address this panel today.

9 As the largest provider of free civil legal  
10 services on Long Island, and the only organization to  
11 provide comprehensive legal services in our region, our  
12 office has worked diligently to provide effective, legal  
13 assistance to marginalized communities, who have  
14 experienced disparate impact due to the COVID-19 pandemic.

15 In order to ensure that our clients continue to  
16 receive the best service, staff returned to our office in a  
17 hybrid setting in July 2020. Part of that, a small number  
18 of staff would enter the office on a limited basis pursuant  
19 to the emergency orders in effect at that time.

20 Many of our elderly clients, and our clients with  
21 disabilities, found it difficult or impossible to meet  
22 remotely using technology. To help cope with these  
23 accessibility issues, many of our staff met with clients in  
24 public areas, such as supermarket parking lots, or other  
25 outdoor areas such as a park. However, our clients found



1 it extremely difficult to obtain access to the public  
2 agencies and supportive services upon which the elderly and  
3 disabled must often rely.

4 They also confronted great medical risk if they  
5 did enter a public office or take public transport. Many  
6 of our clients face desperate circumstances in obtaining  
7 basic necessities.

8 In the struggle to assist them, the JCLF has been  
9 a critical support, providing resources in a time of almost  
10 unprecedented emergency.

11 Law Services has approximately forty attorneys to  
12 address the legal needs of the entire low-income population  
13 on Long Island, with an eligible population of 396,000  
14 people. While this is barely adequate, it would be much  
15 less without the support we received from New York State.  
16 The population of people facing eviction and homelessness,  
17 those dependent on public benefits, people living with  
18 mental and physical disabilities, senior citizens, and  
19 other vulnerable persons have been facing significant new  
20 barriers to their survival.

21 Mr. Watala's case is a perfect example of this.  
22 Mr. Watala came in to request services to the Community  
23 Legal Health Project, a joint project with the Suffolk  
24 County Access to Justice Committee, bringing together Legal  
25 Services providers and volunteers through public libraries



1 to provide legal advice and assistance to low-income  
2 residents in a community setting.

3 Once referred to our staff attorney, Sarah  
4 Kupferberg, we were able to obtain benefits for this  
5 client. However, this case shows that in addition to the  
6 barriers usually faced by low-income, elderly, and disabled  
7 persons, the pandemic created new barriers which would have  
8 been insurmountable without legal representation.

9 First, Sarah and Mr. Watala attempted to obtain a  
10 passport to satisfy Social Security, but this was  
11 frustrated by new and extreme delays in the issuance of  
12 federal documentation, such as passports and certificates  
13 of citizenship, as well as the danger associated with even  
14 entering the office.

15 By the time it became clear that a passport was  
16 not readily obtainable, Social Security had closed its  
17 offices to the public, as they remain, and reaching SSA by  
18 phone was increasingly difficult.

19 Sarah was forced to formally submit a brief  
20 arguing that Social Security must accept secondary proof of  
21 citizenship when primary proof is unavailable. When this  
22 argument was successful, she was able to gather materials  
23 such as certified copies of his deceased parents'  
24 certificate of citizenship, as well as his birth  
25 certificate, his baptismal certificate, and his parents'



1 marriage certificate, all of which had to be translated  
2 from German into English.

3 When this had been done, Sarah sought to submit  
4 them to Social Security, but was denied an in-person  
5 meeting to do so until she successfully argued that one  
6 should be made available based on a recent internal  
7 emergency message within the Social Security system  
8 authorizing some in-person meetings in dire need cases.

9 Elderly, disabled, homeless, and without income,  
10 Mr. Watala met the definition of dire need, and Sarah was  
11 granted a meeting to submit these precious documents.  
12 Finally, his retirement benefits that he had worked for all  
13 his life had been granted, and he can look forward to some  
14 stability in his retirement years.

15 While this story has a happy ending, it  
16 illustrates how many of the critical transactions which  
17 sound so simple can create insurmountable barriers to the  
18 poor and vulnerable.

19 Additionally, the pandemic exacerbated those  
20 barriers to such a degree that even an attorney struggled  
21 to overcome them. Without the intervention of a Legal  
22 Services attorney, and her active and highly technical  
23 representation, there is no reason to believe that Mr.  
24 Watala would have received the fruits of his years of  
25 labor. It is these critical and sometimes even desperate



1 needs that your support enables us to effectively address.

2 On behalf of the dedicated staff of Nassau  
3 Suffolk Law Services and the clients they serve, I thank  
4 you for this support.

5 CHIEF JUSTICE DIFIORE: And on behalf of all of  
6 us, you're welcome. And Ms. Kupferberg, Ms. Sarah as Mr.  
7 Watala was calling you, thank you for your literally life-  
8 changing representation.

9 Good luck to you, Mr. Watala.

10 MS. KUPFERBERG: Thank you.

11 (Pause)

12 CHIEF JUSTICE DIFIORE: Ms. DuVal, can you hear  
13 me?

14 MS. DUVAL: Yes.

15 CHIEF JUSTICE DIFIORE: Okay. We're just trying  
16 to connect the lawyers.

17 Good afternoon, Ms. DuVal. This next speaker is  
18 Janice DuVal. She is a client of the Legal Aid Society of  
19 Rochester, and she's joined by her lawyer, Mark Muoio, the  
20 Program Director of the Housing and Consumer Law Unit at  
21 the Legal Aid Society of Rochester. Thank you.

22 Ms. DuVal, we're looking forward to hearing from  
23 you.

24 MS. DUVAL: Good afternoon. My name is Janice  
25 DuVal. I'm sixty-five years old and I live in Andrews



1 Terrace Apartments at 125 St. Paul Street, downtown  
2 Rochester. The building houses elderly residents and  
3 people with disabilities. I've been living there for five  
4 years.

5 Early in the COVID-19 pandemic, I fell behind in  
6 my rent and I became ill and was hospitalized. In  
7 addition, because of my, because of my condition, I suffer  
8 rheumatoid arthritis and keeps my wheelchair, I'm  
9 wheelchair bound.

10 I have spent a lot, a lot more money, I have to  
11 spend a lot more money on personal items than most people  
12 for personal health products.

13 Finally, three members of my family passed due to  
14 the coronavirus and I felt obligated, I felt, I'm sorry.

15 CHIEF JUSTICE DIFIORE: Take your time, Ma'am.

16 MS. DUVAL: I fell behind in paying my rent,  
17 preparing for funerals. A lot of money went toward the  
18 funeral expenses.

19 In November of 2020, I received a notice that I  
20 had to go to City Court for eviction notices because of  
21 unpaid rent. I had tried to keep, I had tried to take care  
22 of, the rent on my own, but it failed. And I never could  
23 work out a payment plan where I could, where I could pay  
24 the money.

25 I've been a, I've been a call, to 211 and started





1 the process of getting help with any means before the court  
2 date. When I arrived at court, I had no representation.  
3 But Legal Aid was there, and I worried about being homeless  
4 and being forced to move out with no shelter or worse. I  
5 was told that I, I was told to ask to speak to Legal Aid  
6 attorneys who was outside the courtroom. I spoke with the  
7 attorney, and she told me that she would represent me as an  
8 attorney for Legal Aid because at that time, I had no  
9 attorney at all when I got to the courtroom. So, she had  
10 to, she had the judge adjourn until she could find me some  
11 rental assistance.

12 On the next court date, I did not have to appear  
13 because my attorney appeared for me. This was a great  
14 relief because my health was deteriorating. During this  
15 time in December, I had contacted coronavirus and became  
16 greatly ill and was hospitalized.

17 About a week after being released from the  
18 hospital, I suffered a stroke. I had to be hospitalized  
19 again. I'm still doing rehabilitation from the stroke.

20 The experience affected me, the stroke affected  
21 me really bad, and not only that, the coronavirus,  
22 recovering from the coronavirus, had me set back a bit  
23 because it took almost, like, a month to just stop having  
24 the symptoms from the coronavirus, the tiredness and stuff.

25 But anyways, I received, then they put me on



1 oxygen to keep me healthy. During this short adjournment,  
2 my attorney worked diligently with me to, with good people  
3 at Person, the good people at the Center Housing Option of  
4 Rochester-based homeless prevention nonprofit organization,  
5 they helped me pay most of the back rent which was, that  
6 was, it's called the PCHO. They paid, like, \$1,900 toward  
7 my back rent. And then, but even that wasn't, still in  
8 the, wasn't enough.

9 And then, and then, Legal Aid stepped in after  
10 representing me in court and called one evening and told  
11 me, "Mrs. DuVal, we got the extra money you need," and I  
12 was overwhelmed. The rent was \$858. They ended up paying  
13 \$800 for me, and asked me, did I have the other \$58? I was  
14 swept off my feet. I had began to breathe again, and want  
15 to fight to continue to live because I don't know what I  
16 would have done had not Legal Aid stepped up with the grant  
17 money that they had helped me with, facing my eviction and  
18 the Legal Aid could pay up to \$800 of my back rent. I  
19 would have paid the remaining \$58 which I was thankful for.  
20 But since, I've been able to keep the balance up on my  
21 rent.

22 And I'm just telling you I'm just so, I'm just so  
23 grateful to the assistance that was given to Legal Aid to  
24 help me because I was lost, I was homeless, I couldn't  
25 walk. It was all, I can't even pronounce the word, I lost



1 so many people during the epidemic. And now, right now, as  
2 I speak to you, I have (audio interference), was one year  
3 older than me, that just went on life support with the  
4 COVID virus and pneumonia. So, I'm hoping when I leave out  
5 of this office that somebody else will hear this cry that I  
6 have, and hear this story, and some more people can be  
7 helped. Thank you.

8 CHIEF JUSTICE DIFIORE: Thank you, Ms. DuVal, and  
9 thank you for communicating such an accurate and detailed  
10 description of your case, your circumstances, the impact on  
11 you, and the impact of the legal services assistance that  
12 you received. And I think your story, Ma'am, will stand as  
13 support and affirmation for why funding civil legal  
14 services is so very important for all of us across the  
15 state.

16 MS. DUVAL: Absolutely. Absolutely.

17 CHIEF JUSTICE DIFIORE: Thank you.

18 Mr. - - -

19 MS. DUVAL: Thank you.

20 CHIEF JUSTICE DIFIORE: You're very welcome,  
21 Ma'am, and good luck to you.

22 Mr. Muoio?

23 MR. MUOIO: Good afternoon. My name is Mark  
24 Muoio. I am the Program Director of the Housing and  
25 Consumer Law Unit for Legal Aid Society of Rochester in



1 Rochester, New York. I have been a housing attorney at the  
2 Legal Aid Society for almost twelve years and have been a  
3 supervisor for three years. I'm grateful to be a part of  
4 today's important proceedings, and I'd be happy to answer  
5 any questions you might have after my remarks.

6 The COVID pandemic and the responses to it have  
7 created some of our most difficult circumstances as tenant  
8 defense attorneys. But, in some ways, the opportunities  
9 from the pandemic have given us what we've been asking for,  
10 for many years. First, I'll talk about the good.

11 In Monroe County, before the pandemic, the legal  
12 services community, local government officials, and under  
13 our local Justice for All initiative, had been working on a  
14 plan to create an access to counsel program for all  
15 Rochester tenants facing eviction, as well as for tenants  
16 in the larger suburban communities. One thing we were  
17 missing at that point was funding. And, so, the pandemic  
18 federal aid came in and helped us with that.

19 Rochester has one of the highest per capita rates  
20 of eviction filing in the whole New York State. It's  
21 higher than New York City, and we have a higher total  
22 number of eviction filings than Buffalo, which has a  
23 population twenty-five percent larger than Rochester.

24 Sixty-four percent of households in the City of  
25 Rochester are renters with a median monthly rent of



1 approximately \$780. The median tenant household annual  
2 income is \$22,000. If you do the math, this leaves many  
3 tenants paying more than thirty percent of their income in  
4 rent, and many more renters, many people paying  
5 approximately fifty percent of their income.

6 When pandemic aid came from the federal and state  
7 government, we were able to successfully implement the  
8 Access to Counsel program that we had been working on for  
9 more than two years. The Legal Aid Society partnered with  
10 the Legal Assistance of Western New York and Just Cause,  
11 which was previously known as Volunteer Legal Services  
12 Project of Monroe County, to staff up with new attorneys  
13 and support staff, so we could meet the coming demand.

14 To date, we have been able to represent every  
15 person in Monroe County who is seeking representation in a  
16 residential eviction matter.

17 We owe a special thank you to the local court  
18 administration in the Seventh Judicial District for working  
19 with our organizations to make the local Access to Counsel  
20 program a success.

21 The program was a piece and was aided by the  
22 establishment in August 2020 of the innovative Special  
23 COVID Intervention Part, which we call SCIP. SCIP creates  
24 a one-stop shop in the courthouse where tenants can meet  
25 with representatives from the Monroe County Department of



1 Human Services and other social service organizations, as  
2 well as legal services providers to address their urgent  
3 eviction matters.

4 In addition, SCIP consolidated eviction cases  
5 from the Town and Village Courts into one County Court Part  
6 in the Hall of Justice in downtown Rochester.

7 Having representatives from social service  
8 agencies available right outside the courtroom has been  
9 instrumental in terms of assisting clients and applying for  
10 rental assistance or checking on the status of a pending  
11 application.

12 Further, the consolidation of cases in one  
13 location allows our partners to represent any tenant  
14 seeking assistance regardless of whether they live in the  
15 county. Without this initiative, the logistics and cost of  
16 offering representation to everyone in the county would  
17 have been daunting.

18 Additionally, the rental assistance funds that  
19 have been set up to help pay past-due rent have been  
20 invaluable. Previously, in Rochester, like many other  
21 areas of upstate, public rental assistance funds were not  
22 readily available, even for vulnerable tenants like Ms.  
23 DuVal. Tenants had to rely on the limited charitable funds  
24 available from not-for-profit organizations, and from  
25 generous donors, similar to how we helped Ms. DuVal pay her



1           \$800.

2                         In a post-pandemic New York State, I strongly  
3           urge the continuation of public rental assistance to help  
4           people avoid eviction and all of the social ills that  
5           follow from eviction.

6                         While I'm proud of Legal Aid and our partners,  
7           that we've been able to represent so many people facing  
8           eviction during the pandemic, holding court in person for  
9           significant periods during the pandemic has been  
10          detrimental at times to our staff and for our clients.

11                        Prior to the pandemic, approximately 8,600  
12          eviction cases were filed annually in Rochester City Court,  
13          and the Court would hear up to forty eviction cases per  
14          day. For most of the pandemic, that has remained true.  
15          The cases were just split into morning and afternoon  
16          sessions of twenty cases each.

17                        At the start of the pandemic, there were almost  
18          no cases being heard. Beginning in September 2020, cases  
19          were mainly heard in person on a daily basis. During much  
20          of this time, while there was no eviction moratorium in  
21          place, individuals were being evicted from their homes in  
22          Rochester.

23                        When cases rose dramatically in December 2020,  
24          attorneys and their clients were permitted to appear  
25          virtually. Since March 15th of 2021, the court has gone



1 back to mainly in-person appearances. As a supervisor of a  
2 staff of twelve, including attorneys and support staff, I  
3 felt very anxious at the beginning about sending colleagues  
4 to court who were not able to be vaccinated at that point.

5 Now, I am concerned again, for my staff, as well  
6 as for my clients, many of whom have health conditions and  
7 disabilities, as the number of COVID cases continue to  
8 rise.

9 I want to restate that I'm very proud of what  
10 we've accomplished in Monroe County. I think our Access to  
11 Counsel Program is as successful as any I've seen reported  
12 anywhere in the nation. That success is a testament to the  
13 dedicated attorneys and staff and Legal Aid, Law New York,  
14 and Just Cause, to our governmental partners at the city  
15 and county level, and to the local court administrators.  
16 We must be able to continue this important work.

17 In order to do so, it's imperative that our  
18 federal, state, and local government find a way to increase  
19 funding for legal services and provide continued rental  
20 assistance programs beyond the pandemic. Thank you.

21 CHIEF JUSTICE DIFIORE: Thank you, Mr. Muoio.  
22 Any questions?

23 Well, congratulations to you, sir, on your  
24 successes and we thank you for your work not only to the  
25 larger community, but your service to Ms. DuVal. Just such





1 a poignant recitation and example of how you, your services  
2 helped a woman regain her stability. So, we thank you for  
3 that. Thank you.

4 MR. MUOIO: Thank you very much.

5 THE COURT: And good luck to you in your service  
6 to your community.

7 MR. MUOIO: Thank you.

8 CHIEF JUSTICE DIFIORE: You're welcome. Thank  
9 you.

10 (Pause)

11 CHIEF JUSTICE DIFIORE: This is Aaron Morris and  
12 Adriene Holder. Let's see. Aaron Morris is the client of  
13 the Legal Aid Society, accompanied by his attorney, Susan  
14 Horwitz. They are joined by Adriene Holder, who we all  
15 know, the attorney-in-charge of the Civil Practice Division  
16 of The Legal Aid Society.

17 I don't see Mr. Morris on the screen.

18 MS. HOLDER: Yes. So, I think - - - I think that  
19 you skipped us. Aaron might be confused about the order  
20 because I think there was another client panel.

21 CHIEF JUSTICE DIFIORE: There was, but we needed  
22 to skip to you.

23 MS. HOLDER: Okay. That's fine.

24 CHIEF JUSTICE DIFIORE: So are we able to - - -

25 MS. HOLDER: I'm sure, because he was, he was on.



1 Susan, do you think you can - - -

2 MS. HORWITZ: I'll call him. I'll call him right  
3 now.

4 MS. HOLDER: I'm sure. He came in from school  
5 and he logged in. So, we, so he's available, but maybe he  
6 just thought he had a little bit more time.

7 CHIEF JUSTICE DIFIORE: Okay. We'll wait a  
8 moment for him, of course.

9 MS. HOLDER: Thank you, Judge.

10 CHIEF JUSTICE DIFIORE: You're welcome. There he  
11 goes.

12 MR. MORRIS: Sorry.

13 MS. HOLDER: It's okay, Aaron. They skipped - -  
14 - they skipped a group, so we know it's early.

15 CHIEF JUSTICE DIFIORE: Aaron, welcome to Court  
16 of Appeals Hall. We are anxious to hear your presentation  
17 today, so we're going to get to you straight away. Please  
18 proceed.

19 MR. MORRIS: Ma'am, I can't really hear you.

20 CHIEF JUSTICE DIFIORE: I said to you welcome to  
21 Court of Appeals Hall. We are very anxious to hear your  
22 presentation today, interested in what you have say to us.  
23 You have the floor, sir.

24 MR. MORRIS: Thank you.

25 Good afternoon, everyone. My name is Aaron



1 Morris. Since February 2020, I lived with my parents in a  
2 Brooklyn shelter. Currently, I am a sophomore at the High  
3 School for Youth and Community Development in Brooklyn.  
4 Before the pandemic closed down schools, I was in the  
5 eighth grade at a school across the street from my shelter.  
6 I like school. I got good grades and have friends.

7 In September of 2020, I started the ninth grade  
8 and went to school remotely since the pandemic started  
9 because my father had medical conditions that made any  
10 COVID exposure risky.

11 When this pandemic started, I was shocked and  
12 confused because this is the first time I've ever been  
13 through anything like this.

14 In addition, maintaining remote access to school  
15 was challenging. At first, I had a school laptop that I  
16 tried to use to get online for remote learning, but since  
17 the shelter didn't have Wi-Fi for the residents, the only  
18 way I could connect was through the hotspot on my father's  
19 cellular phone. The connection wasn't reliable, and even  
20 when I could get online for school, we ran out of cellular  
21 data quickly.

22 In April of 2020, I got an iPad with a T-Mobile  
23 cell service, but it barely worked because the signal was  
24 not strong. The iPad had some of the same problems  
25 connecting that I had already experienced with the hotspot.



1           My father and I had to go up to the school  
2 several times to meet outside with the school's technology  
3 specialist to get internet working on my iPad. Eventually,  
4 the iPad stopped working altogether and started crashing.

5           I wasn't able to get any of my assignments in on  
6 time or stay in any of my classes without being logged out.  
7 And eventually, I missed most of my classes.

8           I felt angry and ashamed of the City Department  
9 of Education not doing their job to provide every kid with  
10 a working iPad. It was especially hard because when I  
11 started the ninth grade, I hadn't met any of my teachers or  
12 classmates in person. The only way I could interact with  
13 them was on screen.

14           Not being able to connect with them online made  
15 me depressed and stop, and even stopped trying to log in  
16 many days.

17           Around October of 2020, after I met with the  
18 attorneys and advocates at the Legal Aid Society, their  
19 team bought me an iPad from my school with a Verizon cell  
20 plan. It wasn't perfect, but it connected more reliably  
21 than the first iPad they gave me. I was able to log in to  
22 my classes more often and submit homework assignments.

23           When my father and I first talked to the Legal  
24 Aid team, we told them about all the other students living  
25 in our shelter who couldn't connect to the internet. Legal



1 Aid told us that the problem was not just in our building.  
2 There were students in many shelters all over the City who  
3 were having the same problems connecting and keeping up  
4 with their education.

5 Legal Aid asked if we would be part of a lawsuit  
6 that makes, that will require the City to install Wi-Fi for  
7 all the shelters. We know a lot of the other students in  
8 our shelter who are having the same problem, so we were  
9 excited to help.

10 My father and I were interviewed by reporters and  
11 appeared on TV. I had to be questioned by the City's  
12 lawyers about how the internet problems affected my  
13 education. It was hard talking about what it was like  
14 living in a shelter and trying to go to school remotely,  
15 but my father and I knew how important it was to get other  
16 kids in the shelter the same thing Legal Aid helped me get:  
17 access to the internet so that they can get an education  
18 during this pandemic.

19 So, The Legal Aid Society didn't just help the  
20 Morris family, they helped thousands of other students get  
21 an education during this pandemic.

22 In December of 2020, my shelter was finally wired  
23 for internet access. It still took some time to get the  
24 connection working well, but, after that, my grades  
25 skyrocketed from a C average to an A average. Being able



1 to fully participate in remote school helped me feel better  
2 about myself during this really hard time.

3 I heard almost all the family shelters now have  
4 Wi-Fi and I'm proud that my father and I were able to help  
5 Legal Aid make this happen.

6 I wish that it had happened sooner, so other  
7 students like me wouldn't have had missed as much school.  
8 Legal Aid didn't just help me for getting internet access.

9 When I told some of the lawyers that I was  
10 interested in engineering, they sent me information about a  
11 summer internship at The Cooper Union for high school  
12 students. I applied and was accepted with a full  
13 scholarship. And I studied architectural engineering and  
14 mechanical engineering this summer.

15 If it hadn't been for Legal Aid, I would have  
16 never known about this opportunity. Legal Aid provides  
17 essential service and advocates for New Yorkers, and I've  
18 been told that as much as Legal Aid does, it would not be  
19 possible without the consistent investments of the  
20 Judiciary Civil Legal Services Funding since 2011.

21 Thank you so much for this invitation to appear  
22 to you today and share my story.

23 CHIEF JUSTICE DIFIORE: Your parents and your  
24 entire extended community must be so proud of you. And  
25 while you talk about the long haul, your patience and your



1 persistence make you a true trailblazer. And I'm a little  
2 disappointed to hear you're going into engineering because  
3 I'm thinking as you're talking one day this guy's going to  
4 take my chair.

5 MS. HOLDER: We're working on it.

6 CHIEF JUSTICE DIFIORE: Congratulations, young  
7 man, and good luck to you.

8 Anyone have any questions? Justice LaSalle?

9 JUSTICE LASALLE: Mr. Morris, I was really moved  
10 by your story. I've heard a lot of stories in all my years  
11 in people's - - - as a judge and as a prosecutor, but - - -  
12 and I rarely get moved, but you really moved me.

13 How did that internship work this summer, the  
14 thing you did at Cooper Union? You want to fill us in on  
15 that if we have the time, Chief?

16 CHIEF JUSTICE DIFIORE: Yes. Yes. Of course, we  
17 have the time for the sharing and (indiscernible).

18 MR. MORRIS: It was great. I just wish that it  
19 had never ended, because I was having a lot of fun with it,  
20 and I learned how to make 3D models of whatever I was  
21 trying to create. And most of my ideas, I was able to make  
22 a 3D model out of it.

23 And my father and I were actually thinking about  
24 doing, like, a business of our own, one day, where  
25 everything in the store is under a dollar. Like, it was



1           like, a candy, a candy store and it was, everything was  
2           under a dollar.

3                         So, for my dad, I made like a 3D model of a  
4           building with a sign on top of the building and the sign  
5           was actually rotating on top of the building. So that was  
6           kind of a fun project that I did with the 3D modeling  
7           during the summer internship.

8                         CHIEF JUSTICE DIFIORE: Thank you so very much.

9                         Ms. Holder, your testimony is almost not needed.  
10          This young man is the personification of the great work  
11          that The Legal Aid Society is doing. We're going to let  
12          you present, but it's almost unnecessary.

13                        It's a terrific story and good luck to you from  
14          all of us.

15                        MR. MORRIS: Thank you, Ma'am.

16                        CHIEF JUSTICE DIFIORE: Ms. Holder?

17                        MS. HOLDER: Yeah. Aaron, stay on.

18                        Aaron is terrific, isn't he? I just want to say  
19          I'm so pleased. Aaron's family has been working with Susan  
20          Horwitz and I want to give her my thanks as well. She's  
21          actually the Director of our Education Law Unit that worked  
22          on the case that I'm about to talk about, around Wi-Fi in  
23          the shelter system. And Kathryn Kliff is also one of the  
24          attorneys in our Homeless Rights Unit, has been working  
25          with Aaron, but Aaron has impressed me in the short amount





1 of time that I've known him.

2 And Judge, we're going to work on him on law, but  
3 right now engineering is what he has a passion for and  
4 we're going to go with that.

5 So good afternoon, everyone. I'm Adriene Holder,  
6 Attorney-in-charge of the Civil Practice in The Legal Aid  
7 Society. And I first want to thank Honorable Chief Judge  
8 Janet DiFiore, Honorable Judge Rolando T. Acosta, Honorable  
9 Judge Hector LaSalle, Honorable Judge Elizabeth Garry,  
10 Honorable Judge Gerald Whalen, Honorable Chief  
11 Administrative Judge, Lawrence Marks, and New York State  
12 Bar President Andrew Brown for the opportunity to address  
13 you today.

14 As you can tell, Aaron Morris' experience  
15 illustrates that the digital divide is real, and that the  
16 inevitable access to broadband and appropriate equipment  
17 for our children has long-lasting consequences.

18 At the end of November 2020, The Legal Aid  
19 Society with Milbank filed a lawsuit on behalf of the  
20 Coalition for the Homeless and certain individual shelter  
21 residents and their children against the City for failing  
22 to provide students residing in City shelters with access  
23 to reliable internet service. Thus, ultimately, leaving  
24 students unable to access school remotely during the  
25 pandemic.



1           Every school year, there are approximately  
2           100,000 public school students experiencing homelessness in  
3           New York City. When schools closed due to the COVID-19  
4           pandemic in March of 2020, the Department of Education  
5           provided cellular data-enabled devices for students, but  
6           many shelters were located in areas without adequate or  
7           reliable cellular data services. This effectively  
8           prevented many students residing in shelters from being  
9           able to access school, complete homework assignments, and  
10          communicate with their teachers.

11           Despite frequent communication and advocacy, the  
12          City failed to correct the situation, ultimately leaving  
13          11,000 students in over 200 shelters unable to participate  
14          reliably in remote education.

15           In April 2021, we secured a settlement with the  
16          City, which requires the City to substantially complete  
17          installation of wireless internet by August 31st of 2021.  
18          In addition, the City was required to institute a range of  
19          interim measures, in support, to ensure children housed in  
20          shelters had adequate remote educational access. These  
21          include established timeframes for the City Department of  
22          Education to resolve any technical issues related to  
23          internet access via tablets, and requirements for shelter  
24          providers to provide information to shelter residents about  
25          this dedicated help desk and technical support.



1                   We're pleased to report that as of August 31st,  
2                   every existing shelter unit that houses children is wired  
3                   for internet, and every new building site will also include  
4                   internet access.

5                   Throughout the pandemic, The Legal Aid Society  
6                   continued to press for the needs of low-income students.  
7                   We assisted our clients in securing iPads, laptops,  
8                   Chromebooks, and internet access where needed, participated  
9                   in special education meetings and impartial hearings, and  
10                  counseled parents on their children's rights to continued  
11                  special education services.

12                  We continued our advocacy to ensure that students  
13                  with disabilities receive special education services via  
14                  individualized education plans, also known as IEPs, while  
15                  schools were closed, as well as during the summer, to avoid  
16                  educational regression caused by the abrupt end of in-  
17                  school instruction.

18                  We are currently advocating for a remote  
19                  instruction option for medically vulnerable students, and  
20                  for students living with vulnerable household members for  
21                  whom COVID exposure is an enormous risk to health.

22                  As we continue to move through the many stages of  
23                  this crisis, we remain on the front line of efforts to  
24                  ensure that the needs of New York's marginalized  
25                  communities are met. So much of this would not have been



1 possible without the consistent investment of Judiciary  
2 Civil Legal Services funding since 2011. Investing in  
3 legal services is a long-term investment in the fight  
4 against racism, injustice, and poverty.

5 And, so, on behalf of The Legal Aid Society, I  
6 thank you for your continued support, and again for the  
7 invitation to share a part of our work today. I am so glad  
8 that you had an opportunity to meet Aaron.

9 CHIEF JUSTICE DIFIORE: Thank you, Ms. Holder,  
10 and we're happy to have had the opportunity to meet Aaron  
11 as well.

12 And Ms. Horwitz, these are the reasons why we go  
13 to law school. And congratulations on your impactful  
14 representation of this young man and the thousands of other  
15 students similarly situated. Thank you very much

16 MS. HORWITZ: Thank you.

17 CHIEF JUSTICE DIFIORE: Our next client presenter  
18 is Keenya Bemis, and she is accompanied by her lawyer,  
19 Anthony Mohen, a Senior Attorney at The Legal Aid Society  
20 of Northeastern New York.

21 Ms. Bemis, welcome to you.

22 MS. BEMIS: Thank you.

23 CHIEF JUSTICE DIFIORE: You may proceed.

24 MS. BEMIS: Okay. It's good to be here. My name  
25 is Keenya Bemis, and I'm here to share my story as a client



1 of The Legal Aid Society of Northeastern New York.

2 I currently teach high school biology with  
3 Schenectady City Schools. I also work with the Liberty  
4 Partnership Program as a tutor during the school year and  
5 during the summers. And I am an instructor during the  
6 summers for the STEAM Camp. So, science, technology,  
7 engineering, art, math camp for a local, high-risk middle  
8 schoolers.

9 I received two master's degrees from SUNY Albany,  
10 one in Biological Anthropology, and the other in Education.  
11 And I currently live in Latham with my husband and seven-  
12 year-old daughter.

13 So, in the spring of 2020, I shifted to teaching  
14 remotely after the pandemic began and continued full time  
15 with the school district and began talking with the Liberty  
16 Partnership Program about plans for the summer.

17 In early June, I was informed that due to a  
18 funding crisis because of funding cuts and COVID  
19 restrictions, the Liberty Partnership Program would not be  
20 able to offer me my normal summer employment.

21 I count on that additional income from LPP, since  
22 teaching high school only provides me with income for my  
23 family for ten months of each year. And, so, without it, I  
24 began to worry about supporting my family and paying rent  
25 and other important bills.



1           Around the same time, my teachers' union sent out  
2           an email explaining that if your regular summer employment  
3           is impacted due to COVID, you may qualify for the PUA. I  
4           applied to the Department of Labor, was approved, and then  
5           began to receive pandemic unemployment benefits.

6           In mid-summer, I returned to work at school for a  
7           few days for professional development, creating a break in  
8           my claim. I had to recertify my claim for benefits, but  
9           when I did so, the Department of Labor rescinded their  
10          approval of my PUA and stopped receiving benefits.

11          In October 2020, I received a notice from the  
12          Department of Labor that they were charging me an  
13          overpayment of \$4,038, which I had to pay back. After I  
14          received the overpayment notice, I contacted The Legal Aid  
15          Society of Northeastern New York, and was connected with  
16          Attorney Anthony Mohen. He confirmed that I was indeed  
17          eligible for the PUA, and based on the loss of my summer  
18          employment, we requested a hearing. That hearing was  
19          finally held in April 2021.

20          With Anthony's support, I testified about how  
21          uncertain everything was in 2020, and we received a  
22          favorable decision stating that I was entitled to collect  
23          benefits, so there was no overpayment.

24          We were also able to qualify me for the remaining  
25          weeks of summer 2020, and I received an additional \$504 in



1 retroactive benefits.

2 COVID has been very difficult to navigate for  
3 teachers. Between adjusting to remote and hybrid teaching  
4 environments and deepening funding cuts, many of us were  
5 unsure about the future of our careers. In my school  
6 district, in Schenectady City School District, more than  
7 100 teachers, social workers, and school counselors, and  
8 over 200 paraprofessionals were laid off in September 2020,  
9 due to anticipated cuts in state aid funding.

10 I, along with many other teachers and other  
11 educational professionals, did not know a hundred percent  
12 if we were returning in the fall when the news about the  
13 budget was discussed during the latter part of the summer.

14 So, in normal years, teachers can make other  
15 arrangements through part-time and seasonal jobs to make  
16 ends meet to cover the two months we have when we're  
17 without income and understand that employment benefits are  
18 not available during that time.

19 During COVID, regular summer employment was  
20 interrupted, causing concern and a lot of stress. I'm one  
21 of the lucky ones. My union provided me with accurate  
22 information about pandemic-related changes to unemployment  
23 benefits; and then, when the Department of Labor got it  
24 wrong and tried to reverse their approval, I found The  
25 Legal Aid Society of Northeastern New York. And, with The



1           Legal Aid Society of Northeastern New York and Anthony's  
2           help, I was able to get a hearing and got a favorable  
3           result, but many people who work for schools have not.

4                   And I am really grateful to Anthony for not only  
5           his work on my case, but for his continued work to advocate  
6           for continued reexamination of these cases by the  
7           Department of Labor and the Unemployment Insurance Appeals  
8           Board for teachers and other educational professionals  
9           across New York State.

10                   Thank you for helping me find free legal  
11           services, especially COVID-19, when COVID-19 turned  
12           everything upside down.

13                   CHIEF JUSTICE DIFIORE: Thank you, Ms. Bemis.  
14           You know, we're always concerned, and I may have missed  
15           this in your presentation, as to how folks who are in need  
16           of civil legal service assistance find their way to their  
17           lawyers. I heard you say you found your way to The Legal  
18           Aid Society.

19                   MS. BEMIS: Um-hum.

20                   CHIEF JUSTICE DIFIORE: What pointed you in that  
21           direction?

22                   MS. BEMIS: Oh. When I got the notice from the  
23           Department of Labor, it was embedded in the papers that  
24           they gave - - -

25                   CHIEF JUSTICE DIFIORE: They - - -





1 MS. BEMIS: - - - about getting - - - yeah, so it  
2 was in the instructions from the Department of Labor that  
3 that was possible to get representation.

4 CHIEF JUSTICE DIFIORE: Excellent. Excellent.  
5 I'm glad to hear that. Thank you for sharing your story  
6 with us, and we're happy to hear that you seem to be on the  
7 right road. So excellent. Excellent.

8 Counsel?

9 MR. MOHEN: Thank you. And thank you Ms. Bemis  
10 for taking the time to share your story. Thank you, Chief  
11 Judge DiFiore and to all the justices for giving us the  
12 opportunity to present here.

13 Ms. Bemis' experience with her claim for pandemic  
14 unemployment assistance, or PUA, and the response by the  
15 New York State Department of Labor demonstrates the urgent  
16 need for civil legal assistance to help New Yorkers meet  
17 their basic needs during the pandemic.

18 The COVID-19 pandemic created an unprecedented  
19 crisis for people across New York State and across the  
20 country.

21 Government was quick to respond at the federal,  
22 state, and local levels to declare emergency measures, and  
23 in April 2020, Congress passed a law that created a number  
24 of programs to address the immediate effect of the  
25 pandemic, including pandemic unemployment assistance.



1           This program was designed to expand unemployment  
2           protections to a broader range of workers than those  
3           normally covered by unemployment insurance. And, while its  
4           overall aim was clear, implementing the program created  
5           confusion around how to fit it within the existing  
6           unemployment benefit rules and regulations in New York.

7           Due to this confusion, many people who were  
8           eligible for PUA had to wait months to receive that much-  
9           needed assistance, and, in some instances, PUA recipients  
10          were told that they were not eligible for benefits they had  
11          already received, and they would have to pay them back,  
12          sometimes in amounts of thousands of dollars.

13          Teachers and educational employees, such as Ms.  
14          Bemis, were one such group of employees who received  
15          conflicting information about their claims. Many, like,  
16          Ms. Bemis, applied and were approved for benefits which  
17          they then relied on to pay their rent, a mortgage, and  
18          other bills, only to later be told that they were overpaid  
19          benefits, and that they had to repay thousands of dollars  
20          to the State. Due to the large number of unemployment  
21          claims filed during the pandemic, these overpayment notices  
22          often went out months after the benefits had been received,  
23          and then keeping longer to request a hearing on any  
24          overpayment or denial of benefits.

25          This left many unemployed people waiting for



1 months for benefits they desperately needed, or uncertain  
2 about whether they would have to repay thousands of dollars  
3 that they couldn't afford. Ms. Bemis was fortunate because  
4 she called Legal Aid and had representation at her hearing,  
5 and that enabled her to avoid the overpayment and  
6 ultimately receive retroactive benefits that she should  
7 have gotten in the summer of 2020. But for every client  
8 like Ms. Bemis who we serve, there are likely many others  
9 who are unable to receive this assistance or accurate  
10 information about their claim.

11 Not all parts of New York State have legal  
12 services offices that were able to provide representation  
13 in unemployment hearings when the pandemic started, and  
14 those programs that do provide representation were  
15 overwhelmed with requests for assistance as the pandemic  
16 wore on.

17 In addition to the increased need for direct  
18 representation, the pandemic has shown the need for  
19 advocates who can address the systemic impact of these  
20 policies. The situation of educational employees is just  
21 one example of the difficulty of applying the normal rules  
22 for unemployment insurance during the unprecedented  
23 circumstances of the global pandemic.

24 A statewide network of advocates, the  
25 Unemployment Insurance Coalition, has been critical in



1 distributing information about how to apply for these  
2 programs, helping individual clients get their benefits,  
3 and speaking out about the failures of the system to serve  
4 the basic needs of the most vulnerable New Yorkers. These  
5 advocates rely on Judiciary Civil Legal Services funding to  
6 help not just their individual clients, but to help make  
7 sure that all New Yorkers can meet their basic needs.

8 Without this funding, Legal Aid would be unable  
9 to help clients like Ms. Bemis. The system should be  
10 expanded to ensure that others like her are not deprived of  
11 crucial benefits that they need, and we strive to advocate  
12 not just for each of our clients like Ms. Bemis, but to  
13 make sure that our work has a broader impact to help others  
14 who are similarly affected. Thank you.

15 CHIEF JUSTICE DIFIORE: Thank you, sir.

16 Any questions for Mr. Mohen?

17 Mr. Mohen, does The Legal Aid Society have any  
18 other clients who are similarly situated to Ms. Bemis?

19 MR. MOHEN: Yes. We, in our Albany office, we  
20 helped a number of people who are educational employees,  
21 either teachers or paraprofessional employees of school  
22 districts. In some cases, school room aides, school bus  
23 drivers, and different people who were all similarly  
24 affected.

25 CHIEF JUSTICE DIFIORE: And do you track the way



1 in which they wind up in your service?

2 MR. MOHEN: We do. As Ms. Bemis said, the  
3 Department of Labor fortunately does mail out a list of  
4 approved advocates who represent claimants in unemployment  
5 hearings, and legal services provides are often there.  
6 There are a few private attorneys who are also listed. So  
7 fortunately, that information is put into people's hands,  
8 although I think in a lot of circumstances, the bigger  
9 problem was just having to wait for months and months  
10 before they would get a determination to find out who the  
11 appropriate person to contact was.

12 CHIEF JUSTICE DIFIORE: Yes. Absolutely. This  
13 is a great example of the importance of this work. And we  
14 thank you very much, Ms. Bemis. Good luck to you. Thank  
15 you.

16 MS. BEMIS: Thank you.

17 MR. MOHEN: Thank you.

18 CHIEF JUSTICE DIFIORE: And that concludes this  
19 hearing, the 2021 Civil Legal Services hearing. I thank  
20 all of our presenters, both the presenters that joined us  
21 here in person, the client presenters who joined us by  
22 video along with their lawyers, and of course, I thank my  
23 colleagues here on the bench for their interest, their  
24 devotion, and their dedication to increasing access to  
25 justice for all New Yorkers. Thank you so very much.



(Whereupon the proceedings concluded.)

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

I, Colin Richilano, certify that the foregoing transcript of the 2021 Civil Legal Services Hearing was prepared using the required transcription equipment and is a true and accurate record of the proceedings.



Signature: \_\_\_\_\_

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