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COURT OF APPEALS

STATE OF NEW YORK

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CHIEF JUDGE'S 2023 STATEWIDE HEARING ON  
CIVIL LEGAL SERVICES  
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20 Eagle Street  
Albany, New York  
September 18, 2023

- Before: HON. ROWAN D. WILSON,  
Chief Judge
- HON. DIANNE T. RENWICK,  
Presiding Justice of the First Department
- HON. HECTOR D. LASALLE,  
Presiding Justice of the Second Department
- HON. CHRISTINE M. CLARK,  
Associate Justice of the Third Department
- HON. GERALD J. WHALEN,  
Presiding Justice of the Fourth Department
- HON. JOSEPH A. ZAYAS,  
Chief Administrative Judge
- RICHARD C. LEWIS, ESQ.,  
President of the New York State Bar Association

Javacia Huff  
Christian C. Amis  
Official Court Transcribers

1 THE CLERK: All, please rise.

2 Welcome to the 2023 public hearing on civil legal  
3 services. Presiding today, the President of the New York  
4 State Bar Association, Richard Lewis; Presiding Justice of  
5 the Appellate Division, First Department, the Honorable  
6 Dianne Renwick; Presiding Justice of the Appellate  
7 Division, Second Department, the Honorable Hector LaSalle;  
8 Justice of the Appellate Division, Third Department, the  
9 Honorable Christine Clark; appearing remotely, is Presiding  
10 Justice of the Appellate Division, Fourth Department, the  
11 Honorable Gerald Whalen; the Chief Administrative Judge of  
12 the Unified Court System, the Honorable Joseph Zayas; and  
13 the Chief Judge of the State of New York, the Honorable  
14 Rowan Wilson. The hearing will now begin.

15 CHIEF JUDGE WILSON: Please be seated, everyone.  
16 Welcome and thank you for coming. I'd like to acknowledge  
17 the presence of a few other people, besides my colleagues  
18 here on the bench and President Lewis: The Honorable  
19 Edwina Richardson Mendelson, who is the Deputy Chief  
20 Administrative Judge for Justice Initiatives; the Honorable  
21 James Murphy, who is the Deputy Chief Administrative Judge  
22 for the Courts Outside of New York City; I believe - - - I  
23 don't see her, but I believe - - - oh, I'm sorry. I do see  
24 her. I just don't have my glasses on. The Honorable Anne  
25 Minihan, who is the Administrative Judge for the Ninth



1 Judicial District; Helaine Barnett who is the Chair of the  
2 Permanent Commission on Access to Justice; Honorable Fern  
3 Fisher, who is a member of that Commission, former judge  
4 for the Housing Court and all-around advisor on all sorts  
5 of things.

6 And I also wanted to - - - although they're not  
7 here, I wanted to thank and acknowledge the lawyers and  
8 legal assistants from Sullivan & Cromwell who assist the  
9 Commission and were instrumental in helping to prepare the  
10 materials. Jessica Klein who is special counsel and head  
11 of pro bono with the firm; Madeline Jenks, an associate at  
12 the firm; Marissa Torelli and Tessa Shimuzu, who are  
13 - - - litigation legal assistants. And then also  
14 the Commission staff counsel, who had - - - who is - - -  
15 had assisted with hearing preparation, Rochelle Klempner  
16 and Barbara Mulé. Barbara is here. So thank you all,  
17 again, for coming.

18 And I wanted to start with just a few brief  
19 remarks before we begin the more interesting part  
20 of the program, when you'll hear from people who actually  
21 know what they're talking about and people who have been  
22 the beneficiary of legal services. And I think that, in  
23 some ways, is the most interesting part of today's  
24 hearing.

25 So, as you all know, Chief Judge Lippman created



1 the Permanent Commission on Access to Justice. And over  
2 time obtained \$100 million annually, now up to \$112  
3 million, to begin to address the need for representation in  
4 civil matters for those unable to afford a lawyer. I was  
5 privileged to serve as a member of the Commission for a few  
6 years and see its work firsthand.

7 Along with Helaine Barnett, I attended several of  
8 the national conferences on Access to Justice, and I can  
9 report that no other state comes close to New York's  
10 commitment. I can also report that New York's commitment  
11 falls far short of any conceivable measure of need.

12 The Commission has been working for more than two  
13 years to develop a rigorous conservative estimate of what  
14 it would take to provide civil representation to persons at  
15 or below twice the U.S. poverty line for the most pressing  
16 types of matters including eviction, consumer debt, child  
17 support, and disability benefits.

18 The Commission estimates that nearly an  
19 additional billion dollars annually would be required in  
20 New York. Myriad studies document the magnitude of the  
21 need, the tremendous deficit faced by unrepresented  
22 litigants, and the social consequences that result when the  
23 better outcomes that are available to represented litigants  
24 are unavailable to unrepresented litigants.

25 I'm not going to restate any of that information



1           today. You will hear later on from, as I said, people who  
2           know much more about this than I do. We should not forget,  
3           though, that civil legal representation is a means to  
4           various ends. And at the highest level of - - - of  
5           abstraction, everyone shares the same objectives. We want  
6           New Yorkers to have stable housing. We don't want them  
7           sleeping on the streets. We want New Yorkers to have food,  
8           not to starve. We want families to remain together safely.  
9           We want people to receive governmental benefits to which  
10          they are entitled. We want them to be productive and  
11          engaged members of our society.

12                   Our social problems -- crime, homelessness, food  
13          insecurity, mental and physical illness -- are not new.  
14          They are all interrelated in both cause and effect. And  
15          legal representation, standing alone, whether civil or  
16          criminal, will not eliminate those problems, but legal  
17          representation gives people a chance for a better outcome,  
18          a chance to avoid or climb out of the spiraling abyss of  
19          our social ills.

20                   In conjunction with other programs, such as an  
21          increased supply of affordable housing, increased wellness  
22          resources, early support and intervention programs for  
23          parents who are finding it difficult to raise children, the  
24          benefits of legal - - - civil legal representation can be  
25          multiplied, and quite possibly, the need for criminal



1 legal - - - legal representation may be reduced. The  
2 conclusion of the United States Department of Justice,  
3 backed by very substantial independent research, is, and I  
4 quote, "Ensuring access to legal solutions cannot only  
5 improve outcomes for those who would seek assistance, but  
6 it can also save public dollars in the long term by  
7 preventing problems like homelessness or health issues that  
8 can be extremely costly and harmful to individuals and the  
9 public."

10 Among the 50 states, New York's poverty level  
11 is 14<sup>th</sup> from the bottom. More than 13 percent of New  
12 Yorkers live below the poverty line, almost double  
13 the rate of our neighbor, New Jersey. The president of a  
14 much poorer country than ours, Nelson Mandela, once  
15 observed, "Like slavery and apartheid, poverty is not  
16 natural. It is man-made, and it can be overcome and  
17 eradicated by the action of human beings."

18 Poverty is the cause of and is exacerbated by  
19 most of our social ills. Greater provision of civil legal  
20 representation is one step we must take to build a  
21 stronger, healthier, and more equitable society.

22 So with that, I would like to begin the  
23 programming by welcoming our first speaker, Ronald Flagg,  
24 who is the president of the Legal Services Corporation, and  
25 traveled here from Washington to be with us. Thank you



1 very much, Mr. Flagg.

2 MR. FLAGG: Good afternoon, Chief Judge Wilson,  
3 Presiding Justices LaSalle, Renwick, and Whalen, Justice  
4 Clark, Chief Administrative Judge Zayas, and President  
5 Lewis.

6 Thank you for inviting me today to discuss the  
7 urgent need for civil legal aid here in the State of New  
8 York and throughout the country. I am Ron Flagg and serve  
9 as president of the Legal Services Corporation. And today  
10 I will largely be discussing the needs of civil legal aid  
11 on a national level, but I look forward, as I am sure you  
12 do, to hearing the New York State specific reports that  
13 Chief Judge Wilson referred to and that will be presented  
14 shortly.

15 LSC is the largest funder of civil legal aid in  
16 the United States. We fund 131 legal aid programs,  
17 operating over 900 offices across the country. And here in  
18 New York, there are seven LSC-funded grantees that serve  
19 low-income individuals in every community. And of course,  
20 those grantees are also supported by the funds that you  
21 help appropriate.

22 While the first sentence of the U.S. Constitution  
23 identifies the establishment of justice as a priority,  
24 unfortunately, as you all know, the principle of equal  
25 justice has become less and less reflective of what we



1 actually see in the operation of our courts throughout the  
2 country, in particular, in our civil justice system.

3 Economic means too often dictate the viability of  
4 one's legal rights. People living in poverty are reminded  
5 of this painful truth every day. Some of the largest  
6 client populations that LSC grantees and other legal aid  
7 programs serve include domestic violence survivors,  
8 veterans, and elderly individuals. The access to redress  
9 for survivors fleeing the violence of an abusive partner,  
10 veterans seeking a benefit that they earned for their  
11 service, or elderly people protecting their structured  
12 income should not turn on the means available to them to  
13 pay a lawyer. And yet far too many people living in  
14 poverty are forced to face life-altering issues that  
15 accompany cases for their families on their own.

16 In 2022, LSC released its Justice Gap Study which  
17 examines the volume of civil legal needs faced by low-  
18 income Americans and measures the shortfall between those  
19 needs and the legal resources available to them. What we  
20 found was truly stunning. Nearly 75 percent of low-income  
21 Americans across the country face at least one civil  
22 legal issue, a significant civil legal issue, every single  
23 year. And yet, a striking 92 percent - - - let me repeat  
24 that statistic - - - 92 percent of those life-altering  
25 problems receive no or inadequate assistance, leaving



1 individuals to face these challenges alone and often  
2 with devastating, dispositive consequences.

3 Let me share another what I find shocking metric  
4 and evidence of the justice gap. Nearly 50 percent of  
5 individuals seeking help for their legal issues are turned  
6 away by legal aid programs, including ours, without any  
7 assistance due to resource constraints. And again,  
8 soberly, this nearly one-in-two turn away rate  
9 substantially understates - - - understates the justice gap  
10 because it doesn't reflect the millions of people who don't  
11 know that they're necessarily facing a legal issue. And  
12 even if they understand they face a legal issue, they may  
13 not know of the availability of legal aid or how to get to  
14 legal aid's door.

15 Now, you might wonder does getting legal  
16 assistance really make a difference? In a system designed  
17 on the premise that people will have lawyers, not having a  
18 lawyer can often be dispositive. As we look around the  
19 country in many landlord/tenant courts, over 90 percent  
20 of unrepresented tenants lose their homes. Conversely, in  
21 those few jurisdictions, including at least a couple here  
22 in New York State, where people do have representation in  
23 eviction cases, by and large 80 percent or more are  
24 able to stay in their homes. That's a big difference and  
25 we see that same difference in other cases, be it family



1 cases, eviction, you name it.

2 These tragic justice gap data are a direct  
3 consequence of our country's chronic underfunding of civil  
4 legal aid. Chief Judge Wilson made reference to the  
5 underfunding of legal aid. Let me give you the national  
6 perspective on that issue. In FY 1994, Congress provided  
7 LSC with \$400 million. 1994. Thirty years later, our  
8 appropriation has only edged up to \$560 million. In other  
9 words, we haven't even received remotely enough funding to  
10 keep up with inflation, much less the multiple recessions  
11 and the pandemic and the growth in legal issues that have  
12 occurred over the last three decades.

13 Congress currently appropriates as much money  
14 for civil legal aid as Americans spend every year on  
15 Halloween costumes for their pets; Halloween costumes  
16 for their pets. This underfunding has also caused our  
17 grantees to fall behind in providing competitive pay  
18 for employees. Civil legal aid lawyers continue to be  
19 the lowest category of lawyers in the legal profession,  
20 learning less than public defenders and even other  
21 public interest lawyers. Too many law students  
22 graduating with increasing debt simply can't afford to  
23 become legal aid lawyers or remain legal aid  
24 lawyers. And unfortunately, the situation is not getting  
25 better.



1           COVID has widened the justice gap. Our 2022  
2 Justice Gap Study revealed that one-third of all civil  
3 legal problems reported by low-income Americans are  
4 directly related to the pandemic, and we see this by  
5 example and particularly in eviction cases throughout the  
6 country. Housing issues have become even more than they  
7 were before the pandemic, the largest area of our grantees'  
8 work, now representing more than 41 percent of the case  
9 closings for our grantees across the country. And here  
10 in New York State, we see that in even greater measure  
11 with 49 percent of the closings by LSC grantees falling  
12 in the housing category.

13           And with eviction moratoria expiring and  
14 emergency rental assistance depleted, this trend will  
15 likely accelerate. And of course, the devastating effect  
16 of evictions and housing problems aren't limited to  
17 housing. Without a secure roof over their heads,  
18 individuals and families experience worse health outcomes,  
19 higher unemployment, and educational struggles.

20           We are also seeing a dramatic spike in  
21 domestic violence across the country. Domestic violence  
22 cases have been steadily rising over the past decade,  
23 a trend that worsened during the pandemic when many  
24 survivors were forced to quarantine with their  
25 abusers.

1           The lack of representation has become a  
2           tremendous burden on our courts - - - and again, you know  
3           this better than I do - - - our judges, our administrators,  
4           and everyone involved in the civil justice system. It is  
5           no wonder why the Conference of Chief Justices and the  
6           Conference of State Court Administrators, along with them,  
7           note this statistic, 37 bipartisan state attorneys general.  
8           How many issues do you think unite 37 state attorneys  
9           general at this point in history, all of them asking for  
10          increased funding for LSC?

11                 We have heard from legal professionals from  
12          every state and territory in this country, and their  
13          message could not be clearer. Our system cannot handle  
14          the demand of low-income Americans facing civil legal  
15          issues on their own. And this is true in rural areas  
16          as well as densely populated urban communities across  
17          the country. And of course, this great state has many  
18          of both.

19                 We know that while the demographics of the  
20          individuals served may differ from community to community,  
21          the legal needs of people living in poverty are the same.  
22          Again, taking housing as an example. Everybody understands  
23          that New York City, and Washington, D.C., and Los Angeles  
24          face significant eviction issues.

25                 But what people often fail to understand is in



1 housing issues. Rural communities often constitute what we  
2 call legal deserts, the inadequate access to the legal  
3 services due to geographic isolation. Forty percent of the  
4 counties in the country have fewer than one lawyer per  
5 thousand residents. A lawyer, not a legal services lawyer,  
6 any lawyer. And in ten states, some counties with large  
7 rural populations have no attorneys at all.

8 That is why LSC has worked with our rural  
9 grantees as well as state and local partners to address  
10 these legal deserts. For example, our technology  
11 initiative grants are often used by grantees to develop new  
12 innovations to empower and improve services to low-income  
13 rural residents. This is exemplified here in New York  
14 where LSC recently awarded Legal Aid Society of Mid-New  
15 York a technology initiative grant to create a coordinated  
16 online intake portal for the six funded LSC providers  
17 outside of New York City.

18 The portal will focus on eviction services in the  
19 state with an eye to ensuring that applicants will not be  
20 bounced between service providers and miss timely pre-  
21 hearing assistance.

22 Like other legal aid programs across the country,  
23 our seven funded New York grantees cannot fully meet the  
24 legal needs of the communities they serve. The funding  
25 that you, the Judiciary, awards to these organizations and



1 other legal services providers around the state is  
2 critical.

3 Given the justice gap data I have shared, we need  
4 to devote far more resources to civil legal aid. I  
5 strongly advocate for an increase in JCLS funding. The  
6 very existence of the Permanent Commission on Access to  
7 Justice, as well as today's hearing, evidences that you  
8 take this problem seriously. And the Permanent Commission  
9 plays a critical role in overcoming the barriers to which I  
10 have referred.

11 I don't want to sugarcoat this. The long-term  
12 effects of a widening justice gap jeopardize the  
13 sustainability of our democracy. We saw in our Justice Gap  
14 Study that only about a quarter of people living in poverty  
15 believe they get a fair shake from the justice system.  
16 Whether that's true or not, that's their perception. I  
17 believe we are up to meeting this challenge, and I thank  
18 you all for allowing me the opportunity to discuss this  
19 urgent matter with you today. Again, my thanks.

20 CHIEF JUDGE WILSON: If you would stay for a  
21 question or two in case the panel has any. I was going to  
22 ask you whether - - - whether you can think of ways to  
23 reduce the cost of it. My impression is that if you  
24 look back fifty or seventy years, people were resorting  
25 less to the courts for things like this than they used to

1 and that - - - that part of - - - obviously, part is  
2 exactly as you described that, you know, drastic shortfall  
3 in funding that hasn't kept up with inflation. But on the  
4 other side of the equation, it seems to me there's also a  
5 greater use of legal process, and it's become more  
6 expensive. Are there ways that you've looked at or thought  
7 of to try and reduce the costs in a way?

8 MR. FLAGG: I think that's a great question. I  
9 think we really need to be thinking of two overarching  
10 approaches, both of which relate to your questions.

11 One is, we need to rethink our dispute resolution  
12 model. And again, I'm not advocating for anything specific  
13 here, but we know that there are online dispute resolution  
14 models. And don't get me wrong. There are disputes for  
15 which a human judge and - - - and you know, people playing  
16 - - - you know, carrying out your role are indispensable.  
17 But we need to take a - - - a look at the way we resolve  
18 the wide range of disputes, and see if there are other  
19 models of dispute resolution that might be less expensive  
20 and where we can level out the playing field more easily.

21 And then second, we need to think about, even  
22 without big changes in the dispute resolution model, how we  
23 deliver legal services. The pandemic has been helpful in  
24 getting - - - causing - - - forcing all of us to think  
25 creatively about how to do what we do more efficiently and

1 better. And obviously, remote hearings. I mean, we're  
2 seeing the benefit of a hybrid hearing today. And what  
3 would have seemed like an anomaly five years ago, now is  
4 something that is pretty routine. And I think, if used  
5 properly, you know, benefits and is far more efficient  
6 for the system.

7 CHIEF JUDGE WILSON: Thank you.

8 JUDGE RENWICK: I have a comment, not a question  
9 really, but it's just to commend you on the Justice Gap  
10 Study. As you say, we don't know if some of those answers  
11 are true, but we need to know what the public thinks in  
12 order to better serve them. And I agree that some of those  
13 statistics were indeed stunning, so it was enlightening for  
14 me. Thank you.

15 MR. FLAGG: Thank you. We're - - - it's served  
16 as a - - - really a - - - a benchmark for LSC as well as  
17 judges and - - - and others. The President of the United  
18 States has cited it, so it's probably a good investment.  
19 Thank you.

20 CHIEF JUDGE WILSON: Thank you.

21 JUDGE RENWICK: Again, thank you very much.

22 CHIEF JUDGE WILSON: Next, is the Honorable  
23 Richard Rivera who is the supervising judge for Family  
24 Court in the Third Judicial District and also a member of  
25 our Franklin H. Williams Commission - - - co-chair of it, I



1 should say.

2 JUDGE RIVERA: Good afternoon, Chief Judge Wilson,  
3 Chief Administrative Judge Zayas, Presiding Justices  
4 Renwick, LaSalle, Whalen, Justice Clark, and Bar President  
5 Lewis.

6 Thank you for the opportunity to allow me to  
7 present today on the need for civil legal services,  
8 especially in Family Court. As you all may know, I was  
9 elected a Family Court judge in Albany County in 2014, and  
10 I have been serving as the presiding Family Court - - - as  
11 a supervising - - - excuse me - - - Family Court judge  
12 in the Third Judicial District. In 2019, I was  
13 designated as an acting Supreme Court Justice in this  
14 district, and I preside over the Integrated Domestic  
15 Violence Courts, and we've been expanding them in our  
16 district.

17 It is because of those experiences that I'm here  
18 sharing my thoughts. But before becoming a judge, I served  
19 the families in this area in Family Court in a variety of  
20 capacities. I worked for the Albany Law School Domestic  
21 Violence Clinic representing survivors of domestic violence  
22 in Family Court. I worked for the alternate public  
23 defender representing indigent adults in Family Court. I  
24 also worked as an attorney for the child. As an assistant  
25 county attorney, I prosecuted juvenile delinquents. And

1 then, finally, as a support magistrate, I heard matters  
2 involving child support.

3 As you know, in Family Court, the litigants are  
4 facing a lot of crucial - - - it's - - - it's a crucial  
5 time in their lives, and there are a lot of crucial issues.  
6 You have parents that are battling over custody, battling  
7 for more time, battling for the ability to make decisions  
8 over their children. You have grandparents that are  
9 seeking custody and visitation with their children. In  
10 cases of abuse and neglect where there's a risk of harm to  
11 children, parents are facing loss of custody. They're also  
12 facing the termination of their parental rights.

13 We have issues of family offenses where partners  
14 are coming to court seeking orders of protection because  
15 they're facing abuse at home. We have juveniles who are  
16 being sent to detention, who are also facing placement up  
17 to the age of 21. And in all of these cases, the  
18 Family Court Act does provide counsel, and rightfully so,  
19 but the Family Court Act does not provide counsel in all  
20 matters.

21 Interestingly enough, one of those areas where I  
22 believe it's required is in child support matters. The  
23 Family Court Act does not allow for the court to assign  
24 counsel to indigent litigants who are seeking an order of  
25 child support. So, when you have a parent that comes to

1 court who wants to establish support, they're not entitled  
2 to an attorney; neither is the respondent. So, they're left  
3 trying to navigate the court system on their own, providing  
4 the magistrate with whatever is needed to make an actual  
5 order of support.

6 Parents may not know that they are entitled to,  
7 for example, a share or portion of medical expenses that  
8 are unreimbursed or a portion of the premiums that they  
9 have to pay for health insurance. They may not understand  
10 that they can seek support for educational needs in  
11 college, for example, for college-age children.

12 And on the flip side, the respondent may not be  
13 aware that they are able to defend against such expenses,  
14 perhaps because they cannot afford it. That they might be  
15 able to argue that they have a disability and are not able  
16 to provide the court with the information that the  
17 magistrate needs in order to assess the actual disability  
18 of the respondent so that they can reduce their child  
19 support obligation.

20 And so what winds up happening is that you have  
21 litigants who are then facing either not enough support for  
22 the - - - for their children, or too much support, not able  
23 to pay, it's unmanageable, and they wind up being brought  
24 before the court again on a violation of support which can  
25 lead to possible jail time for the respondent.



1           And even though the respondent may be entitled to  
2           an attorney, the petitioner is not. And that is also a  
3           burden because the one who is actually required to receive  
4           the support may not have the ability to prove their case.  
5           And maybe there is a willful violation here. Maybe the  
6           person has reduced their income intentionally to avoid  
7           paying child support, and that litigant may not know how  
8           to actually present that evidence. This is where civil  
9           legal services from organizations like The Legal Project,  
10          which is part of the Capital District Women's Bar  
11          Association, and the Legal Aid Society can provide  
12          assistance.

13                 There were many times when I was a child support  
14          magistrate where I had litigants that came and were  
15          frustrated because, for example, they did not know how to  
16          find the respondent. And they felt that it was the court's  
17          responsibility to actually find them, and they would get  
18          frustrated, and it didn't matter how much I explained to  
19          them that it was not our responsibility. From their  
20          perspective, we had all the tools that they - - - that we  
21          needed to find them. They felt we had access to the Social  
22          Security, and because of that, we could get their license  
23          plate, find out where they are throughout the world,  
24          and help them with that process. And they didn't  
25          understand that, as the petitioner, it was ultimately their

1 responsibility. They were not entitled to counsel.

2 And some - - - and - - - and an organization like  
3 Legal Aid would be helpful in those situations because,  
4 obviously, they know what the law is. They can assist with  
5 service of process. They can file motions for alternative  
6 service, something that an unrepresented litigant would not  
7 know how to do.

8 Similarly, in paternity matters, the statute does  
9 allow for the court to assign counsel to the respondent,  
10 but not to the petitioner, which can create two situations  
11 that I think are troublesome. First of all, the  
12 petitioner, who is trying to establish paternity on the  
13 respondent, may not be able to defend against an attorney  
14 who has been assigned to the respondent and whatever issues  
15 they bring up or defenses they might have to the actual  
16 petition.

17 I believe that the Legislature probably intended  
18 or probably was anticipating that the respondent in  
19 paternity matters will always be the putative father, but  
20 that's not always the case. Often a putative father is the  
21 actual petitioner who is trying to establish paternity over  
22 a child that they believe is theirs. And they're facing a  
23 challenge from a respondent who is represented by counsel,  
24 and they don't know how to defend against it. They  
25 wouldn't know how to defend - - - defend against the issue

1 of estoppel, for example, which could prevent them from  
2 going forward. Not knowing that they can request a  
3 hearing, not knowing what their rights are, not being able  
4 to explain why estoppel doesn't apply or defend against it.

5 And these are areas where, again, civil legal  
6 services are important because these attorneys know what  
7 the law is, they would know how to present the proper  
8 evidence to the magistrate or the court in order to allow  
9 us as judges and magistrates to reach the proper  
10 conclusion.

11 It's important that we have and continue to have  
12 funding, but also expand it so that these services can be  
13 provided. Here in the Capital District, we have The Legal  
14 Project, but there are - - - their attorneys represent  
15 litigants who are in matters involving domestic violence.

16 So, it's not all cases that come before Family  
17 Court. It's important though because when they do have a  
18 client who's facing domestic violence and they represent  
19 them in Family Court, they represent them in all aspects of  
20 the case whether it's support, custody, family offenses.  
21 But if there is no domestic violence component, generally,  
22 they don't take those clients. And Legal Aid Society can  
23 do that, but they don't provide that service currently in  
24 - - - in Family Court here in the County of Albany. But  
25 certainly, those are services where it's important to have

1 the funding. It's important to have the organizations that  
2 can provide that service so that litigants can wind up with  
3 the proper solution.

4 And I - - - I thank you for considering this  
5 important issue, for continued funding of these  
6 organizations, and for giving me the opportunity to share  
7 my thoughts.

8 CHIEF JUDGE WILSON: Thank you, Judge Rivera. So  
9 if you, again, will - - - will hold for a question? You  
10 can find and more - - - you can find plenty of places where  
11 where Chief Administrative Judge Zayas and I have said that  
12 Family Court is one of our priorities. I've heard the  
13 Governor say the same thing. I've heard legislators say  
14 the same thing. My understanding is there is legislation  
15 that's been signed by both Houses that is waiting for the  
16 Governor to add a number of Family Court judges. But I  
17 think our concern has been we need to have lawyers in those  
18 Family Courts, and they need to be properly funded. And  
19 particularly as to the institutional providers, I think as  
20 Mr. Flagg was getting at, there doesn't seem to be a sort  
21 of comprehensive look at what funding is needed for the  
22 institutional providers to be able to - - - to sort of  
23 carry out the kind of comprehensive representation you're  
24 speaking about or even the representation needed when we  
25 add some Family Court judges. So what is it you think we

1 can do about that?

2 JUDGE RIVERA: Well, Chief Judge, it seems that  
3 the funding that is needed needs to go to training, to  
4 being able to hire more attorneys. Sometimes they don't  
5 have enough funds to hire additional attorneys. And also,  
6 to provide other services like investigators who can help  
7 them find people, process servers that they can have access  
8 to. The kinds of expenses that the - - - that are there  
9 but that the litigant cannot him or herself pay for  
10 that normally a monied litigant can. You know, those are  
11 the kinds of funding areas where I think that even civil  
12 legal services organizations need the funds so that they  
13 can fully meet the needs of their clients. I mean, there  
14 are other areas that are outside of the civil legal  
15 services that I know, Judge Wilson that - - - Chief Wilson  
16 that you are covering that are necessary. But with respect  
17 to this particular topic, the type of funding that will  
18 allow them to expand the services they provide and also to  
19 hire more attorneys, to train those attorneys to deal with  
20 the issues facing the litigants in family court, in  
21 particular, because they may not have attorneys that are  
22 familiar with Family Court work.

23 JUDGE RENWICK: Just one. On - - - with regard  
24 to 18-B attorneys and the kind of support that they can  
25 provide, do you find that you are - - - that you have the



1 panels with 18-B attorneys?

2 JUDGE RIVERA: It - - - so it varies.

3 JUDGE RENWICK: And I guess I should ask and  
4 - - - and if not, what can be done to improve that?

5 JUDGE RIVERA: So it does vary, Justice Renwick,  
6 in that depending on the where you are in the - - - in the  
7 - - - in the State of New York and the county. Some  
8 counties could say, yes, we have a good number of attorneys  
9 available. Others will say, no, we don't have any. COVID  
10 had an impact on that. A lot of - - - a lot of attorneys  
11 stopped representing litigants that couldn't afford to pay  
12 their fees, and some of them left because the - - - the  
13 reimbursement rate was too low. Certainly, the  
14 legislature, as you know, increased the reimbursement rate  
15 for 18-B attorneys throughout the State of New York. And it  
16 took twenty years for that to happen. The Commission, the  
17 Williams Commission, suggested that perhaps we have a cost-  
18 of-living adjustment on an annual basis or commensurate  
19 with what state employees would receive, and perhaps that  
20 would give these attorney - - - attorneys the idea that  
21 they don't have to wait another twenty years to have an  
22 increase.

23 There - - - it's - - - it's - - - it's difficult  
24 to keep attorneys because they can't just make this a full-  
25 time job because they cannot afford that, and so they have

1 to juggle their time with other types of cases. And if the  
2 income was there, perhaps they could spend more time on  
3 Family Court matters and not have to find income in other  
4 areas of the law. And - - - and it - - - that requires  
5 legislation. But obviously, in this particular area,  
6 that's where the civil legal services can help because  
7 unless the legislature acts, we have to depend on other  
8 ways to provide the service to the litigants and Legal Aid,  
9 and - - - and organizations such as that can fill in that  
10 gap to a degree.

11 JUDGE LASALLE: If - - -

12 JUDGE RIVERA: Good morning, Judge.

13 JUDGE LASALLE: --- if I could piggyback off my  
14 colleague's question? As you indicated, the Legislature  
15 for twenty years failed to act. And today, we're in this  
16 position though as a result of that legacy of twenty years.  
17 What effect has this had, particularly on communities  
18 who do not have English as a first language? In other  
19 words, on Long Island - - - I can tell you - - -  
20 many of my colleagues who are bilingual - - - with Spanish  
21 at least - - - have left 18-B because they couldn't run a  
22 practice, because they just couldn't make enough money. Do  
23 you see an additional effect on communities who do not have  
24 Spa - - - excuse me - - - English as a first language as a  
25 result of the Legislature's disinclination to act for

1 20 years?

2 JUDGE RIVERA: Absolutely. I mean the - - - the  
3 effect was already there, but it's gotten worse. In  
4 upstate New York, even more so. I have gone out of my way  
5 to seek attorneys that - - - that I heard were bilingual to  
6 see if they would be willing to join our panels, for  
7 example, here in Albany County. I remember when I was  
8 practicing, I was one of three attorneys who was bilingual.  
9 And at the time that I became a Child Support Magistrate,  
10 one of the other attorneys became a Family Court judge and  
11 took the third attorney to be her counsel. So that removed  
12 three bilingual attorneys from the panel at the time. And  
13 - - - and so it's very difficult to get attorneys who are  
14 bilingual. Period. But certainly, the lack of funds to  
15 - - - to make it something worthwhile did have an impact on  
16 that. Increasing that rate has helped, and we've seen some  
17 attorneys come back and are now taking cases again. But  
18 yes, it has had an impact.

19 I mean, Spanish is the biggest language, but  
20 that's not the only one. It's hard finding attorneys in  
21 general who are bilingual. That is a service that, again,  
22 is needed because you don't need the use of an interpreter  
23 if you're able to speak the language. And - - - and for  
24 those among you who - - - who are bilingual or who have  
25 another culture, you understand the importance of being

1 with someone that understands you, that gets you, that  
2 knows you, that knows about you without you having to  
3 explain it all. So there are a lot of benefits to that.  
4 And an increase in the - - - in the funding and the pay  
5 would certainly help to get a lot more attorneys. I mean,  
6 I have to say attorneys, in general, don't like coming to  
7 Family Court for whatever reason, you know. They shy away  
8 from it. And no matter how much money you pay them, they  
9 don't want to come. But for those who do, it's important  
10 to have the funds there to pay for their service.

11 JUDGE LASALLE: Thank you.

12 JUDGE RIVERA: Thank you.

13 CHIEF JUDGE WILSON: Next, we have Matthew  
14 Dornauer who is the Chief Legal Officer of Heineken USA.

15 MR. DORNAUER: Good afternoon, Chief Judge  
16 Wilson, Presiding Justices LaSalle, Renwick, and Whalen,  
17 Justice Clark, Administrative Judge Zayas, State Bar  
18 President Lewis.

19 My name is Matthew Dornauer. I'm presenting  
20 today on behalf of Heineken USA based in White Plains where  
21 I am the Chief Legal Officer. It's my honor and privilege  
22 to appear before you today to discuss the vital importance  
23 of expanding access to justice to the millions of residents  
24 of New York whose legal needs are far too often unmet in  
25 our current system. Before I do, however, I would first



1 like to thank the Chief Judge for holding this hearing  
2 today and for his continued leadership and support of civil  
3 legal services in the state.

4 Everyone deserves fair and equal access to  
5 justice in our country, and more specifically, here in New  
6 York. This is at the heart of our legal system and the  
7 rule of law. Unfortunately, however, that's often not the  
8 case. Even with the tremendous work and progress of New  
9 York's court system, as well as the civil legal - - -  
10 legal - - - legal services providers across the state. As  
11 Ron mentioned in the Justice Gap Study, low-income  
12 Americans do not get any or enough help for 92 percent  
13 of the legal problems that they face. That is a  
14 startling statistic. The justice gap continues to be a  
15 crisis in New York and throughout the country, and requires  
16 our continued focus and effort to try to close that gap as  
17 much as possible.

18 Advocating for fair and equal justice has been an  
19 integral part of my legal practice beginning in law school  
20 and continues to this day. While at Notre Dame Law School,  
21 I witnessed firsthand the crucial importance of providing  
22 civil legal aid while representing low-income residents of  
23 South Bend, Indiana, through the law school's Legal Aid and  
24 Mediation clinics. Our clients could not afford an  
25 attorney and needed help navigating our often complex legal



1 system. And this was in order to ensure the protection of  
2 some of life's most basic needs related to consumer debt,  
3 housing, immigration, and mental health, among many other  
4 things. And like the legal services providers here in New  
5 York, far too often we had to turn away many potential  
6 clients because of limited resources.

7 My commitment to pro bono representation  
8 continued as I began my legal career in Chicago at the law  
9 firm Sidley Austin where I gained a deeper appreciation and  
10 understanding of the unmet civil legal needs within the  
11 city while representing clients in immigration cases and  
12 wrongful termination and discrimination suits.

13 After I became an in-house attorney, I then  
14 taught the foundational principles of constitutional law  
15 and the Bill of Rights to middle schoolers throughout  
16 Chicago public schools. And today, I'm in the midst of  
17 working with my legal team at Heineken USA to revive our  
18 pro bono program. And to that end, we've recently  
19 partnered with one of our neighboring civil legal services  
20 providers, Legal Services of the Hudson Valley, to assist  
21 with their virtual pro bono housing advice clinic which  
22 will involve the support from both attorneys and non-  
23 attorneys from our legal team at Heineken.

24 Since the Heineken brand was introduced in the  
25 U.S. in 1933 right after prohibition, New York State's been



1           our home. Our network of 80,000 - - - 85,000 employees  
2           that help us sell our portfolio of over 300 beers and  
3           cidery throughout 192 countries in the world.

4                        Although we are a global brewer, as evidenced by  
5           what I just mentioned, we operate at a very local level  
6           here in New York. We are headquartered in White Plains,  
7           and our products are delivered, warehoused, and sold in  
8           thousands of establishments throughout the state.

9                        At Heineken, our focus is on people, which is  
10          embodied in our company's purpose - - - brewing the joy of  
11          true togetherness to inspire a better world. This company  
12          purpose is predicated upon a strong societal infrastructure,  
13          which begins with ensuring people have fair and equal  
14          access to justice. In turn, this creates a stable, healthy  
15          society and business environment for not only Heineken, but  
16          the thousands of other companies throughout the state.

17                       As lawyers and business leaders, in-house counsel  
18          are uniquely positioned to not only provide civil legal  
19          services in our communities, but also to advocate for the  
20          additional funding of civil legal services. Last year, a  
21          record number of 208 general counsel and chief legal  
22          officers, including myself, signed a letter to Congress  
23          requesting increased funding for LSC in order to support  
24          civil legal aid throughout the country and here in New  
25          York. This was the sixth year such a letter was sent to

1 Congress, and I'm confident we can break last year's record  
2 number of signatories and hopefully secure increased  
3 funding this year.

4 As retiring Federal Appellate Judge David S.  
5 Tatel from the D.C. Circuit Court said in a recent  
6 interview, quote, "Lawyers have a special obligation  
7 because of our legal expertise to ensure the legal system  
8 works for everyone". It is imperative that business  
9 leaders use their voices to help the significant numbers of  
10 low-income New Yorkers who do not have adequate access to  
11 civil legal services. Simply put, we can and must do more  
12 as a business community. Therefore, I implore my fellow  
13 business leaders to advocate for additional funding of these  
14 indispensable resources for New York's most vulnerable  
15 citizens.

16 With inflation still high, the expiration of  
17 COVID-related benefits, and increased demand for civil  
18 legal services while staffing constraints persist, now more  
19 than ever we must continue to support increased annual  
20 funding for civil legal services.

21 To that end, Heineken USA respectfully requests  
22 that the Judiciary Civil Legal Services funding be  
23 increased to the maximum amount deemed feasible.

24 In closing, on behalf of Heineken USA, thank you  
25 for your continued tireless efforts to close the justice





1 gap and for giving me the opportunity to speak at today's  
2 hearing. Thank you.

3 CHIEF JUDGE WILSON: So Mr. Dornauer, thank you,  
4 especially, for being here. You're the only person here, I  
5 believe, who is not in the public service or in - - - in  
6 private - - - in private practice for 30 years or so, and  
7 I applaud you and Heineken for your efforts. You know,  
8 everybody here I think - - - and I can tell from the way  
9 you spoke, you feel the same way - - - that this is a  
10 matter of justice and fairness. But for businesses,  
11 I think it's also a matter of economics. That if you have  
12 an employee who is having a housing issue or a child  
13 custody issue or a credit issue, it - - - to the extent  
14 that detracts, which it must, from that person's work,  
15 from their mental well-being, from, you know, things  
16 they have to worry about. It hurts your business. It  
17 hurts the businesses of everybody else in this country  
18 whose employees routinely have to go through traumas like  
19 that. And that when those people are just barely hanging  
20 on and can't afford a lawyer, the consequences can be  
21 catastrophic for not just them, but for business.

22 So - - - and I think it's - - - it's laudable,  
23 but sort of more than that, - - - that you've taken this  
24 on and that you've, you know, worked with other  
25 businesses and you've gotten them to lobby Congress.

1                   And let me ask. I'm - - - I'm sometimes tagged  
2 as a radical. So let me ask you to think about something  
3 - - - something radical.

4                   MR. DORNAUER: Uh-huh.

5                   CHIEF JUDGE WILSON: Perhaps you and however many  
6 signatories you can get can make a matching offer to  
7 Congress. Right? Toss in a \$1 million apiece if, and only  
8 if, Congress increases legal services funding by at least  
9 that much money. I think you will benefit from that. I  
10 think all businesses will benefit from that if Congress  
11 comes through. And if not, shame on them.

12                  MR. DORNAUER: Yes, I wholeheartedly agree.

13                  CHIEF JUDGE WILSON: So take that as a challenge.

14                  MR. DORNAUER: No, I - - - I do. Challenge - - -  
15 challenge accepted. Challenge accepted.

16                  JUDGE WHALEN: Chief, could I ask a question?

17                  JUDGE RENWICK: I second the challenge. That  
18 - - - would be ---

19                  CHIEF JUDGE WILSON: Justice Whalen?

20                  JUDGE WHALEN: Yes. Mr. Dornor (ph.), thank you  
22 Mr. Dornauer, thank you very much for your wonderful  
23 wonderful presentation. I - - - I'm curious as to what, if  
24 any, steps are taken by in-house private, you know, law  
25 firms and/or corporate law firms? And also, maybe your



1           experience with private firms that are also participating  
2           and trying to get the lawyers in their offices to  
3           participate in these activities where they volunteer their  
4           time and they help out in Housing Court and various courts.  
5           Is there some - - - has there been some effort to  
6           - - - and I imagine there was or has been - - -  
7           to encourage these various lawyers to do that so that they  
8           don't feel like it's taking time away from their billable  
9           hours or their time - - - their - - - their legal product  
10          that they're giving to their - - - their company, and  
11          they're not going to be hamstrung in the advancement within  
12          their - - - their law firm practice or their corporate in-  
13          house practice? Because I think that - - - that - - - by  
14          doing that structurally in allowing these young lawyers to  
15          know that by giving their time to these efforts, it's  
16          valued time. I think you probably encourage more to - - -  
17          more participation, and - - - and what - - - and what a  
18          generous thing it is for corporations to do that very  
19          thing. In other words, to encourage them to do  
20          that in a real meaningful way. So I'd like your thoughts  
21          on that, and - - - and do you see that happening? Thank  
22          you.

23                       MR. DORNAUER: Absolutely. Yes, I - - - I do see  
24                       it happening. Although I think at the in-house level,  
25                       there could be a bit more. It - - - but it depends

1 on the company, you know. Some companies have very  
2 robust, built-out, wonderful pro bono programs. You know,  
3 ours - - - I'm - - - I'm trying to revive it right now.  
4 And I think, you know, to - - - to your point about having  
5 support for it, and especially for us where we don't have  
6 billable hours, you know, it really starts at the top. It  
7 starts not just with me, it starts with our CEO. And our  
8 CEO, Maggie Timoney, is very much on board and fully  
9 supportive of our efforts.

10 And I think at other companies, if they don't  
11 have programs or they would like to have their programs be  
12 a little bit more supported, perhaps they could seek out  
13 the assistance of the - - - their fellow C-Suite members,  
14 their CEOs in particular, and ask them to be advocates for  
15 it as well. I - - - I think with respect to the law firms,  
16 and it's been a little bit since I've been at one. I was  
17 at Sidley Austin for a - - - a little while as I mentioned.

18 You know, I think firms do a nice job of allowing  
19 pro bono to count towards billables which, of course, helps  
20 incentivize that. However, could they be doing more? Yes,  
21 absolutely. They - - - they could be. I - - - I think  
22 there's maybe not an easy answer, an easy fix for  
23 that. But I think it's just, again, having partners  
24 having, you know, chairs of the firm really, you know,  
25 highlighting the importance of this. I think that

1 can't be stressed enough.

2 JUDGE WHALEN: Thank you, Chief.

3 CHIEF JUDGE WILSON: Before I let you go, it  
4 occurred to me that exactly a month ago today, I was  
5 sitting on the banks of the Asolo River with a couple of  
6 Heinekens.

7 MR. DORNAUER: Oh, love that. Wonderful. That's  
8 - - - I love hearing that.

9 CHIEF JUDGE WILSON: Thank you, Mr. Dornauer.

10 MR. DORNAUER: Thank you very much.

11 CHIEF JUDGE WILSON: Next, we have the Honorable  
12 Fern Fisher.

13 JUDGE FISHER: Good afternoon, Chief Judge  
14 Wilson, Chief Administrative Judge Zayas, Presiding  
15 Justices Renwick, LaSalle, Whalen, and Clark, and Bar  
16 President Lewis.

17 I am honored to have the opportunity to speak to  
18 you today about the housing crisis in our state and changes  
19 and reforms that the court system can make to address the  
20 crisis. I have spent all of my legal career, 45 years,  
21 enmeshed in housing law issues. I started as an attorney  
22 representing low-income tenants, and I was a New York City  
23 Housing Court judge. For years, I was the court  
24 administrator in charge of the Housing Parts of the New  
25 York City Civil Court for over 21 years. I authored

1 the views from the bench for residential landlord/  
2 tenant law in New York. And I was the director of  
3 the New York State Courts Access to Justice Program.

4 I am currently a visiting law professor at the  
5 Maurice A. Deane School of Law at Hofstra University  
6 where I teach housing-related classes. And I am the  
7 Executive Director of Legal Hand, Inc., where we assist  
8 unrepresented litigants with their housing and other  
9 matters in three regions of the state. Based on my  
10 extensive experience, I am told that I'm recognized  
11 as a housing expert. But more importantly, and on a  
12 personal level, I am the daughter of a single-parent  
13 mother who lost their home to foreclosure, a fact that I  
14 learned on the day that I graduated from Harvard Law  
15 School.

16 You know the unforgettable words from Dorothy  
17 from the Wizard of the Oz, "there's no place like home,"  
18 comes to mind. But for many New Yorkers, maintaining  
19 or acquiring a home is elusive. Having a home is a  
20 fundamental human need. The absence of a stable home  
21 starts a spiraling down into other social service and  
22 legal problems that are difficult to recover from.  
23 Lives are forever changed. People in communities of color  
24 are most affected by evictions. In my nearly 45 years as  
25 an attorney and a judge, I fully believe that we are

1 in the most - - - the worst housing crisis ever.

2 That crisis is being experienced throughout the  
3 state. Every region in this state is affected in various  
4 ways by this housing crisis. Rural New York has  
5 experienced the sharpest increase in eviction rates. Forty  
6 counties upstate have eviction rates that have surpassed  
7 pre-pandemic rates. The full impact of eviction upstate  
8 cannot be fully assessed due to the lack of data from Town  
9 and Village Courts.

10 Manufactured homes can provide affordable housing  
11 and make up 10.3 percent of the housing stock in rural New  
12 York. And these manufactured homes are dwindling due, in  
13 part, to closing of places where their homes - - - where  
14 the homes are placed and the inability of homeowners to  
15 purchase the land where their homes are located on.

16 In Nassau and Suffolk, between 19 and 26 percent  
17 of residents are in structural poverty. The rental desert  
18 in Long Island has created housing shortages and economic  
19 strife. Strife has increased evictions. In Westchester,  
20 rents are the second highest in the state and - - - and are  
21 impacting the poor. In Buffalo, filings are outpacing pre-  
22 pandemic numbers. In New York City, rent stabilization  
23 rent increases and 20 to 30 percent increases in non-  
24 regulated housing will push many individuals over the edge.

25 This crisis is created by a perfect storm. A



1 perfect storm of factors including increased poverty due to  
2 a bad economy and COVID, an aging population, increased  
3 mental illness, a growing immigrant population with  
4 language and documentation challenges, lack of affordable  
5 housing, complex, substantive, and procedural housing laws,  
6 insufficient funding for legal assistance, and lack of  
7 training of judges and court personnel, and slow  
8 implementation of court reform.

9 I want to note that housing law is complex and  
10 multi-layered. Real property law, real property actions  
11 and proceedings law, civil practice laws and rules,  
12 multiple-dwelling law, general business law, housing  
13 maintenance codes, housing discrimination laws, fair  
14 housing laws, laws affecting manufactured homes, and other  
15 local, state, and federal laws may apply depending on the  
16 type of housing involved and where the housing is located.

17 It takes years to develop an expertise in housing  
18 law. Attorneys who don't specialize in landlord and tenant  
19 law find the area complicated, and the courts that handle  
20 the cases daunting. You cannot hand over a housing case to  
21 an inexperienced, unsupervised, pro bono attorney.

22 Unrepresented litigants are in a worse position  
23 Tenants often can't identify the type of housing they  
24 live in to determine what laws affect them. They are  
25 totally unable to identify substantive and procedural





1 defenses. Unrepresented litigants settle their cases often  
2 with unfair terms that do not account for defenses, or  
3 unable to identify substantive and procedural they're  
4 forced to trial.

5 During trials, they have no knowledge of trial  
6 procedures or rules of evidence. Unrepresented litigants  
7 are unable to complete court forms, make motions to have  
8 their cases dismissed, and obtain subpoenas to obtain  
9 evidence. They are on a playing field without the rules or  
10 the appropriate resources.

11 Keeping tenants in their homes is essential to  
12 prevent homelessness. Eviction, in most cases, will result  
13 in an individual having to pay a higher rent and possible  
14 relocation to a different community. Evictions are  
15 traumatic and destabilize families. Communities are  
16 affected when there are hard - - - high rates of  
17 evictions and homelessness. Gentrification is an  
18 unfortunate outcome when there are high rates of eviction.  
19 Preventing unwarranted evictions must be a societal goal or  
20 risk having a state where low-income persons have no  
21 place to call home. But there are things that the courts  
22 can do about this.

23 So, I start off with talking about support for  
24 in to determine what laws affect them. They are totally  
25 legislative changes. We've heard already that we need more

1 money for legal representation. Increasing legal  
2 representation will address much of the inequities faced by  
3 those being evicted but will not solve the problems of all  
4 litigants who will face evictions.

5 In a perfect world, all low-income persons would  
6 receive full representation in eviction cases. We are far,  
7 far from that perfect world for low-income persons in most  
8 parts of the state. Access to counsel is particularly  
9 acute in rural areas. And please note Russell Weaver's  
10 written testimony. Russell is the Research Director  
11 of Cornell University ILR Buffalo Co-Lab. He indicates that  
12 in 11 counties where eviction rates are extremely high,  
13 there is also an undersupply of legal assistance. No  
14 surprise here.

15 Additional funding must be devoted to evictions  
16 for low-income individuals until 100 percent are served.  
17 We are unlikely to reach the 100 percent mark in the near  
18 future. Until 100 percent funding is obtained, many low-  
19 income individuals will continue to be unable to obtain a  
20 lawyer.

21 The court must - - - must provide access to  
22 justice in eviction cases to all litigants unable to obtain  
23 lawyers. And the court must look at all avenues of legal  
24 assistance from full or unbundled representation to  
25 providing targeted legal information and helping filling



1 out forms to accomplish full fairness.

2 Good cause legislation is also important.

3 Prevent - - - preventing evictions is not simply limited  
4 To allocating dollars towards paying rent as many evictions  
5 are not based on the non-payment of rent. Currently,  
6 when a tenant does not have a lease and lives in an  
7 unregulated premises, the owner does not have to provide  
8 a reason for seeking eviction. The number of persons  
9 living in unregulated apartments throughout the country  
10 - - - throughout the state who do not have leases is  
11 massive.

12 The numbers of evictions could be decreased with  
13 the passage of legislation that would require owners to  
14 establish good cause before an eviction is approved by the  
15 court. The court's support for legislation requiring good  
16 cause might assist in making it a reality. Good cause  
17 requirements will make a big difference in the volume of  
18 cases filed and the evictions that result.

19 In New York City, judges are able statutorily to  
20 order an owner to make repairs and correct housing  
21 violations within a nonpayment or a holdover case. In  
22 other parts of the state, judges can't order the repair or  
23 removal of a violation. The judge is limited to giving an  
24 abatement of the rent.

25 In New York City, tenants can also commence a



1 simple and low-cost proceeding to compel the correction of  
2 housing violations. Litigants living in substandard  
3 housing in most jurisdictions outside of New York City must  
4 rely on their city, town, or village to act in order to  
5 obtain a habitable home. Depending on the location, there  
6 is mixed success. Too often, the locality issues a vacate  
7 order rather than compel an - - - an owner to make  
8 repairs.

9 A New York Supreme Court case could be commenced,  
10 but most New Yorkers do not have the ability to do so.  
11 Faced with dangerous conditions, many are forced to leave  
12 their homes due to a lack of a simple, low-cost, and  
13 effective enforcement mechanisms. Those that leave their  
14 homes may end up in more expensive houses in a different  
15 community or in a homeless shelter.

16 Allowing judges to handle repairs and violations  
17 within cases started by owners is effective, also allowing  
18 tenants to commence an action solely to obtain a habitable  
19 home in the lower courts would also be effective. Court  
20 rule changes and new legislation will be required to make  
21 these changes and the court support for change will pave  
22 the way.

23 Access to justice in a unified state should be  
24 the same from jurisdiction to jurisdiction. There should  
25 not be more justice in one part of the state but less in

1 another. Unfortunately, New York is less than uniform.  
2 Examples of the lack of uniformity are offered in these  
3 remarks, but are not intended to be exhaustive. Excuse me.  
4 It is suggested that a study be completed that examines  
5 completely disparities and best practices. In the interest  
6 of time, because I've been warned, I will only remark on  
7 some of the problems, and please refer to my written  
8 remarks for a full explanation.

9 So, in New York City, oral answers of tenants in  
10 non-payment cases are recorded on a triplicate form listing  
11 most of the common defenses. The tenant gets a copy. The  
12 owner gets a copy, or the owner's attorney gets a copy.  
13 And then, of course, the court has a copy.

14 This form serve - - - form serves more than one  
15 purpose. First, the tenant can look at the form to see  
16 what defenses can be raised in a non-payment case. It's  
17 the first time they've ever seen the defenses. Most  
18 tenants have no idea what can be raised as a defense. The  
19 owner has written notice of the defenses that the tenant is  
20 raising, so the owner can prepare better. The judge  
21 obtains notice of what defenses the tenant is raising. A  
22 recorded answer allows the judge to determine if a  
23 settlement agreement addresses those defenses. And at a  
24 trial, the judge would know in advance what the tenant is  
25 raising as a defense and be able to ensure a hearing and

1 disposition on those defenses. If there is an appeal after  
2 trial, the Appellate Court has a record of the answer that  
3 was interposed, when reviewing, if a tenant had the  
4 opportunity to have defenses properly heard.

5 In most jurisdictions, there is no record of an  
6 answer by a tenant either on a form, endorsed on the file,  
7 recorded by tape, or by a court reporter. It is also noted  
8 that in holdovers, there is no answer by a tenant, no place  
9 in the state, not even in New York City.

10 Service of orders to show cause by unrepresented  
11 litigants. All right, in New York City, unrepresented  
12 litigants are permitted to serve orders to show cause  
13 papers to stop an eviction themselves on opposing lawyers,  
14 and parties, and on the city marshal. This practice has  
15 existed for over 40 years. An informal survey conducted  
16 by Hofstra Law School students showed that in some parts  
17 of the state, the New York City practice is followed,  
18 but that in other parts of the state, it is not. The CPLR  
19 provides that a judge can grant permission for the litigant  
20 to serve an OSC themselves.

21 Court publications and information sheets  
22 distributed by various jurisdictions indicate that a  
23 litigant can't serve papers without reference to the judge  
24 being able to grant permission to do so. Various clerks'  
25 offices tell litigants they can't serve the OSC themselves

1 on opposing counsel and on the marshal or the sheriff.

2 For many litigants, having to get someone else to  
3 serve an OSC is a hardship or an impossibility. Elderly  
4 persons often are isolated and have no friends or family to  
5 serve papers for them. And for some, the embarrassment of  
6 being evicted stop them from asking someone they know to  
7 serve the OSC.

8 Hiring a process server to serve an OSC is not  
9 feasible for most people being evicted. At a minimum,  
10 litigants should be made aware that they can ask the judge  
11 for - - - for permission to serve the papers themselves,  
12 and judges and clerks should be educated on this  
13 possibility. Let the judge decide.

14 I am not going to speak extensively on notice to  
15 quit and notices to terminate because of time limitation,  
16 but the practice varies all over the state. Whether a  
17 notice to quit or notice of termination has to be just  
18 given or served. It should be the same throughout the  
19 state. The law is the law. Let's - - - let's make sure  
20 that there is uniformity. The court website and the court  
21 publications do not indicate that a notice to quit must be  
22 served. And so, the court website needs to be very clear  
23 and updated.

24 Programs for appointments of guardians ad litem.  
25 CPLR Section 1202 provides for the appointment of a

1 guardian ad litem in all cases, including housing cases,  
2 when a litigant is incapable of adequately protecting their  
3 rights. CPLR 1203 prevents the entry of a default judgment  
4 until the guardian is appointed.

5 A judge can appoint a guardian sua sponte. But  
6 throughout the state, judges are failing to appoint  
7 guardians for some of our most vulnerable citizens. New  
8 York City has a court-based guardian ad litem program in  
9 the housing court which has been running for - - - for  
10 quite a long time, and guardians are appointed regularly.  
11 The Westchester courts recently launched a court-based  
12 program.

13 There are no other programs actually available in  
14 the state. Steps must be taken to remedy this potentially  
15 harmful deficiency in complying with the CPLR which impacts  
16 the elderly and persons with mental and other disabilities.  
17 In fact, today's news, when I watched this morning,  
18 indicated that one in five persons are suffering from  
19 mental illness. It's a large number of people.

20 CHIEF JUDGE WILSON: Sure.

21 JUDGE FISHER: Court programs for the vulnerable  
22 must be available throughout the state. No matter where  
23 vulnerable citizens live, they should have equal access to  
24 services.

25 All right. Statewide resources. And some of it,





1 again, I'm going to, you know, sort of cut through. Court  
2 users are from diverse populations, as Judge LaSalle has  
3 mentioned, and can have reading levels as low as 5th grade.  
4 This requires that there be a robust number of plain  
5 language forms and instructions in many languages. New  
6 York lags in this effort. And the challenges - - -  
7 Massachusetts has forms in eight different languages.

8 More DIY and other form programs. DIY, Do-It-  
9 Yourself programs, have been providing greater access to  
10 justice for unrepresented litigants, but there aren't  
11 enough. More should be created in housing, such as an  
12 illegal eviction program, an HP action program, and answer  
13 to a nonpayment case program which is usable by all  
14 tenants. Thinking out of the box by - - - for the future.  
15 And I - - - I know this is a future, but we have to think  
16 ahead.

17 Computer programs could be developed that will  
18 allow a person to answer in their primary language, but the  
19 court form is printed out in English. A program of this  
20 nature would be a major leap in access to justice for  
21 diverse populations. Updating and maintaining the content  
22 on the website is crucial that it would be current and  
23 accurate and very clear for people to use.

24 And this is - - - the next topic is extremely  
25 important. As previously - - - as mentioned previously,

1 judges outside of New York City and Westchester have no  
2 programs to assist them in appointing guardians ad litem,  
3 and this difference between the jurisdictions must be  
4 remedied. CPLR 1203 requires that before default judgment  
5 can be entered against a person who is capable of - - -  
6 incapable, excuse me, of defending or pursuing a claim, a  
7 guardian ad litem must be appointed.

8 And judges are likely not to be on notice that a  
9 litigant requires a guardian if there is a default in  
10 appearance. How would the judge know? The programs  
11 currently in New York City and Westchester can't remedy  
12 this problem. Court administration must act to - - - to  
13 come up with a remedy. The Commission has proposed that a  
14 statewide requirement be put in place that an owner must,  
15 upon applying for a default judgment, submit a sworn  
16 affidavit indicating to the best of the affiant's  
17 knowledge, the respondent is not elderly, disabled, or  
18 suffering from mental illness. And we ask that action be  
19 taken on this proposal as soon as possible. Yes, or no.  
20 Just action.

21 Judicial and nonjudicial education. I have  
22 experienced since I retired firsthand court clerks  
23 providing inaccurate legal information and in - - -  
24 incorrect court forms to litigants in housing cases. I  
25 have also become aware of outcomes in cases decided by



1 judges in violation of law, and this is a - - -  
2 particularly a problem in the Town and Village Justice  
3 Courts.

4 Housing law changes frequently, requiring  
5 continued educational developments and continued education  
6 on housing law for both judges and court clerks are  
7 essential to avoid unjust outcomes. Sustained education on  
8 do - - - on dealing with unrepresented litigants and  
9 impoverished diverse populations will also expand access to  
10 justice and housing.

11 And as I mentioned, there's, you know, a mixed  
12 success in collecting data from Town and Village Justice  
13 Courts. So, we really don't know the full extent of the  
14 eviction crisis upstate. And so, steps must be considered  
15 by the court to work with the state legislature and  
16 localities to cure the problem. We can't do it ourselves.  
17 We have to have partners.

18 Conclusion. A quote from William Bennett states,  
19 "Home is a shelter from storms. All sorts of storms."  
20 Many New Yorkers are caught in a massive storm without  
21 stable shelter due to poverty aggravated by COVID and a  
22 challenged economy. Too many families have already lost  
23 their homes or are about to be evicted.

24 The court system has a moral and a legal  
25 obligation to ensure that only evictions that proceed

1 are ones that are warranted. Some of what has to be done  
2 to stop unneeded evictions require money and legislative  
3 changes. The court cannot control the state budget or pass  
4 legislation, but it can have influence.

5 Other avenues of change do not require  
6 substantial money or outside assistance. The Court must  
7 review and assess what it can do to ensure New Yorkers have  
8 a home by using innovation and resolve. With so many New  
9 Yorkers on an economic precipice, the time is now for  
10 action.

11 CHIEF JUDGE WILSON: Thank you, Judge Fisher. So  
12 two observations and a question. First observation is,  
13 there are a lot of things that in your testimony that I  
14 think we can start tackling.

15 JUDGE FISHER: Uh-huh.

16 CHIEF JUDGE WILSON: So, I thank you for that,  
17 and I hope we can count on your continued help as we work  
18 through those many suggestions because they all sound  
19 pretty good.

20 JUDGE FISHER: No one's letting me retire, Judge.

21 CHIEF JUDGE WILSON: Good. The second is, Judge  
22 Zayas and I and others have been meeting about housing  
23 almost incessantly over the last many months with all kinds  
24 of different people: landlord groups, tenant coalitions,  
25 you know, varieties of others. And if you're free tomorrow

1 at 4, we're meeting with about 30 housing court judges from  
2 New York City. You're welcome to attend. It will be at  
3 Beaver Street.

4 JUDGE FISHER: I will try to. Those are my  
5 people.

6 CHIEF JUDGE WILSON: Excellent. And then the  
7 third is taking to mind what you said, there seems to me  
8 though a mismatch in some of the things I've read, which is  
9 that - - - and what I mentioned, 14 percent of the  
10 people in the state live below twice the federal poverty  
11 level which is very low. I mean, maybe for a very rural  
12 place, you can just get by on that. But in the  
13 metropolitan area, there's no way you can, not that way in  
14 Buffalo ---

15 JUDGE FISHER: Or Long Island.

16 CHIEF JUDGE WILSON: Yeah. Right. Or  
17 suburban even. And then there's just not a sufficient  
18 supply of housing. Anything the courts can do about  
19 that?

20 JUDGE FISHER: Yes, to preserve the housing that  
21 we can preserve.

22 CHIEF JUDGE WILSON: Yes.

23 JUDGE FISHER: And making sure people don't get  
24 evicted ---

25 CHIEF JUDGE WILSON: Yeah.



1 JUDGE FISHER: --- you know, in cases where  
2 they shouldn't be evicted so they can stay in their  
3 affordable housing.

4 JUDGE FISHER: Yes.

5 CHIEF JUDGE WILSON: That's - - - that's one way.  
6 We still seem to have a fundamental problem. There just  
7 isn't enough housing, and it's too expensive ---

8 JUDGE FISHER: It's not.

9 CHIEF JUDGE WILSON: --- and there are too many  
10 poor people.

11 JUDGE FISHER: No, and that requires, you know,  
12 some real resolve from the state legislature and local, you  
13 know, legislators to - - - to - - - to - - - to stop  
14 listening to the voices that don't want low-income and  
15 moderate-income people in their - - - or - - - or  
16 undocumented aliens - - - excuse me - - - undocumented  
17 people in their neighborhoods. Too many voices. Too many  
18 - - - too much negativity. So affordable housing is  
19 crucial. The Government needs to develop more affordable  
20 housing. But as a court and as judges, the only thing that  
21 we can do is - - - is preserve the affordable housing that  
22 we have because some affordable housing goes away after  
23 people get evicted. So, if they don't get evicted and  
24 there's a reason to not evict them, they should be able to  
25 stay in their homes.

1 JUDGE ZAYAS: Chief, anything else?

2 CHIEF JUDGE WILSON: No.

3 JUDGE ZAYAS: So good to see you, Judge Fisher.  
4 After Mr. Dornauer spoke, I wrote down that perhaps we  
5 should get - - - try to get some law firms to get involved  
6 in and taking pro bono cases in - - - in - - - in the  
7 Housing Court, in particular. And - - - and then you got  
8 up and said, that - - - that because of the enormous  
9 complexity of these cases that they're not necessarily the  
10 types of cases that pro bono attorneys from law firms  
11 should be assigned to it. And so, I'm wondering is there  
12 any fix for that because it seems like ---

13 JUDGE FISHER: You can still use them, Judge.

14 JUDGE ZAYAS: I mean, like, for example, can  
15 there be extensive training for the pro bono lawyers  
16 from the firms? It just - - - it does seem that there's a  
17 - - - a great need in Housing Court, and the firms want to  
18 do things. And I - - - I just wonder if - - - if there's a  
19 fix for that?

20 JUDGE FISHER: Yeah, well, you know, some firms  
21 won't do landlord/tenant because of conflict of interest.  
22 But those that will do it, you know, there's - - - there's  
23 always a way of using pro - - - pro bono attorneys. They  
24 could give out legal information. They could do - - - you  
25 know, they could do the - - - the intake, you know, to get

1 the information. In parts of the state, we actually need  
2 impact litigation because things need to change either  
3 from, you know, a state agency or whatever. And we don't  
4 have that outside the City of New York. Legal aid has done  
5 a wonderful job with shelter and, you know, New York City  
6 Housing Authority Section 8. But we don't have that  
7 litigation outside the City of New York. I - - - you know,  
8 when I moved my career back to Nassau, Suffolk, I was in  
9 total shock. And so, law firms can certainly do that work.  
10 Legal services programs can't, you know, for various  
11 reasons, because they don't have the resources, so they can  
12 do that.

13 They can do the simple - - - you have - - - we  
14 have to learn to triage so that the really simple cases can  
15 be done by pro bono attorneys. And the more severe cases  
16 can be done by legal services, legal aid attorneys, or even  
17 law students. As you know, I use law students to provide  
18 legal information, and it is successful. So, I think we  
19 have to learn to triage. I think we need more of a library  
20 of training, you know, on videotape that, you know, law  
21 firms can use, and we don't have to repeat the trainings  
22 over and over again.

23 But part of the problem with using pro bono  
24 attorneys is that they're not necessarily aware of the  
25 problems that impoverished people have. And so, you know,





1 they're either insensitive, or they're in total shock, and  
2 they don't know how to deal with it. And at our courts,  
3 you know, it's tough. It's like Family Court. You know,  
4 you got to - - - you got to, you know, put your - - - your  
5 boots on and get into the trenches. And so sometimes pro  
6 bono attorneys are not appropriate for that, but I do think  
7 there is a role. I am not by any extents, Counsel, saying  
8 that we should not use attorneys from law firms and from  
9 corporations, and we have to use wisely.

10 JUDGE LASALLE: Judge, if I - - - if I may,  
11 Judge?

12 JUDGE RENWICK: Yes, please.

13 JUDGE LASALLE: Obviously, your - - - your  
14 expertise is well-renowned throughout the state on - - - on  
15 these issues. But you touched on something before ---

16 JUDGE FISHER: Uh-huh.

17 JUDGE LASALLE: --- that that - - - it has an  
18 effect that when you talk about the housing crisis, right?

19 JUDGE FISHER: Uh-huh.

20 JUDGE LASALLE: When you talk about  
21 gentrification, and it's a quiet - - - it's a dirty little  
22 secret that for some reason we don't want to talk about in  
23 this state. Oftentimes, the working poor and the working  
24 class are pushed out of communities which they've been in  
25 for generations as elites move in. The dirty little secret

1 is the elites who move in tend to be white, and the people  
2 being pushed out tend to be people of color.

3 JUDGE FISHER: Exactly.

4 JUDGE LASALLE: For some reason, that discussion  
5 - - - this - - - mem - - - members of our legislature don't  
6 want to talk about it. Municipal government doesn't want  
7 to talk about it. I see you smiling so I think you agree.

8 JUDGE FISHER: They stopped me from talking about  
9 it.

10 JUDGE LASALLE: No, I know that. And that's - -  
11 - that's why I'm going to ask you this question. To what  
12 extent can our state legislature - - - they may be  
13 disinclined to do it - - - but to what extent could our  
14 state legislature, our city councils, our municipals on the  
15 state work to protect the working poor from being pushed  
16 out of their homes by the elite and their child - - - and  
17 their upwardly-rising children?

18 JUDGE FISHER: True. You know, higher Department  
19 of Social Services rental amounts because it's - - - it's  
20 paltry what they have to give people for rent. There is no  
21 rent in the city - - - a city, a suburb, or rural area that  
22 actually is the around the amount that DHS gives,  
23 particularly, for a family. So that's one thing that they  
24 can do; good cause eviction. So, somebody just can't on a,  
25 you know, on a whim decide to evict somebody. And - - -

1 and you know, and I will give the Legislature credit,  
2 because they changed the law in 2019 to create more notice  
3 before a month-to-month tenant can be evicted. So, it's 30,  
4 60, or 90 days. But still, if you get evicted at 90 days,  
5 you have no place to go. You have no place to go. So, in  
6 your - - - in your playing field, Judge, I - - - you know,  
7 I just heard that in West Hampton, for example, there is  
8 absolutely no place for workers to live. So, they are - - -  
10 they can't live on the east end, so they're moving actually  
11 west to more affordable places like Coram or whatever.

12 JUDGE LASALLE: Sure. But also - - - and - - -  
13 and

14 JUDGE FISHER: They have to commute.

15 JUDGE LASALLE: And also, as you know, it's also  
16 part of the Second Department, Bushwick, Bed-Stuy ---

17 JUDGE FISHER: Yes.

18 JUDGE LASALLE: --- Astoria, Long Island City.

19 JUDGE FISHER: Everybody is being pushed out.

20 JUDGE LASALLE: So, it's - - - it's - - - it's not  
21 just - - - and Long Island is certainly an issue, too. But  
22 it just seems to be an issue. Again, and I appreciate your  
23 input on that topic. Thank you.

24 CHIEF JUDGE WILSON: Thank you, Judge.

25 JUDGE FISHER: Thank you.



1 CHIEF JUDGE WILSON: And next, and finally before  
2 The break. She had to wait a very long time, but Dede Hill

3 MS. HILL: Good afternoon. Thank you to Chief  
4 Judge Wilson and to all the members of the distinguished  
5 panel and to the Permanent Commission on Access to Justice  
6 for holding this hearing and for providing me the  
7 opportunity to give remarks on behalf of the Schuyler  
8 Center for Analysis and Advocacy.

9 As was noted, I am Policy Director at the  
10 Schuyler Center. I sometimes refer to myself as a  
11 recovering lawyer. But in fact - - - and that's only  
12 because I'm not currently practicing - - - in fact, I'm  
13 deeply proud of the many years that I practiced as a labor  
14 lawyer and as an assistant solicitor general for the great  
15 State - - - State of New York and just really thrilled to  
16 be here today.

17 The Schuyler Center is a 151-year-old statewide  
18 nonprofit organization dedicated to advancing public  
19 policies that strengthen New York families before they  
20 experience crises and trauma, and prevent families from  
21 enduring hardships like ill health, economic insecurity,  
22 child welfare involvement, or encounters with juvenile  
23 justice.

24 Among Schuyler Center's proudest achievements is  
25 playing a role in securing the enactment of the early 2022

1 New York State - - - or the enactment occurred early in  
2 2022 of the New York State Child Poverty Reduction Act.  
3 And this committed New York State to cutting child poverty  
4 in half in a decade.

5 This historic effort is an opportunity for New  
6 York State to act boldly to once and for all turn the tide  
7 on child poverty in our state. I will focus my remarks  
8 today on two important ways in which access to civil legal  
9 services can play a critical role in ensuring New York  
10 meets its commitment to the 700,000 New York children  
11 living in poverty, and that represents more than 18 percent  
12 of the state's children.

13 And as Judge Wilson has mentioned several times,  
14 our poverty levels don't even get to the number of children  
15 who experience real deprivation every day of their lives.  
16 It's more like at 200 percent of the federal poverty level.  
17 And so, we're talking about more like 40 percent of our  
18 children who really deal with hardship day in and day out.

19 And - - - and so I am going to focus on how civil  
20 legal services can help to ensure that these children and  
21 their families can access the services and resources they  
22 need and deserve to shield them from the tremendous harm  
23 experiences that poverty can cause.

24 First, New York must ensure New Yorkers are able  
25 to access the essential social services for which they are



1 eligible by making civil legal services readily available  
2 to those wrongly denied or delayed access to social  
3 services benefits.

4 The importance of timely access to civil legal  
5 services for families facing barriers to accessing benefits  
6 cannot be overstated. Typical families that are low income  
7 have, on average, a savings of about \$600. So, this leaves  
8 many families one-denied benefit away from a tragedy.  
9 Delayed or denied public assistance or heating assistance  
10 or SNAP food assistance or childcare assistance, this can  
11 have a cascading effect leaving a family scrambling to make  
12 up for the lost resources by skipping a car repair, which  
13 can lead to missed days at work which can lead to job loss,  
14 or they might skip a rent check which can lead to  
15 homelessness. So, this unraveling can happen quickly with  
16 devastating and long-lasting impacts, particularly for  
17 children.

18 One key solution, the one we've heard over and  
19 over again, we need more funding for civil legal services.  
20 New York's shortage has - - - has been considered at crisis  
21 levels for decades. I don't need to tell any of you that.  
22 Adequately funding legal services would not only prevent  
23 New York families from the trauma and hardship benefits  
24 denials often cause, it would also result in cost savings  
25 to the state by saving money in the many other systems that



1 then need to pick up the pieces.

2 A second way in which access to civil legal  
3 services can play an essential role in strengthening New  
4 York families, particularly those experiencing poverty, is  
5 to ensure New York families that become involved with the  
6 child welfare system can access civil legal services from  
7 first contact with child welfare. Too many New York  
8 families, disproportionately black and brown families, are  
9 swept up in the child welfare system simply because they  
10 are poor.

11 Timely access to civil legal services can prevent  
12 unnecessary and traumatic family separations and ensure  
13 families that encounter child welfare gain access to the  
14 services they need to thrive as a family. The stakes are  
15 too high. The rules associated with child welfare are too  
16 complex to deny families representation from the start.

17 Currently, New York families do not have a right  
18 to counsel until Child Protective Services files a petition  
19 and parents have to appear in court. This means that most  
20 low-income families are left to navigate critical  
21 interactions with the Child Protective Services caseworker  
22 investigating them completely on their own. During this  
23 period of investigation, families are often subject to home  
24 visits, to investigative interviews of parents and their  
25 children, and they may be required to participate in

1 preventive services.

2 Notably, the information that is being collected  
3 can later be used in making the extraordinary decision to  
4 remove a child from their family. All of this happens  
5 before most parents are even made aware of their  
6 eligibility for legal representation. Here again, a key  
7 policy solution is to increase funding for legal services  
8 so families that encounter child welfare can access those  
9 services at first contact to better ensure families are  
10 connected with the services that they truly need and to  
11 prevent unnecessary family separations.

12 New York should also require Child Protective  
13 Services workers to notify families of their rights in a  
14 child welfare investigation including the right to counsel  
15 at first contact. That is not the law now. That - - -  
16 that should change.

17 In closing, robust legal representation is  
18 necessary. A necessary part of New York's implementation  
19 of the Child Poverty Reduction Act's commitment to cutting  
20 child poverty in half by 2032 and to moving New York toward  
21 what really should be our goal which is ensuring that all  
22 of the state's children have the resources they need to  
23 thrive.

24 And if I can take a moment, I'd love to address a  
25 question that Judge Wilson posed to Mr. Flagg about how we





1 might lessen the need for civil legal services. And I  
2 think an additional suggestion that I would offer is we  
3 need to - - - to really take aim at the - - - the complex  
4 and often punishing barriers that - - - that New Yorkers  
5 face to accessing essential services. Particularly,  
6 services that are means tested which are nearly all of  
7 them. So, things like SNAP food assistance, childcare,  
8 affordable housing, all of these services generally  
9 require families to fill out really onerous and complex  
10 paperwork often not in their native language. They also  
11 confront too frequent authorizations, reauthorizations, so  
12 that leads to churn - - - to families falling off even when  
13 they're still fully eligible. And then, you know - - - and  
14 also, these cause long delays. So often, even if a family  
15 can hang on, the service comes too late, and the cascading  
16 impacts have started.

17 So, there will always be the need for civil  
18 legal services because mistakes happen and - - - and  
19 families need someone in their corner. But I think one way  
20 that we can really head things off is to - - - is to  
21 streamline the benefits process. And I'd note that New  
22 York has - - - has made some small steps in that direction  
23 in a number of areas but there's a lot more to be  
24 done.

25 CHIEF JUDGE WILSON: Thank you.



1 MS. HILL: Thank you.

2 CHIEF JUDGE WILSON: I wonder if you think that  
3 the benefits area is an easier area, for example, for  
4 young lawyers at large firms to help, than maybe  
5 housing court is?

6 MS. HILL: So, I cannot speak from experience,  
7 having never practiced in housing court. Actually, I  
8 represented myself as a law student, and I did - - - I did  
9 win.

10 CHIEF JUDGE WILSON: Yeah.

11 MS. HILL: It was my first win. So yeah, I mean,  
12 I - - - I think in some of the administrative proceedings  
13 for sure that there is - - - there is a little more  
14 flexibility with the Rules of Evidence and the like. And  
15 so, yeah, I think - - - I think with proper mentorship,  
16 that could be a great way for, you know, more junior  
17 attorneys to cut their teeth. But at the same time, we  
18 can't underestimate how critical these services are. So, we  
19 sort - - - you know, we refer to them as, I mean, you know,  
20 they don't have the criminal implications. No one's going  
21 to go to jail, but the impacts are so extraordinary that  
22 they're going to need a lot of - - - a lot of guidance and  
23 support.

24 CHIEF JUDGE WILSON: Thank you.

25 MR. LEWIS: May I go ---

1 CHIEF JUDGE WILSON: Yes.

2 MR. LEWIS: --- Judge?

3 So, what I - - - first of all, thank you and  
4 thanks to all of the panel. And it sounds to me that one  
5 of the general themes here is we need more representation,  
6 and we need more lawyers. And Mr. Flagg talked about the  
7 legal desert. So is there anything being done to  
8 incentivize attorneys to get into that legal desert to help  
9 these underrepresented people or unrepresented people?  
10 I - - - I know that 18-B rates have increased. I know that  
11 Law firms and private industry are taking steps to try to  
12 provide counsel, but it seems to me that in these areas,  
13 we need to have attorneys that have their boots on  
14 the ground. And I'm wondering is anything happening, or do  
15 you have any suggestions how things can happen to get  
16 people - - - get - - - get lawyers, young lawyers into  
17 these areas?

18 MS. HILL: I mean, I think the very simple answer  
19 is we need to raise rates, the rates that are paid to  
20 lawyers. And we need to get ahead of the student debt  
21 problem, too. I mean, not - - - none of our attorneys and,  
22 you know, new attorneys emerging from law school, very few  
23 of them are emerging without debt. And most ---

24 MR. LEWIS: That's for sure.

25



1 MS. HILL: --- are emerging with really, really  
2 significant debt. It's - - - it's simply impossible for  
3 them to enter this, no matter how much their hearts  
4 want them - - - you know, want them to follow that passion.

5 CHIEF JUDGE WILSON: Thank you, Ms. Hill.

6 We're going to recess until 3 o'clock when we  
7 resume the second part of the program.

8 (Recess)

9 CHIEF JUDGE WILSON: Okay. We're back for the  
10 afternoon portion of the program, and I recognize a  
11 familiar face, Neil Steinkamp, on the screen there.

12 Welcome, Neil.

13 MR. STEINKAMP: Thank you. It's great to be  
14 here.

15 CHIEF JUDGE WILSON: And you're on.

16 MR. STEINKAMP: Chief Judge Wilson and  
17 distinguished panelists, it's an honor for me to have the  
18 opportunity to provide this report for your consideration  
19 and these remarks for your consideration.

20 My name, as Chief Judge Wilson just mentioned, is  
21 Neil Steinkamp. I'm Managing Director at Stout, where I  
22 lead the firm's transformative change practice and our pro  
23 bono practice, and have served for several years as  
24 consultant to the Permanent Commission on Access to  
25 Justice.



1           Now, for these remarks regarding the commission's  
2           efforts to develop a realistic estimate of the funding and  
3           resources that may be necessary to close the justice gap in  
4           New York.

5           By way of background, in 2021, 14 percent  
6           of New York residents were living below the federal poverty  
7           level, a full percentage point higher than the national  
8           average, with pockets of poverty in the state and among  
9           certain populations that are considerably greater than  
10          that. In October of 2022, 47 percent of New Yorkers had  
11          difficulty paying for household expenses.

12          It's been well-documented that poverty is causal  
13          to other crises, including poor educational attainment,  
14          housing instability, and eviction, justice system  
15          involvement, both civil and criminal, health disparities,  
16          unemployment and underemployment, community instability,  
17          and social safety net resource usage. The effects of  
18          poverty are often reflected in civil cases involving the  
19          essentials of life brought in state courts.

20          In January of 2022, at the request of former  
21          Chief Judge Janet DiFiore, the New York State Permanent  
22          Commission on Access to Justice, through its Funding  
23          Working Group, began to develop a realistic estimate of the  
24          funding and resources that would - - - could be required to  
25          close the justice gap in New York. This estimate was to

1 focus on matters involving the essentials of life for  
2 individuals and households at or below 200 percent of the  
3 federal poverty guideline and to include the various forms  
4 of effective assistance the litigant may require based on  
5 their individual circumstances.

6 The Working Group determined that to develop an  
7 estimate of the funding necessary to close the justice gap,  
8 it would need separate estimates for each of the matter  
9 types that would be considered. The Working Group, relying  
10 on data provided by OCA regarding the number of cases for  
11 each matter type, selected several types to assess in  
12 successive phases of its work. For each matter type, the  
13 working group would conduct a preliminary discussion  
14 amongst itself and its members, who would identify key  
15 stakeholders to learn from, conduct research as  
16 appropriate, further expand stakeholder connections, and  
17 then use the information that it collected to create a  
18 preliminary budget model for each matter type.

19 Those matter types, the ones the Funding Working  
20 Group analyzed, were consumer credit, eviction, both inside  
21 New York City and outside New York City, child support,  
22 disability benefits assistance, guardianship, contested  
23 matrimonial cases, foreclosure, paternity, family offense  
24 matters not involving intimate partner violence, and  
25 custody matters for kinship caregivers.

1 Collectively, these matters represent about 50  
2 percent of the total civil case docket in New York, with  
3 the remaining 50 percent being related to case types that  
4 don't involve the essentials of life or that already have a  
5 right to representation. Those represent about 540,000  
6 civil case filings in New York for the twelve months ended  
7 March 31, 2023.

8 For many of these case types, the percentage of  
9 respondents or petitioners in a case type who have legal  
10 representation in recent years has been at or less than  
11 five percent.

12 The funding estimate also includes the cost of  
13 providing effective assistance for persons involved in  
14 administrative fair hearings and other matters involving  
15 income maintenance and access to public benefits. To  
16 provide a comprehensive estimate of the program costs, the  
17 funding working group considered a variety of forms of  
18 assistance that can provide access to justice. These  
19 included full and limited scope representation by  
20 attorneys, pro bono lawyers, law school clinics, pre-filing  
21 diversion programs, assistance from trained and supervised  
22 non-lawyers, mediation and other forms of ADR, community-  
23 based resources such as Legal Hand and Community Dispute  
24 Resolution Centers, and the ways in technology may be able  
25 to be assistance, such as guided interviews, online

1 automated forms, e-filing and other technology innovations.

2 Evaluating multiple solutions was key to  
3 estimating the cost based on the spectrum of expected needs  
4 of eligible litigants. The Funding Working Group also  
5 considered a number of other factors that could affect the  
6 funding necessary to close the justice gap, including the  
7 potential ways in which court reforms could be implemented  
8 over time and could impact the number of case filings or  
9 the process by which those filings are adjudicated, the  
10 ways in which courts and litigants will respond if there  
11 was a significant increase in community outreach and access  
12 to effective assistance, and the manner in which Legal Hand  
13 and Community Dispute Resolution Centers and other forms of  
14 underutilized effective assistance could be engaged to  
15 assist in closing the justice gap in New York.

16 The provision of additional funding in the  
17 expansion or development of legal services programs to  
18 deliver additional services, particularly of the scope  
19 contemplated by this kind of analysis, would necessarily  
20 require significant strategic development in an appropriate  
21 time period over which such programs could be implemented  
22 The courts, legal services organizations, community-  
23 based organizations, and other stakeholders would  
24 need to be engaged to develop the appropriate initial  
25 strategies for the expansion of services and the means of



1 continual period of evaluation that would be necessary to  
2 assess how the civil legal aid landscape would change  
3 based on the availability of these resources,  
4 implemented reforms, and other factors.

5 Based on all of that, the Funding Working Group  
6 of the Commission estimates that between \$842 million and \$1  
7 billion is a realistic estimate of the additional annual  
8 funding necessary, at full implementation, to close the  
9 justice gap for low-income New Yorkers involved in civil  
10 legal aid matters - - - civil legal matters impacting the  
11 essentials of life.

12 JCLS funding has provided \$100 million annually  
13 since 2016 with the addition of recent COLA increases  
14 bringing that total to \$116 million.

15 The Funding Working Group proposes an initial  
16 five-year goal of adding \$100 million to the currently  
17 planned JCLS funding and proposes reaching that goal with  
18 incremental increases beginning in the upcoming fiscal year  
19 starting April 1, 2024. The Working Group recommends that  
20 additional funding be administered in the same manner as  
21 the current JCLS funding, which enables local legal  
22 services organizations to respond to the unique local needs  
23 of their community in the manner most effective for their  
24 organization and their community.

25 The full report of the funding working group will

1 be included in the Permanent Commission's annual report to  
2 the Chief Judge later this year. And I want to thank you  
3 for your time and your consideration and welcome any  
4 questions or comments you may have.

5 CHIEF JUDGE WILSON: Thank you, Neil. I do have  
6 two questions, I guess. One is -- and President Lewis  
7 alluded to this -- there are areas in New York State where  
8 there simply aren't lawyers. And so at least  
9 superficially, you could have a whole lot of money and  
10 still not have any lawyers there. And so that's probably  
11 part of what you were referring to when you said strategic.  
12 But money alone isn't going to solve that problem, I think.  
13 You might want to address that briefly. Why don't you try  
14 it first?

15 MR. STEINKAMP: Thank you, Chief Judge Wilson.  
16 So, it's a fantastic question. And the issues of the rural  
17 justice gap are significant and complicated and very  
18 challenging. And I certainly think that to the extent that  
19 additional funding were available, engaging both with the  
20 rural communities, urban communities, and everything in  
21 between is going to be essential because it's not a one-  
22 size-fits-all sort of solution.

23 In those rural communities, it may be helpful to  
24 be leveraging resources that are available in those  
25 communities, whether it be the courts, the public

1 libraries, any Community Dispute Resolution Centers that  
2 may be available in rural counties. But I also appreciate  
3 your point that there are - - - simply from a labor  
4 perspective, there may not be people - - - humans available  
5 to assist in those communities that are sufficiently  
6 skilled and have the experience and expertise necessary.

7 In those situations, it may be helpful to explore  
8 technology solutions, either through a remote connection or  
9 other means of trying to provide assistance in those  
10 situations. I certainly don't have the solution to the  
11 rural access to justice gap as I sit here today, but I do  
12 agree that we would need to be mindful of developing unique  
13 solutions in those situations, and I think engaging with  
14 those local stakeholders would be essential to do that.

15 CHIEF JUDGE WILSON: The other thing I was going  
16 to ask you to talk about just briefly is my understanding  
17 from reading a bunch of things is that investments in civil  
18 legal services has a net positive return on investment.  
19 And I think you probably know some of that better than I  
20 do, and if you might mention that, I think that could be  
21 helpful.

22 MR. STEINKAMP: Yes, thank you. Also a great  
23 question and comment. Many studies, both in New York and  
24 around the country, have found that investing in civil  
25 legal services has a positive return on investment. Now,

1 the work of the Permanent Commission has found that in New  
2 York, the return on investment is approximately \$10 for  
3 every dollar invested in civil legal aid. And similar  
4 assessments have been done by other permanent commissions  
5 and by other groups around the country.

6 It varies by case type and by the sort of mode of  
7 intervention and type of services that are provided in the  
8 different circumstances, of course, as you would expect.  
9 But the premise behind that is that by providing those  
10 sorts of resources, we're avoiding the crises that occur  
11 when people aren't able to access assistance through the  
12 civil legal process. And those crises then often require  
13 the response of a social safety net, of some form of  
14 assistance by city, local, state, federal government to  
15 help people in need.

16 So, it's a matter of avoiding those crises so that  
17 we're not having to pay for those crises and the services  
18 that are required after the fact. Services such as  
19 homelessness response, and the impact to the healthcare  
20 system and the education system, and many other impacts  
21 that individuals and families will have.

22 It has been shown over and over again that it's  
23 far less expensive to pay for the assistance needed in  
24 those moments than to pay for the crises and the assistance  
25 services after the fact.



1 CHIEF JUDGE WILSON: Thank you. Thank you very  
2 much.

3 JUDGE WHALEN: Could I ask one question?

4 CHIEF JUDGE WILSON: Of course.

5 JUDGE WHALEN: Yeah. Thank you very much, Mr.  
6 Steinkamp, for appearing here today. If I'm understanding  
7 your remarks correctly, and maybe I'm not, but maybe you  
8 could clarify it for me, the study is based primarily upon  
9 filings within the court system, and you're analyzing  
10 those, and that's where the need is coming from, and that's  
11 where the projected budget's coming from.

12 In your experience though, and the things that  
13 you've studied - - - and I know they've been in-depth and  
14 broad - - - what do we know about the need that's out  
15 there, the people needing justice that aren't getting to  
16 the justice system, that aren't making those filings?

17 I mean, you just touched upon it momentarily a  
18 few minutes ago where you said, when they don't do that,  
19 they fall into, and we hope to have a safety net that takes  
20 care of it, and there's a - - - there's a cost to that, and  
21 I understand that. But what do we know about the size of  
22 that group of people; and what can we do by way of outreach  
23 to bring them into the justice system so they're getting  
24 their cases attended to and the services that they need so  
25 they don't fall into the safety net?

1 MR. STEINKAMP: Yeah. This is a great question.  
2 I really appreciate it. We - - - we - - - we need to know  
3 more about that group. I think there has been some great  
4 research done and some great study done on this topic of,  
5 you know, the need beyond the case filings. Rebecca  
6 Sandefur has done some tremendous work here and others  
7 around the country have done some really phenomenal work to  
8 try to understand legal needs, not just case filings.

9 The Working Group's focus on case filings was  
10 intended to be an initial step. It was a population that  
11 could be defined and for which we could create some of the  
12 measurements I've just described and often are going to  
13 reflect those moments where crisis - - - you're right at  
14 the moment of crisis when you can provide that assistance.

15 And so, it's - - - it's hopeful that sort of  
16 forms a foundation, but I think to your point, does not  
17 reflect the full scope of the need. For more than one  
18 reason, not just the one that you mentioned, but also  
19 because the work of the Working Group was limited to both  
20 matters involving the essentials of life, but also for  
21 people at 200 percent of the federal poverty level and  
22 below.

23 And that last criteria, of course, is an  
24 important one because there are many people who are above  
25 200 percent of the federal poverty level that would still

1 not be able to afford or access a lawyer. And so, of  
2 course, there's additional need there.

3 But with respect to your point, as I sit here  
4 now, I can't tell you quantifiably what the scope of that  
5 additional need is. But surely there are a great many  
6 instances in which people are experiencing legal needs that  
7 have not and likely will not materialize into a case  
8 filing. And for each of the matter types I mentioned,  
9 there would be those circumstances, those that are  
10 sometimes referred to as upstream legal needs or justice  
11 issues, that exist.

12 And so, yes, absolutely, we need to be thinking  
13 about those as well. I think there are interesting  
14 opportunities to be thinking about prevention efforts. And  
15 you mentioned outreach as well. I think informing both  
16 local outreach efforts and coordinated statewide outreach  
17 efforts are going to be essential regardless to help people  
18 understand the types of issues that they may experience,  
19 the consequences of action and inaction, but also community  
20 resources that are available.

21 So unfortunately, I can't sort of measure that as  
22 I sit here right now, but I absolutely agree that we need  
23 to understand the Working Group's analysis to be limited to  
24 what I described and that there will certainly be  
25 additional need beyond that, including for the reasons you

1 mentioned.

2 JUDGE WHALEN: Thank you very much, Mr.

3 Steinkamp.

4 Chief, thank you very much.

5 CHIEF JUDGE WILSON: Thank you.

6 Before we move to our next speaker, and who is  
7 also our first client to address us, which is, as I  
8 mentioned earlier, the exciting -- most exciting part of  
9 the program, I did want to acknowledge the presence of  
10 Administrative Judge Connolly, who joined us. I knew he  
11 couldn't be here quite on time. He was coming from a ways  
12 away, but glad to see you here.

13 Vernell Robinson -- Ms. Vernell Robinson.

14 I'm sorry. There we are. Hi, how are you?

15 MS. ROBINSON: Hello.

16 CHIEF JUDGE WILSON: Welcome. And thank you for  
17 joining us.

18 MS. ROBINSON: Most definitely.

19 CHIEF JUDGE WILSON: The floor is yours.

20 MS. ROBINSON: The floor is mine?

21 CHIEF JUDGE WILSON: Yep. We are delighted to  
22 hear from you.

23 MS. ROBINSON: Okay. Okay. Just a second.

24 Okay.

25 Well, my name is Vernell Robinson, and thank you





1 very much for hearing me out. I'm a sixty-year-old mother  
2 of four who raised her children in Carleton Manor, 7115  
3 Beach Channel Drive, since 1989. I'm currently the vice  
4 president on the board of the Resident Council, and my  
5 daughter is also very active on the board and lives in the  
6 same building in a different apartment.

7 I joined the board to make a difference so the  
8 New York City Housing Authority would do better -- a better  
9 job at maintaining the 174 apartments in the building.

10 For many years, we had problems with the hot  
11 water and our problems with NYCHA's failure to maintain our  
12 building. In October 2021, the problem became unbearable  
13 and we were fed up with NYCHA blaming the residents for the  
14 problem and giving excuses for why we didn't have hot  
15 water.

16 As the Resident Council, we had informed NYCHA's  
17 compliance department of the lack of hot water, so that  
18 they can get an inspector out to the building, but no one  
19 ever followed up with the investigation for months. This  
20 was our experience also in the past, when the building was  
21 out - - - without gas. We didn't have legal help then, and  
22 the serious - - - the issue lingered for months. I mean,  
23 through Thanksgiving, Christmas, Valentine's Day before the  
24 - - - the gas was restored.

25 As you can imagine, it was extremely difficult to



1 live without hot water. I have a physical disability,  
2 whereas my doctor recommended that I have a shower chair.  
3 But it was difficult for me to carry the water by myself,  
4 and often I had to wait for assistance just to take a bird  
5 bath in the shower. And I wasn't alone.

6 Many residents in the building, which are  
7 predominantly African-Americans, are elderly and have had a  
8 hard time dealing with this issue as well. The residents  
9 were unable to take showers or perform their daily  
10 functions as normal. It was embarrassing to have family  
11 members come over to visit because they couldn't spend the  
12 night or stay long because they couldn't bathe in hot  
13 water.

14 NYCHA's disregard for our dignity and well-being  
15 led some residents to pay for hotels and to take proper  
16 showers. And some of them had to seek refuge at family and  
17 friends. In fact, some families even moved out of the  
18 building because the issue was so bad. Some died before  
19 the problem even got corrected.

20 By November and December, we had enough and sent  
21 a letter threatening to sue NYCHA in Queens Housing Court.  
22 I thought it would be more powerful to sue NYCHA as a  
23 group, because it was easy for NYCHA to ignore us  
24 individually.

25 On January the 11th, 2022, however, we were told

1 by the housing court clerk that we could not file our case  
2 as a group. I fought back because I knew our rights. But  
3 even after filing a group of 101 tenants, we were  
4 unsuccessful.

5 Before we had a lawyer, the court didn't help us  
6 at all, so I was so relieved when Legal Services New York  
7 City got involved a few weeks after we filed. I was so  
8 happy to have the lawyers fight for us, because by this  
9 time, I didn't know what to do, where to go, or anything  
10 else, that I'd exhausted all of my things that I thought  
11 I could do. And I just I assumed the case would just  
12 fall through the cracks and NYCHA get away with it.

13 Some residents even became optimistic once our  
14 lawyer took the case, although some were still skeptical  
15 due to NYCHA's long last - - - long-standing housing  
16 history of inaction and total disregard for our  
17 communities.

18 Our attorney requested multiple court appearances  
19 to hold NYCHA accountable, but progress was slow. For  
20 example, HPD filed for - - - failed to inspect the building  
21 after our attorney made multiple requests. And NYCHA had  
22 failed to provide any helpful updates on the court dates.  
23 And in fact, it became clear that NYCHA had no idea what  
24 had caused the problem or how to fix it.

25 NYCHA actually made matters worse by using



1 unlicensed workers to restore the hot water, damaging  
2 everyone's bathroom, taping plastic over very large holes,  
3 and greatly reducing the water pressure for the entire  
4 building. So much so that it didn't make a difference  
5 if we didn't have hot water because we couldn't take a  
6 shower because there was no pressure.

7 Because the progress in the court was so slow,  
8 our attorney tried to push NYCHA to do the right thing by  
9 highlighting the case in the media. We told our story to  
10 New York Daily News, which featured our story on the front  
11 page. But they were - - - we were even quoted - - - they  
12 even quoted the judge who was furious with NYCHA for making  
13 low-income residents of color live without hot water during  
14 the winter. Like many, the judge could not imagine this  
15 happening in other communities, especially those who live  
16 in private houses, nor could he stomach NYCHA's lack of  
17 remorse for what we had gone through.

18 Being devalued and dehumanized was an extremely  
19 tough ordeal. After months of negotiations, countless  
20 court appearances, press, and the filing of a contempt  
21 motion with affidavits from numerous tenant - - - tenants  
22 regarding the conditions in their apartments, NYCHA finally  
23 made repairs and agreed.

24 Thanks to our amazing lawyer, we received a  
25 twenty-five percent rent abatement for all the households



1 who joined the case. For most of us, this was an eight-  
2 month rent abatement from when we lost water pressure  
3 and hot water through the day NYCHA restored the hot  
4 water, water pressure, and fix everyone's bathrooms.

5 This was a nice surprise for tenants who were not  
6 expecting any rent abatement, and it was a perfect timing  
7 for those that lost income during the pandemic. Some  
8 seniors had to choose between medication and food. The  
9 rent abatement gave the residents peace of mind.

10 We're extremely happy with the results of our  
11 case. You might have no idea what it's like to be unable  
12 to take a hot shower for months at a time, but it's really  
13 hard and degrading. You know, we would not have been able  
14 to live in decency without our attorney and other legal  
15 services staff who pushed NYCHA from many different  
16 directions to treat us with dignity and respect we  
17 deserved. We are grateful for the work and thank you  
18 for supporting legal services.

19 We hope others in similar situations will be  
20 able to reach out for help for Legal Services New York  
21 City. So please help them and provide them with the  
22 funding that they need, that they may continue to help  
23 others in New York City, especially my neighbors in public  
24 housing, those who need it the most. Thank you.

25 CHIEF JUDGE WILSON: Thank you, Ms. Robinson. I



1 don't think I even need to ask you whether you think you  
2 could have gotten the same result or a good result without  
3 an attorney. I'm not even going to ask you that because I  
4 think that's obvious from your testimony.

5 Let me ask you this instead. I'm - - - just out  
6 of curiosity, how did you - - - how did you find Legal  
7 Services New York City? Did they find you? Did you  
8 find them?

9 MS. ROBINSON: Well, they found us. A resident  
10 had filed a case in court. And that's why I said, when  
11 you're - - - when you're alone, you get nowhere. And I  
12 think with that class - - - with the group filing, legal  
13 aid picked it up from the tenant who had initially filed.  
14 (Indiscernible) legal services.

15 CHIEF JUDGE WILSON: Thank you.

16 If anybody else had a question?

17 Now, thank you very much. We're going to move on  
18 to Raun Rasmussen who is the Executive Director of Legal  
19 Services New York City.

20 Thank you, again, Ms. Robinson, for appearing  
21 today.

22 MR. RASMUSSEN: Good afternoon. And thank you  
23 all, and especially Chief Judge Wilson and Chief  
24 Administrative Judge Zayas for this opportunity to appear  
25 before you.

1           My name is Raun Rasmussen, and I'm the Executive  
2           Director of Legal Services NYC. Legal Services NYC is the  
3           largest provider of free civil legal services in the  
4           country. Our staff of nearly 700 works throughout all five  
5           boroughs of New York City to fight poverty and seek racial,  
6           social, and economic justice on behalf of low-income New  
7           Yorkers like Ms. Robinson. We're proud members of the New  
8           York Legal Services Coalition.

9           You've just heard a moving story about the  
10          challenges one woman, our client, Vernell Robinson, and the  
11          Resident Council she helps to lead, faced in seeking to  
12          assert their legal rights. After years of problems getting  
13          sufficient hot water, and months of litigation trying to  
14          get water pressure restored and hot water sufficient to  
15          take a shower, 101 tenants at the Carleton Manor New York  
16          Housing Authority Development in Queens were finally able  
17          to get the most basic service restored, hot water.

18          As Ms. Robinson's daughter, Alisha, said to the  
19          Daily News, "This is the dead of winter. We need this  
20          corrected. It doesn't make any sense to me. I have to go  
21          to a hotel to take a decent shower."

22          A years-long battle for this most essential  
23          service doesn't make any sense to me either and should  
24          never be necessary. And it's only because of the  
25          determination, courage, and tenacity of Ms. Robinson and



1 the other members of the Carleton Manor Resident Council  
2 that they were able to prevail. They fought hard. They  
3 got help from Robert Sanderman, a tenacious lawyer in our  
4 Queens' office. And they finally succeeded after months  
5 and months of litigation, after the Judge put significant  
6 pressure on NYCHA to solve this problem, and after the  
7 Daily News exposed the fact that one of the most basic  
8 needs that we all have, for hot water sufficient to take a  
9 shower, to wash your face, to do the dishes, was not being  
10 provided to hundreds of tenants for months on end, in 2022,  
11 in New York City, in publicly subsidized housing.  
12 Unforgivable.

13 Restoring the essential services for Ms. Robinson  
14 and her neighbors was the primary goal of our litigation.  
15 But putting NYCHA on notice that they can't get away with  
16 neglecting essential services and disrespecting the  
17 humanity of tens of thousands of New Yorkers was also  
18 essential.

19 We and our colleagues throughout the City will  
20 continue to hold NYCHA and private landlords accountable to  
21 their duties as landlords, which include the most basic  
22 provision of essential services such as heat and hot water,  
23 and water pressure to their tenants.

24 Tenants throughout New York State remain  
25 desperate for help. In New York City, where there's a





1 first in the nation right to counsel for eviction cases,  
2 the funding is so limited that the legal services provider  
3 community is able to serve far less than half of those who  
4 are eligible for help. And that area of practice receives  
5 significantly more funding than what's received for all of  
6 the other areas of need for our clients.

7 You may know the work of Harvard Sociology  
8 Professor, Matt Desmond, who wrote the seminal book,  
9 "Evicted," a devastating account of the national  
10 homelessness problem, and who has recently published,  
11 Poverty in America.

12 Professor Desmond stated, "Without shelter,  
13 everything else falls apart." And that's certainly true.  
14 But it's also true that without safety from domestic  
15 violence, everything else falls apart. Without a  
16 sufficient stable income, everything else falls apart.  
17 Without a high-quality education and access to health care,  
18 everything else falls apart. Poverty makes things fall  
19 apart.

20 Our staff and our colleagues throughout the state  
21 help our clients hold their lives together in all these  
22 ways that are so critical. But we can only do our work to  
23 help amazing people like Ms. Robinson and her family and  
24 friends at Carleton Manor in Queens with funding from you  
25 that supports the broad range of services that we provide.



1           As a member of the Permanent Commission's Funding  
2 Working Group, I join in the request for additional JCLS  
3 funding, and I underline that additional funding to achieve  
4 pay parity is essential so that we can recruit and retain  
5 the attorneys that are so desperately needed to provide the  
6 legal services you'll hear about today.

7           Thank you, Chief Judge Wilson, Chief  
8 Administrative Judge Zayas, and the entire Office of Court  
9 Administration for your continued commitment to funding  
10 civil legal services. Without your support, the results  
11 you've just heard described by Ms. Robinson, and which were  
12 realized through the settlement of this litigation, would  
13 never have occurred.

14           We look forward to continuing our work in  
15 partnership with all of you to address the ongoing needs of  
16 so many of our fellow New Yorkers. Thank you.

17           CHIEF JUDGE WILSON: Thank you, Mr. Rasmussen. I  
18 don't really have a question, but I have an observation,  
19 that it strikes me as incredibly ironic that we have such a  
20 shortage of public funding for civil representation in  
21 these kinds of matters that - - - that you had to spend a  
22 substantial amount of that money to fight another  
23 government organization that has a legal obligation to  
24 provide hot water and fair living conditions. It would be  
25 bad if this was a private landlord, but this is the

1 government spending money to get the government - - - a  
2 different government, admittedly - - - to do the right  
3 thing.

4 MR. RASMUSSEN: It's - - - it's hard to fathom.  
5 I totally agree with you. And you know, if you talked to  
6 NYCHA, they would probably say, well, we need funding as  
7 badly as legal services does to be able to do what we need  
8 to do.

9 CHIEF JUDGE WILSON: That may be. But they  
10 didn't save any money by fighting this, right? They ended  
11 up having to restore the hot water and repairing the  
12 apartments and rent abatement.

13 MR. RASMUSSEN: They saved - - - they save no  
14 money by fighting this. And unfortunately, there's a large  
15 measure of incompetence, I'm sorry to say, that - - - that  
16 we have to battle constantly with the New York City Housing  
17 Authority.

18 MS. ROBINSON: Yes.

19 CHIEF JUDGE WILSON: Do you ---

20 JUDGE LASALLE: Yes.

21 Good afternoon, Mr. Rasmussen. And again,  
22 congratulations on behalf of the work that you did on  
23 behalf of Ms. Robinson and her neighbors. It's you and the  
24 - - - particularly the attorney in Queens who did the work,  
25 deserve a round of applause.

1           The questions that I'm going to pose to you,  
2           though, this is just for everyone else testifying, to the  
3           other executive directors, I'm going to pose them to Mr.  
4           Rasmussen, but with the permission of the Chief Judge, I'm  
5           going to ask that you perhaps respond in writing to this  
6           panel, a letter to the Chief, maybe CC the rest of us.

7           But here are the questions. Mr. Rasmussen, I'll  
8           just ask them to you, though, right now. What percentage of  
9           the monies that you've received from the Unified Court  
10          System For Civil Legal Services are used for direct client  
11          services as compared to operational necessities?

12          MR. RASMUSSEN: I would say that most of the  
13          funding that we receive from the - - - I mean I don't have  
14          the exact percentages and happy to respond in writing - - -  
15          but most of the funding that we receive from the Office of  
16          Court Administration is - - - goes to direct legal services  
17          for our clients.

18          JUDGE LASALLE: Very good. And then the second  
19          question is, do you - - - does your entity lobby?

20          MR. RASMUSSEN: We are not permitted to lobby.  
21          We're - - - we're funded by the Legal Services Corporation,  
22          and so there are, you know, restrictions that prohibit us  
23          from lobbying.

24          We can, at the request - - - at the written  
25          request of a legislator, opine or provide information about

1 the impact of a proposed bill on our ---

2 JUDGE LASALLE: That's different from lobbying

3 ---

4 MR. RASMUSSEN: Yeah. That's different from  
5 lobbying. Yeah, that's not lobbying.

6 JUDGE LASALLE: You don't lobby.

7 MR. RASMUSSEN: Yeah.

8 JUDGE LASALLE: Okay. So, then, this question  
9 wouldn't be posed - - - germane to you ---

10 MR. RASMUSSEN: Although, I'll just add, we are  
11 permitted to lobby for our own funding, and we do that.  
12 But we - - - we're not permitted to lobby for - - - for  
13 legislative matters.

14 JUDGE LASALLE: Right. Right. Okay. And then  
15 the last question I have is, again, it wouldn't pertain to  
16 you, but this will pertain to everyone else, perhaps.  
17 If you - - - if you are lobbying, my question is, how much  
18 of that - - - how much, if any, of the money that's being  
19 sent from the Unified Court System is being used for  
20 lobbying, or is that money segregated?

21 Again, that wouldn't pertain to you, but that  
22 would pertain to maybe some of your colleagues. Thank you  
23 for answering my question, sir.

24 MR. RASMUSSEN: Thank you.

25 CHIEF JUDGE WILSON: Thank you, Mr. Rasmussen.

1           And also, Ms. Robinson, thank you again very much  
2 for your time.

3           Next, we have Mr. Lionel Harvey, who is a client  
4 of Legal Assistance of Western New York.

5           Good afternoon.

6           MR. HARVEY: Hi, there.

7           CHIEF JUDGE WILSON: I think you have something  
8 to tell us.

9           MR. HARVEY: Yes.

10          Just start reading?

11          UNIDENTIFIED SPEAKER: Yes, go ahead.

12          MR. HARVEY: Good afternoon, Your Honor. Thank  
13 you for the opportunity to be here today and for allowing  
14 me to speak about my experience.

15                 My name is Lionel Harvey. I'm eighty-five years  
16 old. I live in Hilton, New York, in a village 19  
17 miles northwest of Rochester, New York; Monroe County.  
18 I've joined you all today to speak about an experience I  
19 had that is sadly all too familiar to many older adults in  
20 our area.

21                 Over the course of about four - - - about four  
22 years, my daughter, who is my POA, took several large sums  
23 of money from - - - from me without my knowledge. She took  
24 various personal items of value from me and used my credit  
25 card to benefit her - - - benefit herself at my expense.

1 Over a short period of time, she wrote over 80 checks,  
2 leaving my checking account - - - leaving me almost broke.

3 In 2015, my daughter's direction that I  
4 decided - - - I deeded my house to her. She would help me  
5 to care for my wife, Joanne (ph.), who was very ill at the  
6 time. My wife passed away in July 2019. I did as my  
7 daughter had asked and deeded my home to her as I - - - as  
8 I'm making her my power of attorney in October 2015.

9 My daughter then took control of everything  
10 My spending, savings, all of my credit card accounts  
11 Without my knowledge, she depleted almost everything  
12 I had. When I finally noticed this, she tried to tell  
13 me that I told her that she could have - - - she  
14 could have all my money. She then turned hostile, erected  
15 a door to prevent me from using the laundry room and the  
16 kitchen, from having access to the side of the house. I  
17 was even left without enough food in my part of the house.

18 My daughter showed so much control over my life  
19 that I was not allowed to do dishes in the kitchen sink and  
20 to use the bathroom sink. She told my grandchildren that  
21 they would not speak to me or to help me and put up a sign  
22 warning me that I was being surveilled - - - surveilled by  
23 her.

24 I love my daughter. And even while it was  
25 happening, I wished her a happy birthday. She didn't

1 respond, and I was devastated. That summer, she put  
2 garbage in my car on my 80th birthday. I was given a 2012  
3 Cadillac by my daughter. Sold this car - - - my daughter  
4 sold this car. I didn't receive anything for it. When I  
5 con - - - when I confronted her about the spending, she no  
6 longer allowed me to have breakfast, lunch, or dinner with  
7 my family.

8 I was referred to Law New York in May 2021.  
9 Jeffrey Nieznanski and Karen Kammholz from Law New  
10 York helped me gain control of my life. With Jeff's help  
11 and the help of the accountant that Lifespan provided, we  
12 discovered that my daughter had stolen over \$227,000 from  
13 me in addition to taking over my personal property.

14 Together with Law New York, I filed a lawsuit in  
15 the Supreme Court. With assistance of my mediator, we  
16 negotiated a settlement that resulted in a lump sum  
17 of \$80,000, monthly payments of \$1,200 for up to 60 months,  
18 and the return of my valuable personal property.

19 More important to me than the money was that I  
20 was allowed to live with dignity again. Now, my son is my  
21 POA, and I don't know what I would have done without him.  
22 He helped me so much. I live away from my daughter in my  
23 own apartment. There is everything I need, including air  
24 conditioning and friends nearby.

25 I'm still getting over my daughter - - - what my





1 daughter - - - what my daughter did to me. In due time,  
2 and with help from people like Jeff and Karen and Law New  
3 York, I know I will be okay. He helped me during some of  
4 the hardest times of my life, and I will always be  
5 grateful. Lionel Harvey.

6 CHIEF JUDGE WILSON: Thank you, Mr. Harvey.  
7 I'm deeply sorry for what you had to go through. I  
8 think it's probably hard for anybody to imagine how painful  
9 something like that must be. I'm glad you finally were  
10 able to get help.

11 I don't know if anyone has the - - - on the panel  
12 has a question, but if not, I think we would like to hear  
13 from Ms. Lori O'Brien, who is the Executive Director at  
14 Legal Assistance of Western New York.

15 MS. O'BRIEN: Thank you. And on behalf of Law  
16 New York, I want to extend my gratitude to you, Chief Judge  
17 Wilson, the distinguished panelists.

18 I really commend Mr. Harvey for his willingness  
19 to share his story today, and we appreciate the opportunity  
20 to be part of that story.

21 As you said, my name is Lori O'Brien. I'm the  
22 Executive Director of Legal Assistance Western New York,  
23 Law New York. I've been a civil legal services  
24 practitioner for over sixteen years. And today I'm going  
25 to share some brief comments about Law New York, our

1 services to older adults, and in particular in the areas of  
2 elder abuse and financial exploitation.

3 Law New York's vision is a society where access  
4 to justice is not determined by a person's social or  
5 economic status. Law New York provides civil legal  
6 services to residents of 14 counties located in three  
7 Judicial Districts, the Sixth, Seventh, and Eighth, and two  
8 Departments, the Third and Fourth. Our geographic reach  
9 includes urban, suburban Monroe County, and 13 rural  
10 counties, spanning just a little less than 10,000 square  
11 miles.

12 The primary services we provide to older adults  
13 include assistance in securing and maintaining safe  
14 housing, obtaining and maintaining health, medical  
15 resources, including long-term care, and other income  
16 supports to meet their basic needs. It also includes  
17 transactional work, preparing legal documents which support  
18 self-sufficiency. And, finally, it includes preventing and  
19 remedying the ill effects of elder abuse, financial  
20 exploitation, and scams.

21 Approximately one in ten older adults experience  
22 some form of elder abuse. In New York, it's slightly  
23 higher. Elder abuse and financial exploitation cost  
24 individuals, taxpayers, the government, millions upon  
25 millions of dollars annually.



1           Many individuals, like Mr. Harvey, would have  
2 never needed our services, but for the loss of income and  
3 resources resulting from financial exploitation.

4           Now, despite its prevalence and its financial  
5 impact, only one in 44 cases of financial abuse is  
6 ever reported. Why is that? Individuals often act under  
7 the perceived authority of something like the power of  
8 attorney. Many individuals, especially those living in  
9 poverty, are dependent upon family members. There can be  
10 feelings of secrecy or shame. There's complicated family  
11 dynamics. There's love. And it is not a subject that is  
12 easily shared.

13           Now, sometimes, community members don't understand  
14 or recognize elder abuse, neglect, or exploitation when  
15 it's happening. When they do recognize the problem, they  
16 often do not know where to turn for help.

17           Our work has shown that civil legal services in  
18 this area, particularly in combination with effective non-  
19 legal services, can make a tremendous impact. Legal  
20 services can play a proactive role in elder abuse  
21 prevention, conducting community outreach, educational  
22 workshops, awareness campaigns, one-on-one counseling, can  
23 increase knowledge about abuse signs and available  
24 resources for support.

25           Having access to legal advice and information,



1 older adults can make informed decisions to protect  
2 themselves and to seek help when necessary. And these  
3 cases often involve complex legal matters relating to  
4 guardianship, health care decisions, and estate planning.  
5 Legal services can offer specialized knowledge in these  
6 areas, ensuring that interests are protected and respected.

7 Legal services can assist victims in recovering  
8 assets, preventing further financial exploitation, holding  
9 those that commit acts of exploitation accountable. And  
10 this is particularly important because financial  
11 exploitation can leave older adults in dire financial  
12 straits, affecting their overall quality of life.

13 Now, legal services, we believe, are most  
14 effective in combating elder abuse and financial  
15 exploitation when that work is done in collaboration with  
16 others, support organizations, social services, health care  
17 providers, at times law enforcement agencies. By  
18 coordinating efforts, they create a comprehensive network  
19 of assistance for elder abuse victims, ensuring that all  
20 aspects of the issue are addressed effectively.

21 Law New York, throughout our 14 counties,  
22 is fortunate to have well-established partnerships. Mr.  
23 Harvey connected to our services through the work of  
24 Lifespan. Lifespan staff collaborated with Law New York  
25 throughout the course of the case, bringing essential



1 resources, expertise, and support, not just to Mr. Harvey,  
2 but to Law New York and our staff that worked alongside  
3 him.

4 Lifespan also administers enhanced  
5 multidisciplinary teams. These are county-based teams that  
6 bring together various disciplines, including civil legal  
7 services, to intervene in these types of cases.

8 Now, Law New York is fortunate to have  
9 specialized expertise in areas. As Mr. Harvey mentioned,  
10 his attorneys, Jeff and Karen, were very thankful for the  
11 work that they do and the impact they have on the  
12 communities they serve.

13 We also have challenges. Many of those  
14 challenges have been expressed here today. In Law New  
15 York's experiences, two primary issues are impacting access  
16 to legal services for older adults in our geographic  
17 service area. The first is the well-documented lack of  
18 attorney resources in rural communities throughout the  
19 State of New York. Those that practice in these areas of  
20 the state often have to turn clients away due to lack of  
21 resources, conflicts, lack of subject matter expertise, or  
22 the potential client's inability to afford representation.  
23 Civil legal services works to fill the gap created,  
24 particularly when counsel is unaffordable.

25 However, with a limited number of attorneys, we



1 also fall short of meeting the need. Compounding this is  
2 the current competitive hiring market and non-competitive  
3 salaries for civil legal service practitioners. And I'll  
4 refer you to the written comments of the New York Legal  
5 Services Coalition, which Law New York is happy to be part  
6 of.

7 The second issue is inadequate resources to  
8 handle complex legal cases. Bringing civil litigation  
9 against individuals committing acts of elder abuse and  
10 financial exploitation is complex and it's time consuming.  
11 Mr. Harvey's matter alone required 207 service hours.

12 Older adults are often unable to find affordable  
13 counsel or free civil legal services to undertake complex  
14 or litigated matters. Elder abuse often involves prolonged  
15 periods of financial exploitation requiring specialized  
16 forensic and litigation skills. Victims may have cognitive  
17 impairments, loss of capacity, communication challenges,  
18 and significant dependence on their caregivers, which  
19 complicates fact investigation and the development of legal  
20 remedies.

21 Increased funding in this area would reduce the  
22 number of individuals seeking assistance who are turned  
23 away and allow us to increase outreach efforts in hard to  
24 serve areas, particularly our rural areas where community  
25 members may be isolated from resources. It would also



1 increase our ability to provide full representation in  
2 complex matters.

3 I want to thank you all for allowing Mr. Harvey  
4 and I the opportunity to illustrate the challenges faced by  
5 older adults, the significant impact that civil legal  
6 services have on remedying the ramifications of elder abuse  
7 and financial exploitation, and the need for continued and  
8 expanded support to these programs and services.

9 And before I close, I want to thank you. The  
10 support we already receive from the Judiciary makes a  
11 profound impact and allows us to take on these types of  
12 matters that can create meaningful change in the lives of  
13 our community members.

14 CHIEF JUDGE WILSON: Thank you, Ms. O'Brien.

15 MS. O'BRIEN: Thank you.

16 CHIEF JUDGE WILSON: I had a couple questions for  
17 you. One goes back to a question that Presiding Justice  
18 Whalen asked earlier, which is, I'm sure that, for example,  
19 in housing, you know, eviction cases, there are some people  
20 who are threatened with eviction, and they just leave, and  
21 the case never gets to Court, and so we don't know what  
22 that volume is.

23 But from your testimony, it sounds like that may  
24 be an even - - - a much greater fraction of cases in elder  
25 abuse, where there are people you aren't reaching because



1           you don't know that they have problems. How - - - how can  
2           additional funding help address that?

3                   MS. O'BRIEN: I think you know -- and especially  
4           when we - - - we put this and align it with the rural - - -  
5           rural attorney shortage -- it really has to be a multi-  
6           pronged approach. But one of the most impactful is  
7           outreach. And when we know, in our rural communities in  
8           particular, many people are isolated from resources, we  
9           have to become more creative about how we're reaching out  
10          to people, how we're collaborating with other  
11          organizations, both nonprofit organizations or social  
12          services, but also places where people go and see people  
13          they trust.

14                   We're talking about - - - I'm talking about  
15          outreach to medical centers, outreach to religious  
16          communities. If you're having an issue with your life, who  
17          do you go and seek counsel from? Those partnerships with  
18          legal services can actually help us reach individuals who  
19          may not have come to our door or been able to contact us.

20                   Often when you look - - - and if you look at Law  
21          New York's service area, a number of years ago we looked at  
22          data where our clients are coming from. And so often the  
23          bulk of clients are coming from this thirty-minute radius  
24          around our local offices.

25                   So the number one way we need to reach out,





1 beyond having additional staff to be able to do that, is  
2 outreach and being creative in that outreach and in finding  
3 ways that we can connect with community members.

4 CHIEF JUDGE WILSON: The other thing I was  
5 curious about is that it - - - in some cases, you know, the  
6 behavior - - - the exploitative behavior could cross the  
7 line into criminal. And so I was wondering how and if you  
8 interface at all with local district attorneys at the  
9 Attorney General's Office and whether that's - - - it  
10 assists - - - I can also imagine reasons why somebody might  
11 not want a loved one prosecuted, so complicate - - -  
12 complicated dynamic there.

13 MS. O'BRIEN: Absolutely. And when we think  
14 about our staff that are involved in these cases,  
15 understanding that complex family relationship is really  
16 important to helping individuals find the solution that  
17 they're choosing. Right.

18 We do interface, though, with law enforcement and  
19 district attorney's offices, whether that is helping an  
20 individual pursue a - - - pursue a type of complaint, or  
21 it's within these multidisciplinary teams within our  
22 communities. And I think that collaborative approach  
23 really is - - - is what allows us to achieve the best  
24 result for that client, which may be litigation and such --  
25 you know, may be a litigated result in some cases, but

1 often it's a negotiation that attempts to preserve the  
2 family relationship.

3 CHIEF JUDGE WILSON: Thank you.

4 I don't know if anybody on the panel had a  
5 question. No?

6 Then thank you very much, Mr. Harvey and Ms.  
7 O'Brien.

8 MS. O'BRIEN: Thank you.

9 CHIEF JUDGE WILSON: Next, we're going to hear  
10 from Bobbie Dafoe, who is a client of the Volunteer Lawyers  
11 Project of Central New York. Oh, I'm sorry. I skipped  
12 Terri Tupper.

13 MS. TUPPER: Hi. I'm sorry. I didn't get audio  
14 until just now. This is Terri Tupper. Is it okay to  
15 speak?

16 CHIEF JUDGE WILSON: Hi, Terri Tupper. Yes.  
17 This is Rowan Wilson, and we've got your panel here, and  
18 yes, it is your turn. I inadvertently almost skipped over  
19 you, but I'm glad you're here.

20 MS. TUPPER: Thank you so much.

21 Good afternoon, Honorable Judges. My name is  
22 Terri Tupper. I have been a client of Empire Justice  
23 Center on and off since 2008, and I was a member in three  
24 class action lawsuits. The outcome of these lawsuits  
25 improved my family's quality of life.



1                   In 2007, I was diagnosed with severe Lipo-  
2                   Lymphedema, which is the combination of two highly  
3                   inflammatory disorders. The two conditions in tandem  
4                   caused severe swelling in my lower extremities that,  
5                   without daily compression and decongestant therapy, leaves  
6                   a hardening of the tissues, which is irreversible.

7                   Because I could not afford compression garments  
8                   at \$2,000 a pair, infections followed one after the other.  
9                   I endured many hospitalizations, sometimes for weeks, with  
10                  extremely high fevers that led to Sepsis. Coupled with  
11                  other autoimmune disorders, this all forced me to stop  
12                  working. I had been a Nurse LPN since 1990, and also in  
13                  the medical billing field since 1999.

14                  I quickly became bed bound and had to rely on  
15                  Social Security disability income. Around 2008, my family  
16                  was having difficulty getting through the Medicaid  
17                  application process.

18                  I reached out to Linda Hassberg, Esquire, at  
19                  Empire Justice Center and became a client in a class action  
20                  suit where, ultimately, I was granted access to Medicaid.

21                  While she was assisting me, I explained to Ms.  
22                  Hassberg that I could not get the custom compression  
23                  garments I needed. Ms. Hassberg referred me to another  
24                  class action in progress that was to ensure compression  
25                  stockings were included as a Medicaid benefit. That suit

1 was also successful, and I eventually was able to get  
2 compression garments, begin physical therapy, leave the  
3 bed, and over the next few years, get considerably  
4 healthier.

5 I became an advocate for people with  
6 disabilities, as well as a New York State Ambassador for  
7 the Lymphedema Treatment Act, petitioning on a federal  
8 level for similar rights to those with which Empire Justice  
9 won at the state level. The Lymphedema Treatment Act was  
10 passed by Congress, and the new insurance coverage will go  
11 into effect on January 1<sup>st</sup>, 2024.

12 In October 2018, my family was rendered homeless  
13 due to a holdover eviction, wherein the Suffolk County  
14 Human Rights Commission later found probable cause existed  
15 that the landlord had engaged in discriminatory behavior.  
16 My family was approved for temporary housing assistance,  
17 but Suffolk County Department of Social Services denied my  
18 reasonable accommodation request for my own hospital bed  
19 and a dorm-sized freezer to store the ice packs I needed to  
20 alleviate the swelling. So, I reached out to Linda  
21 Hassberg, again, and became a class member of an action  
22 *Newkirk v. Pierre*, filed on behalf of Suffolk County  
23 residents with disabilities who needed reasonable  
24 accommodations to access Suffolk DSS benefits and services.

25 After being informed by DSS representatives that

1 if I asked for my hospital bed to come with me to shelter  
2 again, I would instead be sent to the nursing home. Ms.  
3 Hassberg made a phone call and my reasonable accommodation  
4 requests were immediately granted.

5 In 2020, my family came up on a HUD mainstream  
6 list and qualified for Section 8. We gratefully turned in  
7 our voucher to accept project-based housing in Bayshore,  
8 where we now still reside.

9 Since we have been in permanent housing, our  
10 sixteen-year-old son, who was originally a straight A  
11 before we became homeless, has gone from failing almost  
12 every subject to cum laude status, and is on track to  
13 become a biochemist. My son has expressed that one day he  
14 would like to find the cure for Lymphedema.

15 Drawing on my lived experience, I co-founded a  
16 grassroots not-for-profit called Long Island Connections in  
17 an effort to assist others by connecting them with  
18 resources and advocacy, such as Empire Justice Center. We  
19 host a peer support group on Facebook called HomelessLI,  
20 which has a member base of over 3,000. We also have a  
21 mobile medical equipment lending closet and work with the  
22 local VA and the community.

23 In this work, I came from - - - across the  
24 organization, Legal Hand, offering remote volunteer  
25 positions where I could do work similar to what I was

1 already providing in my own group but on a larger scale. I  
2 jumped at the chance. Well, if I could, I would have.

3           Soon after, Long Island Coalition for the  
4 Homeless saw the work that I was doing and offered me a  
5 part-time paid position assisting on their helpline,  
6 remotely. I have now been with the coalition for 15  
7 months and volunteering at Legal Hand for nearly three  
8 years. I am striving to work full-time again and no longer  
9 be dependent on Social Security disability income.

10           My first-hand experience as a person with long-  
11 term disabilities and lived experience as homeless has  
12 greatly informed my work in advocacy every day, and I would  
13 not be where I am today if it were not for the assistance  
14 of Empire Justice Center.

15           My contacts with Empire Justice Center and Linda  
16 Hassberg did not end with the three class action suits.  
17 There were many ADA questions and questions related to DSS  
18 policy and procedure, which led to dozens of exchanges  
19 along the way. Their advocacy has been incredible, and I  
20 am so grateful.

21           Without Empire Justice Center's assistance, I  
22 would never have known the power of a reasonable  
23 accommodation under the ADA. My life has propelled forward  
24 now in a positive and uplifted way. I have tools I so  
25 desperately needed to piece life back together for my

1 family, and I am a survivor now instead of a statistic.  
2 Thank you.

3 CHIEF JUDGE WILSON: Ms. Tupper, I - - - I'm just  
4 overwhelmed by, not just the things you've been through,  
5 but your bravery and your persistence and - - - and your  
6 determination, not simply to get through various medical  
7 issues, but to, you know, then persist in doing what you  
8 can for others, too. It's really moving. And I thank you  
9 for sharing that with us. I hope your son - - - you know,  
10 congratulations to him. I hope your son does ---

11 MS. TUPPER: Thank you.

12 CHIEF JUDGE WILSON: --- find a cure. But if he,  
13 for whatever reason, decides not to become a biochemist and  
14 decides that a lawyer is a second-best career, I think  
15 anybody sitting up here would be glad to talk to him at any  
16 point in time to help him along the way. It's the least  
17 any of us owes you. So thank --

18 MS. TUPPER: Thank you, Judge. I might take you  
19 up on that one day.

20 CHIEF JUDGE WILSON: You should --- I mean that  
21 in all honesty.

22 MS. TUPPER: Thank you.

23 CHIEF JUDGE WILSON: And I think that everybody  
24 sitting up here would be more than happy to talk to your  
25 son and you.

1 MS. TUPPER: Thank you.

2 CHIEF JUDGE WILSON: It's really quite amazing  
3 what you've done.

4 I don't have a question, but perhaps someone else  
5 does.

6 JUDGE ZAYAS: I just don't know how your  
7 lawyer is going to be able to speak after this.

8 MS. TUPPER: Thank you.

9 CHIEF JUDGE WILSON: So next we have Kristin  
10 Brown, who is the President and Chief Executive Officer of  
11 the Empire Justice Center.

12 MS. BROWN: Thank you so much.

13 And thank you, Terri, for being here and sharing  
14 your story. It's incredibly powerful.

15 Good afternoon. As - - - as noted, my name is  
16 Kristin Brown, and I'm President and CEO of Empire Justice  
17 Center. We're a statewide, not-for-profit law firm and  
18 advocacy organization. We have seven offices around the  
19 state, in Albany, Rochester, Yonkers, White Plains, Central  
20 Islip, where we have worked with Ms. Tupper, and Hempstead.

21 We focus on areas of law where we can have the  
22 most impact, and we have a goal of addressing the root  
23 causes of injustice through our 360-degree approach to  
24 systems change work. We center the client experience to  
25 identify barriers, and then we break those barriers down,





1 using targeted training, legal intervention, and policy  
2 advocacy.

3 In this way, we practice, we teach, and we change  
4 the law to make it work for all New Yorkers.

5 Thank you so much, Judge - - - Chief Judge Wilson  
6 and our esteemed panel members for allowing us to be here  
7 and talk to you today. Empire Justice Center is deeply  
8 grateful for the Office of Court Administration's ongoing  
9 commitment to civil legal services.

10 The JCLS funding is absolutely essential revenue  
11 for Empire Justice Center and our peers. It's a key  
12 element in our ability to help our clients, like Ms.  
13 Tupper, access justice under the law.

14 We're especially grateful for the commitment to  
15 cost of living adjustments for the JCLS funding, which has  
16 really helped us to absorb the increased cost of doing  
17 business.

18 As I'm sure you're aware, every year, rent,  
19 health insurance, office supplies, the less interesting but  
20 integral elements of doing this work, rise, and until 2022  
21 our JCLS funding did not reflect this. So just thank you  
22 so much.

23 It's also that funding -- the JCLS funding, is  
24 absolutely critical to our ability to hire attorneys to  
25 represent clients in the essentials of life in both



1 individual and impact cases.

2 As you heard from Ms. Tupper's involvement in not  
3 one but three separate cases, our impact cases address the  
4 need for timely economic and medical resources that, once  
5 they're available, serve to dramatically change her life  
6 for the better. And Ms. Tupper was just one of over  
7 365,000 New Yorkers who benefited from these three cases  
8 combined.

9 When we're successful in these types of cases,  
10 our experienced attorneys ensure that scores of New Yorkers  
11 are able to assert their civil rights, access government  
12 benefits and critical services that stabilize folks' lives  
13 so that they can focus on their jobs, their school, their  
14 family, focus on putting food on the table in a safe and  
15 stable home. These are the essential aspects of everyday  
16 life. An ability to do this work is particularly important  
17 for marginalized communities, including black and brown New  
18 Yorkers, LGBTQ plus, and low-income individuals and  
19 families, folks with disabilities and so many others.

20 Examples of current cases in Empire Justice  
21 Center's civil rights practice right now include a  
22 pandemic-related action involving thousands of bus drivers  
23 and bus attendants who were denied unemployment benefits,  
24 and a case addressing lack of access to special education  
25 services for thousands of students with disabilities across



1 the Rochester City School District.

2 Life-altering systems-change cases like these  
3 require a high level of expertise and talent. These  
4 experienced attorneys are needed to guide our junior  
5 attorneys and their professional development and to  
6 supervise their work.

7 Unfortunately, as you've heard throughout the  
8 afternoon, filling positions has become increasingly  
9 difficult. Our civil rights managing attorney position has  
10 remained vacant for the better part of a year. And we have  
11 vacant housing, immigration, language justice, and  
12 education debt advocacy positions. At the same time, the  
13 need for services is so great we could easily triple the  
14 work that we're doing if only we could fill these  
15 positions.

16 Speaking from colleagues across the state, and  
17 you've heard today, hiring challenges and the acute need  
18 for services, are not unique to Empire Justice Center, and  
19 they're not just in rural regions. A key element of the  
20 challenge in filling these critical roles is that civil  
21 legal services salaries are so much lower than our peers in  
22 public interest law, including those working at public  
23 defenders' offices within county and state government, and  
24 certainly within the private bar.

25 And while we were incredibly supportive of the



1 much-needed increase in assigned counsel rates last year,  
2 increasing salaries in other areas of public interest law  
3 widens the public interest salary gap in the civil - - -  
4 and the civil legal services recruitment challenge.

5 Recognizing this, over the summer, the New York  
6 Legal Services Coalition, which we are a proud member, and  
7 is also the membership association for civil legal services'  
8 organizations across the state, conducted an informal  
9 survey of salary data from legal services providers. And  
10 preliminary findings indicate that civil legal services  
11 attorneys earn approximately 20 to 40 percent less  
12 than their counterparts that work directly for the  
13 government. This is hard evidence demonstrating what we've  
14 known anecdotally for a long time: starting salaries and  
15 civil legal services are consistently the lowest-paying  
16 public interest attorney jobs across the state.

17 The widening salary gap is making it increasingly  
18 difficult to attract and retain legal talent, despite the  
19 passion that people have for working in our community. And,  
20 of course, unfilled positions result in clients not served,  
21 unlawful evictions executed, homes lost to foreclosure,  
22 life-saving health coverage not received, similar to what  
23 we were able to do in Ms. Tupper's case.

24 We all share the same goal of ensuring that  
25 justice is served for those who need it most. And in order



1 to achieve this goal, we have two requests for you all.  
2 First, we ask that you continue to make progress towards  
3 closing the justice gap by increasing JCLS funding by a  
4 substantial amount so that we can meet the overwhelming  
5 need.

6 Second, we ask that we are able to come together  
7 to solve these salary and recruitment - - - and retention  
8 challenges as well. To do this, we ask that you work to  
9 develop a plan to engage in discussions with the Governor  
10 and Legislative leaders so that we all can work together on  
11 a multi-phase plan to achieve pay equity across government-  
12 funded public interest legal systems.

13 We recognize that these are not small problems to  
14 be solved, but our community, working with our partners in  
15 government, solves intractable problems all the time. We  
16 know how to do this. Together, we can continue to close  
17 the justice gap. We can expand services into critical  
18 areas of law, such as medical and consumer debt, public  
19 benefits, while also taking steps to ensure that our civil  
20 legal services providers are able to recruit attorneys with  
21 the skills and ability to meet those challenges with us.

22 Thank you for your attention today, for your past  
23 and future support of Empire Justice Center, and of our  
24 colleagues in the civil legal services community.

25 CHIEF JUDGE WILSON: Thank you very much. As



1 to your last point, I guess I have a comment and a  
2 question. The comment is that Chief Administrative Judge  
3 Zayas and I - - - and the other Deputy Chief Administrative  
4 Judges - - - have in mind the importance of what's been  
5 called pay parity, that - - - that you need to be able to  
6 pay commensurate with what the government pays people doing  
7 the equivalent work because otherwise there won't be  
8 anybody on your side.

9 And the consequences to that, as we've been  
10 hearing today, are, you know, if you imagine that none of  
11 these people would have had adequate representation or  
12 maybe representation at all, would be quite drastic.

13 The other is, roughly - - - I mean, I can - - -  
14 I'm sure I can find some information elsewhere - - - but  
15 roughly what fraction of your budget is personnel costs? I  
16 assume it's about eighty percent or so.

17 MS. BROWN: It actually is a little bit higher  
18 than that. And I - - - just to Judge LaSalle's question  
19 earlier, when it comes to our JCLS funding, about ten  
20 percent goes towards our - - - our overhead costs, and the  
21 remainder is for salaries and pers - - - salaries and  
22 personnel.

23 CHIEF JUDGE WILSON: And so that sort of implies  
24 that if we're looking at a 20 to 40 percent salary  
25 shortage, and we can knock off 10 or 15 percent of

1 that from overhead, we're still talking about a pretty  
2 substantial increase in what you need to bring up to  
3 parity.

4 MS. BROWN: I would say so. I mean, it's - - -  
5 and that's why I say, it's not a - - - it's not a small  
6 problem to solve. At the same time, if we even are able to  
7 start taking steps and a phased-in approach, I think that  
8 would, that would - - - that would go a long way.

9 And what you find if you look across the state,  
10 you know, as we all know, the cost of living is diff - - -  
11 is different in different parts of the state. And so the  
12 magnitude of the problem also varies across the state.

13 JUDGE LASALLE: So, if I may, the majority of the  
14 money you're receiving from the Unified Court System are  
15 going to your - - - going to your core mission, not to  
16 ancillary matters, right?

17 MS. BROWN: Absolutely. One hundred percent.

18 CHIEF JUDGE WILSON: Thank you very much.

19 MS. BROWN: Thank you.

20 CHIEF JUDGE WILSON: And thank you, Ms. Tupper.

21 So next ---

22 MS. TUPPER: Thank you.

23 CHIEF JUDGE WILSON: --- next, we have Bobbie  
24 Dafoe, a client of Voluntary Lawyers Project of Central New  
25 York.

1 Hello there and welcome.

2 MS. DAFOE: Hello.

3 CHIEF JUDGE WILSON: We are ready to hear from  
4 you whenever you are.

5 MS. DAFOE: Okay. My name is Bobbie Dafoe. I am  
6 here to talk about my experience with dealing with medical  
7 debt and the difference that having help from the Volunteer  
8 Lawyers Project of Central New York made in my life.

9 It was a year I was battling breast cancer. I  
10 had pain. I went to a hospital and got really  
11 unsatisfactory service. I was insured at the time, but my  
12 deductible was \$5,500. After that, I remember only getting  
13 one call from the hospital about the bill; was never  
14 offered charity care.

15 I started a new job after the pandemic. I had  
16 gotten COVID and used the hospital services. Again,  
17 shortly after that, I get a letter saying that my wages  
18 were going to be garnished by the hospital from the  
19 sheriff. I immediately panicked. There wasn't much of a  
20 time frame to work with. The papers gave me very little  
21 time to fight it. The garnish - - - garnishment was for  
22 way more money than the original amount I owed to the  
23 hospital, because of interest. I felt very overwhelmed. I  
24 almost didn't do anything. But I knew it would devastate  
25 me if I had my check garnished. And I felt like the





1 garnishment was sketchy. I had never received any  
2 paperwork at all about being sued, or having a judgment  
3 against me.

4 I finally called Legal Aid in Cortland, which  
5 took a while. And I spoke to a few different people. And  
6 I was told they couldn't help me because they were too  
7 busy. One of them connected me to Volunteer Lawyers  
8 Project of CNY and told me that they might be able to help  
9 me.

10 I started working with Adam, who was not an  
11 attorney at the Volunteers Lawyers Project. He asked me to  
12 share all the paperwork that I had and asked me questions  
13 about everything that had happened. It immediately started  
14 to make me feel better.

15 Then Sal started getting involved as an attorney  
16 and explained to me that the service was garbage. They  
17 said that they had served me years ago, and they had not.  
18 They served me at a different address, the summer cottage  
19 of a relative.

20 Sal helped me prove that it was - - - proved that  
21 it was never my address. They also helped me prove that I  
22 was eligible for charity care and should have been offered  
23 financial help by the hospital. They helped me file  
24 paperwork to vacate the judgment and worked with the  
25 hospital's attorney to take care of everything.

1           When I got the news that the judgment was  
2 vacated, I never felt so grateful in my life. I never saw  
3 that coming. What better news could there have been? I  
4 absolutely would not have been able to fight this  
5 garnishment on my own. The legal services saved me  
6 headache and financial ruin.

7           But I also thought about all those people who  
8 just go along with it and have no idea that there are legal  
9 services out there. They don't even know that they have a  
10 right to financial help with medical bills, and they don't  
11 know how to fight bogus lawsuits like this. I wish that  
12 when people get this paperwork that there is a number to  
13 call for help and that there are more lawyers available.

14           I want to thank you for this opportunity to tell  
15 my story and for your support of free legal services.

16           CHIEF JUDGE WILSON: Thank you very much for  
17 taking the time to share it with us. It isn't - - - you  
18 know, you mentioned that people might not know that there  
19 would be legal service available but, you know, there was a  
20 point when you were telling us what happened that really  
21 resonated, which was that - - - even if you knew,  
22 everything that somebody's going through might just be  
23 debilitating.

24           You might sort of know, well, I could maybe fight  
25 this, but just feel so overwhelmed by health issues, by the



1 bill, by the threat of garnishment, by anything else that's  
2 going on in your life, that you might - - - you know, it  
3 really takes some - - - I can imagine people thinking, I'm  
4 just giving up, which would clearly be the wrong thing to  
5 do, and it's lucky you didn't, I think - - - well, maybe  
6 not so much lucky, but a testament to your strength.

7 MS. DAFOE: Yes, absolutely. I -- like I said, I  
8 mean, you just -- you freeze, like, what am I going to do?

9 CHIEF JUDGE WILSON: Right.

10 MS. DAFOE: You know, you don't know what to do  
11 until you connect with somebody.

12 CHIEF JUDGE WILSON: Yeah ---

13 MS. DAFOE: So yeah, they - - - they saved me a  
14 bunch.

15 CHIEF JUDGE WILSON: And when you call Legal Aid  
16 and they said, we're too busy, I can also imagine that  
17 might've been discouraging, but for the fact that they were  
18 able to connect you with somebody.

19 Ms. DAFOE: Yes, I - - - I didn't give up. I  
20 tried calling and, and it was - - - it was really nice. I  
21 mean, they said, try this, you know, which connected me  
22 with Sal, the Volunteers Lawyer Project, which, you know, I  
23 just couldn't have asked for more understanding and helpful  
24 people to work on this with me, you know. Just put a  
25 little legwork in, and it just came together. It was

1 awesome.

2 CHIEF JUDGE WILSON: I don't know if anyone had a  
3 question for you. Otherwise, stay on the line, and we're  
4 going to hear from your attorney, Sal Curran.

5 MS. DAFOE: Okay.

6 SAL CURRAN: Hi there. Good afternoon, Chief  
7 Judge Wilson and the esteemed panel of Judiciary and Bar  
8 leaders. I'm honored to have the opportunity to speak with  
9 you, and I want to start by expressing my gratitude for  
10 your continued attention to and leadership with addressing  
11 gaps in justice in New York.

12 My name is Sal Curran, and I am the Executive  
13 Director of the Volunteer Lawyers Project of Central New  
14 York, and I was Bobbie's attorney as well. We are a pro  
15 bono legal aid program in Central New York whose mission is  
16 to provide access to justice by engaging the legal  
17 community in service to those in need.

18 In the past year, our staff of expert attorneys,  
19 pro bono coordinators, and legal assistants worked together  
20 with our volunteer panel of over 600 lawyers, law students  
21 and paralegals, to serve over 4,000 clients in Central New  
22 York and throughout upstate, benefiting over 10,000  
23 community members.

24 Volunteer Lawyers Project of CNY focuses on  
25 addressing civil legal needs that other legal aid



1 organizations either do not address or cannot fully meet.

2 I want to thank our client, Bobbie, for sharing  
3 her very personal story. Bobbie has demonstrated tenacity  
4 and strength in fighting an unjust legal action even when  
5 doing so felt nearly impossible. Sadly, Bobbie's  
6 experience of facing a crippling medical debt is not  
7 unusual.

8 Time and again, we see that individuals with low  
9 incomes are disproportionately affected by medical debt due  
10 to being uninsured or underinsured, and that there are few  
11 or no legal aid attorneys available to help them navigate  
12 the very confusing process of fighting debt.

13 When we did a civil legal needs survey in 2017,  
14 debt was one of the most common legal issues. We then met  
15 with the other legal aid organizations to find out what  
16 services were available and were horrified to find out that  
17 there was only one civil legal aid attorney in the  
18 surrounding 13 counties whose practice was devoted solely  
19 to debt and bankruptcy matters. One in thirteen counties.  
20 We began serving debt clients in 2019 and repeated - - -  
21 repeatedly met individuals who face medical debt.

22 Now, medical debt is especially onerous because  
23 it's often sudden, unplanned, unavoidable, and extremely  
24 expensive. The people we were seeing should have qualified  
25 for financial assistance from the hospitals pursuant to New



1 York Public Health Law, but either had never been offered  
2 assistance or couldn't navigate the system on their own.

3 With medical debt, as with all debt cases, we saw  
4 clients like Bobbie, where sewer service meant that they  
5 were never made aware of the lawsuit, leading to a default  
6 judgment. We know from reviews of court records that there  
7 are thousands more individuals throughout New York that are  
8 defaulting on their medical debt cases in court, whether  
9 due to issues with service, or simply feeling too  
10 overwhelmed to respond.

11 Now, last year, Elizabeth Benjamin from the  
12 Community Service Society of New York presented very  
13 impactful testimony on the prevalence and impact of medical  
14 debt in the lives of low-income New Yorkers. Since that  
15 time, Urban Institute published a study on the disparities  
16 in medical debt in New York by region, race, income, and  
17 other factors, which are covered in greater detail in the  
18 written testimony of the New York Health - - - Health  
19 Foundation, who I want to thank for funding our medical  
20 debt work over the past year.

21 One finding that was both upsetting, but also  
22 unsurprising to me, was that Central New York is  
23 disproportionately affected by medical debt. While an  
24 estimated six percent of consumers in New York have medical  
25 debt in collections, in Central New York, we have the



1 state's highest rate, at fourteen percent.

2 And even within this region, there are  
3 disparities, with 28% of our low-income communities of  
4 color being burdened by medical debt, and I will say these  
5 communities, incidentally, also have the greatest number of  
6 eviction filings in court every year.

7 With our new focus on medical debt, we have  
8 discovered how ruthless some of the hospitals can be. We  
9 recently had a hospital continue to pursue a debt lawsuit  
10 against our client who had stage four pancreatic cancer for  
11 over \$10,000 in medical services related to cancer  
12 treatment he received during a time when he was dropped  
13 from his former employer's insurance, while on disability,  
14 before Medicaid had gone into effect. Despite knowing his  
15 diagnosis was terminal and that he was near death, the  
16 hospital continued to pursue the lawsuit right up until he  
17 died, refusing to waive or reduce the amount owed.

18 We know that the stress of being unable to pay  
19 back debt and dealing with debt collectors can result in  
20 negative health consequences. Those struggling with  
21 medical debt have been found to be three times more likely  
22 to experience anxiety, depression, elevated stress, and  
23 even an increased likelihood of suicide attempt, compared to  
24 people without medical debt. Sadly, we've also seen this  
25 to be true.



1           A single mother of a disabled child had been in a  
2           car accident that resulted in over \$8,000 of medical care  
3           for the two of them. While they had Medicaid, No-Fault  
4           should have covered the costs, but the overwhelmed mother  
5           wasn't able to complete the No-Fault application in the  
6           narrow 30-day window required. The hospital obtained  
7           default judgments against her, which she only discovered  
8           when she was trying to start the process of saving up to  
9           buy her first home. Neither Medicaid nor the hospital  
10          would provide her any financial relief; and even though,  
11          at the time, she was, by all standards, indigent.

12           Unfortunately, she came to us during the worst  
13          shutdowns of COVID, and we were unable to resolve the  
14          matter at the time due to the courts being closed. When we  
15          followed up later, she never responded. Two years after  
16          coming to us, she took her own life, a tragedy that was  
17          felt throughout the community.

18           Volunteer Lawyers Project of Central New York has  
19          many suggestions on how to address medical debt. Because  
20          there continue to be real concerns regarding the sewer  
21          service and nearly all cases proceed on default, medical  
22          debt lawsuits should require additional notice directly  
23          from the courts to the respondent about the action so that  
24          the courts are aware when the mail comes back as  
25          undeliverable.



1           Cases should not be allowed to go forward on  
2           default without the court doing its own inquiry into  
3           whether all laws regarding medical debt, including that  
4           patients must be screened for financial aid eligibility  
5           pursuant to Public Health Law, have been complied with.

6           The Court should develop a simple, standard answer  
7           form for individuals to use if they cannot obtain a lawyer,  
8           so that they will be more able to make an appearance.

9           VLP-CNY calls on the Court to establish a medical  
10          debt part to bring resources and special attention to  
11          addressing medical debt. And, of course, I propose that  
12          this pilot court should be in Central New York, given the  
13          disproportionate share of debt burden in our region.

14          As Bobbie said, courts should provide information  
15          to all respondents in medical debt cases, letting them know  
16          about free legal assistance and legal information that's  
17          available. But more importunately - - - or most  
18          importantly, given how devastating and pervasive medical  
19          debt is, it is critical that the New York courts take  
20          action to ensure those who face medical debt have their  
21          rights protected through expanding access to attorneys.

22          To that end, we ask that you continue to make  
23          progress towards closing the justice gap by significantly  
24          increasing Judiciary Civil Legal Services funding as you  
25          are able to do so. Funding is needed, as we have talked

1 about today, not only to create and expand programs, but  
2 also to ensure that civil legal aid programs are  
3 sustainable and able to attract and retain the experienced  
4 attorneys needed to litigate difficult cases and supervise  
5 pro bono attorneys.

6 As a board member of the New York Civil Legal  
7 Services Coalition, I was one of the ones who helped  
8 conduct an informal survey of the legal aid organizations  
9 that found consistently that civil legal aid attorneys are  
10 paid 20 to 40 percent less than their public service  
11 peers who work for government, which of course leads not  
12 only to difficulty in hiring, significant rates of  
13 attrition, but practically speaking, leads to overwhelming  
14 caseloads, high levels of burnout, it means less clients  
15 served.

16 The consequences of medical debt are dire, and  
17 low-income New Yorkers must have access to attorneys when  
18 they are in need. Thank you so much for the opportunity to  
19 speak to you on this important matter, and I direct you to  
20 my written testify - - - testimony for statements regarding  
21 the urgent need for legal representation in eviction  
22 proceedings as well, since, upstate, the caseloads are  
23 simply untenable and so many tenants go without  
24 representation.

25 I thank you for your support of the Volunteer



1 Lawyers Project CNY, and your support of our colleagues  
2 throughout the Civil Legal Services community throughout  
3 the state. Thank you.

4 CHIEF JUDGE WILSON: Thank you, Sal Curran. So  
5 what fraction of your workload roughly is handled by  
6 volunteer lawyers, and how do you find them and interest  
7 them and keep them?

8 SAL CURRAN: So, prior to COVID, I would say  
9 approximately 70 percent of our cases were handled by  
10 pro bono attorneys. During COVID, the rate of  
11 volunteership dropped pretty dramatically. We're now  
12 working our way back up to that rate. We recruit in every  
13 way possible. So, for any private attorneys that happen to  
14 be watching this hearing, you know how to find me.

15 But no, I will say without - - - without joking,  
16 you know, we partner very closely with the Onondaga County  
17 Bar Association, which is our - - - they - - - they were  
18 our founding agency thirty some-odd years ago. They help  
19 us a lot. We provide free legal trainings to attract  
20 attorneys. We provide really quality supervision, which  
21 makes it so that attorneys who want to go outside their  
22 regular practice area are able to do so. And we provide a  
23 wide variety of volunteer experiences, everything from two  
24 hours of volunteering at the local library to answer legal  
25 questions, to providing ongoing representation in very

1 complex cases like immigration asylum cases.

2 CHIEF JUDGE WILSON: Yeah, Mr. Lewis.

3 MR. LEWIS: Yeah. Just really quickly, one of  
4 the issues that seems to permeate the testimony that you  
5 and your client gave and those who preceded you is how many  
6 people may be falling through the cracks. And I'm  
7 wondering, how do we get - - - how do we get the - - - the  
8 information out there that there - - - there's - - -  
9 there's an answer, that there's - - - well, there's - - -  
10 if you had enough manpower, there'd be - - - there'd be an  
11 answer. But how do you - - - how do you get the word out  
12 so that people become educated that there's help out there,  
13 potentially?

14 SAL CURRAN: Yeah. Thank you for that question.  
15 You know, we get the word out there by about as many ways  
16 as you can imagine. But I will say that the courts are one  
17 of the best messengers of where free legal aid is  
18 available.

19 We partner very closely with the Fifth Judicial  
20 District. And for our Family Court program, they post our  
21 - - - our flyer. For our Surrogate Court program, they  
22 hand out little cards with our info. With our eviction  
23 program, it's right there. Our debt program, they posted  
24 on their wall. So, the courts are a unifying place in the  
25 sense that anybody who has been sued will end up there if



1 they don't default.

2 Now, the bigger issue is the defaults, right?  
3 Medical debt, it's like 98 percent defaults. Eviction  
4 proceedings, even the City of Syracuse, where we have some  
5 representation, we - - - by no means, universal  
6 representation - - - default rate is over 50 percent.  
7 And - - - and that's the really challenging part.

8 Where we've had the greatest success is through  
9 community outreach with trusted partners. So, it depends on  
10 the program that we're - - - we're talking about or the  
11 area of law that we're talking about. It could be anything  
12 from working with refugee resettlement groups, to the - - -  
13 you know, to our debt counseling program that our City  
14 provides for free.

15 And then I'd say the last major partner - - - and  
16 then the Bar Association, of course, sends along a lot of  
17 people, the libraries do. And our partner legal aid  
18 organizations throughout the region. You know, we keep  
19 track of what each other does, so that we can try to get  
20 people to the right place without a run around. And you  
21 know, Law Help New York is helpful for that, for the  
22 unrepresented litigant as well.

23 You know, there's always more to be done, though.  
24 I know there were questions about the amount spent on  
25 direct legal services versus not. And you know, we all run



1 these insanely lean practices. If you compare it to Legal  
2 Aid or to a private practice law firm, you'd be like, how  
3 do they do what they're doing with so little administrative  
4 support? And as a result, it can be very difficult to do  
5 the level of outreach that we'd like to do into the  
6 community, and we really have to depend on our community  
7 partners to do it.

8 MR. LEWIS: Thank you.

9 JUDGE WHALEN: Chief, if I could briefly?

10 CHIEF JUDGE WILSON: Absolutely.

11 JUDGE WHALEN: Yeah, I would just say, I think  
12 this is an appropriate time to - - - to point out that  
13 Counselor Curran's great comments regarding how important  
14 it is for the Bar Association to work in conjunction with  
15 the courts and with the legal aid community - - - legal  
16 services community. Judge Murphy, who is, I believe, still  
17 in the courtroom, was president of the Onondaga Bar  
18 Association before becoming Administrative Judge, and he no  
19 doubt brought to the Administrative Judge position, a real  
20 understanding of the importance of the bar associations and  
21 the importance of the work they did - - - that they do with  
22 - - - with the various legal aid services - - - or  
23 corporations, and society.

24 So, just a pat on the back to Judge Murphy for all  
25 the great work he's done. And now as Deputy Administrative

1 Judge, he's going to be even more influential in that  
2 regard, I'm certain of it.

3 CHIEF JUDGE WILSON: Thank you.

4 Thank you, Sal Curran and Ms. Dafoe for joining  
5 us today and for your remarks.

6 SAL CURRAN: Thank you, sir ---

7 CHIEF JUDGE WILSON: Next is Rob Burek, who is a  
8 client of Neighborhood Legal Services, Inc.

9 Mr. Burek, thank you for joining us.

10 MR. BUREK: Oh, good afternoon.

11 CHIEF JUDGE WILSON: Good afternoon. We are  
12 ready for you.

13 MR. BUREK: My name's Robert Burek. I'm 62  
14 years old, and I'm disabled. I have - - - I have  
15 limited income because I'm consisting of Social Security  
16 Disability and a small pension. And my wife and I moved  
17 into our house, into a - - - it was a mobile home in a  
18 manufactured home park in 2017.

19 My daughter passed away in early 2019, and after  
20 struggling with our finances, we fell behind on our rent in  
21 2020. To help afford the rent, we applied for and began  
22 receiving Section 8 Housing Assistance. However, our past  
23 due balance remained.

24 My mother passed away in May of 2020, followed by  
25 my wife's passing in February of 2021. Fortunately, the

1 manufactured home park did not push for eviction for my  
2 - - - for my unpaid rent. However, in mid-2022, the owners  
3 sold the park.

4 I reported the sale of the manufactured home park  
5 to my Section 8 provider. The new park owners did not  
6 demand payment of my rent arrears until November of 2022,  
7 when they sent me a 30-day notice to pay or quit.

8 When I looked at the notice, the amount demanded  
9 was much higher than what I owed - - - than what I knew I  
10 owed. I - - - I contacted the park for an updated ledger,  
11 and after reviewing the ledger, I discovered that no  
12 Section 8 payments had been made - - - had been received by  
13 the park for five months. That increased the amount owed  
14 for the park - - - to the park by almost \$1,000.

15 I tried to contact my Section 8 provider, and I  
16 was unable to reach anyone. I was expecting a very small  
17 inheritance from my mother's - - - mother's estate, but I  
18 knew that would not be able to - - - I would not be able to  
19 afford to pay the extra \$1,000, in addition to what I  
20 previously owed. I feared that I would be evicted if I  
21 didn't find some help.

22 When I contacted - - - I then contacted  
23 Neighborhood Legal Services, and I was linked to one of the  
24 attorneys. My attorney obtained payment records from my  
25 Section 8 provider and discovered that the park owner had



1 not received payments because they had not submitted the  
2 paperwork necessary to transfer my Section 8 benefits.  
3 However, my Section 8 provider had been - - - had continued  
4 making payments to the prior owner.

5 My attorney provided the information - - - the  
6 forms necessary for the park owner to complete, forwarded  
7 them to the new park owner and explained the situation,  
8 helping them to understand that they would need to seek the  
9 missing Section 8 payments from the prior owner. My  
10 attorney also negotiated for me to pay the remaining  
11 balance due.

12 As a result of the assistance I received from  
13 Neighbor Legal Services, the new park owner waived my late  
14 fees and never started eviction proceedings against me.

15 Without legal services assistance, not only would  
16 I have been at risk of homelessness, but the park would  
17 have obtained a judgment against me - - - against me for  
18 the court costs, attorney fees, and amounts already paid by  
19 the Section 8 program on my behalf.

20 The eviction process could be very stressful and  
21 complicated for tenants without legal assistance. I hope  
22 that my testimony helps shed light on how important civil  
23 legal services are for housing stability for tenants like  
24 me. Thank you for your time.

25 CHIEF JUDGE WILSON: No, thank you for yours.



1 And your testimony illustrates how, you know, you have a  
2 series of really misfortunes with the passing of your  
3 mother and your daughter and compounded on that then is  
4 this mixed up - - - not - - - not of your fault at all,  
5 where the money - - - the Section 8 money is going  
6 through the wrong place, and you know, hard to know how to  
7 straighten that out without some help. How did you know to  
8 find - - - how did you know about legal services?

9 MR. BUREK: I had looked online for legal help,  
10 and I found out I couldn't afford a lawyer, and I found out  
11 that I could possibly apply for pre-legal services --

12 CHIEF JUDGE WILSON: Was it - - -

13 MR. BUREK: --- which I did.

14 CHIEF JUDGE WILSON: --- was it difficult?

15 MR. BUREK: A little bit daunting.

16 CHIEF JUDGE WILSON: What - - - was anything that  
17 would have made it easier?

18 MR. BUREK: Somewhere along the line of being  
19 able to ask someone, you know, who I could go to.

20 CHIEF JUDGE WILSON: Were you - - - was there a  
21 court proceeding started before you were represented,  
22 or - - -

23 MR. BUREK: No.

24 CHIEF JUDGE WILSON: Okay.

25 MR. BUREK: They never started proceedings.

1 CHIEF JUDGE WILSON: Okay.

2 I don't know if anybody else on the panel has a  
3 question for you. No, it looks like not. So we should  
4 hear, I think, from Mary Hanson, who's the Program Director  
5 for the Eviction Prevention Program at Neighborhood Legal  
6 Services.

7 Hello there, Ms. Hanson.

8 MS. HANSON: Hello.

9 Thank you, Mr. Burek, for sharing your experience  
10 with us today, and for illustrating the benefits of legal  
11 representation for tenants facing eviction, especially  
12 tenants with disabilities and with limited means.

13 I am grateful for having been invited to speak at  
14 today's hearing. Neighborhood Legal Services created the  
15 Western New York Eviction Prevention Program to meet the  
16 growing legal need for representation in eviction cases  
17 within our client community.

18 Neighborhood Legal Services, in collaboration  
19 with our partners, the Center for Elder Law and Justice,  
20 Legal Aid Bureau of Buffalo, Western New York Law Center,  
21 and the Erie County Bar Association Volunteer Lawyers  
22 Project provide free legal representation to eligible  
23 tenants facing eviction throughout our five-county service  
24 area. The Western New York Eviction Prevention Program is  
25 funded by the Office of Temporary and Disability



1 Assistance's Emergency Rental Assistance Program. We  
2 provide representation to tenants residing in Erie,  
3 Genesee, Niagara, Orleans, and Wyoming counties.

4 A tenant's need for counsel has never been more  
5 apparent. The shortage of safe and affordable housing, the  
6 increase in housing costs, the extensive, but welcome 2019  
7 changes in eviction law, and the discontent of property  
8 owners following the pandemic, among other factors, have  
9 converged into a perfect storm, leaving many tenants at  
10 risk of being homeless.

11 I have heard manufactured homes described  
12 recently as the new landscape of affordable housing.  
13 However, I recently reviewed manufactured home park  
14 listings in our five-county service area. Within the  
15 sample reviewed, lot rents alone ranged from \$324 to \$570  
16 per month. These figures did not include the cost of the  
17 home.

18 Previously owned manufactured homes are generally  
19 selling for between \$21,000 and \$84,000. Buyers unable to  
20 afford these prices may only find substandard, often  
21 condemnable, homes. New manufactured homes are selling for  
22 an average of \$108,000. These prices are for the home  
23 alone, not for the land on which they're located.  
24 For tenants who cannot afford to purchase the home, the  
25 combined rent for the lot and the manufactured home



1 can be over \$1,000 per month.

2 In addition to affordability concerns,  
3 manufactured home park tenants, such as Mr. Burek, face a  
4 complicated legal landscape that is influenced by whether  
5 the manufactured home park tenant rents or owns the  
6 manufactured home in which they live. Tenants who own  
7 their home but reside in a manufactured home park never own  
8 the land on which the home is placed.

9 Often the affordable manufactured homes are in  
10 too poor a condition to be relocated. If the park seeks to  
11 terminate their tenancies, most frequently these homeowners  
12 face either a thirty-day notice to pay their rent or vacate  
13 the lot, or a ten-day notice to correct a lease violation,  
14 followed by a thirty-day notice of termination if the lease  
15 violation is not corrected.

16 After these notices expired, the manufactured  
17 home park can start eviction proceedings, which can  
18 finalize in as little as twenty-four days from filing. If  
19 a court grants the eviction, a manufactured home park  
20 homeowner has a minimum of either 30 or 90 days,  
21 depending on the type of eviction, to not only move, but to  
22 also try to sell or relocate their home within the time  
23 that they're permitted to be on the property.

24 Imagine losing your ability to live in your \$80,000 home  
25 in as little as three months after falling behind in your



1 rent. Tenants who rent their home from the manufactured  
2 home park, regardless of the underlying cause for the  
3 eviction, may also receive a ten-day or 30-day notice.  
4 But if the court orders their eviction, the tenant  
5 may only have as few as 72 hours to move.

6 To further complicate manufactured home park  
7 evictions, as 83 to 84 percent of manufactured home  
8 communities are in rural areas, these cases are often  
9 heard in rural Town and Village Courts, primarily by  
10 non-attorney justices. Due to the expedited nature  
11 of summary eviction proceedings, the law requires  
12 strict compliance with established procedures.  
13 However, when a tenant appears without counsel,  
14 compliance with the procedures tends to be more lax  
15 and more complicated procedures tend to be overlooked.  
16 This can, and many times does, result in swifter  
17 evictions than would have been granted had the laws  
18 been followed.

19 Legal representation for evictions can be the  
20 difference between homelessness and housing stability,  
21 between employment and job loss. Eviction has a  
22 demonstrably negative impact on physical and mental health,  
23 educational outcomes, and family stability. Legal  
24 representation not only results in housing stability for  
25 vulnerable households, but it can also prevent the loss of

1 savings that some tenants have spent their whole lives  
2 building.

3 Since our creation of the Western New York  
4 Eviction Prevention Program in late 2021, Neighborhood  
5 Legal Services and our partner organizations have greatly  
6 increased our staffing and expanded our representation  
7 throughout our service area.

8 As a whole, our program has provided  
9 representation in more than 5,900 eviction matters using  
10 the Emergency Rental Assistance Program funds. While many  
11 of these cases are still ongoing, our program has prevented  
12 more than 1,900 evictions and delayed more than 860  
13 evictions. We resolved many more matters without the need  
14 for court proceedings, such as Mr. Burek's case.

15 It is our goal to promote housing stability,  
16 reduce the likelihood of homelessness through legal  
17 representation and advocacy for thousands of clients like  
18 Mr. Burek who face the specter of eviction and its many  
19 ripple effects.

20 Yet for our rural ser - - - rural service areas,  
21 our attorneys must endure pay that is not competitive with  
22 the private sector, non-traditional hours, frequent and  
23 distant travel, and conflicting court schedules.

24 Increasing the staff in our rural offices solely with the  
25 eviction defense funding is not an efficient method of



1 solving these issues, nor is it an effective manner of  
2 addressing many of the root causes of housing instability.

3 Housing instability does not exist in a vacuum.  
4 Hunger, poor health, family instability, employment  
5 instability, and lack of education all come together with  
6 housing instability, sweeping their victims into a cycle of  
7 poverty.

8 One ancillary perk of our recent receipt of  
9 eviction defense - - - defense funding is our ability to  
10 refocus some of our general funding into our - - - our  
11 other services - - - our other areas of service, including  
12 family law, public benefits such as staff and cash  
13 assistance, health advocacy, disability law, and consumer  
14 debt. But funding for these other services still falls  
15 short.

16 According to Legal Service Corporation's 2022  
17 report, LSC-funded legal aid only had adequate resources to  
18 fully assist with 30 to 37 percent of civil  
19 legal problems for which low-income Americans applied.  
20 This is why funding such as the Judiciary Civil Legal  
21 Services Grants are so important to help low-income New  
22 Yorkers with their unmet needs.

23 Thank you for allowing me this opportunity to  
24 highlight the importance of our work and the necessity of  
25 civil legal services in providing holistic legal





1 representation to tenants in eviction matters.

2 CHIEF JUDGE WILSON: Thank you, Ms. Hanson. I  
3 have a question for you. About how many lawyer hours were  
4 spent on Mr. Burek's case, would you estimate?

5 MS. HANSON: It took a little bit of go-between  
6 between the manufactured home park and our office, so I  
7 would say, as far as hands-on work, it was at least five  
8 hours collectively.

9 CHIEF JUDGE WILSON: Yeah. But now we're asking  
10 about hundreds of hours, right? So ---

11 MS. HANSON: Not hundreds of hours.

12 CHIEF JUDGE WILSON: --- and so this is a really  
13 good illustration of something we were talking about  
14 earlier, which is a very modest investment, avoiding all  
15 kinds of social costs. I mean, you can only imagine the  
16 cost of Mr. Burek losing his home, having to relocate him,  
17 falling into other aspects of the so - - - you know, social  
18 - - - you know - - - security net. It's a very modest  
19 investment, five hours, even if - - - even if it was 20  
20 hours of time, to avoid that kind of a catastrophe, you can  
21 see how the return on that investment is much greater than  
22 the investment.

23 MS. HANSON: I agree.

24 CHIEF JUDGE WILSON: I don't know if anybody else  
25 has a question for you. I want to thank you very much,

1 both, for - - - for appearing and providing your remarks to  
2 us today. Mr. Burek, thank you.

3 MR. BUREK: Thank you.

4 MS. HANSON: Thank you.

5 CHIEF JUDGE WILSON: Thank you.

6 Next, we have Rosemary Rodriguez, who is a client  
7 of The Legal Aid Society. And I think Ms. Rodriguez is  
8 there with her daughter, Christine Rivera. No? Can you  
9 hear us?

10 MS. RIVERA: I can hear you.

11 CHIEF JUDGE WILSON: Oh, perfect.

12 MS. RIVERA: Uh-huh.

13 CHIEF JUDGE WILSON: Welcome - - - welcome, and  
14 we're ready for you.

15 MS. RODRIGUEZ: I'm sorry. Good afternoon. My  
16 name is Rosemary Rodriguez, and I am a former client of The  
17 Legal Aid Society.

18 MS. RIVERA: Hi. Good afternoon. My name is  
19 Christine Rivera, and Rosemary Rodriguez is my mom.

20 CHIEF JUDGE WILSON: Welcome to you both.

21 MS. RIVERA: Thank you.

22 MS. RODRIGUEZ: Thank you.

23 CHIEF JUDGE WILSON: And we're ready for you to  
24 start anytime.

25 MS. RIVERA: Okay. Good afternoon. Rosemary



1           Rodriguez is a client of The Legal Aid Society. And I'm  
2           here with my mom to present on her behalf to express  
3           her support for continuing funding The Legal Aid Society  
4           and other civil legal services programs that assist  
5           New Yorkers like us.

6                         My mother is a senior citizen whose only source  
7           of income is Social Security. She is also a Medicaid  
8           enroll - - - enrollee. In March 2019 - - - in 2019  
9           she - - - she went to a dentist in Manhattan whom  
10          she was referred with her Medicaid Senior Health  
11          Partners Managed Long-Term Care Plan. My mom is a cancer  
12          survivor - - - my mom is a cancer - - - breast cancer  
13          survivor. She went to the dentist for a dental implants  
14          that she needed as a result of her damage done to her  
15          teeth while her - - - you know, by chemo and radiation  
16          and the nerves by the chemotherapy that she received to  
17          treat her cancer.

18                        My mother had Medicaid at the time when she  
19          visited this dentist's office - - - when she visited this  
20          dentist's office. One day she visited the dentist and the  
21          dentist performed a dental procedure on her that she had  
22          been covered by Medicaid. But instead of the billing  
23          Medicaid, she was signed up for Synchrony CareCredit card,  
24          meaning a credit card, without her consent or her  
25          knowledge.



1 Mid-procedure, after the dentist had  
2 administrated anesthetic medication to my mom and began  
3 performing dental surgery on her, the dentist directed my  
4 mom, a senior citizen with limited reading abilities, to  
5 sign papers, which was not explained to her and that she  
6 did not understand.

7 My mother thought the papers were - - - my  
8 mother thought the papers were - - - that she was signing  
9 - - - it was to treat - - - what was it - - - to treat  
10 her treatment - - - to take care of her teeth. At no  
11 time did the dentist explain to her that these papers were  
12 a credit card application or agreement.

13 The dentist then charged this CareCredit amount  
14 that same day - - - for the same day. It says \$6,000, but I  
15 think it was more than that. It was - - - I think it was  
16 like 19 or so for her service - - - for the services  
17 that my mom were - - - that she did for my mom's mouth.

18 So, when she did that, she never completed my  
19 mom's mouth. My mom first received a notice that she has  
20 been sign - - - she signed up for this credit card, and she  
21 received a statement from the Synchrony Bank in the mail.

22 This experience was a traumatic experience for my  
23 mom. She trusted this dental provider to provide her  
24 with the care that she went to - - - to get and to receive  
25 from this office. But her vulnerability was to prey upon

1 - - - despite informing the dentist - - - and wait a  
2 minute - - - excuse me - - - sorry - - - despite informing  
3 the dentist office she - - - she was a Medicaid enrollee,  
4 right?

5 They enrolled my mom in a CareCredit account and  
6 charged this account in full for services that was done to  
7 my mom's mouth, which was never provided to her and that  
8 she should have been billed to Medicaid. She left the  
9 dentist's office that day with holes in her mouth from  
10 multiple tooth extractions the dentist performed while she  
11 was there. The dentist pulled her teeth, but never  
12 provided the dentist's implant service.

13 She went to this office for the first time,  
14 leaving my mom - - - she left my mom actually with  
15 holes in her mouth - - - in her mouth. And after  
16 that, it made my mom difficult for her to eat. And then  
17 she caught infections, and it was actually a bacteria in  
18 her mouth as well.

19 So, after she received the billing statement from  
20 the Synchrony Bank in the mail, she realized that - - - had  
21 - - - what had happened. My mother tried unsuccessfully to  
22 resolve this issue on her own with my help. She contacted  
23 the dentist's office to request a refund, which the  
24 dentist's office refused to, even though they failed to  
25 perform the services for which she charged this CareCredit

1 account.

2 Then she filed a complaint with - - - with her  
3 Medicaid managed care provider. She made several payments  
4 on this CareCredit account with a - - - with my help, even  
5 though she did not believe she owed this debt. And despite  
6 the financial strain it put on my - - - my mom, my family  
7 - - - actually, she believed that she had to - - - what was  
8 it - - - had to because she was worried about the debt  
9 collections and will harm her credit. Something went  
10 out- - -

11 CHIEF JUDGE WILSON: We can still see you and  
12 hear you.

13 MS. RIVERA: Okay. Sorry about that. Something  
14 went out. The Legal Aid Society's Consumer Law Project  
15 assisted her with the filing a Medicaid complaint for the  
16 service improperly billed to her by this dentist's office.

17 In June 2020, they sent a cease contact and  
18 verification demand letter to the debt collection law firm  
19 seeking to collect on the Synchrony Bank CareCredit  
20 account.

21 In August 2020, they sent a cease and vent - - -  
22 desist letter to the Synchrony Bank and the dentist's  
23 office, disputing the account and all transactions made on  
24 it, informing them that my mom did not owe this debt, and  
25 that my mom, a Medicaid enrollee, could not lawfully be

1 billed for the services and demanding that they could  
2 collect - - - and demanding - - - excuse me - - - and  
3 demanding they - - - that they stop collecting,  
4 reinvestigate the matter and discharge this alleged debt.

5 They worked with the Health Law Unit at The Legal  
6 Society and assisted my mom with filing Medicaid billing  
7 complaints regarding this dental provider with the medical  
8 managed-care provider. And they referred my mom to a free  
9 financial counselor for a - - - for assistance - - -  
10 for non-litigation financial matters, including  
11 damage to her credit score as a result of the credit  
12 - - - CareCredit account.

13 Then in November 2020, Synchrony Bank used my mom  
14 - - - sued my mom in Queens County Civil Court for the debt  
15 - - - for the debt. My mom contacted The Legal Aid  
16 Society's Consumer Law Project again for assistance. They  
17 assisted with her draft - - - drafting and filing an answer  
18 - - and serving - - - discovery demands and continued  
19 to advise her while she waited for the court to schedule  
20 the first court appearance in her case.

21 During this time, Synchrony Bank continued to  
22 state in additional separate communications they sent  
23 to my mom that they investigated this matter in response to  
24 the 2019 dispute letter to Synchrony Bank, and that  
25 they found no fraud and the account balance was valid.

1           Other than these communications, there were no  
2 further actions in the case; for about two and a half  
3 years, we waited for a court date during the pandemic.  
4 Finally, in June 2023, before the date - - - the court date  
5 was even scheduled, Synchrony Bank agreed to discontinue  
6 the case against my mom. The result would never have been  
7 possible without extensive efforts by The Legal Aid Society  
8 proving that the debt was not owed.

9           My mom and my whole family are tremendously  
10 thankful for the work of The Legal Aid Society. Though the  
11 experience has been traumatic for my mom and family, the  
12 legal - - - excuse me - - - dedicated assistance has  
13 allowed my mom to avoid garnishment and levy of her  
14 money and to get back on the path to financial and  
15 medical recovery.

16           I'm sorry. I just got stuck - - - Give me one  
17 second. Okay. Sorry about that.

18           The Legal Aid Society provides essential legal  
19 services, advocacy for New Yorkers -- I've been told that  
20 so much of what Legal Aid does would not be possible  
21 without the consent, investment, or disparity in civil  
22 legal services fighting since 2011.

23           Thank you for the invitation to appear  
24 before you today and share my story of my mom. Thank  
25 you so much.





1 MS. RODRIGUEZ: Thank you so much. And I'm - - -  
2 I'm grateful that she was the one that helped me for - - -  
3 with all this case and paperwork that she did for me. And  
4 help me to - - - to make copies and to send them. And she  
5 helped me so much that I appreciate her so much because I  
6 will never get this help because I don't have money to get  
7 a legal aid.

8 And I thank The Legal Aid Society for them  
9 to help me also with this situation that I went through,  
10 and it affected me a lot. And still, to now, I still  
11 don't have my teeth. What I prayed about, or someday  
12 I would, because it damaged my mouth. I have got  
13 infection. I can't eat well. I am embarrassed to - - -

14 MS. RIVERA: To speak, to talk in front of  
15 people.

16 MS. RODRIGUEZ: Yeah. Well, I thank you so much  
17 this aid - - -

18 MS. RIVERA: We want to thank Ellen (ph.) for  
19 helping us.

20 MS. RODRIGUEZ: - - - helping me so much with all  
21 this that I went through and The Legal Aid Society. Thank  
22 you for hearing us. And my daughter, that helped me too.  
23 Thank you.

24 MS. RIVERA: Thank you, guys.

25 CHIEF JUDGE WILSON: No, thank - - - thank you

1 both for taking the time to explain what must have been a  
2 horrible - - - I mean, sometimes I wonder if I live in the  
3 same world as other people because I can't imagine going in  
4 for surgery and having somebody give me a credit  
5 application to sign, not explaining what it is.

6 MS. RIVERA: While she was under anesthesia.

7 CHIEF JUDGE WILSON: It's unbelievable.  
8 Unbelievable. It's inhumane that someone would act that  
9 way. But it is, as you said, a wonderful thing that you  
10 were able to find Legal Aid and that they were able to  
11 help. Obviously, you're still suffering, but at least the  
12 debt is gone, and the lawsuit is gone, and all that trauma  
13 is gone.

14 I don't know if anyone had - - - I think Justice  
15 LaSalle has a question.

16 JUDGE LASALLE: I just - - - just quickly. First  
17 of all, Ms. Rodriguez - - - and Ms. Rivera, I think it's  
18 great that you're helping your mom here today - - - and I'm  
19 sorry for what you've gone through.

20 Just one question, though, are you aware of  
21 whether or not the dentist who treated you or treated your  
22 mother was referred to the Office of Professional Medical  
23 Conduct? Did your lawyers tell you that was done? That  
24 might be a better question for your attorney.

25 MS. RODRIGUEZ: I didn't hear - - - I can't hear

1 you.

2 MS. RIVERA: Hold on, give me one second - - -

3 I'm trying to put the volume up. Just give me one second.

4 JUDGE LASALLE: Sure. You good now? Can you  
5 hear me now?

6 MS. RIVERA: Yeah, I got it. Thank you.

7 JUDGE LASALLE: Again, you - - - I wanted to ---

8 MS. RODRIGUEZ: Thank you, again.

9 JUDGE LASALLE: --- well, first of all, thank you  
10 both for being here today, Ms. Rodriguez, and Ms. Rivera,  
11 helping your mother here this afternoon.

12 My question is, you know, just, there's a  
13 concern, obviously, for what happened to you, but, you  
14 know, a dentist who - - - I can't - - - I would imagine  
15 this is - - - you're probably not the only family who  
16 suffered at the hands of this dentist. I would imagine  
17 this sounds probably like, you know, a course of conduct,  
18 if I was guessing, I guess.

19 Are you aware of whether or not the dentist has  
20 been sent to any - - - to the Office of Professional  
21 Medical Conduct? Did your lawyers fill you in on that,  
22 whether or not the doctor is being charged - - - or  
23 investigated, I should say, for this, which is incredibly  
24 unethical behavior? Are you aware of that?

25 MS. RIVERA: We actually - - - it's - - - it's

1 actually being investigated.

2 JUDGE LASALLE: Oh, it's in the process of  
3 investigation? Okay. Thank you for answering my question.

4 Thank you, Chief.

5 MS. RIVERA: You're welcome. Thank you.

6 MS. RODRIGUEZ: Thank you so much.

7 CHIEF JUDGE WILSON: No, thank you, again.

8 And we can now hear from - - - oh, I'm sorry  
9 - - - from Adriene Holder, who is the head of the Civil  
10 Practice at The Legal Aid Society of New York.

11 MS. HOLDER: Thank you.

12 CHIEF JUDGE WILSON: And is also a member of the  
13 Permanent Commission on Access to Justice.

14 MS. HOLDER: Yes. Thank you.

15 And thank you to Rosemary Rodriguez and Christine  
16 Rivera for sharing the personal and difficult situation you  
17 endured on Ms. Rodriguez's case.

18 Good afternoon. I'm Adriene Holder. I'm the  
19 Chief Attorney of the Civil Practice of The Legal Aid  
20 Society. I also serve as a member of the Permanent  
21 Commission on Access to Justice. Thank you, Chief Judge,  
22 for noting that. I'm very proud to sit with such an  
23 incredible group of people.

24 And I first want to thank Chief Judge Wilson,  
25 Presiding Justices LaSalle, Renwick, and Whalen, Justice



1 Clarke, and Chief Administrative Judge Zayas, and New York  
2 State Bar Association President Lewis for the opportunity  
3 to address you today.

4 I really do appreciate how engaged you all have  
5 been throughout this entire hearing. I've enjoyed your  
6 comments, as well as the testimony that we've had today.  
7 But I'm also aware of the time, and I know it's been a long  
8 afternoon, so I'll try to be brief.

9 Although there's always more work to do, today,  
10 as a legal services community, we highlight some of our  
11 successes. So much of this work would not have been  
12 possible without the consistent investment of Judiciary  
13 Civil Legal Services funding since 2011.

14 Investing in legal services is a long-term  
15 investment in the fight against racism, injustice, and  
16 poverty. We are also grateful for the recent commitment to  
17 incorporating cost-of-living adjustments into the JCLS  
18 funding. This crucial adjustment has been instrumental in  
19 helping us navigate the ever-increasing operational  
20 expenses such as rent, health insurance, and technology  
21 that we encounter year after year in our line of work.

22 On behalf of The Legal Aid Society, I thank you  
23 for your continued support and again for the invitation to  
24 share a part of our work with you today.

25 The Society's Consumer Law Project and our Civil



1 Practice represents and assists low-income consumers in a  
2 range of matters, including consumer debt lawsuits that  
3 involve credit card debt, medical debt and financial  
4 products, student loans, and rent arrears, affirmative  
5 litigation for violation of consumer rights, including  
6 under the Fair Debt Collection Practices Act, victims of  
7 fraud, identity theft, financial abuse and scams, and  
8 advocating on their behalf with financial institutions as  
9 well as government regulators.

10 Through this work, we hear regularly from clients  
11 about challenges they face navigating the court system and  
12 have seen firsthand the critical role that access to legal  
13 services can play in determining an individual's ability to  
14 assert their rights and seek justice.

15 There continues to be a significant justice gap  
16 when it comes to consumer debt collection lawsuits. You've  
17 heard that earlier from my colleague Sal Curran, and I  
18 think that many of you all are very familiar with it.  
19 Every day, distressed New Yorkers learn that their wages  
20 have been garnished and their bank accounts frozen due to  
21 these cases.

22 Recently, we have seen an increase in medical  
23 debt cases involving medical credit cards and other  
24 predatory financial projects. As Ms. Rodriguez's case  
25 shows, medical debt cases involving credit - - - medical



1 credit cards has real consequences for people.

2 Similar to her situation, these products are  
3 often offered to patients when they are under significant  
4 stress and when they're even eligible for free care through  
5 Medicaid.

6 In Ms. Rodriguez's case, the dentist she went to  
7 for care improperly billed and collected payment from her  
8 for Medicaid-covered dental care and engaged in improper  
9 and deceptive enrollment processes regarding the Synchrony  
10 Bank CareCredit account.

11 As a Medicaid enrollee, Ms. Rodriguez could not  
12 lawfully have been billed for these services, nor could her  
13 account be referred to a collection agency. On the dates  
14 of service in question, she was in receipt of full Medicaid  
15 benefits. She informed the dentist that she was a Medicaid  
16 enrollee, yet Ms. Rodriguez subsequently received bills for  
17 dental services that were or should have been covered by  
18 Medicaid, but were instead charged to Ms. Rodriguez and to  
19 the CareCredit account.

20 Furthermore, the dentist's practices related to  
21 this CareCredit account also violated several provisions of  
22 the 2013 settlement agreement entered into by GE Capital  
23 Retail Bank and CareCredit card with the New York Attorney  
24 General.

25 In addition, despite obtaining assistance from



1 our tenacious and talented staff attorney, Ellen McCormick,  
2 and repeatedly disputing this debt with the creditor and  
3 debt collection law firm, sending her pre-litigation debt  
4 collection letters, submitting complaints to her Medicaid-  
5 managed care provider, the creditor in her case still sued  
6 her in court as an attempt to collect the debt Ms.  
7 Rodriguez was adamant she did not owe.

8 When creditors sue individuals like Ms. Rodriguez  
9 for these debts in New York courts, they are represented by  
10 attorneys in nearly 100 percent of these cases. In stark  
11 contrast, ninety-seven percent of individuals sued for  
12 consumer debts in New York courts do not have an attorney.

13 While the amount sought in many consumer debt  
14 cases may be considered small, the costs imposed on the  
15 individual sued are significant. For defendants in  
16 consumer credit cases, the risk of a civil money judgment  
17 being entered against them is very real, and the  
18 consequences of these judgments are great.

19 Creditors enforce judgments through wage  
20 garnishment, levied bank accounts, and liens on and forced  
21 sales of real property. Other consequences include harm to  
22 credit, which negatively - - - negatively impacts access to  
23 housing, employment, and general creditworthiness, and  
24 perpetuates the cycle of poverty and harms financial  
25 stability for litigants and their families. Not to mention



1 that the significant non-monetary costs on defendants and  
2 judgment debtors in these cases, including emotional,  
3 psychological harm, stress, embarrassment, and humiliation,  
4 imposed as a result of entry and enforcement of judgments.

5 So, in conclusion, and as we wrap up this hearing,  
6 I want to just say a few things - - - and also about Ms.  
7 Rodriguez's case, The Legal Aid Society was able to settle  
8 a big dental case, ensuring and expanding Medicaid-managed  
9 care services and dental services. We have now some of the  
10 strongest provisions in the country to help Medicaid  
11 recipients.

12 And our Health Law Unit has been contacted to try  
13 to help Ms. Rodriguez in going forward and actually getting  
14 the care that she deserves and what she is now entitled to  
15 legally, to get it all completed. In addition to that,  
16 ideas, of course, that this debt that was erroneously  
17 brought to her through a medical credit card has been  
18 finished.

19 But today, as the testimony presented by a range  
20 of experts and civil legal services providers, we've heard  
21 the case made for addressing the access to justice gap with  
22 continued and increased funding for civil legal services,  
23 and the imperative of achieving pay equity with our peers  
24 in public interest law working in county and state  
25 government positions to retain staff. These interconnected



1 issues have a profound impact on the accessibility, the  
2 quality, and sustainability of legal assistance for those  
3 who need it most.

4 First and foremost, let me recognize the  
5 extraordinary strength of our New York State Legal Services  
6 community. I have often said that there is no  
7 better community of legal services providers than our  
8 community here in New York. I'm also a member of the New  
9 York Legal Services Coalition and proudly stand with all of  
10 them. The community of providers stands as a beacon of  
11 hope for countless low-income individuals and families who  
12 face legal challenges.

13 Our legal services organizations, staffed by  
14 dedicated attorneys and professionals, work tirelessly day  
15 in and day out to uphold the principles of justice and  
16 fairness. They are the front lines of defense for  
17 vulnerable communities providing critical assistance in  
18 housing disputes, family matters, immigration cases,  
19 government benefits, and more, and I'm proud to stand with  
20 them.

21 However, that brings us to the pressing issue of  
22 funding. While our legal services communities does  
23 remarkable work, we operate under constant financial  
24 strain. The demand for civil legal services far outstrips  
25 the available resources, leaving many individuals without



1 the representation they desperately need. This imbalance  
2 undermines the very principles our legal system is built  
3 upon. Therefore, we must advocate for increased funding  
4 for civil legal services.

5 Adequate funding is not merely an investment in  
6 legal aid, it is an investment in justice, equity, and the  
7 protection of some of the most vulnerable members of our  
8 client communities. Therefore, I respectfully request a  
9 substantial increase in JCLS funding to help close the  
10 justice gap and to meet the urgent needs of our communities  
11 and encouraged by what I've heard in testimony today.

12 Furthermore, achieving pay par - - - pay equity  
13 with legal positions in government agencies is paramount.  
14 Currently, the pay gap between our legal aid organizations  
15 and government agencies is substantial, making it difficult  
16 to recruit and retain experienced legal professionals. To  
17 continue providing high quality legal services, we must  
18 close this gap. Competitive salaries will not only attract  
19 top talent, but also ensure that our legal aid  
20 organizations can retain experienced staff who bring  
21 invaluable expertise to their work.

22 Therefore, we respectfully ask that you develop a  
23 plan to engage in discussions with the Governor and  
24 Legislative leaders to work on a multi-phase plan to  
25 achieve pay - - - pay equity across government-funded



1 public interest legal systems.

2 As a community of legal services providers, we  
3 have witnessed and been the beneficiaries of your  
4 leadership on access to justice issues that serve as a  
5 blueprint for other states in our nation. With the support  
6 of JCLS funding, we are closing the justice gap. We  
7 appreciate your leadership and your partnership.

8 On behalf of The Legal Aid Society, thank you for  
9 your continued support and for the opportunity to speak  
10 with you today.

11 CHIEF JUDGE WILSON: Thank you, Ms. Holder. It's  
12 always wonderful to hear from you. I don't know if anyone  
13 has a question for you.

14 MR. LEWIS: Thank you for what you do. And  
15 thanks for what you do for the Bar Association as well,  
16 Adriene.

17 MS. HOLDER: Yes, I am on the House of Delegates  
18 And it's good - - - it's good to see you, my President.

19 CHIEF JUDGE WILSON: I think we're all on the  
20 same page here, and we're very hopeful. I mean, what - - -  
21 the one unifying thing, I think, that in listening  
22 particularly to the - - - the clients today is that none of  
23 them - - - they each found themselves in really an  
24 unfathomable legal mess, and none of them had done anything  
25 to get themselves into that mess. They were living their



1 ordinary lives, they were making ends meet, and as a  
2 consequence of nothing that they did - - - unless you count  
3 getting sick as something you did - - - that you know - - -  
4 you can imagine what would have happened had they not had  
5 a lawyer. Not hard to imagine. It's very clear what would  
6 have happened if they hadn't had a lawyer.

7 And we don't want people to wind up on the wrong  
8 end of that simply because they couldn't find a lawyer  
9 when, you know, they had done nothing wrong, and we would  
10 all be worse off, not just they, we would all be worse off  
11 had they been unrepresented.

12 So, thank you for everything that Legal Aid does  
13 and for all the other providers here. I assume they're  
14 offline now, but we all very much appreciate their efforts.

15 MS. HOLDER: And I thank you.

16 CHIEF JUDGE WILSON: That concludes this year's  
17 hearing. It doesn't, by any means, conclude our work, but  
18 thank you all for being here.

19 (Court is adjourned)

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

I, Christian C. Amis, certify that the foregoing transcript of proceedings in 2023 Statewide Hearing on Civil Legal Services was prepared using the required transcription equipment and is a true and accurate record of the proceedings.



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