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COURT OF APPEALS

STATE OF NEW YORK

CHIEF JUDGE'S HEARING ON CIVIL LEGAL SERVICES

IN NEW YORK

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.



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(Whereupon the proceedings concluded.)



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.



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