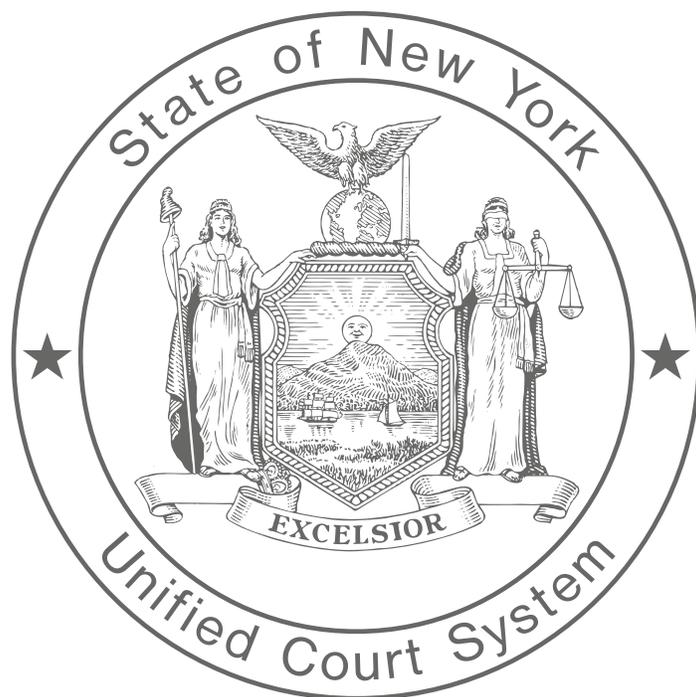


PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2022



PERMANENT COMMISSION ON ACCESS TO JUSTICE

HELAINE M. BARNETT, CHAIR

November 30, 2022

Hon. Anthony Cannataro
Acting Chief Judge of the
State of New York
230 Park Avenue
New York, NY 10169

Dear Acting Chief Judge Cannataro:

I am pleased to forward the 13th Annual Report of the New York State Permanent Commission on Access to Justice. The report contains the recommendations of the Commission that grew out of presentations and discussions at this year's events or were based on the findings of the Commission's working groups.

During the past year, the Permanent Commission convened its three annual signature events and supported the Acting Chief Judge's Hearing on Civil Legal Services. All were conducted virtually, which meant that they reached and influenced significantly more individuals than possible had they been held in person.

In April, the Technology Conference was held in partnership with Cornell Tech, with sessions highlighting court technology, data, remote services, and technical projects. The annual Law School Conference in June was co-hosted with Albany Law School; deans, faculty, administrators, and law students representing New York's 15 law schools were able to participate.

In September, we had the honor to assist you with the annual Civil Legal Services Hearing at the Court of Appeals. Your decision that the Hearing panel attend in person demonstrated the importance of publicly funded civil legal services. Your empathy for the clients and focused questions for the presenters illustrated the continuing need for civil legal services funding.

Our October annual Statewide Stakeholders Meeting, in which the leadership of the Judiciary participated, had a new format that featured a plenary session with four Administrative Judges, each highlighting one of their signature access-to-justice initiatives. In the two sets of breakout sessions that followed, attendees had the opportunity to choose from five, timely access-to-justice topics.

Throughout the year, the Permanent Commission's working groups continued their efforts, focusing on housing, race and gender equity, and future access to the courts (in particular, simplification of civil practice procedures). The Permanent Commission also worked with the Business Council on Access to Justice, supporting their efforts to launch a pro bono collaboration to provide assistance to rural communities.

Former Chief Judge Janet DiFiore requested that the Permanent Commission develop a realistic current estimate of the funding necessary to provide effective assistance to all low-income New Yorkers facing civil legal problems impacting the essentials of life, with the goal of closing the justice gap. The Commission formed a funding working group to develop a methodology to measure the cost of providing such effective assistance. This working group will continue its efforts in the year ahead.

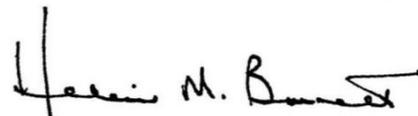
For the coming year, the Permanent Commission is requesting that the Judiciary Budget include an allocation of \$112.6 million for Judiciary Civil Legal Services Funding (the same amount as last year), along with an additional COLA adjustment in an amount deemed appropriate.

The members of the Permanent Commission represent a broad diversity of experience and background and share a commitment to increasing access to justice through creative solutions. They have made significant contributions of time and energy to our work throughout the year and are unanimous in supporting the recommendations in this report.

The Permanent Commission was greatly assisted in its work by its Counsel, Jessica Klein, as well as by Madeline Jenks, Ah Jin Youn, Wyndam Ermini, and Marissa Torelli, all from Sullivan & Cromwell, and by Lauren Kanfer, Rochelle Klempner, Barbara Mulé, and Barbara Zahler-Gringer, all from the Office of Court Administration, and Mary Mone, Special Advisor to the Commission.

We thank you for your leadership and support.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Helaine M. Barnett". The signature is written in a cursive style with a long horizontal stroke at the end.

Helaine M. Barnett
Chair, New York State Permanent
Commission on Access to Justice

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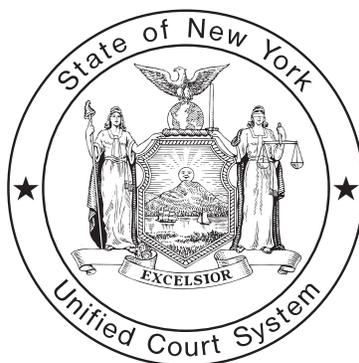
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PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2022

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Note: Appendices can be viewed on the Permanent Commission’s website:
<http://www.nycourts.gov/accesstojusticecommission>

EXECUTIVE SUMMARY

During 2022, the Permanent Commission on Access to Justice (Commission) focused on a wide-ranging agenda of longstanding subjects of concern (such as civil legal services funding and court process simplification) and new areas of attention (such as the attorney shortage in rural areas and expansion of local access to justice committees districtwide).

When the COVID-19 pandemic began in 2020, the Commission's work was dominated by the urgent need to respond to the access to justice crisis wrought by the pandemic — including the effects of new virtual proceedings on the courts, legal services providers, and litigants; the inequities created by the digital divide for low-income New Yorkers in virtual courts; and the increased need for legal assistance in, for example, housing matters. With the worst of the pandemic receding, any remaining pandemic-related issues are now embedded in the Commission's broader agenda.

Of course, the pandemic crisis sparked many innovations, especially regarding technology. The Commission has benefited from one of the more notable, positive innovations in the pandemic response: the wider acceptance of virtual meetings, conferences, and proceedings. For example, despite the many pandemic-related strictures for in-person attendance in courthouses, the 2022 Civil Legal Services Hearing at the Court of Appeals, presided over by Acting Chief Judge Anthony Cannataro, was held both virtually and in person. The Commission assisted in preparation for the Hearing and learned that the virtual option not only made appearances by out-of-state and in-state presenters much more convenient, but also made possible a national bar leader's participation from a location in Europe.

Acting Chief Judge Cannataro noted that the annual Civil Legal Services Hearings conducted over the past 12 years were a "driving force behind the significant progress" made in expanding the availability of civil legal assistance. He acknowledged the critical importance of both collaboration among stakeholders and support from judiciary partners in the executive and legislative branches.

Hearing presenters included judiciary, bar, business, and charitable institution leaders, in addition to Judiciary Civil Legal Services (JCLS) grantees and their clients. They documented the continuing unmet civil legal needs of low-income New Yorkers, recent innovations designed to help close the justice gap in New York, and the critical importance of JCLS funding.

During 2022, the Commission opted once again to conduct its signature events virtually: the Statewide Civil Legal Aid Technology Conference in April, the Law School Conference in June, and the Statewide Stakeholders Meeting in October. All were well attended,

became rich sources of ideas and innovations, and led to many of the Commission's recommendations in this Report.

In addition, the Commission's Working Groups identified and addressed several key access-to-justice issues. Established in 2020, the Future Access to the Courts Working Group continued to explore innovative approaches to expanding future access to the courts. The Race and Gender Equity Working Group, created in 2021, began bringing together major law firms and civil legal services providers to exchange information and protocols to enhance and maintain a diverse workforce. The Funding Working Group began the process to arrive at a realistic estimate of the resources needed to close the justice gap. The Housing Working Group explored a wide range of issues affecting litigants in housing matters.

The Technology Working Group continued to have responsibility for the Commission's annual Technology Conference and began considering a technology survey of legal services providers. The Law School Involvement Working Group planned the annual Law School Conference, with the 2022 theme of addressing the structural challenges of poverty, injustice, and inequality.

The Working Groups' high level of productivity is reflected in many of the Commission's recommendations for 2023 outlined in this Report.

Of critical importance, as always, is the continuation of JCLS funding. The Commission recommends that funding continue at the level of \$112.6 million, which includes last year's cost-of-living adjustment, but with an additional cost-of-living increase for the coming fiscal year.

Summary of Recommendations for 2023

Based on the annual Civil Legal Services Hearing and the Commission's work over the last year, the Commission is making the following recommendations for action:

A. Judiciary Civil Legal Services Funding

Funding Study: The Commission will continue its study to develop a realistic current estimate of funding needed to provide effective assistance to all low-income New Yorkers facing civil legal problems to achieve the goal of closing the justice gap.

Funding Cost-of-Living Adjustment: The Commission recommends continued Judiciary Civil Legal Services funding for FY 2023-2024 at last year's level of \$112.6 million with the addition of a cost-of-living increase to account for inflationary pressures, the increased demand for services, and the staffing and infrastructure needs of legal services providers.

The Commission recommends that the increase be in the maximum amount deemed feasible by Judiciary leadership.

B. Local Access to Justice Committees: Expansion and Support

Districtwide Expansion: Given the successes of the local access to justice committees, the Administrative Judges outside New York City should endeavor to expand their access-to-justice efforts districtwide.

Administrative Support: The court system should support efforts to expand local access to justice committees and initiatives by creating a position in each Judicial District to act as liaison between the local access to justice committees and the District Administrative Judge.

C. Housing

Protection for Defaulting At-Risk Tenants: The court system should require all petitioners seeking default judgments in residential eviction proceedings to inform the court if they have knowledge of any at-risk respondents or occupants living in the premises. In cases where a petitioner discloses the existence of an at-risk respondent, the court should be required to notify the local adult protective services agency.

Specialized Housing Parts: All counties outside New York City should replicate the Eighth Judicial District's consolidated housing part to increase access to justice, ensure uniform application of State and federal protections, prevent evictions, and maximize access to legal and social services. The Commission recommends that the court system pursue any required statutory or constitutional changes necessary to facilitate the establishment of these consolidated housing parts.

Strengthen the Pipeline of Housing Lawyers in Law Schools: Law schools should bolster the pipeline of housing attorneys by, among other ways, expanding doctrinal course offerings and supporting student engagement in tenant organizing work.

Housing Answer DIY Form Program: The Office for Justice Initiatives, in collaboration with the Division of Technology, should continue to pursue efforts to update the New York City Tenant Nonpayment Answer DIY Form program to reflect recent changes in the law and re-launch the program in English and Spanish for the benefit of unrepresented court users, and for lawyers, law students and non-lawyers to use as a tool to assist unrepresented tenants. Furthermore, the Office for Justice Initiatives should create a Tenant Nonpayment Answer DIY Form program for tenants to use outside New York City.

Right to Counsel in Housing Matters: Because the right to adequate housing accommodations is fundamental, the Commission supports the right to counsel in eviction proceedings for all New Yorkers who cannot afford counsel.

D. Process Simplification

Fee Waiver Statute: CPLR Article 11 should be amended to establish an equitable, simplified and uniform process that includes: (1) renaming the statute to remove the stigmatizing categorization of litigants seeking relief; (2) establishing automatic eligibility for individuals who currently are receiving means-tested public assistance or whose annual household income is at or below 200% of the Federal Poverty Guidelines; and (3) allowing for judicial determination of eligibility for all other individuals pursuant to rules adopted by the court system.

Uniform Fee Waiver Court Procedures: Upon amendment of the statute, court rules should be enacted that: (1) set forth a short list of uniform documentation that courts can require litigants to provide in support of their fee waiver request; and (2) permit the delegation of authority to court clerks to decide fee waiver requests submitted by individuals who are deemed automatically eligible for relief.

Affirmations in Place of Affidavits: The court system's proposal to amend CPLR 2106 to permit the use of affirmations, subject to penalty for perjury, in place of affidavits in civil proceedings should continue to be a legislative priority for the court system. The Commission urges that the prescribed affirmation text included in the statute be in plain language.

Check Boxes in Place of Signatures: To further simplify online filing of affirmations, e-filing, and the filing of court forms generated by the DIY Form programs, check boxes in place of signatures should be deemed sufficient for online filings.

E. Technology

Technology Survey of Legal Services Providers: The Commission should conduct a technology survey in 2023 of the New York State legal services community as a follow-up to the surveys conducted in 2013 and 2018, to obtain a new snapshot of the providers' technology status post-pandemic. The results should be analyzed and disseminated to educate stakeholders and support continued improvements of the civil legal aid delivery system. To assist with the survey, the Commission should consider collaborating with an access-to-justice partner with expertise in survey design and quantitative analysis.

Make NYSCEF Accessible to Unrepresented Litigants: The court system should continue to expand New York State Courts E-Filing (NYSCEF) to all courts, including Town and Village Courts, and should make NYSCEF more accessible and user-friendly for unrepresented litigants.

Expanding Courthouse Services Beyond the Clerk’s Office: The Commission recommends that the virtual clerk model used in Suffolk County be replicated in other courts, beginning with Family Courts around the State. Courts should consider installing the virtual clerk one-stop shopping model in public libraries, public access law libraries, and other community locations to create additional access points for services.

Equipping Law Students with Technology Skills to Expand Access to Justice: Law schools should expand digital and remote clinical and pro bono opportunities for students through collaborations with other law schools and legal services organizations. Partnerships that incorporate technology have the potential to increase access to legal services in historically underserved communities while offering students practical experience that informs culturally sensitive lawyering.

Addressing Digital Equity in Emergency Preparedness: The court system and other access-to-justice stakeholders should consider partnering with digital inclusion organizations to make technology assistance available to disadvantaged communities to ensure access to justice during emergencies.

Technology Continuing Legal Education Credits: The Commission should endeavor to offer New York State Continuing Legal Education sessions at the annual Technology Conference so that attorneys can fulfill the new requirement to complete at least one Continuing Legal Education credit in cybersecurity, privacy, and data protection.

F. Role of Lawyers, Law Students, and Non-Lawyers

Attorney Shortage in Rural Areas:

- **Urban-to-rural pro bono projects should be developed:** Innovative pro bono initiatives that connect lawyers practicing in New York’s urban centers with rural legal services providers can be a valuable way to expand access to effective assistance in rural areas. The Commission supports the continued development of an urban-to-rural pro bono initiative under consideration by the Business Council on Access to Justice.

- **Law schools should promote rural practice:** Law schools should elevate instruction on rural legal practice and establish related internships and clinical programs, leveraging technology to expand access to effective assistance to rural communities.

The Role of Pro Bono in Responding to Civil Legal Needs in Emergencies:

- **Attorney Emergency Response:** Providers should be prepared for emergencies by establishing a framework for leveraging the services of pro bono attorneys. Providers also should consider establishing partnerships with other stakeholders to assist with resources and support for pro bono efforts.

Law School Emergency Response: Law schools should support student groups that assist in disaster recovery, emergency preparedness, and crisis management. Law schools are encouraged to participate in their local Volunteer Organizations Active in Disaster.

Strengthening the Pro Bono Scholars Program: A comprehensive review of the Pro Bono Scholars Program should be undertaken, with reference to insights of former and current Scholars, supervisors, and court administrators, to consider modifications to the program rules and proposals for expansion.

Law Schools and Students Expand Immigration Assistance: Law schools should continue to address the civil legal needs of immigrants in New York State, while helping to bridge the digital divide in immigrant communities.

Replication of Legal Hand Virtual Model: The Legal Hand Call-In Center model that provides telephonic, text, and online informational assistance from specially trained community non-lawyer volunteers, who are supervised by attorneys, should be established in additional geographic areas of New York State, in partnership with local legal services providers, community organizations, and/or law schools.

G. Consumer Debt

Exploring Solutions to the Barriers in Consumer Debt Matters: To address the significant unmet need for effective assistance in consumer matters, the Commission and the court system should work together to study the barriers to justice faced by low-income defendants and propose solutions.

I. THE YEAR IN REVIEW

The New York State Permanent Commission on Access to Justice was established in 2010 to help address the crisis of unrepresented litigants in the New York State courts and the vast unmet civil legal needs of low-income New Yorkers.¹ Since its inception, the Commission has been led by Helaine M. Barnett, former President of the federal Legal Services Corporation, and has been composed of representatives from the Judiciary, the business, health, and education communities, government, law firms, bar associations, civil legal services and pro bono legal assistance providers, law schools, and funders.²

Each year, New York's Chief Judge, with assistance from the Commission, holds a public hearing to assess the unmet civil legal needs of low-income New Yorkers. Based on the public hearing and its ongoing work, the Commission issues an annual report to the Chief Judge proposing recommendations for initiatives to help close the access-to-justice gap in the State. The Chief Judge submits these annual reports to the Governor and Legislature pursuant to a 2010 Joint Legislative Resolution.³ The result of this process has been the implementation of multi-faceted initiatives to help bridge the justice gap, including attaining the initial funding goal of \$100 million of dedicated annual State funding for civil legal services.

In 2022, the Commission continued to focus on the nature and extent of unmet legal needs, which were exacerbated by the pandemic. Set forth in the sections below is a summary of the presentations at the Civil Legal Services Hearing and a review of the Commission's other work performed throughout the year that has informed this year's recommendations. The recommendations are discussed in Part II.

A. Chief Judge's Annual Civil Legal Services Hearing

On September 19, 2022, Acting Chief Judge Anthony Cannataro presided over the 13th annual Civil Legal Services Hearing.⁴ Joining Acting Chief Judge Cannataro on the panel in person at the Court of Appeals were Chief Administrative Judge Lawrence K. Marks, the Presiding Justices of the four Appellate Departments or their representatives (First Department Associate Justice Dianne T. Renwick, representing Presiding Justice Rolando T. Acosta; Second Department Presiding Justice Hector A. LaSalle; Third Department Presiding Justice Elizabeth A. Garry; and Fourth Department Presiding Justice Gerald J. Whalen), and New York State Bar Association President Sherry Levin Wallach.⁵

Acting Chief Judge Cannataro began by acknowledging the importance of the annual hearings in expanding access to justice in New York:

For the past twelve years . . . these public hearings have been a driving force behind the significant progress we have made in collaboration with our stakeholders and justice partners, and the steadfast support of our partners in the executive and legislative branches to expand the availability of free legal aid and representation to low-income New Yorkers.⁶

He also remarked that:

New York leads the nation in judiciary funding for civil legal services, a funding level that was increased from \$100 million to \$112.6 million in the last fiscal year to address rising expenses and a surge in pandemic-related legal needs, [and] our state has also become a model for how to leverage collaboration, innovation, and technology in order to achieve an effective and efficient statewide delivery system.⁷

The panel heard from presenters that included judicial, bar, business, and charitable institution leaders, as well as Judiciary Civil Legal Services (JCLS) grantees and their clients.⁸ All but one presenter appeared virtually. The Hearing was livestreamed and later posted on the Court of Appeals website.⁹

Presenters documented continued unmet legal needs, the urgent need for additional funding for civil legal services, and recent innovative approaches to help close the justice gap in New York State.

Deborah Enix-Ross, Esq. (President, American Bar Association [ABA]) opened her remarks by discussing the importance of effective legal assistance and how the ABA supports civil legal services:

[O]ur association has long understood that when one cannot obtain the assistance of counsel to resolve a civil legal problem, the result is often a denial of access to justice. Moreover, a lack of effective legal assistance frequently compounds the problem, multiplying adverse outcomes for the most vulnerable members of our communities, resulting in hardships for them and significant costs to society. So the key to avoiding these outcomes is through the availability of high quality, effective civil legal services for those in need, which can only be achieved with adequate funding and staffing.¹⁰

Ms. Enix-Ross highlighted a number of ABA nationwide programs, including the Free Legal Answers online advice clinic, which is staffed by over 11,000 volunteer attorneys and currently operates in forty jurisdictions, including New York,¹¹ but she emphasized that

additional funding is still needed to ensure that civil legal services are more widely available. She noted that recent findings from the ABA’s Standing Committee on Legal Aid and Indigent Defense (SCLAID) underscore the inadequacy of funding.¹² SCLAID found that “for each low-income household experiencing a civil legal problem in 2021, the average cost of legal services to resolve the issue was \$3,065, but the overall available legal aid funding from all sources nationwide was only \$175 per low-income household.”¹³

Ms. Enix-Ross further explained how the pandemic has exacerbated the problem, intensifying the “already profound justice gap in this country.”¹⁴ She also referenced a study conducted by the National Center for State Courts, “which found that the representational imbalance among plaintiffs and defendants has dramatically worsened over the last two decades.”¹⁵ Ms. Enix-Ross explained that “only a robust increase in federal, state, and local funding” for civil legal services can help “close the gap” between those who can afford legal representation and those who cannot.¹⁶

Hon. Meredith Vacca (Judge, Monroe County Court) began her remarks by discussing her work with the Monroe County Special COVID Intervention Part (SCIP) that consolidated landlord-tenant matters from the Town and Village Courts in the County into one part in County Court.¹⁷ Judge Vacca explained that “SCIP is a civil landlord-tenant court and was created in response to the pandemic and the hardships on individuals and families facing eviction.”¹⁸ Especially during the pandemic, tenants struggled to pay rent or wished to remain in their homes for medical reasons, while many landlords had difficulty paying their mortgages.¹⁹

Judge Vacca stressed the importance of representation in eviction proceedings, explaining that “landlord-tenant law is not easy, and the special pandemic-related landlord-tenant laws and various moratoriums that changed over time were also complex.”²⁰ She explained that the SCIP would not have been “nearly as efficient or effective” without the help of the Tenant Defense Project.²¹ This program provides free legal services to local low-income residents through attorneys from Empire Justice Center, JustCause, The Legal Aid Society of Rochester and Legal Assistance of Western New York (LawNY).²²

Judge Vacca described how attorneys played a critical role in helping clients navigate the various pathways available to address their cases. For example, tenants had the option of completing a hardship declaration, which would often stay the eviction proceeding.²³ It was therefore vitally important for attorneys to educate their clients about such declarations and correct any misconceptions they had about the process.²⁴ Here, Judge Vacca again noted the importance of the Tenant Defense Project in facilitating this legal assistance.²⁵ She also explained that the Project attorneys played a critical role in ensuring that tenants were aware of any relevant rental assistance programs.²⁶

Attorneys also played an important role in helping to reach settlements for their clients and advising them of all relevant parameters and consequences if a condition of the settlement is not met.²⁷ This helped facilitate settlements in the SCIP. Judge Vacca noted that out of approximately 1,600 cases overseen by the SCIP, very few necessitated a hearing or trial.²⁸

Judge Vacca stated that most tenants chose to avail themselves of the free legal representation available in the SCIP.²⁹ She noted that the SCIP “very recently ended” and eviction proceedings commenced in Town and Village Courts are back to being handled by Town and Village justices.³⁰

In closing, Judge Vacca spoke about the benefits of legal representation, unequivocally stating:

I am certain that we can all agree that it is better for a person who finds themselves facing eviction to be represented by a knowledgeable and experienced attorney to advocate on their behalf and counsel them than to be unrepresented, especially when most landlords are represented by attorneys.³¹

David F. Levine (Chief Legal Officer, Bloomberg L.P. [Bloomberg]) began his remarks by noting the benefit to the business community of supporting civil legal services:

One critical cornerstone of a free society is a robust set of laws that protect the most vulnerable. For these protections to be impactful, everyone must have quality legal representation and access to the courts.

New York is an attractive destination for immigrants from all over the world and [other parts] of this country because we are a state of opportunity and fairness. The outstanding diverse talent we attract is a major driver of success for New York businesses. Driving small businesses are also critical to growth. Whether or not individuals moving to New York need free legal services, their availability benefits all in a stable, fair society.³²

Mr. Levine provided an overview of Bloomberg’s pro bono work and the importance of providing legal counsel to underserved groups.³³ Mr. Levine reported that Bloomberg’s legal and compliance department has contributed nearly 25,000 hours to their pro bono program since its inception in 2016.³⁴ Furthermore, Bloomberg’s corporate philanthropy team builds strong relationships with the organizations they serve, which include non-profits, law firms, and other corporate legal departments.³⁵ Mr. Levine also explained that, through his membership on the Business Council on Access to Justice, Bloomberg’s pro bono program has been able to expand its offerings, together with the programs of other members’ organizations.³⁶

Mr. Levine then discussed three clinical programs Bloomberg has implemented.³⁷ These programs involve “[h]elping veterans with disability benefits, assisting small business owners with a range of legal issues, and supporting green card holders with applications to apply for US citizenship.”³⁸ Mr. Levine explained that these programs work closely with legal service providers who can provide critical “programmatically structured and supervisory support to ensure [his] team . . . [provides] timely, high-impact legal assistance to those who need it most.”³⁹

Mr. Levine also described the scope of Bloomberg’s work with two such providers: the City Bar Justice Center and Legal Services NYC.⁴⁰ He noted that since 2018, Bloomberg attorneys have volunteered over 1,000 hours with Legal Services NYC, working on a wide array of issues including citizenship naturalization and visa applications for immigrant and LGBTQ-Plus asylum seekers, transgender name change petitions, public benefits and emergency rental assistance.⁴¹ Similarly, in working with the City Bar Justice Center since 2018, Bloomberg staff has contributed almost 2,000 hours on the Veterans’ Assistance Project, over 1,000 hours on the Neighborhood Entrepreneur Law Project, and hundreds of hours on issues of immigration relief and support for small businesses.⁴² Mr. Levine also touched on Bloomberg’s work during the pandemic, when it partnered with the City Bar Justice Center’s Small Business Clinic to provide limited scope consultations.⁴³

Mr. Levine noted that pro bono engagement not only gives back to the community, but also provides secondary benefits to attorneys in the form of exposure to different kinds of work, as well as leadership and networking opportunities.⁴⁴ He explained that historically, a large percentage of pro bono work has been performed by law firms. However, over the last five to ten years, many in-house legal departments are getting more involved.⁴⁵

Mr. Levine pointed out that many companies have increased their Environmental, Social and Corporate Governance (ESG) efforts, which in turn has increased their pro bono efforts.⁴⁶ He stated, “I think we are really well positioned if we’re able to combine our collective resources across these legal organizations, across law firms, across corporate pro bono departments, corporate pro bono programs, and other organizations to meet the need.”⁴⁷ He cautioned, however, that sustained efforts cannot be deployed “without stable, if not increased funding for civil legal services, so we can all continue to make a real difference in the lives of countless New Yorkers in need.”⁴⁸

Elisabeth R. Benjamin, MSPH, JD (Vice President for Health Initiatives, Community Service Society of New York [CSSS]) discussed the unmet need for civil legal services for low-income New Yorkers faced with medical debt, which is a significant issue both in New York and across the nation.

Over the past two years, the CSS Community Health Advocates (CHA) program⁴⁹ has seen a 64% increase in medical debt cases in New York.⁵⁰ Ms. Benjamin cited a 2022 survey funded by the Robert Wood Johnson Foundation, which found that “[s]eventy percent of New Yorkers are very fearful that they cannot handle a major illness should it come to that. Thirty-eight percent are avoiding getting care because they are worried about being able to afford it, and another thirty-four percent report having financial hardships because of their current debt burden.”⁵¹ Ms. Benjamin also noted that some hospitals (which are all non-profit in New York) are filing lawsuits to collect debt before first evaluating the person’s potential need for financial aid, as required by Internal Revenue Service rules.⁵²

As part of CSS’s extensive study of medical debt in New York, Ms. Benjamin explained that the organization published a five-part series of reports from 2020 to 2022 entitled *Discharged into Debt*.⁵³ Ms. Benjamin highlighted several of the series’ findings:

- Between 2015 and 2020, 112 hospitals sued 53,182 patients in civil court. The practice of suing patients is concentrated: 20 hospitals in 15 counties are responsible for 80% of New York’s medical debt cases.⁵⁴
- The median amount of medical debt sought in the lawsuits is just \$1,900, having little to no discernable impact on any given hospital’s operating margin.⁵⁵
- The hospitals are always represented by professional debt collection attorneys; 99% of patients are unrepresented.⁵⁶
- Approximately 98% of civil medical debt cases are won on default, indicating that patients have no capacity to defend themselves.⁵⁷
- A quarter of New York’s hospitals (56) report that they place over 2,200 liens on patients’ homes annually, jeopardizing the economic security of these patients.⁵⁸
- Many hospitals impose 10% gross wage garnishments on debtors that appear to work in low-wage professions.⁵⁹
- An analysis of defendant-patients’ zip codes indicates that non-profit hospitals disproportionately sue patients who reside in zip codes with a disproportionate number of low-income and minority people.⁶⁰

Ms. Benjamin noted that two pieces of legislation have been enacted in New York to address these issues, including reducing the statute of limitations for medical debt from six years to three years, and reducing the consumer judgment interest rate from 9% to 2%.⁶¹ She further stated that two additional reforms passed by the Legislature — barring medical providers from imposing liens and wage garnishments in medical debt cases and

regulating facility fees — are pending the Governor’s signature.⁶² However, Ms. Benjamin noted that these reforms “are incremental at best.”⁶³ “The real solution,” she explained, “would be to prohibit non-profit hospitals from suing anyone.”⁶⁴ Since such a measure is unlikely, Ms. Benjamin stated that the next best policy would be to “fund civil legal services lawyers to represent patients and other consumer debtors in civil courts,” because only 1% of patients currently have access to representation in medical debt cases.⁶⁵

In closing, she urged that action be taken to address this urgent unmet need:

[O]ur patients need help. There are very few legal services, almost none as you can see When legal services did get involved, usually, they weren’t representing someone. They were drafting pleadings and having the patient go pro se, and it’s really a desperate need out there, and I hope that this Commission, in its wisdom, can help . . . level the playing field for patients.⁶⁶

Jenna McCormack (Client of Empire Justice Center) and **Kristin Brown** (President and CEO of Empire Justice Center). Jenna McCormack is 23-years old and suffers from occipital neuralgia, a disabling chronic illness that causes her severe, near-constant pain and other symptoms. She was unable to attend school or go to work for over two years because the condition left her mostly bedbound. Her insurance company denied the procedures ordered by her pain management doctor, contending that the treatments were experimental and therefore not medically necessary.

After she attempted the appeal process on her own, including participating in a telephone “hearing” with a clerk, her appeal was denied. She sought help from the Empire Justice Center, which then prepared her for a second hearing. The hearing proved successful, and Ms. McCormack was able to receive the necessary medical treatment. Ms. McCormack described the life-changing impact of being represented by the Empire Justice Center:

Nine months ago, I had . . . [my] radiofrequency ablation performed at my pain management clinic. After a long healing time, I felt my pain reduce drastically. . . . I was able to stand and walk with less pain and dizziness, build up muscle in my legs that had atrophied from my time in bed, and take my new dog for a walk, which I never thought I’d be strong enough to do.

I was even able to start working short, part-time hours at a daycare I’m beyond thankful for having Empire Justice Center on my side for that hearing because I know they are the reason we were able to address the insurance company’s points so directly and ultimately win our case. It literally changed my life, and I’m on a path now to a happy, productive life that I couldn’t have imagined years ago when I was stuck in bed every day.⁶⁷

Ms. Brown began her remarks by explaining that Ms. McCormack was an ideal candidate for the Fair Hearing process; she was motivated, accomplished, and highly capable. But that was not enough. To obtain the proper medical care, Ms. McCormack had to meet a burden of proof that she did not know existed.⁶⁸ To succeed in her appeal hearing, she needed to understand how to apply evidence to meet a legal standard. Ms. Brown explained that “[i]dentifying and meeting a legal standard is not a patient’s job. It’s not a doctor’s responsibility. That is what lawyers do.”⁶⁹

Ms. Brown provided insight into the Fair Hearing process. According to the Office of Temporary and Disability Assistance, 150,000 Fair Hearings were requested in 2021. The vast majority of the appellants at these hearings were unrepresented.⁷⁰ Ms. Brown observed that although hearings are intended to be navigable by individuals without an attorney, they often are not: “There’s really little value to [the right to due process] if pro se appellants can’t effectively exercise it.”⁷¹

In closing, Ms. Brown stated:

Every client of a civil legal services provider is one more New Yorker who has a fair shot at accessing justice. Increasing Judiciary Civil Legal Services funding, including an annual cost of living adjustment to cover the [rising] cost of doing business, will provide thousands more New Yorkers with that fair shot, and will allow us all to work together toward a more fair, equitable state for everyone.⁷²

Barbara Robinson (Client of LawNY) and **C. Kenneth Perri** (Executive Director, LawNY). Barbara Robinson is a senior citizen whose sole source of income is Social Security benefits. At age 78, Ms. Robinson faced a large medical debt after agreeing to serve as Power of Attorney and Health Care Proxy for her mother’s friend who had needed long-term care. The nursing home had Ms. Robinson sign an admission agreement but assured her that she would not be personally liable for any bills. Months after the friend passed away and the Power of Attorney had expired, Ms. Robinson received a \$21,000 bill from the nursing home. She subsequently spoke to the nursing home’s attorney and thought the matter was resolved.

When she was sued two years later, she turned to LawNY for help. Her attorney explained the law that prohibited someone in her situation from being personally liable for the nursing home debt and successfully moved for the court to dismiss the case. Ms. Robinson expressed gratitude for the legal assistance she received, noting that without LawNY’s help, she would not have been able to defeat the improper lawsuit and would not have been able to pay the debt, along with her own legal expenses, on her limited Social Security benefits. She thanked the panel for helping to fund civil legal services, because “they are a tremendous help to their communities.”⁷³

Mr. Perri explained that Ms. Robinson’s story is one that illustrates the legal issues surrounding consumer debt law. LawNY’s Consumer Law Unit has assisted more than 2,000 individuals with consumer issues and saved its clients over \$1 million since its inception in 2015.⁷⁴ In addition to medical debt matters, LawNY provides representation in other types of collection matters, including repossessions, deficiencies, and garnishments. They assist with collection practices and creditor harassment and provide services in the areas of bankruptcy, other debtor relief, contracts, warranties, predatory lending practices, loans, installment purchases, public utilities, and unfair and deceptive sales and practices.⁷⁵

Mr. Perri outlined the need for greater capacity in the area of consumer law, highlighting the findings of a recent Legal Services Corporation report, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*.⁷⁶ That study assessed the civil legal needs of low-income individuals across the United States and the extent to which their legal needs are unmet. The highest unmet need was found to be in the area of consumer issues, with 50% of low-income households experiencing at least one consumer problem in the preceding year, including difficulties with medical debt, utility disconnections, aggressive creditor harassment, and being a victim of a scam.⁷⁷

Mr. Perri emphasized the need for increased JCLS funding to meet the high unmet need, noting that LawNY funding for consumer matters is limited to four staff attorneys to serve over 200,000 people eligible for services in their 14-county catchment area.⁷⁸

Mr. Perri also addressed the rural attorney shortage. The New York State Bar Association (NYSBA) Task Force on Rural Justice found that 96% of the attorneys in New York practice primarily in the State’s urban centers (i.e., Albany, Buffalo, New York City, Rochester, Syracuse, and Utica), with only 4% practicing in non-urban centers.⁷⁹ Moreover, although LawNY received grant funding to hire 26 new attorney positions to provide eviction defense, only seven of the positions have been filled due to lack of applicants willing to work in rural areas.⁸⁰ Mr. Perri recommended that the court system review the “interventions recommended by the NYSBA Task Force on Rural Justice which relate to funding, law schools and new attorneys, rural law practice, broadband and technology, and law and policy and . . . work with the NYSBA to help implement as many of the interventions as is possible.”⁸¹

Shane O’Brien (Client of Center for Elder Law and Justice [CELJ]) and **Karen Nicolson** (Executive Director, CELJ). Shane O’Brien is a 48-year-old male, who was diagnosed with paraplegia from the waist down and has limited use of his upper extremities, as a result of a severe motorcycle accident.⁸² Mr. O’Brien receives home care services, but at times he is home alone when aides do not report for work. On one such day in 2021, a fire broke out in his mobile home. Mr. O’Brien was unable to open the door to escape or put out

the fire. Fortunately, he was able to call a friend to assist him and put out the fire; neither he nor his trailer were harmed.

This traumatic experience made Mr. O'Brien realize that he could not live safely in his home without the installation of an automatic door opener, and he requested that his Medicaid plan cover the expense. The request was denied, with the explanation that in the event of a fire, Mr. O'Brien could "shelter in place"⁸³ since he did so once before. Having been assisted by the CELJ previously, Mr. O'Brien again reached out for assistance in appealing the denial. CELJ successfully represented him at a Fair Hearing, proving the medical necessity of an automatic door opener. Mr. O'Brien closed his remarks by stating:

I cannot tell you how relieved I am that I was able to have this door opener covered and installed. I don't feel like it's something that just makes me more comfortable or improves my quality of life, but [that it] is absolutely necessary for my safety, and my ability to remain safely in my home. . . . The ability to live where I choose, independently with dignity, is something that many people take for granted. CELJ showed me they cared when my health care plan didn't, and they helped me feel safe in my home once again.⁸⁴

Ms. Nicolson explained how civil legal services were critical to Mr. O'Brien's multi-year quest to obtain services to enable him to live independently in his own home. He first came to CELJ in 2020 when his Medicaid Managed Long-Term Care (MLTC) plan denied his request to widen doorways in his home. Later, his MLTC plan denied his request to build an accessible shower.⁸⁵ With legal representation, Mr. O'Brien demonstrated that these items were medically necessary to allow him to live safely at home.

Ms. Nicolson explained that absent coverage for these medically necessary home modifications, which the State Medicaid program covers, Mr. O'Brien was at risk of being placed in a skilled facility or assisted living to meet his care needs, in violation of the Americans with Disabilities Act (ADA) of 1990.⁸⁶ That statute, as interpreted by the Supreme Court, mandates that people with disabilities have the right to reside in the least-restrictive setting where their health needs can be met. Despite the intention of Congress to eradicate discrimination against people with disabilities, the burden of protecting their rights still often falls on disabled individuals:

Sadly, [Mr. O'Brien] experienced these discriminatory effects due to the failures of his [MLTC] plan. And that's the exact type of discrimination that Congress intended to eradicate through the ADA.

Without our advocacy in all three cases, Mr. O'Brien would have been at risk of institutionalization even though, as you can see, he can clearly be cared for in his home. His case dangerously illustrates the barriers that individuals with disabilities

face every single day and how access to justice is so critically important for them to ensure these essentials of life.⁸⁷

After sharing statistics from the Legal Services Corporation's *Justice Gap Report*,⁸⁸ Ms. Nicolson closed her remarks by noting that although the justice gap is significant for all low-income people, it is more profound when looking at underserved populations such as the elderly or disabled; "these statistics demonstrate the ever-increasing need to bridge the justice gap [for civil legal services], particularly for the most vulnerable among us."⁸⁹

Vincent & Linda Massenzio (Clients of Volunteer Lawyers Project of Central New York [VLP]) and **Samantha Aguam** (Deputy Executive Director, VLP). Vincent Massenzio is a senior citizen and disabled veteran who suffers from numerous health conditions. He lives with his wife, Linda, on a limited income, consisting of Social Security benefits and a small 10% VA (Veterans Administration) disability compensation. For approximately 20 years, Mr. Massenzio ran a small taxi business that supported his family. In 2020, he had to shut down his business due to the pandemic and on the advice of his health care providers that continuing to work would compromise his health. Facing financial difficulties as a result, Mr. Massenzio fell behind and accumulated \$16,000 in credit card debt from five credit cards he used mainly for the taxi business.

Soon thereafter, several of the credit card companies began calling and sending letters, claiming amounts significantly more than what Mr. Massenzio believed he owed. The stress started taking a toll on his health. Fearing the loss of his house and at the recommendation of his VA social worker, Mr. Massenzio contacted VLP. His attorney recommended responding to any written correspondence by indicating that the Massenzios' income was exempt from garnishment.

Three of the credit card companies threatened collection proceedings. His attorney responded with cease-and-desist letters, resulting in two of the three creditors stipulating to discontinuing the proceedings with prejudice. The third debt buyer pursued its court action, which was ultimately resolved in the Massenzios' favor, but only after months of litigation. Because of VLP's advocacy, the debt buyer eventually realized that it could not validate its legal right to collect on the debt and that it was in violation of the federal Fair Debt Collection Practices Act, and stipulated to a discontinuance with prejudice, on the condition that all counterclaims were discontinued. Mr. Massenzio finished his remarks by saying: "Volunteer Lawyers Project helped us out of this unfortunate situation . . . [W]e learned some valuable lessons regarding the debt collection process. We will forever be grateful to the Volunteer Lawyers Project of Central New York."⁹⁰

Ms. Aguam began her remarks by explaining that VLP is the largest non-profit provider of pro bono legal services in central New York. Its 20-person staff engages the legal

community to volunteer services for those in need. VLP's pro bono panel is composed of 500 attorneys, law students, and other community volunteers, who provide civil legal services to more than 3,700 clients in an average year.⁹¹ Ms. Aguam highlighted the relative lack of pro bono legal services outside of New York City. She explained that in rural areas, "we have a higher level of poverty per capita, with a lower number of attorneys per capita, and even fewer attorneys engaged in pro bono legal services."⁹² Ms. Aguam offered a few stark statistics surrounding debt collection matters:

- In the debt industry, 75% of all credit card debt gets sold to debt buyers who have to reassess whether pursuing a debt collection matter is financially advantageous when a debtor puts forth a defense.⁹³
- On the consumer side, only about 4% of people are represented when sued for debt.⁹⁴
- There are over 100,000 default judgments against consumers per year in New York State.⁹⁵
- In almost 10% of the cases, the debt buyers do not have the required paperwork to pursue the debt legally.⁹⁶

In Mr. Massenzio's case, Ms. Aguam explained that answering the summons and complaint, raising counterclaims, and moving for discovery made the third debt collector re-evaluate whether pursuing the case was worthwhile.⁹⁷ Ms. Aguam closed her remarks by highlighting how large segments of rural counties are without crucial legal resources. For VLP, the provision of legal services is completely dependent on steady JCLS funding; without JCLS grants, "these rural populations would go totally adrift of the court system and access to justice."⁹⁸

Keri (Client of The Legal Project) and **Michele Pollock Rich** (Executive Director, The Legal Project). Keri is a domestic violence survivor who endured many years of mental and financial abuse, involving manipulation and control by her ex-husband. When she could no longer endure the abuse, she left with her son. Despite not having a place to live, money, or a job, she was determined to begin a new life for them both. After suffering a physical assault by her husband, she turned to The Legal Project for help. From the outset, her attorney, Jennifer Storm, advised and guided her through the lengthy divorce and custody process, throughout which her ex-husband repeatedly attempted to exploit the legal system, hide evidence, and use their son as a pawn for his own ends.

Finally, in late 2021, after delays caused in part by the COVID-19 pandemic and in part by her ex-husband's tactics, Keri's divorce and custody of her son were successfully resolved in her favor. As Keri stated, "[e]very step of this was excruciatingly painful and exhausting

and I do not believe I would have ever made it through without [Ms. Storm] or the Legal Project.”⁹⁹ In closing, Keri expressed her extreme gratitude to The Legal Project:

There isn’t a day that goes by — or even an hour — that I don’t think of Attorney Jennifer Storm or the Legal Project . . . I am finally happily divorced; I have an amazing job and I have just purchased a home for my son and myself. I have succeeded in my own eyes but only because of the help of the Legal Project and Attorney Jennifer Storm. . . . The Legal Project provided the most valuable and irreplaceable assistance that I acquired in the last three years. . . . If only everyone in a situation like mine had the opportunity to be helped by them. It is . . . [with] these words that I am now able to help others and let them know the Legal Project is there for them.¹⁰⁰

Ms. Pollock Rich began her remarks by explaining the critical role of legal services in helping victims of domestic violence move forward with their lives safely and with an understanding of their legal rights and entitlements:

Domestic violence is about power and control. Specifically, coercive control. And coercive control is a pattern of behaviors in which one partner exerts power over another person by controlling them through fear. . . . An attorney helps to correct the imbalance of power between the parties so that the court can make impartial, just rulings. And without legal assistance, domestic violence victims often give up their rights in an attempt to avoid future conflict.¹⁰¹

Ms. Pollock Rich went on to describe the importance of specially trained domestic violence attorneys, who have not only the legal expertise, but also a deep understanding of trauma-informed practice. These advocates are the most effective in achieving results, as they did in Keri’s case.¹⁰²

Ms. Pollock Rich explained how, in response to the COVID-19 pandemic, The Legal Project’s clinics went virtual with great success. Virtual legal clinics were preferred by many clients and pro-bono attorneys, with a 97% “show rate” for clients with virtual appointments.¹⁰³ Additionally, the availability of virtual court appearances greatly benefited both clients and attorneys. Attorneys were no longer required to travel to court, freeing up their time for legal work and representation. Virtual appearances also provide physical and emotional safety to domestic violence victims. Ms. Pollock Rich explained that virtual appearances prevent re-traumatizing victims of domestic violence; “[t]hey don’t have to worry about running into abusers in the parking lots or staring at them across hallways or even bumping into opposing counsel.”¹⁰⁴ Finally, low-income clients benefit financially from the reduction or elimination of travel costs such as gas, parking, public transportation, and lost wages due to missed work time.

Ms. Pollock Rich concluded her remarks by addressing the need for increased stable civil legal services funding overall to meet the community demand for services.

Camari Banks (Client of The Legal Aid Society) and **Adriene Holder** (Attorney-in-Charge, Civil Practice, The Legal Aid Society). Camari Banks is an 18-year-old high school senior who endured years of bullying and harassment by his school classmates because of his identity and not being “masculine enough.”¹⁰⁵ This treatment impacted Camari’s ability to stay motivated at school and keep focused on his schoolwork. In high school, the incidents of bullying and threats intensified. Camari sought the help of school personnel after a classmate repeatedly bullied him, but felt that no one heard his complaint since no action was taken to resolve the situation. Camari ultimately got into a fight with his bully. As a result, he was suspended and notified that he had to attend a suspension hearing.

His mother helped him connect with The Legal Aid Society’s Education Law Project. His attorneys prepared him for the hearing, explaining the law and assembling an evidence packet that enabled Camari to understand and participate in his defense. The attorneys were successful in reducing some of the most serious charges and the number of suspension days. They also assisted Camari in transferring to a more suitable school. Camari explained the relief he now feels not having to deal with the bullying he previously endured and how he is now able to focus on his education and personal interests.¹⁰⁶ In closing, Camari expressed his gratitude for the assistance provided by The Legal Aid Society:

I am grateful for the help and the support I received from [my attorneys] at The Legal Aid Society because I can focus on the positive parts of my life and explore my dreams and hopes without force or fear. The Legal Aid Society provides essential legal services and advocacy for New Yorkers. I’ve been told that so much of what Legal Aid does would not be possible without the consistent investment of Judiciary Civil Legal Services funding since 2011.¹⁰⁷

Ms. Holder focused her remarks on The Legal Aid Society’s approach to dismantling the school-to-prison pipeline through holistic representation of students in suspension cases and beyond. Schools disproportionately discipline certain groups of students, through suspension, expulsion, and by referring them to law enforcement or emergency services. Students subjected to these policies often have low grades, feel disconnected from school, and may eventually leave or be pushed out of school. Ms. Holder explained that this treatment by the educational system steers these students towards the juvenile justice system and adult prisons.

The Legal Aid Society handles many suspension cases each year; a vital service for students suspended from school. Without legal representation, the Department of

Education often disregards students' rights. The Legal Aid Society's advocacy goes beyond the suspension hearing. In every suspension case, it works to ensure that the child is set up for success after the suspension hearing using the following strategies: (1) securing special education evaluations; (2) holding IEP meetings; (3) requesting and obtaining the necessary array of support for the student upon a return to school; (4) finding an appropriate school for the student; and (5) ensuring that the student is on the path to graduation.

Ms. Holder explained that there has been a resurgence in zero tolerance policies and calls for more police in schools. These measures will only serve to worsen the school-to-prison pipeline. Ms. Holder concluded her remarks by stating: "We're on the frontline of efforts to dismantle the pipeline through our representation of marginalized communities. We have seen some success in our individual cases, but this moment is a pivotal one in which to recognize, address, and invest in solving this problem on a systemic level."¹⁰⁸

In closing, Ms. Holder noted the importance of JCLS funding to The Legal Aid Society, and in particular to its Education Law Project: "So much of this work would not have been possible without the consistent investment of Judiciary Civil Legal Services since 2011. Investing in legal services is a long-term investment in the fight against racism, injustice, and poverty."¹⁰⁹

B. Statewide Stakeholders Meeting

The Statewide Stakeholders Meeting, held each year since 2017, brings together leaders of the Judiciary, court managers, members of local access to justice committees, and a wide range of community stakeholders from across the State. This is a singular opportunity to share knowledge, strategies, and best practices for developing and expanding local access-to-justice initiatives in order to provide effective assistance¹¹⁰ to help low-income New Yorkers address their civil legal needs.

This year's meeting was held virtually on October 24, with over 200 participants, a record attendance.¹¹¹ Commission Chair Barnett welcomed the attendees and outlined the important role of the local access to justice committees in creating and implementing access-to-justice initiatives. She explained how the Commission, through staff and member liaisons, plays an important role in supporting these committees.

The keynote speech was delivered by Acting Chief Judge Cannataro, who spoke about the September annual Civil Legal Services Hearing, over which he presided, focusing on the challenges still hindering the provision of civil legal assistance. He emphasized the importance of funding civil legal services by highlighting the testimony presented by

providers' clients, which demonstrated the difference that legal representation made to the outcomes of those clients' cases and the direct impact it had on their lives.

Turning to the role of the local access to justice committees, Acting Chief Judge Cannataro particularly acknowledged the "leadership, commitment, and engagement of [the local] Administrative Judges who are actively convening and coordinating the efforts of their stakeholders in order to forge community-based solutions to expand access to justice" ¹¹²

Opening Plenary

The meeting's opening plenary was moderated by Commission member Kristin Brown. Hon. Edwina G. Richardson-Mendelson, Deputy Chief Administrative Judge for Justice Initiatives, spoke about the Court Navigator Program, a volunteer-driven program that provides essential, non-legal services to unrepresented parties, by lending moral support, assisting with locating of court forms, and sharing referrals to available resources and services. Initially, in-person programs were implemented in New York City, in the Housing Court and Consumer Debt Parts. The program has since expanded beyond New York City. Judge Richardson-Mendelson explained how the in-person program format was retooled during COVID to provide assistance online starting in July 2021. Going forward, the program is returning to an in-person format but will also continue to offer virtual assistance. Expanding the program is an ongoing process.

Hon. Andrew A. Crecca, Administrative Judge, Tenth Judicial District (Suffolk), spoke about the importance of the Administrative Judge's leadership to ensure the success of the local access to justice committees, emphasizing the need to create an inclusive stakeholder group, actively engaging them over the long term, and listening and responding to the needs of each group. In particular, he spoke about strong collaborations with neighboring Touro Law School, and the in-court Landlord-Tenant Diversion Rooms, which provide a one-stop location for needed resources for landlords and tenants.

Hon. William K. Taylor, Administrative Judge, Seventh Judicial District, addressed the rural justice crisis, calling attention to the stark differences in the number of attorneys per resident in Monroe County, which includes the City of Rochester, compared to the most rural counties in the district. A lack of attorneys is a problem in many rural counties in New York State and throughout the nation. Judge Taylor spoke about an initiative in partnership with Cornell Law School to bring awareness to their students about the need for attorneys to work in these areas, and the rewards that come from working with low-income rural populations.

Hon. Kevin Carter, Administrative Judge, Eighth Judicial District, highlighted the success of the Erie County Landlord Tenant Hub Court (HUB Court) located in Buffalo City Court.

This HUB Court brings together eviction matters from the Town and Village Courts in Erie County into one location, resulting in improved efficiency in hearing these matters, representation for litigants, the option of Alternative Dispute Resolution (ADR), and virtual court appearances. The single location saves civil legal services attorneys numerous hours of travel, thereby increasing the number of parties that they can represent. Discussions already are underway about the possibility of creating a HUB Court in Niagara County.

Breakout Sessions

Two sessions of concurrent breakout sections followed the opening plenary:

- **Simplification of Court Procedures:**¹¹³ Unrepresented litigants face barriers accessing the courts due to burdensome statutory civil practice requirements. These include the use of affidavits, which require notarization, in a variety of court filings, and the process for obtaining fee waivers. The pandemic highlighted the difficulties litigants frequently encounter when trying to notarize documents. Legislative proposals have been put forward but are awaiting action by the Legislature. Similarly, legislation is necessary to simplify and standardize the complex and inconsistent process for obtaining fee waivers.
- **Library Projects:**¹¹⁴ Libraries can support broad access-to-justice goals and improve services to unrepresented litigants. Many of the courts' public access law libraries throughout the State have developed creative solutions for serving the public, e.g., the Third Judicial District's work with the Help Center; the Fourth Judicial District's remote telephone and computer assistance to patrons; the Sixth Judicial District's remote assistance; the Eighth Judicial District's Help Center and remote telephone assistance; and the Ninth Judicial District's efforts with the local access to justice committee to hold public informational events. Public libraries also are an excellent community resource. The Tenth Judicial District (Suffolk County) has provided a virtual Family Court Clerk in the public library, allowing patrons to do everything at the library that can be done at the courthouse.
- **Legal Hand:**¹¹⁵ Prior to the pandemic, Legal Hand neighborhood storefront centers, staffed by specially trained community non-lawyer volunteers who are supervised by attorneys, offered informational services to their neighbors to help them manage problems to avoid civil legal actions. This informational model was adapted during the pandemic to offer telephonic, text and online platforms, in partnership with law schools and local community services organizations, to provide virtual assistance and referrals. Thousands of individuals called or were guided through online searches to address the urgent challenges to housing, family, health, and employment created or exacerbated by COVID.

- **Expanding Local Access to Justice Committees Districtwide:**¹¹⁶ The local access to justice committees were initially established in one county in each Judicial District and have been successful in increasing access to justice. Most committees, however, have not expanded to other counties in the district. Although expansion can be challenging, the Fourth and Ninth Judicial Districts have developed different models to do so districtwide. Both models assess the needs of the locality and rely on key stakeholder engagement.
- **Emergency Response Preparedness:**¹¹⁷ COVID took everyone by surprise and presented a unique situation where everyone, not just clients or a small group of individuals, was impacted. Preparedness for an emergency is key. With COVID, most were not prepared and had to respond literally overnight — most significantly, to move from an in-person to a remote environment for court proceedings and legal services delivery. It was a major leap for the courts, civil legal services providers, and law schools. Those who had previously maintained long-distance relationships with community organizations, like Buffalo Law School, which had a long-time relationship with disaster response organizations in Puerto Rico, were able to adapt more quickly. Lessons learned from the long-lasting impact of COVID were shared.

Closing Plenary

At the closing plenary, a representative from each breakout section reported on the discussions that had taken place and outlined recommendations. A post-meeting survey garnered responses from almost a third of attendees, giving the meeting high marks; more than 80% of respondents indicated that what they had learned would likely impact their own work.¹¹⁸

C. Statewide Civil Legal Aid Technology Conference

The seventh New York Statewide Civil Legal Aid Technology Conference was convened by the Commission in partnership with Cornell Tech and NYSTech. The conference was held remotely over two half-day sessions on April 11 and 12, 2022, and attendance was free.

Though targeted at the New York State civil legal aid community, the conference was open to staff from providers across the country, as well as interested access-to-justice stakeholders. The conference had its largest attendance to date. More than 350 people joined some or all of the conference, 269 of them from New York State, 83 from 31 other states, and 15 from outside the United States. The conference brought together members of the legal services community, private law firms, law schools, technology companies, and the Judiciary to promote collaborative and innovative uses of technology to move New York closer to ensuring effective assistance to 100% of those in need.

The conference's theme, "Making it Work to Working Better," focused on how make-shift remote service delivery has transitioned, after two years of operating during the pandemic, to improved systems for the delivery of legal services and access to the courts. Plenary sessions included opening remarks by then-Chief Judge Janet DiFiore; a session on "Racial Disparities in Police Stops;" a "Rapid Fire Tech" session, in which presenters highlighted innovative technology; and a session where presenters shared "25 Apps in 50 Minutes" for remote working and virtual legal services.

For the first time, the Commission publicized the opportunity to submit session proposals for the conference. Nineteen proposals were received from legal academics, legal services providers, technology vendors, access-to-justice labs, big law firms, and other stakeholders, from New York and elsewhere, on innovative tools and initiatives that would not have otherwise been known. Since the Commission received so many excellent proposals, it expanded the conference and held three rounds of four concurrent breakout sessions. The breakout presentations were loosely divided into four tracks: Court Technology, Data, Remote Services, and Technical Projects. All sessions were recorded and posted on the Commission's website along with transcripts, slides, and materials.¹¹⁹

The post-conference survey gave the conference an average rating of 4.55 out of 5,¹²⁰ with 91% of respondents saying that they were very likely or somewhat likely to implement something they learned at the conference.¹²¹ The Commission has already launched a new request for proposals for the 2023 Technology Conference, which will be held on April 18 and 19, 2023.

D. Law School Conference

On June 8, 2022, the Commission, in partnership with Albany Law School, convened the tenth annual Law School Conference virtually,¹²² welcoming 225 participants from New York's 15 law schools and beyond. The Conference theme was "Moving Forward in the COVID Era: Identifying and Addressing the Structural Challenges of Poverty, Injustice, and Inequality."

Commission Chair Barnett¹²³ and then-Chief Judge DiFiore¹²⁴ welcomed conference participants, each recognizing the important role law schools played in helping to address the urgent civil legal needs presented by the pandemic and the nimble transition the schools made to virtual service delivery models and partnerships.

In her introductory remarks, Associate United States Attorney General Vanita Gupta applauded New York's law schools for responding to United States Attorney General Merrick Garland's call to action early in the pandemic, singling out the impactful work of law students helping families avoid eviction, retain their housing, and secure emergency

funds. Ms. Gupta encouraged law students to embrace pro bono work, participate in clinics, and engage in experiential learning to disrupt “the devastating connections between race, poverty, and injustice” and to fulfill the professional commitment incumbent upon members of the bar.¹²⁵

During the Keynote Dialogue, “Understanding Community Needs and Pursuing Access to Justice,” a panel discussed how individuals outside marginalized communities are often unaware or lack understanding of the deep-rooted inequities embedded in our governmental and social welfare institutions.¹²⁶ The conversation revealed how racial discrimination in healthcare, education, and access to justice may not be as overt as discrimination in other areas, such as police brutality, yet is as abusive and dehumanizing.¹²⁷ Lawyers can ensure that people are treated with dignity and afforded equal access to healthcare; lawyers and law students can provide legal assistance to secure governmental benefits and advocate for those in need.¹²⁸

The Keynote Dialogue was followed by several breakout sessions focusing on “How Law Schools and Law Students Are Addressing Barriers to Access to Justice in the Community.”¹²⁹ The Commission’s recommendations related to law schools and law students in this Report evolved out of these sessions.

E. Commission Working Groups

During 2022, the Commission’s several working groups continued to support the Commission’s access-to-justice agenda by, for example, studying issues of major concerns, identifying new areas of concern, preparing for signature events, and developing proposals for new initiatives.

The working groups’ members are extremely generous with their knowledge, time, and assistance.¹³⁰

1. Funding Working Group

In response to former Chief Judge DiFiore’s request that the Commission develop a realistic estimate of the funding and resources necessary to close the State’s justice gap, the Funding Working Group, led by the Commission’s consultant Neil Steinkamp, began to develop a methodology to measure the cost of effective assistance in matters impacting the essentials of life for individuals and households at or below 200% of the Federal Poverty Guidelines.

The Working Group identified specific matter types to study, including consumer debt, contested divorces, disability benefits, Fair Hearings, guardianship, eviction, foreclosure, custody, and family offense actions that do not involve intimate partner violence. To

develop the methodology, Mr. Steinkamp conferred with legal services providers, including Working Group members. It was determined that separate estimates would be developed for each matter type, taking into account the different forms of effective assistance that can provide access to justice.¹³¹

The Working Group will continue its study and refine the methodology to estimate the realistic cost of providing effective assistance to all eligible low-income New Yorkers confronting essentials of life challenges in the upcoming year.

2. Future Access to the Courts Working Group

The Future Access to the Courts Working Group was established in the early months of the COVID-19 pandemic to explore innovative approaches to expand future access to the courts. Since its inception, the Working Group has focused on alternative and simplified court procedures and processes, initiatives that increase the availability of effective assistance and efforts to address the impact of the digital divide on access to justice. Its 2021 recommendations primarily focused on five key areas of the digital divide.¹³² Many of the recommendations are being considered for implementation or are in the process of being implemented by the court system.

To further advance its recommendations, this year the Working Group provided meaningful support to the Pandemic Practices Working Group (PPWG) of the Commission to Reimagine the Future of New York's Courts. The PPWG is undertaking a thorough review and evaluation of court practices and protocols implemented during the COVID-19 pandemic and considering, among other factors, their impact on access to justice.¹³³ Commission Chair Barnett provided the opening testimony at the PPWG's first public hearing, highlighting the impact of the digital divide on low-income and unrepresented litigants.¹³⁴ The Working Group helped identify unrepresented litigants and organizations that assist them to participate in listening sessions organized by the PPWG.

The Working Group also continued its review of civil practice processes and procedures that present significant barriers for unrepresented litigants. It renewed its focus on amending CPLR 2106 to permit the use of affirmations, subject to penalty for perjury, in place of affidavits in civil proceedings. The Working Group also studied the complex and inconsistent fee waiver process codified in CPLR Article 11.

3. Technology Working Group

The 2022 Technology Working Group's Conference Planning Committee met weekly for several months to plan the Technology Conference. Committee members are knowledgeable and dedicated attorneys and technical staff from all over New York who

volunteer their time to make the conference a success. A 2023 Conference Planning Committee has already begun meeting to design next year's conference.

A small subcommittee was formed to discuss conducting a technology survey of New York State legal services providers, similar to the previous surveys conducted in 2013 and 2018.¹³⁵ The technology survey is discussed in the recommendation section of this Report.¹³⁶

4. Housing Working Group

The Housing Working Group comprises Commission members with a particular interest in housing matters. In 2022, the Working Group continued to advocate for an amendment to Part 36 of the Rules of the Chief Judge¹³⁷ to allow friends and relatives to act as guardians ad litem (GAL) in housing and other matters without completing Part 36 enrollment and appointment paperwork.¹³⁸ In January 2022, on behalf of the Administrative Board of the Courts, the Office of Court Administration (OCA) posted the recommended amendment for public comment.¹³⁹ The Working Group drafted the Commission's response to opposition commentary received by OCA.¹⁴⁰ In June 2022, as a result of the Working Group's efforts, the Court of Appeals adopted the rule change.¹⁴¹

The Housing Working Group also advocated for greater protection for litigants with risk factors, such as advanced age or a disability, by requesting that an administrative order of the Chief Administrative Judge be amended to require petitioners seeking default judgments to notify the court of any at-risk respondents, and if notified, to require judges to contact their local adult protective services agency.¹⁴²

The Housing Working Group also continued its review of specialized housing parts by inviting the Eighth Judicial District Executive, the Buffalo City Court Deputy Chief Clerk, and the Chief Executive Officer of the Erie County Bar Association's Volunteer Lawyers Project to speak to the Working Group about the HUB Court. The dedicated housing specialty part is discussed in the recommendation section of this Report.¹⁴³

5. Law School Involvement Working Group

The Law School Involvement Working Group partnered with Albany Law School to establish the 2022 Conference Planning Committee and convene the virtual 2022 Law School Conference. The Working Group supports the efforts of the Statewide Law School Access to Justice Council to promote collaboration among the law schools. In the upcoming year, the Working Group will oversee efforts to implement law school-related Commission recommendations and plan the next virtual Law School Conference scheduled for March 2023.

6. Race and Gender Equity Working Group

This year, the Race and Gender Equity Working Group continued its focus on the role of recruitment and retention in support of creating and maintaining a diverse workforce for civil legal services providers. The Working Group's members, whether leading a civil legal services organization, or working at a large private law firm, all agreed that they encounter major challenges in both recruiting and retaining legal talent.

Civil legal services providers may feel that they are at a disadvantage in attracting top talent because they cannot compete with major law firms when it comes to salary. However, salary is not always the main indicator of job satisfaction. There are other factors that may attract and keep attorneys. One of those is a strong mentorship program, which helps create a supportive environment in which employees feel appreciated, can establish important relationships, and experience a true sense of belonging — all strong reasons for staff to want to remain with an employer.

This was the message telegraphed at the Working Group's virtual May 24th "Roundtable on Mentorship: A Key to Promoting Recruitment, Retention, Professional Development, and Diversity." The Roundtable was moderated by Jessica Klein, Head of Pro Bono Practice, Sullivan & Cromwell, and Counsel to the Commission. The panel consisted of a Chief Diversity Officer, a partner at a major law firm, two staff attorneys from civil legal services providers, and an associate at a major law firm. Invitations were sent to the court system's JCLS grantees and over 40 people registered for the event.

The panelists agreed that a strong mentorship program is a great recruitment tool and is a recognized best practice for those committed to attracting a diverse workforce. It is an important part of an overall Diversity, Equity, and Inclusion (DEI) Plan, as it supports inclusion, improves morale, and provides the opportunity to bring people of diverse backgrounds together. Most importantly, it creates and strengthens a sense of community within the work environment. Lawyers just starting out are grateful to have someone show them "the ropes" and who they can look up to. They want their mentors to be honest with them, provide real feedback, and build a personal relationship.

The panelists who had been mentored were grateful for the experience and indicated that it encouraged them to seek out others in their firm for guidance. Successful programs are led by a coordinator, ask participants to complete a questionnaire to facilitate good pairings of people, and provide a list of expectations for both the mentors and the mentees. Formal programs typically have a finite duration, but panelists reported that the relationships, once established, continued beyond that point.

After the panel presentation, attendees were assigned to breakout groups to discuss their reactions to what they had just heard and their individual experiences, as well as the take-

aways for establishing their own mentorship programs. The feedback from the program was all positive.

Following the success of the Roundtable, the Working Group is now considering other aspects of recruitment and retention that can be the subject of possible future programming.

7. Judicial Districts Leadership Group

The Judicial Districts Leadership Group comprises the local access to justice committee leadership from all the Judicial Districts outside New York City, as well as the Commission member liaisons to each local access to justice committee. The Group meets from time to time so that district leadership can share insights and experiences with their counterparts. At the meetings, the Commission showcases successful initiatives that the leadership may be interested in implementing or replicating.

In February, the Leadership Group meeting centered on emergent issues facing litigants and the courts as the pandemic continued; it included two presentations. In the first presentation, Commission members Hon. Fern Fisher (Ret.) and Barbara Finkelstein provided an update on the Ninth Judicial District's initiative to expand the availability and appointment of GALs for vulnerable litigants in eviction cases.¹⁴⁴ As a result, many of the local access to justice committees began examining the GAL issue and have joined the Office for Justice Initiatives' recently created Statewide GAL Landlord-Tenant Working Group to address the GAL problem outside of New York City.

In the second presentation, Andrew Isenberg, District Executive, Eighth Judicial District, described the creation and launching of the HUB Court in Buffalo City Court to hear eviction matters transferred from the Town and Village Courts in Erie County. This specialty housing part was modeled in part on the Seventh Judicial District's SCIP, which was highlighted at a Leadership Group meeting in May 2021.¹⁴⁵ Additionally, Commission Chair Barnett gave an update on the Commission's funding initiative.

In June, Sue Ludington, the court system's Chief Law Librarian, presented to the Leadership Group on the role that public access law libraries can play in expanding access to justice and encouraged the judicial districts to work closely with their local public access law libraries, which are located in every county.

F. Business Council on Access to Justice

In 2020, at the Commission's recommendation, then-Chief Judge Janet DiFiore established the Business Council on Access to Justice (Business Council) to continue to increase the business community's engagement in access to justice efforts.¹⁴⁶ The Business Council is co-chaired by Eric F. Grossman, Executive Vice President and Chief Legal Officer of Morgan Stanley, and Kimberley D. Harris, Executive Vice President and General Counsel of NBCUniversal and a member of the Commission.¹⁴⁷

In 2022, the Business Council continued its successful pro bono housing initiatives in partnership with Legal Services of the Hudson Valley (LSHV) and Legal Services NYC. The initiative with LSHV provides direct representation and advice and counsel to tenants facing eviction throughout the Hudson Valley. LSHV offers training, mentorship, and support to volunteers who are interested in accepting referrals. Corporate in-house attorneys are paired with law firm attorneys to help tenants raise defenses, reach beneficial settlement agreements, and prevent displacement. Attorneys from at least five corporations and two law firms volunteered this year.

Additionally, LSHV launched a virtual housing advice clinic, where tenants receive advice and assistance completing court forms. Business Council members' in-house attorneys have saved tenants from imminent eviction, compelled landlords to make repairs, and provided advice and assistance to numerous tenants. They continue to litigate and negotiate on behalf of tenants whose cases are ongoing and have volunteered in advance for future clinics. The program has provided crucial legal services to tenants whom LSHV otherwise would not have been able to serve.

The partnership with Legal Services NYC offers free legal clinics, staffed by Business Council members' corporations, their legal departments, and outside law firms, to help low-income New Yorkers apply online for emergency rental assistance and other benefits. The clinics provide critical assistance to the City's most vulnerable tenants, enabling them to secure assistance necessary to keep them in their homes. Nearly 424 corporate and law firm volunteers have participated in the clinics, benefiting more than 604 tenants.¹⁴⁸

In 2022, the Business Council also identified the attorney shortage in the State's rural areas as another issue where the business community could be of assistance. At its June meeting, Commission member C. Kenneth Perri gave a detailed presentation on the shortage and its impact on access to justice in rural communities. Business Council members expressed interest in exploring a possible urban-to-rural remote pro bono project that would connect corporate in-house legal departments based in New York City with legal services and pro bono providers who serve clients in rural areas of the State.

A small working group was convened by the Business Council to consider possible models, including one that would include non-attorney staff. Mr. Perri met with legal services and pro bono providers to gauge their interest and explore the types of projects, practice areas, and potential clients the project could serve. The providers have submitted proposals on how an urban-to-rural pro bono project could be implemented with their organization, and that information is being compiled and will be shared with the working group for further action.

II. RECOMMENDATIONS

A. Introduction

Since 2010, the Commission has made innumerable recommendations to enhance access to justice in New York, including monetary and non-monetary recommendations, which have been set out in some detail in its annual reports.¹⁴⁹ The Commission's key accomplishments through 2021 were summarized in last year's report.¹⁵⁰

Many of the Commission's recommendations from 2021¹⁵¹ have been implemented, are in the process of being implemented, or are the continuing subject of recommendation in this Report.

B. Judiciary Civil Legal Services Funding

From the start of its work in 2010, the Commission's primary focus has been measuring the unmet need for civil legal services for low-income New Yorkers and recommending funding levels to meet that need. In 2016, the initial recommendation of \$100 million annually was reached, with the understanding that additional funding would be needed in the years to come.

1. Funding Study

At the request of former Chief Judge DiFiore, the Commission undertook a funding study to develop a realistic current estimate of the amount needed to provide effective assistance to all New Yorkers confronting essentials of life challenges with the goal of closing the State's justice gap. Over the past year, the Working Group began developing a process and made significant progress in developing a methodology to measure the cost of providing such effective assistance.¹⁵²

Recommendation: The Commission will continue its study to develop a realistic current estimate of funding needed to provide effective assistance to all low-income New Yorkers facing civil legal problems to achieve the goal of closing the justice gap.

2. Funding Cost-of-Living Adjustment

In its 2021 annual report, the Commission's recommendations included a request for \$12.6 million as a cost-of-living increase for JCLS grantees given that funding had remained at the same \$100 million level since FY 2016-2017.¹⁵³ That request was implemented in the Judiciary Budget for FY 2022-2023 for a total of \$112.6 million in funding for civil legal services. Over the past year, the rate of inflation has increased

dramatically, intensifying the demand for civil legal services at a time when the legal services lawyers, staff, and resources are strained from the pandemic.

In remarks submitted for the Civil Legal Services Hearing, Ms. Pollock Rich explained that “[w]hen inflation is at 10%, flat funding is a real dollar cut”:¹⁵⁴

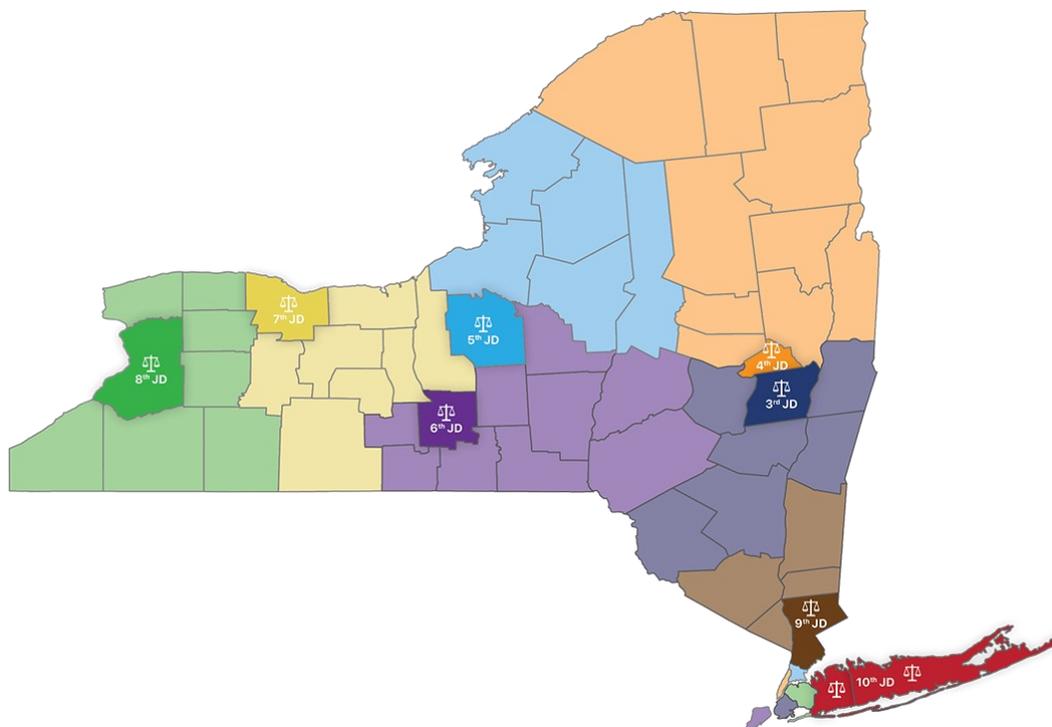
[F]lat funding, no increase, no decrease, is really a funding cut when you think about inflation. And some of our funding sources have continued flat funding over the last . . . five to ten years depending on the source. So we’re not just trying to do more with less, we’re trying to do the same with levels of funding that are effectively a decrease, even though on paper they are the same.¹⁵⁵

Ms. Brown reinforced the need for an annual cost-of-living increase, telling the Hearing panel that “[w]e all know that the cost of doing business rises every single year.”¹⁵⁶

Recommendation: The Commission recommends continued Judiciary Civil Legal Services funding for FY 2023-2024 at last year’s level of \$112.6 million with the addition of a cost-of-living increase to account for inflationary pressures, the increased demand for services, and the staffing and infrastructure needs of legal services providers. The Commission recommends that the increase be in the maximum amount deemed feasible by Judiciary leadership.

C. Local Access to Justice Committees: Expansion and Support

The local access to justice committees grew out of the Commission’s 2017 Strategic Action Plan, which established the first committee in Suffolk County in the Tenth Judicial District with the goal of providing effective assistance to all low-income individuals in the county facing civil legal matters involving the essentials of life.¹⁵⁷ In 2018, a second committee was formed in Monroe County in the Seventh Judicial District.¹⁵⁸ Building on the success of the Suffolk and Monroe Counties’ pilots, by 2019, every judicial district outside New York City established a local access to justice committee in one county within the district:



The scales of justice on this map of New York show the counties where local access to justice committees were as of 2019.

- Third Judicial District, Albany County
- Fourth Judicial District, Schenectady County
- Fifth Judicial District, Onondaga County
- Sixth Judicial District, Tompkins County
- Seventh Judicial District, Monroe County
- Eighth Judicial District, Erie County
- Ninth Judicial District, Westchester County
- Tenth Judicial District, Nassau County
- Tenth Judicial District, Suffolk County

These local access to justice committees, led by the District Administrative Judges or their designees and guided by the Commission, focus on assessing the needs of their local communities and the resources available to meet those needs, as well as the barriers impeding access to resources and the civil justice system. Initiatives and strategies to close the local justice gap are based on the needs in each county. Each local access to justice committee comprises a diverse group of key local stakeholders who volunteer their time and expertise. As the Commission’s past reports have established, the local access to justice committees have created numerous programs and initiatives that work to close the justice gap.¹⁵⁹ The next step is to consider how best to expand these efforts beyond one county in a district.

A breakout session at the 2022 Statewide Stakeholders Meeting explored the challenges of and approaches to expanding the local access to justice committees districtwide.¹⁶⁰ Hon. James L. Hyer, Orange County Supreme Court, shared the Ninth Judicial District’s three-step method for expansion throughout its five counties: (1) identify all of the

District's stakeholders by reaching out to bar associations, court programs and affinity groups, and community organizations; (2) engage the stakeholders by asking them to join committees and co-host or co-sponsor events; and (3) retain stakeholder interest and commitment to the access-to-justice initiative.¹⁶¹

Joanne Haelen, District Executive, Fourth Judicial District, presented her District's "hub and spoke" model for expansion to its 11 counties, many of which are rural and have very different interests than those of Schenectady County where the current committee is based.¹⁶² Ms. Haelen explained how she reaches out to key court personnel in each county and works to identify an important issue to form a discrete task agenda.¹⁶³ She then brings in major players to start and develop a cohesive group dynamic.¹⁶⁴ As she recognizes regional players, she invites them to join the "hub" committee in Schenectady.¹⁶⁵ The efforts in both the Fourth and the Ninth Judicial Districts have proven successful in expanding access to justice beyond the county where the local committees began.

During the session, Hon. James P. Murphy, Administrative Judge, Fifth Judicial District, raised the concern that more support is needed in the districts to expand the local access to justice committees districtwide and suggested that a staff liaison position be created in each district similar to the ADR and the Town and Village Court liaison positions created in the past.¹⁶⁶ Hon. Anne Minihan, Administrative Judge, Ninth Judicial District and Hon. Vito M. DeStefano, Administrative Judge, Tenth Judicial District (Nassau County), concurred.¹⁶⁷ Administrative Judge Crecca added his support as well, commenting that he has so many initiatives going on in Suffolk County that it can be overwhelming.¹⁶⁸ He acknowledged that his plans for additional programs would already be in place if there was a dedicated staff person.¹⁶⁹ Ms. Haelen and Judge Hyer both agreed that having another level of support would definitely be helpful.¹⁷⁰

Noting how critically important this topic is to the courts, Hon. Norman St. George, Deputy Chief Administrative Judge for Courts Outside New York City, stated that he will be recommending a dedicated staff person for each Judicial District to work exclusively on access to justice issues, similar to the position created to support the ADR initiative.¹⁷¹

The successes of the local access to justice committees represent a positive indicator of progress in closing the justice gap. These efforts in each Judicial District have been developed and sustained to date without any supplemental funding.¹⁷² As was repeatedly urged by the Administrative Judges at the Statewide Stakeholders Meeting, in order to expand this initiative geographically and into additional subject matters and initiatives, additional administrative staff is required.¹⁷³

Recommendations:

Given the successes of the local access to justice committees, the Administrative Judges outside New York City should endeavor to expand their access-to-justice efforts districtwide.

The court system should support efforts to expand local access to justice committees and initiatives by creating a position in each Judicial District to act as liaison between the local access to justice committees and the District Administrative Judge.

D. Housing

The pandemic and its economic impact have increased the number of low-income New Yorkers at risk of losing their homes. Housing instability, evictions, and displacement cause long-term consequences on all facets of a person's life. The housing-related recommendations grew out of the work of the Housing Working Group, Law School Conference, and Civil Legal Services Hearing with the common objective of fostering housing stability.

1. Protection for Defaulting At-Risk Tenants

By letter dated April 6, 2022,¹⁷⁴ the Commission wrote to Chief Administrative Judge Marks to bring to his attention the dangers of judges directing the eviction of defaulting respondents in residential housing proceedings without first requiring petitioners to disclose to the court whether they have personal knowledge of any risk factor that a respondent may have, such as advanced age, mental health, or physical disability.

The Commission recommended that Judge Marks issue an administrative order requiring petitioners seeking default judgments to affirmatively state whether any respondents or occupants are over age 65, suffering from a mental health condition, or non-ambulatory due to illness or physical disability. The Commission further recommended that the administrative order require each court to develop a process for contacting the local adult protective services, the agency charged with protecting adults who are at risk, for intervention whenever a petitioner discloses the existence of an at-risk respondent.

A petitioner's disclosure of at-risk respondents is already required in limited ways in some eviction proceedings in New York City. According to a so-ordered stipulation resolving a federal class action suit against the New York City Housing Authority (NYCHA),¹⁷⁵ NYCHA must advise the court of information in its possession indicating whether a tenant is "incompetent." The New York City Marshal's Handbook, promulgated by the New York City Department of Investigation (DOI), similarly imposes on New York City marshals an affirmative obligation to make an inquiry with petitioners before serving an eviction notice

as to whether an occupant is elderly or suffers from a mental or physical impairment. If the marshal discovers, either through that inquiry or at the eviction itself, that a person at risk occupies the premises, the marshal must pause the eviction process to notify the DOI to make a referral to Adult Protective Services.¹⁷⁶ Currently, this requirement only applies in New York City, and even within New York City, some at-risk occupants can conceivably fall through the cracks. A notification to the court of an occupant for whom a referral to a social services agency is appropriate can prevent certain tragic outcomes from occurring.

An example of such a tragic situation occurred in Mount Vernon, New York in 2021, where an elderly tenant with a mental disability was evicted after a default judgment. As the marshal was removing the tenant's belongings, the tenant had a breakdown, resulting in a police response. The police community division contacted LSHV, who brought an emergency order to show cause to appoint a GAL, which was granted. Had the petitioner been obligated to inform the court of the tenant's condition, the GAL would have been appointed earlier and would have worked to resolve the case.¹⁷⁷

CPLR 1201 requires the appointment of a GAL for an adult incapable of pursuing or defending a claim. When there is a default, as was the case in the Mount Vernon City Court matter, the judge is not aware of whether an individual requires a GAL unless circumstances are brought to the judge's attention. Requiring petitioners to disclose information about at-risk tenants or occupants when seeking a default judgment is the best way to ensure judges can fulfill the mandates of CPLR 1201.

Recommendation: The court system should require all petitioners seeking default judgments in residential eviction proceedings to inform the court if they have knowledge of any at-risk respondents or occupants living in the premises. In cases where a petitioner discloses the existence of an at-risk respondent, the court should be required to notify the local adult protective services agency.

2. Specialized Housing Parts

For the past two years, the Commission has recommended that eviction cases brought in the Town and Village Courts be consolidated into dedicated housing parts presided over by attorney-judges to ensure uniform application of State and federal protections and access to legal representation and other social services.¹⁷⁸ In its 2021 annual report, the Commission described the success and benefits of the Seventh Judicial District's SCIP.¹⁷⁹ The SCIP model was created as a temporary response to COVID-19 and ended in January 2022. During 2021, the Commission showcased SCIP at a Judicial Districts Leadership Group meeting to promote replication in other jurisdictions.¹⁸⁰

In December 2021, with the consent of the local Magistrates Association and Chief Administrative Judge Marks, the Eighth Judicial District launched a consolidated housing specialty part in the Buffalo City Court, known as the HUB Court.¹⁸¹ Like the Seventh Judicial District’s SCIP, the HUB Court transfers housing eviction matters from the Town and Village Courts in Erie County to the HUB Court, where legal services providers are available to represent most tenants. On the return date, a virtual appearance is held incorporating ADR. The HUB Court is the first court in the State to operate virtually with a presumptive ADR model. Over 90% of HUB Court cases settle through the ADR process.¹⁸²

At the 2022 Statewide Stakeholders Meeting, Eighth Judicial District Administrative Judge Carter outlined the benefits of the initiative, stating that HUB: (1) makes certain that every tenant in an eviction proceeding who cannot afford a lawyer receives legal representation; (2) assures consistency of outcomes by making certain that eviction matters are assigned to a single judge and designated court attorneys who have the necessary depth of knowledge and understanding of the eviction process; (3) incorporates an ADR component in which landlords and tenants can resolve their dispute through a settlement process; and (4) assures that court staff is caring and understanding when handling frequent phone calls and inquiries from tenants who have been served with an eviction notice.¹⁸³

Judge Carter further contended that “it would be nearly impossible to provide civil legal representation” throughout Erie County without a consolidated housing specialty part, given that Erie County has three City Courts and 36 Town and Village Courts.¹⁸⁴ This is especially true in light of the rural attorney shortage in New York State.¹⁸⁵ The single location and virtual appearance in the consolidated part saves civil legal services attorneys numerous hours of travel, thereby increasing the number of clients they can represent.

Recommendation: All counties outside New York City should replicate the Eighth Judicial District’s consolidated housing part to increase access to justice, ensure uniform application of State and federal protections, prevent evictions, and maximize access to legal and social services. The Commission recommends that the court system pursue any required statutory or constitutional changes necessary to facilitate the establishment of these consolidated housing parts.

3. Strengthen the Pipeline of Housing Lawyers in Law Schools

The enactment of the right to counsel in New York City Housing Court, the end of the statewide moratorium on evictions, and the deleterious ripple effect of the pandemic on economically vulnerable populations have created a shortage of housing lawyers.¹⁸⁶ Efforts are underway to increase the pool of attorneys, including pro bono and law school

initiatives.¹⁸⁷ These efforts can be complemented by developing a strong educational pipeline that trains law students to become housing attorneys.

Law school housing clinics and practicums expose students to the need for more tenant attorneys, but the core group of lawyers addressing the housing crisis remains too small. Law schools should expand doctrinal housing courses¹⁸⁸ to match the level of doctrinal criminal law courses and also expand clinical coursework for tenant advocacy.¹⁸⁹ Law schools should emphasize housing procedure and defense work, because the real-world consequences of losing one's home can be comparable to those of a criminal conviction.¹⁹⁰

Increasing collaborations among law schools and community partners is a key component to expanding access to individuals confronting housing issues. For example, partnerships with community social services organizations can provide a more streamlined approach for individuals seeking help.¹⁹¹ Additionally, law student collaborations with tenant organizations generate a two-way transfer of knowledge: law students learn from tenant organizers' experiences, and, in turn, educate and support tenants with the legal information and materials needed to preserve their homes and liberty.¹⁹²

Recommendation: Law schools should bolster the pipeline of housing attorneys by, among other ways, expanding doctrinal course offerings and supporting student engagement in tenant organizing work.

4. Housing Answer DIY Form Program

The court system's DIY Form programs are easy guided step-by-step computer programs that ask the litigant a series of questions and then use the answers to prepare personalized instructions and court forms that are ready to serve and file.¹⁹³ The court system launched its first DIY Form program, the New York City Civil Court Tenant Nonpayment Answer program, in 2006 to assist unrepresented tenants in answering a petition orally by providing information about defenses.¹⁹⁴ In 2007, the court system launched a Spanish version of that program.

To maintain a position of neutrality and to complement the Tenant Nonpayment Answer program, a New York City Small Property Owner Nonpayment Petition DIY Form program was created in 2007 to help unrepresented landlords prepare the documents they need to commence a nonpayment proceeding. In 2011, a second landlord nonpayment program was launched to help landlords prepare the documents needed for cases outside New York City.¹⁹⁵ There is no Tenant Nonpayment Answer program to assist tenants outside New York City.

Following their launch, both the tenant and landlord nonpayment programs enjoyed considerable usage and were available at the courthouse and online. Prior to 2019, volunteers at the New York City Bar and the Civil Court Housing Navigator Program were regularly trained on utilizing the Tenant Nonpayment Answer program to assist unrepresented litigants.

The Housing Stability and Tenant Protection Act was passed in 2019, impacting the housing laws in New York State. The landlord nonpayment programs were updated to reflect the changes in the law. However, due to programming challenges, the English and Spanish Tenant Nonpayment Answer programs were unable to be updated. The programs have remained unavailable since 2019.

Recommendation: The Office for Justice Initiatives, in collaboration with the Division of Technology, should continue to pursue efforts to update the New York City Tenant Nonpayment Answer DIY Form program to reflect recent changes in the law and re-launch the program in English and Spanish for the benefit of unrepresented users, and for lawyers, law students, and non-lawyers to use as a tool to assist unrepresented tenants. Furthermore, the Office for Justice Initiatives should create a Tenant Nonpayment Answer DIY Form program for tenants to use outside New York City.

5. Right to Counsel in Housing Matters

In its 2021 annual report, the Commission expressed its support for the right to counsel in housing matters for all low-income New Yorkers.¹⁹⁶ This recommendation grew out of the evidence collected at last year's and previous years' Civil Legal Services Hearings, which demonstrated the benefits that counsel for tenants in eviction proceedings provide for both litigants and the courts.¹⁹⁷

At the 2022 Civil Legal Services Hearing, Judge Vacca shared her perspective on the need for tenant representation. According to Judge Vacca, in the SCIP, most of the tenants availed themselves of the free legal representation that was made available through pandemic funding.¹⁹⁸ Judge Vacca believes that without accessible legal representation, most tenants would not hire their own attorneys given their financial circumstances.¹⁹⁹ Judge Vacca recognized that it is better for people facing eviction to have an attorney to advocate on their behalf and counsel them than to be unrepresented, stating:

I am certain that the tenants significantly benefited from free legal representation, providing them knowledge and protection of their legal rights and a deeper understanding of their options in a stressful situation. . . . The ability to be represented by a knowledgeable and experienced attorney at no cost . . . can be hugely beneficial, whether by avoiding eviction, gaining some more time to find a new place to live before being evicted, or settling on a payment plan.²⁰⁰

The Commission recognizes that on their own, tenants cannot navigate an evolving maze of federal, State, and local laws, and without a right to counsel tenants are usually unrepresented and many are evicted. Given the inherent inequities of leaving most tenants unrepresented in eviction proceedings, the Commission continues to support the right to counsel initiative. As Judge Vacca stated, the availability of free tenant representation “is essential to basic principles of fairness and justice.”²⁰¹

Recommendation: Because the right to adequate housing accommodations is fundamental, the Commission supports the right to counsel in eviction proceedings for all New Yorkers who cannot afford counsel.

E. Process Simplification

The Commission has long advocated for eliminating barriers that unduly burden low-income and other vulnerable court users seeking access to the courts. For the past two years, the Future Access to the Courts Working Group has led the Commission’s efforts by undertaking review of court processes and procedures that are particularly onerous and exploring ways they may be simplified and standardized to facilitate court access. The Technology Working Group has also worked on the issue, focusing on how processes can be simplified by the use of specific technologies.

These efforts are consistent with a national effort, supported by the Conference of Chief Judges and the Conference of State Court Administrators, to create or modify court rules and work with other branches of government to enact or amend statutes that would simplify procedures that are arduous, inefficient, or confusing for unrepresented litigants, attorneys, court staff, or judges.²⁰²

At this year’s Statewide Stakeholders Meeting, a breakout session was devoted to discussing two procedures identified by the Working Group: simplifying and standardizing the fee waiver process; and permitting the use of affirmations, subject to penalty for perjury, in place of affidavits in civil proceedings.²⁰³

1. Fee Waiver Process

New York’s fee waiver statute is a barrier to access to justice for unrepresented litigants. Fee waivers are critical to ensuring court access for litigants without sufficient means to pay required court fees. Yet, the current law establishes a complex and inequitable process that stigmatizes litigants and creates numerous procedural hurdles that hinder their ability to obtain fee waivers that are necessary to pursue their cases.

Article 11 of the CPLR, entitled “Poor Persons,” codifies the requirements for obtaining a fee waiver. Section 1101(a) requires any person seeking a fee waiver to submit a motion

to the court, supported by an affidavit that details the sources and amount of income and the value of property owned; the nature of the action; facts that show that the claims are meritorious; and whether any other person with a beneficial interest in any recovery sought also is unable pay the fees, costs, and expenses. The court also may require certification from an attorney who, upon review, believes the action has merit.²⁰⁴ The statute does not set forth a standard for eligibility nor does it provide guidance on the proof to be submitted to support eligibility; those issues are left solely to the discretion of the judge determining the motion and could vary from judge to judge within the same court.

For an unrepresented litigant, the procedural requirements are daunting and burdensome. The lack of statutory standards and proof requirements has made it impossible to create a statewide form or DIY Form program, leaving litigants to seek out the availability of local forms and, if none are available, to prepare their motion and affidavit relying on form templates from other courts that may not be applicable. They also must provide supporting financial documentation, which is not standardized but determined by a specific judge or local practice. Some judges also require the submission of a proposed order.

In addition, unrepresented litigants must have their affidavits notarized; make multiple copies of the motion papers; serve the motion papers on all parties (if the proceeding has already been commenced) and the county attorney or corporation counsel; prepare affidavits of service; and travel to and from the courthouse and county clerk's office as necessary to submit the motion to the court, retrieve the signed order from the court, bring the order to the county clerk's office (in some cases) for an index number to be issued, and file the pleadings with the court.

To address many of these barriers, a number of states have enacted statutes or court rules that simplify and streamline the fee waiver process to make it easier for unrepresented litigants and more efficient for courts determining such requests.²⁰⁵ Most importantly, these states base eligibility solely on a litigant's inability to pay the fees and generally grant automatic or presumptive eligibility if: (1) the litigant is currently receiving means-tested public assistance, such as Medicaid, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP); or (2) the litigant's income is at or below a specified percentage of the Federal Poverty Guidelines.²⁰⁶ If an unrepresented litigant does not fall within the eligibility categories, the states also allow a judge the discretion to grant a fee waiver upon finding that the court fees would constitute a financial hardship for the individual, taking into consideration factors such as the individual's income, assets, debts, and monthly expenses.²⁰⁷

A few of these states do not require the filing of a motion when litigants are deemed automatically eligible for a fee waiver and allow a court clerk, rather than a judge, to approve the requests.²⁰⁸ In these jurisdictions, litigants are required to complete a short uniform fee waiver request form.²⁰⁹ These plain language forms usually require the litigants to check the boxes for the fee waiver eligibility categories that apply to them and sign a declaration, under penalty of perjury, without the need for notarization.²¹⁰ For litigants who have a higher income, but are still unable to pay court fees, the forms include a separate section to provide financial information to demonstrate hardship.²¹¹

At least two states have created automated programs, similar to New York's DIY Form programs, which lead litigants through a series of questions in plain language and then generate a completed form for litigants (that includes an e-signature) to file with the court either electronically or in person.²¹² By simplifying and standardizing the fee waiver request process, including the use of uniform court forms, states have effectively addressed barriers to justice facing unrepresented litigants seeking fee waivers.

In light of the foregoing, the Commission recommends that CPLR Article 11 be amended to require that eligibility for fee waivers be limited to a showing of financial inability to pay. Clear and uniform financial eligibility criteria should be established, including automatic eligibility for individuals who are currently receiving means-tested public assistance, including Family Assistance, Safety Net, SNAP, or SSI, or whose income is at or below 200% of the Federal Poverty Guidelines.

This eligibility standard is consistent with CPLR 1101(e), which allows a legal services provider to obtain a fee waiver for a client by simply filing a certification with the court that a determination has been made that the client is unable to pay the fees, costs, and expenses. It also is consistent with the income eligibility guidelines established by the court system for legal services provided through JCLS funding.

For individuals with incomes over 200% of the poverty level, eligibility would be determined by a judge pursuant to rules adopted by the court system. Additionally, the statute should be renamed to eliminate the stigma of being publicly categorized as a "poor person."

It is further recommended that court rules and procedures be enacted to streamline the processing of fee waiver requests, including, among others, creating a simple court-mandated plain language fee waiver request form for statewide use, establishing a short list of documentation that courts can require litigants to provide in support of their fee waiver request, and delegating authority to court clerks to grant fee waivers to litigants who meet the automatic eligibility requirements of the statute.

Recommendations:

CPLR Article 11 should be amended to establish an equitable, simplified, and uniform process that includes: (1) renaming the statute to remove the stigmatizing categorization of litigants seeking relief; (2) establishing automatic eligibility for individuals who currently are receiving means-tested public assistance or whose annual household income is at or below 200% of the Federal Poverty Guidelines; and (3) allowing for judicial determination of eligibility for all other individuals pursuant to rules adopted by the court system.

Upon amendment of the statute, court rules should be enacted that: (1) set forth a short list of uniform documentation that courts can require litigants to provide in support of their fee waiver request; and (2) permit the delegation of authority to court clerks to decide fee waiver requests submitted by individuals who are deemed automatically eligible for the relief.

2. Use of Affirmations in Place of Affidavits

Since 2020, the Commission has advocated for the amendment of CPLR 2106 to allow the use of affirmations, subject to penalty for perjury, in place of affidavits in all civil actions. The use of sworn statements, which require notarization, is a barrier to justice for unrepresented litigants, particularly those who live in rural areas, are unable to travel, or have limited public transportation options. Remote notarization has not addressed the challenges, but rather has created additional ones for litigants who are on the wrong side of the digital divide.

The court system, the New York State Bar Association, and the New York City Bar Association have advanced proposals to amend CPLR 2106 as legislative priorities, but the bills have not yet garnered the Legislature's support. The Commission urges these entities to continue their efforts, which if successful will bring New York in conformity with federal law and expand access to justice for unrepresented litigants by significantly simplifying the process for filing court papers.

Recommendation: The court system's proposal to amend CPLR 2106 to permit the use of affirmations, subject to penalty for perjury, in place of affidavits in civil proceedings should continue to be a legislative priority for the court system. The Commission urges that the prescribed affirmation text included in the statute be in plain language.

3. Check Boxes in Place of Signatures

In last year's report, the Commission recommended that electronic signatures be deemed sufficient for online filings by unrepresented litigants. While electronic signatures are better than requiring wet signatures, they still present hurdles for litigants with limited

digital literacy. A check box in place of a signature, serving the same purpose as an electronic signature, is an easier option. This eliminates barriers faced by unrepresented litigants who do not have access to a printer or a scanner.

Recommendation: To further simplify online filing of affirmations, e-filing, and the filing of court forms generated by the DIY Form Programs, check boxes in place of signatures should be deemed sufficient for online filings.

F. Technology

As a result of the pandemic and the concurrent need to socially distance, technology has become integral to the legal system — to legal services providers in how they work and deliver remote services; to law students in how they learn and assist with pro bono; to unrepresented litigants who must interact with the court system; and to the court system in how it operates efficiently. Technology was a topic at all of the Commission’s events in 2022, which is reflected in the variety of recommendations.

1. Technology Survey of Legal Services Providers

In 2013, the Commission conducted a comprehensive technology survey of legal services providers assisting low-income New Yorkers. The results of the survey indicated overwhelmingly that most legal services providers had not effectively integrated technology into either their day-to-day internal operations or their client service delivery. It was clear that the inability was not because of a lack of desire, but rather, due to fiscal constraints and the need for greater knowledge, expertise, and understanding.²¹³ The Commission used the survey data to pursue a number of initiatives to assist the provider community.

Five years later, in 2018, the Commission conducted a second technology survey of all the JCLS and New York State Interest on Lawyer Account Fund (IOLA) grantee providers. The themes that emerged from the survey responses related to improving case management systems and training, increasing collaboration and integration, and building online referral and intake systems. Aside from needing more technology staff, the greatest challenges related to change management and funding.²¹⁴ The Technology Working Group again used the data to make recommendations regarding spending and staffing, technology policies, training, infrastructure funding, and online interfaces.²¹⁵

Nearly five years have passed since the Commission conducted the 2018 technology survey. In the interim, COVID-19 has substantially impacted remote service delivery and led to a new era of remote working. A new survey should be undertaken to gather information about the current state of providers’ technology. The survey data can then be used to assess gaps, review successful projects and systems to share with the wider

community, and help the Technology Working Group plan future conferences, programming, and initiatives.

In addition, the survey data may be useful to educate funders about the providers' needs in relation to infrastructure funding. As the prior surveys have shown, civil legal services providers lag behind in technology usage and implementation. The results of the survey may establish the need for greater funding earmarked for technology infrastructure, so providers can serve their clients efficiently and effectively and improve access to legal services.

Recommendation: The Commission should conduct a technology survey in 2023 of the New York State legal services community as a follow-up to the surveys conducted in 2013 and 2018, to obtain a new snapshot of the providers' technology status post-pandemic. The results should be analyzed and disseminated to educate stakeholders and support continued improvements of the civil legal aid delivery system. To assist with the survey, the Commission should consider collaborating with an access-to-justice partner with expertise in survey design and quantitative analysis.

2. Make NYSCEF Accessible to Unrepresented Litigants

In its 2020 and 2021 annual reports, the Commission recommended that the New York State Courts E-Filing (NYSCEF) platform be made more accessible to unrepresented litigants by expanding NYSCEF to all courts, including Town and Village Courts, and by simplifying the platform and making it easier to use.²¹⁶ Prior to 2020, NYSCEF was primarily available in courts and case types with represented parties, and was predominantly utilized by attorneys. In 2020, NYSCEF was expanded to cases in the New York City Housing Court, where there are many unrepresented parties. At the Chief Judge's 2021 Hearing on Civil Legal Services, Hon. Jean T. Schneider, then-Supervising Judge of the New York City Housing Court, characterized NYSCEF as a "system that was not designed for litigants without lawyers" and urged that NYSCEF be made more user-friendly.²¹⁷

In August 2022, a newly designed NYSCEF pilot commenced in the New York County Family Court.²¹⁸ To better serve the unrepresented litigants in Family Court, the platform was built with many more instructional screens and links, plain language, logic to inform the user what other forms are required with each filing, and a Spanish translation of the Notice of E-filing form. Most significantly, the process was simplified to allow litigants e-filing into existing cases to prove their identity by uploading a photo instead of a notarized statement.

The Commission submits that there is still work to be done to make NYSCEF truly available to unrepresented litigants. Most importantly, the platform must be accessible on mobile

devices, as many unrepresented litigants do not have desktop computers or tablets. Similarly, consideration should be given to expanding communications beyond email addresses by allowing mobile phone numbers and texting, which is often the preferred mode of contact. Other simplification measures are needed to dispense with steps requiring litigants to have a printer. Translation of the platform into Spanish also would be helpful.

Recommendation: The court system should continue to expand New York State Courts E-Filing (NYSCEF) to all courts, including Town and Village Courts, and should make NYSCEF more accessible and user-friendly for unrepresented litigants.

3. Expanding Courthouse Services Beyond the Clerk's Office

Public libraries play an important role in the initiatives of the local access to justice committees. In fact, by 2020, six of the nine local access to justice committees were partnering with public libraries to provide legal information and services to patrons.²¹⁹ At the 2022 Stakeholders Meeting session entitled, "Library Projects — Connecting Public Library and Public Access Law Library Users to the Courts," Mike Williams, Chief Clerk of the Suffolk County Family Court, described the expansion of Suffolk County's library initiative in 2020 to include access to a virtual Family Court Clerk.²²⁰ A library patron can visit the Brentwood Public Library and connect through a video link with the clerical staff at the Family Court any weekday between 10:00 a.m. and 4:00 p.m.

Patrons can complete the same tasks at the library that they would in person at the courthouse Clerk's Office. This includes completing, filing, and printing court forms; obtaining court records; receiving assistance using a DIY Forms program; and receiving referrals to helpful resources. A court interpreter can be added to the virtual visit, if needed. A patron can leave the library with a court date, and can even attend a virtual court appearance, which greatly assists those who lack access to technology.

Private meeting rooms and equipment, including a laptop, printer, and scanner are available to anyone who requires assistance from the Suffolk County Family Court. The library utilizes secure Wi-Fi and a dedicated email account that automatically prints attached documents to a printer located in an "employee only" location to protect privacy.

Mr. Williams explained that providing a "satellite" one-stop-shop Clerk's Office at the public library provides much greater access to justice in Suffolk County, where there is extremely limited public transportation and a trip to the courthouse can take many hours and be costly. Suffolk County Family Court has plans to expand this program to other public libraries. The same court clerk can assist litigants located at any library in the County.

The Suffolk County Family Court also has created additional access points beyond the Clerk's Office by reassigning two Family Court clerks to the Public Access Law Library, where the Help Center is co-located. Prior to this assignment, litigants who were helped in the Law Library or Help Center would then have to visit the Clerk's Office to complete their court business. Now that technology makes it possible to complete all tasks from one place, there is no need to make litigants travel from one office to another.

Recommendation: The Commission recommends that the virtual clerk model used in Suffolk County be replicated in other courts, beginning with Family Courts around the State. Courts should consider installing the virtual clerk model in public libraries, public access law libraries, and other community locations to create additional access points for services.

4. Equipping Law Students with Technology Skills to Expand Access to Justice

The pandemic sparked increased community activism and organizing, compelling law schools, providers, and their partners to meet community members "where they are."²²¹

Law school partnerships with legal services providers offered clinical faculty a unique opportunity to serve both their students and their clients.²²² Technology has been leveraged to foster connections and collaborations that benefit providers, law schools and students, volunteers, and clients, leading to expanded access to justice. Of course, not every interaction is well served by a remote connection, but it is undisputed that access for those facing physical, geographic, or other access barriers is improved by virtual options.²²³

Recommendation: Law schools should expand digital and remote clinical and pro bono opportunities for students through collaborations with other law schools and legal services organizations. Partnerships that incorporate technology have the potential to increase access to legal services in historically underserved communities while offering students practical experience that informs culturally sensitive lawyering.

5. Addressing Digital Inequity in Emergency Preparedness

Attorneys and the courts may be well-resourced when it comes to having or quickly acquiring needed technology during an emergency and can, in turn, continue to provide services. However, if clients or unrepresented individuals do not have access to technology, or the technical knowledge necessary to operate a device, it creates a barrier that needs to be addressed to ensure access to justice.

While some significant steps have been taken to help address the digital divide — most notably the setting up of local technology hubs with support from the court system’s Division of Technology — more needs to be accomplished. Digital inclusion entities, as well as digital navigator programs²²⁴ exist throughout the State. Outreach should be made to these programs to explore possible partnerships and the sharing of resources.

Recommendation: The court system and other access-to-justice stakeholders should consider partnering with digital inclusion organizations to make technology assistance available to disadvantaged communities to ensure access to justice during emergencies.

6. Technology Continuing Legal Education Credits

In June of 2022, New York became the first state to adopt an ethical duty of technology competence for lawyers,²²⁵ requiring one hour of CLE related to cybersecurity, privacy, and data protection every two years. The hour can be related to lawyers’ ethical obligations regarding data protection or to technological aspects of protecting law office and client data. The mandated one-hour training counts toward the 32-hour CLE requirement for newly admitted lawyers and the 24-hour biennial CLE requirement for experienced attorneys. CLE should be incorporated into the annual Technology Conference as an added benefit to New York State attendees who need to fulfill this requirement.

Recommendation: The Commission should endeavor to offer New York State Continuing Legal Education sessions at the annual Technology Conference so that attorneys can fulfill the new requirement to complete at least one Continuing Legal Education credit in cybersecurity, privacy, and data protection.

G. Role of Lawyers, Law Students, and Non-Lawyers

1. Attorney Shortage in Rural Areas

Low-income individuals living in rural areas face heightened challenges to accessing justice.²²⁶ Apart from geographical distance from court facilities, the lack of public transportation, and limited or unreliable broadband networks, there are limited numbers of lawyers or legal services organizations available to serve those individuals, and it is extraordinarily difficult to recruit lawyers to serve in rural communities.²²⁷ This has created a rural justice crisis.

a. Urban-to-Rural Pro Bono Projects Should Be Developed

Presentations at the Civil Legal Services Hearing and Statewide Stakeholders Meeting highlighted the rural justice crisis that is having devastating impact on litigants seeking

access to justice in the rural areas of the State. Both Judge Taylor and Mr. Perri discussed the implications of the staggering disproportionate concentration of New York’s attorneys in the State’s urban centers (96%) that leaves much of the State without sufficient legal services.²²⁸ Innovative partnerships and projects need to be considered that will bring legal resources from the urban areas to the rural areas of the State. The Business Council on Access to Justice is considering models that would connect in-house counsel and non-legal staff with legal services providers serving rural communities to begin to address the attorney shortage.

Recommendation: Innovative pro bono initiatives that connect lawyers practicing in New York’s urban centers with rural legal services providers can be a valuable way to expand access to effective assistance in rural areas. The Commission supports the continued development of an urban-to-rural pro bono initiative under consideration by the Business Council on Access to Justice.

b. Law Schools Should Promote Rural Practice

Incentivizing law students and recent graduates to serve in rural communities can help address the rural access-to-justice crisis.²²⁹ Offering clinical, technological, and experiential learning opportunities, including pairing students with rural practitioners, partnering with urban practitioners to serve rural communities, and developing service programs that include loan forgiveness, are examples of ways law schools can promote rural law practice and engage students and recent graduates.²³⁰

Recommendation: Law schools should elevate instruction on rural legal practice and establish related internships and clinical programs, leveraging technology to expand access to effective assistance to rural communities.

2. The Role of Pro Bono in Responding to Civil Legal Needs in Emergencies

During an emergency, the number of individuals needing legal assistance can increase exponentially. Those needs can outpace the resources of civil legal services providers. There is much that attorneys and law schools can do to prepare for emergencies.

a. Attorney Emergency Response

In the past, the Bar has demonstrated its commitment and compassion in emergency situations and volunteered legal services on a temporary basis. While pro bono assistance is not a substitute for full-time employed attorneys, it is a valuable option and important part of meeting emergency legal needs.²³¹ Legal services providers should include the Bar in their emergency preparedness planning.

Recommendation: Providers should be prepared for emergencies by establishing a framework for leveraging the services of pro bono attorneys. Providers also should consider establishing partnerships with other stakeholders to assist with resources and support for pro bono efforts.

b. Law School Emergency Response

Emergency responders to natural disasters, from Hurricane Katrina in 2005 and Superstorm Sandy in 2012, to the terrorist attacks on September 11, 2001, and to the COVID-19 pandemic, include law school deans, professors, administrators, law students and lawyers. Legal information and assistance are critically important to help restore lives and stabilize communities. This demands a nimble, permanent coalition that stands ready to respond, on the ground and online, to a public emergency and address the unique circumstances of the emergency. Long-term, steady support of clinical programs, student outreach, and affinity groups should be a priority for law schools.²³² Engagement with local community social and legal services organizations and local bar associations should be consistently encouraged by law schools to ensure preparedness when a crisis occurs.

An example of a community organization that welcomes participation by law students is Volunteer Organizations Active in Disaster (VOAD). VOADs have a national base and operate locally to mobilize disaster response effectively, drawing on lessons learned from prior response efforts.²³³ Law schools and students should endeavor to join their local VOAD and participate in their chapter's periodic trainings and meetings to ensure readiness.²³⁴

Recommendation: Law schools should support student groups that assist in disaster recovery, emergency preparedness, and crisis management. Law schools are encouraged to participate in their local Volunteer Organizations Active in Disaster.

3. Strengthening the Pro Bono Scholars Program

The Pro Bono Scholars Program is credited with enhancing the law school experience through hands-on legal learning, direct work with clients, and exposure to the professional responsibility of every lawyer to engage in pro bono as recommended by Rule 6.1.²³⁵

The Program was created in 2014 to establish a pipeline of public service attorneys and inspire a culture of pro bono among graduates who go into private practice. Program highlights include a steady increase in the number of student participants since its 2014 launch, increasing from approximately 100 Pro Bono Scholars from New York law schools in 2014 to approximately 140 annually, including scholars from law schools outside the State. Enhancements to the seminar/course component were discussed during a breakout

session at the Law School Conference, including new joint classes across five or more law schools, which offer training on negotiation, client interviewing, trauma-informed lawyering, and student wellness.²³⁶

Recommendation: A comprehensive review of the Pro Bono Scholars Program should be undertaken, with reference to insights of former and current Scholars, supervisors, and court administrators, to consider modifications to the program rules and proposals for expansion.

4. Law Schools and Students Expand Immigration Assistance

There is a pressing need for advocacy and support of immigration legal services across the State, particularly in upstate regions where increased numbers of Afghan refugees and other immigrants have been resettled.²³⁷ The range of issues include housing, health, education, and employment.

Legal assistance is imperative for filing both online and in-person applications, while case-by-case evaluation is necessary to ensure appropriate resolution.²³⁸ Law students can provide this essential assistance remotely once they have been trained to handle immigration matters, including development of technological, cultural competency and community engagement skills.²³⁹

While the lack of adequate resources in upstate New York remains a challenge, law school partnerships with urban pro bono programs present a viable option to expand legal assistance to immigrants and providers who serve these populations.

Recommendation: Law schools should continue to address the civil legal needs of immigrants in New York State, while also helping to bridge the digital divide in immigrant communities.

5. Replication of Legal Hand Virtual Model

In 2015, Legal Hand began with neighborhood storefront centers in the Bronx, Brooklyn, and Queens where specially trained community non-lawyer volunteers, supervised by an attorney, provide information, assistance, and referrals to those in need to help resolve issues affecting their lives in areas such as housing, family, domestic violence, immigration, employment, and public benefits, and try to prevent problems from turning into legal actions.

Following the onset of the COVID pandemic in March 2020, the neighborhood storefront centers temporarily closed, and Legal Hand created a virtual “Legal Hand Call-in Center,” offering telephone, text, and web-based services. Two virtual models were showcased at

a breakout session during the Statewide Stakeholders Meeting: one is a partnership with a community organization serving Albany and Schenectady Counties,²⁴⁰ and the second is a partnership with a law school serving Nassau and Suffolk Counties.²⁴¹ A third Call-In Center will be launched at the beginning of the new year in the Ninth Judicial District serving Westchester County.²⁴² These “models show that non-lawyers and law students can make valuable contributions to ensuring access to justice.”²⁴³

The Call-In Center, with its relative ease of access and availability of language services, demonstrably improves access to justice, especially for those with transportation, mobility, or disability limitations, or with limited English proficiency. An added advantage of the virtual model is that volunteers, who work remotely, can provide assistance on evenings and weekend days. Legal Hand’s virtual presence has strengthened communities as more and more community members become aware of Legal Hand’s services.²⁴⁴

Recommendation: The Legal Hand Call-In Center model that provides telephonic, text, and online informational assistance from specially trained community non-lawyer volunteers who are supervised by attorneys, should be established in additional geographic areas of New York State, in partnership with local legal services providers, community organizations, and/or law schools.

H. Consumer Debt

A significant focus at this year’s Civil Legal Services Hearing was the growing need for legal assistance in consumer matters. Consumer issues are the most common type of civil legal problem facing low-income households, with 50% of households facing at least one consumer problem in 2021.²⁴⁵ During the pandemic, the prevalence of consumer problems increased exponentially, particularly medical debt and consumer credit issues.²⁴⁶ In these matters, low-income individuals generally are unrepresented, while all creditors have attorneys; a significant majority of cases are decided in favor of the creditors on default.²⁴⁷ While legal defenses and remedies are available to consumers, legal representation is essential to pursue them.

Medical Debt

Medical debt is the largest percentage of consumer debt (58%) in the United States.²⁴⁸ In New York, medical debt has spiked 64% in the last two years.²⁴⁹ At the Hearing, two significant types of medical debt cases were discussed: hospital debt and nursing home debt.

Elisabeth Benjamin discussed hospital debt matters. In New York State, all hospitals are non-profit charities, regulated by IRS and other rules that prohibit extraordinary collection practices, including suing patients, in the absence of prior determinations of eligibility for

financial assistance.²⁵⁰ Between 2015 and 2020, 53,182 hospital debt cases were brought in the State, with default judgments entered in 98% of the matters.²⁵¹ Medical debt cases currently are not handled in specialized parts.

The Hearing panel asked Ms. Benjamin questions about potential solutions. In addition to increased funding for civil legal services, Ms. Benjamin suggested a number of statutory reforms, including pre-litigation authorization by the hospital CFO and additional pleading requirements, establishment of specialized medical debt parts, and training for judges.²⁵²

Barbara Robinson spoke about her experience being sued by a nursing home for a friend's debt for which she was not responsible. Nursing homes throughout the country are bringing such actions despite federal law that prevents a nursing home "from requiring a person other than the resident to assume personal responsibility for any cost of the resident's care."²⁵³ In Monroe County, 24 federally licensed nursing homes filed 238 debt collection cases from 2018 to 2021 seeking almost \$7.6 million.²⁵⁴ Nearly two-thirds of the cases targeted a friend or relative.²⁵⁵ Many were accused — often without proof — of hiding residents' assets.²⁵⁶ Defendants, typically unrepresented and unaware of legal defenses, are left improperly with judgments and liens for third parties' debts, illustrating the need for attorney representation.²⁵⁷

Consumer Credit

Hundreds of thousands of consumer credit matters are filed annually in New York, with a significant majority of the cases being decided on default.²⁵⁸ In a high percentage of cases, consumers are being sued for debts they do not owe or for which creditors have no proof to establish their right to collect the debt. Creditors and their attorneys' practices depend on default judgments to resolve the cases and resort to intimidation and protracted litigation when defendants try to defend their rights.²⁵⁹ As Raun Rasmussen, Legal Services NYC Executive Director, noted in his Hearing written submission:

The high volume of cases filed is mostly a product of fraudulent business practices conducted by the plaintiffs in many of these cases: debt collection "mills," debt buyers and their lawyers who purchase debt for pennies on the dollar and whose business model depends on never having to litigate — or prove — a case. Instead, if they can get a default judgment . . . they can almost always begin the garnishment process and collect millions of dollars — all without anyone ever checking to determine if the alleged debts are actually owed by the defendants. Those kinds of inquiries are precisely what is supposed to happen in our courts of law, but they do not happen because such a small number of consumer debt defendants are represented.²⁶⁰

While statutory and court rules have been implemented to address some consumer debt issues,²⁶¹ problems still remain. Mr. Rasmussen proposed increased funding for representation, in conjunction with legislative and court reforms, similar to those enacted for residential foreclosure matters, to dramatically reduce the default rate.²⁶²

The Hearing highlighted important substantive and procedural issues surrounding consumer debt that require further study by the Commission and the court system in order to develop appropriate responses.

Recommendation: To address the significant unmet need for effective assistance in consumer matters, the Commission and the court system should work together to study the barriers to justice faced by low-income defendants and propose solutions.

For the foregoing reasons, the Commission respectfully requests that the funding and other recommendations set forth in this Report be adopted to continue to bridge the access-to-justice gap for low-income families and individuals in New York State.

ENDNOTES

- ¹ Press Release, Task Force to Support Chief Judge’s Efforts to Ensure Adequate Legal Representation in Civil Proceedings Involving Fundamental Human Needs (June 9, 2010), available at: https://www.nycourts.gov/legacypdfs/press/pdfs/pr2010_09.pdf. The Task Force is now known as the Permanent Commission on Access to Justice. See New York Rules of the Chief Judge § 51.1 (June 3, 2015), available at: <https://www2.nycourts.gov/rules/chiefjudge/51.shtml#01>.
- ² A list of the members of the Commission is set forth at the beginning of this Report. In addition, several leading law firms provide invaluable pro bono assistance. A full listing is annexed as Appendix 1.
- ³ N.Y. Legis. Assemb. Res. K1621. Sess. 2009–2010 (2010), available at: <https://www.nysenate.gov/legislation/resolutions/2009/k1621>; N.Y. Legis. Assemb. Res. J6368. Sess. 2009–2010 (2009), available at: <https://www.nysenate.gov/legislation/resolutions/2009/j6368>. The Joint Resolution was adopted by the State Senate on June 29, 2010, and the State Assembly on July 1, 2010.
- ⁴ Hearing Transcript, The Chief Judge’s 2022 Hearing on Civil Legal Services in New York 2:15-20 (opening remarks of Acting Chief Judge Anthony Cannataro) (Court of Appeals, Sept. 19, 2022) [hereinafter Hearing Transcript], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Transcript-Statewide-Hearing-on-Civil-Legal-Services.pdf>.
- ⁵ Notice of Public Hearing, The Chief Judge’s 2022 Hearing on Civil Legal Services in New York, available at: https://www.nycourts.gov/legacypdfs/accesstojusticecommission/22_CLS-Hearing_Notice.pdf.
- ⁶ Hearing Transcript, *supra* note 4, at 6:23-25, 7:1-5 (opening remarks of Acting Chief Judge Anthony Cannataro).
- ⁷ *Id.* at 7:6-13.
- ⁸ See List of Presenters, The Chief Judge’s 2022 Hearing on Civil Legal Services in New York, available at: https://nycourts.gov/ctapps/news/22_CLS_Hearing-Presenter_List.pdf; Written Statements from Presenters, The Chief Judge’s 2022 Hearing on Civil Legal Services in New York [hereinafter Written Statements] (Appendix 2 to this Report).
- ⁹ See Hearing Video, The Chief Judge’s 2022 Hearing on Civil Legal Services in New York, available at: <https://nycourts.gov/ctapps/civil.html>.
- ¹⁰ Hearing Transcript, *supra* note 4, at 11:11-22 (remarks of Deborah Enix-Ross).
- ¹¹ *Id.* at 12:17-25.
- ¹² *Id.* at 13:13-25.
- ¹³ *Id.* at 14:2-6.
- ¹⁴ *Id.* at 14:19-20.
- ¹⁵ Written Statements, *supra* note 8, Statement of Deborah Enix-Ross, 2.
- ¹⁶ Hearing Transcript, *supra* note 4, at 15:19-24 (remarks of Deborah Enix-Ross).
- ¹⁷ *Id.* at 19:1-9 (remarks of Hon. Meredith Vacca).
- ¹⁸ *Id.* at 19:4-6.
- ¹⁹ *Id.* at 20:5-7.
- ²⁰ *Id.* at 21:1-4.
- ²¹ *Id.* at 20:14-16.
- ²² *Id.* at 20:16-22.
- ²³ *Id.* at 21:7-9.
- ²⁴ *Id.* at 21:12-15.

²⁵ *Id.*

²⁶ *Id.* at 21:16-18.

²⁷ *Id.* at 22:5-8.

²⁸ *Id.* at 22:1-4.

²⁹ *Id.* at 22:24-25.

³⁰ *Id.* at 19:20-22.

³¹ *Id.* at 24:3-9.

³² *Id.* at 33:6-17 (remarks of David Levine).

³³ *Id.* at 33:18-23.

³⁴ *Id.* at 33:21-23.

³⁵ *Id.* at 34:14-25.

³⁶ *Id.* at 34:20-25.

³⁷ *Id.* at 35:1-6.

³⁸ *Id.* at 35:3-6.

³⁹ *Id.* at 35:7-11.

⁴⁰ *Id.* at 35:14-36:19.

⁴¹ *Id.* at 35:19-25.

⁴² *Id.* at 36:1-6.

⁴³ *Id.* at 36:14-19.

⁴⁴ *Id.* at 36:20-37:3.

⁴⁵ *Id.* at 39:17-40:5.

⁴⁶ *Id.* at 40:6-9.

⁴⁷ *Id.* at 40:10-14.

⁴⁸ *Id.* at 38:9-12.

⁴⁹ The CHA program is a partnership between CSS and 50 community-based organizations, many of which are legal services providers. CSS operates a central, live-answering helpline (which is listed on insurance carrier notices) and refers cases to the community-based organizations that provide direct assistance to New Yorkers residing in all 62 counties of the State. The CHA program has saved New Yorkers over \$140 million since 2010. *See* Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 1-2.

⁵⁰ Hearing Transcript, *supra* note 4, at 44:14-16 (remarks of Elisabeth Benjamin).

⁵¹ *Id.* at 44:24-45:5.

⁵² *Id.* at 45:14-21. New York hospitals are non-profit organizations that do not pay taxes and benefit from a \$1.1 billion Indigent Care Pool (ICP). In exchange for ICP funds, the hospitals are required to develop and offer financial assistance policies to patients whose income is below 300 percent of the Federal Poverty Guidelines. Non-profit hospitals are bound by Internal Revenue Service rules that prohibit them from pursuing collection practices without determining if a patient is eligible for financial assistance. *See* Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 3.

⁵³ The report series is available at: <https://www.cssny.org/campaigns/entry/end-medical-debt#research-pmdpa>.

⁵⁴ Hearing Transcript, *supra* note 4, at 45:9-13, 45:25-46:3 (remarks of Elisabeth Benjamin); Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 2-3.

⁵⁵ Hearing Transcript, *supra* note 4, at 46:4-5 (remarks of Elisabeth Benjamin).

⁵⁶ *Id.* at 46:7-8.

⁵⁷ *Id.* at 46:9-10.

⁵⁸ *Id.* at 46:14-16.

⁵⁹ *Id.* at 46:20-22.

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- ⁶⁰ Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 2.
- ⁶¹ Hearing Transcript, *supra* note 4, at 47:13-17 (remarks of Elisabeth Benjamin).
- ⁶² *Id.* at 47:17-24. Subsequent to Ms. Benjamin’s presentation, Governor Kathy Hochul signed into law S.6522A/A.7363A that prohibits home liens on primary residences and garnishment of wages to collect medical debt. Press Release, Governor Hochul Signs Legislation to Protect Patients with Medical Debt (Nov. 23, 2022), available at: <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-protect-patients-medical-debt>.
- ⁶³ Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 4.
- ⁶⁴ *Id.*
- ⁶⁵ *Id.* at 4-5.
- ⁶⁶ Hearing Transcript, *supra* note 4, at 48:7-15 (remarks of Elisabeth Benjamin).
- ⁶⁷ *Id.* at 64:12-65:-6 (remarks of Jenna McCormack).
- ⁶⁸ *Id.* at 67:12-15 (remarks of Kristin Brown).
- ⁶⁹ *Id.* at 67:19-21.
- ⁷⁰ *Id.* at 68:1-12, 14-17.
- ⁷¹ *Id.* at 69:10-11.
- ⁷² *Id.* at 70:10-17.
- ⁷³ Written Statements, *supra* note 8, Statement of Barbara Robinson, 2.
- ⁷⁴ Hearing Transcript, *supra* note 4, at 79:21-23 (remarks of C. Kenneth Perri).
- ⁷⁵ *Id.* at 79:4-13.
- ⁷⁶ Legal Services Corporation, The Justice Gap Report (2022) [hereinafter Justice Gap Report], available at <https://justicegap.lsc.gov/the-report/>.
- ⁷⁷ Hearing Transcript, *supra* note 4, at 80:24-81:6 (remarks of C. Kenneth Perri).
- ⁷⁸ *Id.* at 81:20-24.
- ⁷⁹ *Id.* at 82:15-19; *see* NYSBA, Report & Recommendations of the Task Force on Rural Justice: Interventions to Ameliorate the Access-to-Justice Crisis in Rural New York (Apr. 2020) [hereinafter NYSBA Rural Justice Report], available at: <https://nysba.org/app/uploads/2020/03/Report-and-Recommendations-of-the-Task-Force-on-Rural-Justice-as-of-3.18.2020.pdf>.
- ⁸⁰ Hearing Transcript, *supra* note 4, at 83:4-10 (remarks of C. Kenneth Perri).
- ⁸¹ Written Statements, *supra* note 8, Statement of C. Kenneth Perri, 5.
- ⁸² Hearing Transcript, *supra* note 4, at 88:11-16 (remarks of Shane O’Brien).
- ⁸³ *Id.* 89:16-18.
- ⁸⁴ *Id.* at 90:15-91:3.
- ⁸⁵ *Id.* at 94:3-15 (remarks of Karen Nicolson).
- ⁸⁶ *Id.* at 94:24-95:5.
- ⁸⁷ *Id.* at 95:21-96:7.
- ⁸⁸ Justice Gap Report, *supra* note 76.
- ⁸⁹ Hearing Transcript, *supra* note 4, at 97:13-15 (remarks of Karen Nicolson).
- ⁹⁰ *Id.* at 101:20-24 (remarks of Vincent & Linda Massenzio).
- ⁹¹ *Id.* at 103:1-6 (remarks of Samantha Aguam).
- ⁹² *Id.* at 105:21-24.
- ⁹³ *Id.* at 106:23-24.
- ⁹⁴ *Id.* at 107:2-3.
- ⁹⁵ *Id.* at 107:9-10.
- ⁹⁶ *Id.* at 107:11-14.
- ⁹⁷ *Id.* at 107:20-108:10.

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- ⁹⁸ *Id.* at 108:18-23.
- ⁹⁹ *Id.* at 115:16-18 (remarks of Keri).
- ¹⁰⁰ *Id.* at 116:14-23, 117:3-10.
- ¹⁰¹ *Id.* at 119:25-120:12 (remarks of Michele Pollock Rich).
- ¹⁰² *Id.* at 120:23-121:6.
- ¹⁰³ Written Statements, *supra* note 8, Statement of Michele Pollock Rich, 3.
- ¹⁰⁴ Hearing Transcript, *supra* note 4, at 123:17-25 (remarks of Michele Pollock Rich).
- ¹⁰⁵ *Id.* at 129:14 (remarks of Camari Banks).
- ¹⁰⁶ *Id.* at 133:16-19.
- ¹⁰⁷ *Id.* at 133:16-24.
- ¹⁰⁸ *Id.* at 137:19-24 (remarks of Adriene Holder).
- ¹⁰⁹ *Id.* at 138:5-9.
- ¹¹⁰ Effective assistance encompasses a continuum of services, from providing legal information, to limited scope representation, to full legal representation, that meets the needs of low-income individuals facing legal matters involving the essentials of life. The appropriate effective assistance to be provided in a given situation depends on, among other factors, the nature and complexity of the matter and the capabilities of the individual.
- ¹¹¹ See 2022 Statewide Stakeholders Meeting Agenda (Oct. 24, 2022), available at: <https://ww2.nycourts.gov/accesstojusticecommission/ss2022.shtml>.
- ¹¹² Remarks of Acting Chief Judge Anthony Cannataro, 2022 Statewide Stakeholders Meeting, on file with the Commission.
- ¹¹³ See 2022 Statewide Stakeholders Meeting, Breakout Session Transcript, Simplification of Court Procedures (Oct. 24, 2022) [hereinafter Simplification Breakout Transcript], on file with the Commission.
- ¹¹⁴ See 2022 Statewide Stakeholders Meeting, Breakout Session Transcript, Library Projects (Oct. 24, 2022) [hereinafter Libraries Breakout Transcript], on file with the Commission.
- ¹¹⁵ See 2022 Statewide Stakeholders Meeting, Breakout Session Transcript, Legal Hand (Oct. 24, 2022) [hereinafter Legal Hand Breakout Transcript], on file with the Commission.
- ¹¹⁶ See 2022 Statewide Stakeholders Meeting, Breakout Session Transcript, Access to Justice Committees (Oct. 24, 2022) [hereinafter Committees Breakout Transcript], on file with the Commission.
- ¹¹⁷ See 2022 Statewide Stakeholders Meeting, Breakout Session Transcript, Emergency Response Preparedness for Staff, Clients, and Court Users (Oct. 24, 2022) [hereinafter Emergency Response Breakout Transcript], on file with the Commission.
- ¹¹⁸ See 2022 Statewide Stakeholders Meeting, Post-2022 Stakeholder Meeting Survey Results, on file with the Commission.
- ¹¹⁹ See 2022 New York Statewide Civil Legal Aid Technology Conference [hereinafter 2022 Technology Conference], available at: <https://ww2.nycourts.gov/accesstojusticecommission/tc/2022conf.shtml>.
- ¹²⁰ Based on 92 responses. See Post-2022 Technology Conference Survey Results, on file with the Commission.
- ¹²¹ 57 out of 92 respondents said they were very likely to implement something they learned at the conference and 27 respondents said they were somewhat likely. *Id.*
- ¹²² See 2022 Law School Conference Agenda, available at: <https://ww2.nycourts.gov/accesstojusticecommission/lsc/2022agenda.shtml>.
- ¹²³ Remarks of Helaine M. Barnett, 2022 Law School Conference, available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Helaine-Barnett_LSC_%20Welcome.pdf.

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- ¹²⁴ Remarks of Former Chief Judge Janet DiFiore, 2022 Law School Conference, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Chief-Judge-Law-School-Access-to-Justice-Conf-June-2022.pdf>.
- ¹²⁵ Remarks of Associate U.S. Attorney General Vanita Gupta, 2022 Law School Conference, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Associate-Attorney-General-Gupta-Remarks.pdf>.
- ¹²⁶ See Permanent Commission on Access to Justice, Report of the Working Group on Law School Involvement 8-10 (2022) [hereinafter Law School Conference Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2022-WorkingGrpReport.pdf>. The panel discussed stereotypes deeply embedded in healthcare that depict the disparate treatment experienced by people of color.
- ¹²⁷ *Id.* at 9.
- ¹²⁸ *Id.* at 10; see also Hearing Transcript, *supra* note 4, 48:7-15 (remarks of Elisabeth Benjamin); Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 4-5.
- ¹²⁹ Law School Conference Report, *supra* note 126, at 10-19.
- ¹³⁰ Acknowledgement of Working Group Members (Appendix 3 to this Report).
- ¹³¹ Report of the Funding Working Group (prepared by Neil Steinkamp) [hereinafter Funding Report] (Appendix 4 to this Report).
- ¹³² Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 37-41 (Nov. 2021) [hereinafter 2021 Annual Report], available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/21_ATJ-Comission_Report.pdf.
- ¹³³ Further information about the PPWG is available at: <https://ww2.nycourts.gov/reimagine-the-future/pandemic-practices.shtml>.
- ¹³⁴ Testimony of Helaine M. Barnett, Public Hearing, Commission to Reimagine the Future of New York's Courts (June 7, 2022) (Appendix 5 to this Report).
- ¹³⁵ The Task Force to Expand Access to Civil Legal Services in New York, Report of the Task Force's Working Group on Technology (Nov. 2013) [hereinafter 2013 Technology Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2013TechnologyReport.pdf>; Permanent Commission on Access to Justice, Report of the Permanent Commission's Working Group on Technology (Nov. 2018) [hereinafter 2018 Technology Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2018TechnologyReport.pdf>.
- ¹³⁶ See Section II.F.1, *infra*.
- ¹³⁷ 22 NYCRR 36.1(b)(2)(ii).
- ¹³⁸ See Letter from Helaine M. Barnett, Chair, Permanent Commission on Access to Justice, to Eileen Millett, Former Counsel, Office of Court Administration (Aug. 16, 2021) (Appendix 14 to the 2021 Annual Report, *supra* note 132).
- ¹³⁹ Office of Court Administration, Request for Public Comment on Proposal to Amend Part 36 to Allow a Party's Uncompensated Friends and Relatives to Act as Guardians Ad Litem Without Completing Part 36 Enrollment and Paperwork (Jan. 19, 2022), available at: <https://ww2.nycourts.gov/rules/comments/index.shtml>.
- ¹⁴⁰ Letter from Helaine M. Barnett, Chair, Permanent Commission on Access to Justice, to Eileen Millett, Former Counsel, Office of Court Administration (Apr. 22, 2022) (Appendix 6 to this Report); Barbara J. Ahern, Comments from the NYSBA Committee on Animals and the Law to proposed OCA revisions to 22 NYCRR Part 36.1(b)(2)(ii), available at: <https://www.nycourts.gov/LegacyPDFS/rules/comments/pdf/received/guardians-ad-litem.pdf>.

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- ¹⁴¹ Administrative Order of the Chief Judge of the State of New York, AO/03/22 (June 9, 2022), available at: <https://www.nycourts.gov/LegacyPDFS/rules/comments/orders/AO.03.22%20Part%2036.pdf>.
- ¹⁴² Letter from Helaine M. Barnett, Chair, Permanent Commission on Access to Justice, to Hon. Lawrence K. Marks, Chief Administrative Judge (April 6, 2022) [hereinafter Letter to Judge Marks] (Appendix 7 to this Report); *see* Section II.D.1, *infra*.
- ¹⁴³ *See* Section II.D.2, *infra*.
- ¹⁴⁴ A presentation on this initiative was given previously to the Working Group in November 2021.
- ¹⁴⁵ 2021 Annual Report, *supra* note 132, at 52.
- ¹⁴⁶ Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 41 (Nov. 2020) [hereinafter 2020 Annual Report], available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/20_ATJ-Comission_Report.pdf.
- ¹⁴⁷ *See* Business Council for Access to Justice Members, available at: <http://ww2.nycourts.gov/accesstojusticecommission/bc/Members.shtml>.
- ¹⁴⁸ Email from Adam Heintz, Dir. of Pro Bono Services, Legal Services NYC, to Barbara Mulé, Staff Counsel, Permanent Commission on Access to Justice (Nov. 21, 2022, 8:58 EST), on file with the Commission.
- ¹⁴⁹ *See* Permanent Commission on Access to Justice, Annual Reports and Appendices, available at: <http://ww2.nycourts.gov/accesstojusticecommission/annual.shtml>.
- ¹⁵⁰ 2021 Annual Report, *supra* note 132, at 35-36.
- ¹⁵¹ *Id.* at 4-8.
- ¹⁵² Funding Report, *supra* note 131.
- ¹⁵³ 2021 Annual Report, *supra* note 132, at 4.
- ¹⁵⁴ Written Statements, *supra* note 8, Statement of Michele Pollock Rich, 4.
- ¹⁵⁵ Hearing Transcript, *supra* note 4, at 124:6-13 (remarks of Michele Pollock Rich).
- ¹⁵⁶ *Id.* at 67:5-6 (remarks of Kristin Brown).
- ¹⁵⁷ Permanent Commission on Access to Justice, Justice For All Strategic Action Plan 85 (Dec. 22, 2017), available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2018-04/JFA-Report-122217.pdf>.
- ¹⁵⁸ Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 21 (Nov. 2018) [hereinafter 2018 Annual Report], available at: http://ww2.nycourts.gov/sites/default/files/document/files/2019-10/18_ATJ-Comission_Report.pdf.
- ¹⁵⁹ *See, e.g.*, 2021 Annual Report, *supra* note 132, at 26-29; 2020 Annual Report, *supra* note 146, at 31-35.
- ¹⁶⁰ *See* Committees Breakout Transcript, *supra* note 116.
- ¹⁶¹ *Id.* at 2.
- ¹⁶² *Id.*
- ¹⁶³ *Id.* at 7.
- ¹⁶⁴ *Id.*
- ¹⁶⁵ *Id.*
- ¹⁶⁶ *Id.* at 14-15.
- ¹⁶⁷ *Id.* at 15-18.
- ¹⁶⁸ *Id.* at 17.
- ¹⁶⁹ *Id.*
- ¹⁷⁰ *Id.* at 16-17.
- ¹⁷¹ *Id.* at 18.
- ¹⁷² An initial \$75,000 grant was received from the National Center for State Courts for the initial implementation of the Suffolk County Library Project. Hearing Transcript, The Chief Judge’s 2019 Hearing on Civil Legal Services in New York State 93:3-11 (remarks of Neil Steinkamp) (Court of Appeals, Sept. 23, 2019), available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2019->

[10/2019Transcript.pdf](#). There has been no other funding specifically targeted toward local access to justice committee efforts. *Id.*

¹⁷³ See Committees Breakout Transcript, *supra* note 116.

¹⁷⁴ Letter to Judge Marks, *supra* note 142.

¹⁷⁵ *Blatch v. Hernandez*, 97 Civ. 3918 (S.D.N.Y. Nov. 2, 2008).

¹⁷⁶ The City of New York Department of Investigation, New York City Marshals Handbook of Regulations 72-73, available at:

[https://www1.nyc.gov/assets/doi/downloads/pdf/marshals/NYC Marshals Handbook.pdf](https://www1.nyc.gov/assets/doi/downloads/pdf/marshals/NYC_Marshals_Handbook.pdf).

¹⁷⁷ *Cottage Realty Assoc. and Klein Properties, LLC v. Felipe Martinez*, Mt. Vernon City Court, Index No. 0243-21.

¹⁷⁸ 2021 Annual Report, *supra* note 132, at 52-53; 2020 Annual Report, *supra* note 146, at 51.

¹⁷⁹ See 2021 Annual Report, *supra* note 132, at 52-53.

¹⁸⁰ *Id.* at 52.

¹⁸¹ Administrative Order of the Chief Administrative Judge of the Courts, AO/199/22 (Aug. 18, 2022), available at: <https://www.nycourts.gov/LegacyPDFS/FORMS/np/Administrative%20Order%20AO%20199-22%20signed%20no%20exhibits.pdf>.

¹⁸² 2022 Statewide Stakeholders Meeting, Plenary Session Transcript 35 (Oct. 24, 2022) [hereinafter Plenary Transcript], on file with the Commission.

¹⁸³ *Id.* at 32.

¹⁸⁴ *Id.* at 33.

¹⁸⁵ See Hearing Transcript, *supra* note 4, at 82:1-83:15 (remarks of C. Kenneth Perri); Plenary Transcript, *supra* note 182, at 28-29; *infra* note 227.

¹⁸⁶ Law School Conference Report, *supra* note 126, at 11-12.

¹⁸⁷ See, e.g., Section I.F, *supra*; 2021 Law School Conference, Breakout Session Transcript, Housing Advocacy Through Clinics and Community Partners: Fast and Furious Demands, Towering Obstacles, and Teaching Moments (June 2, 2021), available at:

https://nycourts.gov/LegacyPDFS/accesstojusticecommission/A2J_2B_Transcript.pdf.

¹⁸⁸ Law School Conference Report, *supra* note 126, at 12. Such courses can include introductory and advanced landlord-tenant law and advanced property law on Black landowners dispossession.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ A menu of available DIY Form programs is available at:

<https://nycourts.gov/CourtHelp/DIY/index.shtml>.

¹⁹⁴ Civil Court of the City of New York, A Decade of Change and Challenge in “The People’s Court” 1997-2006, at 21-22 (2006), available at: <https://nycourts.gov/COURTS/nyc/housing/pdfs/10year.pdf>.

¹⁹⁵ NYS Courts Access to Justice Program, 2011 Annual Report 27-28, available at:

https://www.nycourts.gov/LegacyPDFS/ip/nya2j/pdfs/NYA2J_2011report.pdf.

¹⁹⁶ 2021 Annual Report, *supra* note 132, at 50-52.

¹⁹⁷ *Id.*; 2020 Annual Report, *supra* note 146, at 51; Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 18-19 (Nov. 2019), available at:

https://www.nycourts.gov/LegacyPDFS/19_ATJ-Comission_Report.pdf; 2018 Annual Report, *supra* note 158, at 15-16.

¹⁹⁸ Hearing Transcript, *supra* note 4, at 22:24-25 (remarks of Hon. Meredith Vacca).

¹⁹⁹ *Id.* at 23:1-4.

²⁰⁰ *Id.* at 23:12-16, 23:24-24:3.

²⁰¹ *Id.* at 24:10-11.

²⁰² Conference of Chief Justices, Conference of State Court Administrators, Resolution 3: In Support of Process Simplification (July 28, 2021), available at:

https://ccj.ncsc.org/_data/assets/pdf_file/0017/67013/Resolution-3_Process-Simplification.pdf.

²⁰³ See Simplification Breakout Transcript, *supra* note 113.

²⁰⁴ See CPLR 1101(b).

²⁰⁵ See, e.g., D.C. Code § 15-712 (2022) (District of Columbia); IL ST S. Ct. Rule 298 (2022) (Illinois); Mass. Gen. Laws ch. 261, §§ 27A-27G (2000) (Massachusetts); Mich. Ct. R. 2.002 (2022) (Michigan); Vt. R. Civ. P. 3.1 (2022) (Vermont).

²⁰⁶ See, e.g., D.C. Code § 15-712(b) (2022); IL ST S. Ct. Rule 298(a)(1) (2022); Mass. Gen. Laws ch. 261, § 27A (2000); Mich. Ct. R. 2.002(C) (2022); Vt. R. Civ. P. 3.1(b)(1) (2022).

²⁰⁷ See, e.g., D.C. Code § 15-712(a) (2022); IL ST S. Ct. Rule 298(a)(1) (2022); Mass. Gen. Laws ch. 261, § 27A (2000); Mich. Ct. R. 2.002(F) (2022); Vt. R. Civ. P. 3.1(a) (2022).

²⁰⁸ See, e.g., Mass. Gen. Laws ch. 261, § 27C(2) (2000); Mich. Ct. R. 2.002(C) (2022); Vt. R. Civ. P. 3.1(b) (2022).

²⁰⁹ See Massachusetts Affidavit of Indigency, on file with the Commission; Michigan Fee Waiver Request, on file with the Commission; Vermont Application to Waive Filing Fees and Service Costs, on file with the Commission.

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² Affidavit of Indigency, Massachusetts CourtFormsOnline, available at:

<https://apps.suffolkclitlab.org/run/indigency/#/1>; Do-It Yourself Fee Waiver, Michigan Legal Help, available at: <https://michiganlegalhelp.org/self-help-tools/going-court/do-it-yourself-fee-waiver>.

²¹³ 2013 Technology, Report, *supra* note 135, at 1-6.

²¹⁴ 2018 Technology Report, *supra* note 135, at 3-15.

²¹⁵ Permanent Commission on Access to Justice, Report of the Permanent Commission's Working Group on Technology, 9-10 (2019), available at:

<https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2019TechnologyReport.pdf>.

²¹⁶ 2020 Annual Report, *supra* note 146, at 50; 2021 Annual Report, *supra* note 132, at 55.

²¹⁷ *Id.* at 55.

²¹⁸ See generally Administrative Order of the Chief Administrative Judge of the Courts, AO/188/22 (Aug. 10, 2022), available at: <https://iappscontent.courts.state.ny.us/NYSCEF/live/legislation/AO.188.22.pdf>; Chief Administrative Judge, E-File Report to the Legislature, the Governor, and the Chief Judge of the State of New York (Mar. 1, 2022), available at:

<https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>. Expansion of the pilot to the Richmond, Fulton, Saratoga, and Suffolk Counties' Family Courts is planned before the end of this year. Based on conversation with Jeffrey Carucci, Director and Statewide Coordinator of E-filing, New York State Unified Court System (Nov. 10, 2022).

²¹⁹ 2020 Annual Report, *supra* note 146, at 32-35 (the Third, Fifth, Sixth, Ninth, Tenth [Nassau], and Tenth [Suffolk] Judicial Districts were all working with public libraries).

²²⁰ See Libraries Breakout Transcript, *supra* note 114, at 14-15.

²²¹ Law School Conference Report, *supra* note 126, at 15.

²²² The Law School Working Group suggests that New York consider adopting the ABA's 30-credit allowance for distance learning to earn a law degree, given the demonstrated importance and efficacy of remote learning environments. See *id.* at 16.

²²³ *Id.*

²²⁴ Digital inclusion entities are individual organizations or coalitions that work to address all aspects of the digital divide, including affordable broadband, devices, and skills. Digital navigators are trusted guides who assist community members in internet adoption and the use of computing devices. National Digital Inclusion Alliance Definitions, available at: <https://www.digitalinclusion.org/definitions/>.

²²⁵ See Debra Cassens Weiss, *New York Is First State to Require CLE Course in Cybersecurity*, ABA Journal (Aug. 8, 2022), available at: <https://www.abajournal.com/news/article/new-york-is-first-state-to-require-cle-courses-in-cybersecurity>.

²²⁶ See Hearing Transcript, *supra* note 4, at 105:2-106:5 (remarks of Samantha Aguam).

²²⁷ NYSBA Rural Justice Report, *supra* note 79; Legal Services Corporation: Rural Justice Task Force, <https://www.lsc.gov/initiatives/lsc-task-forces/rural-justice-task-force>; Jonah E. Bromwich, *Family Court Lawyers Flee Low-Paying Jobs. Parents and Children Suffer*, N.Y. Times (Apr. 29, 2022), available at: <https://www.nytimes.com/2022/04/29/nyregion/family-court-attorneys-fees.html>; Tracy Tullis, *Family Lawyers Are Disappearing in Rural New York*, The Nation (Feb. 28, 2022), available at: <https://www.thenation.com/article/society/rural-new-york-family-law/>.

²²⁸ See *supra* note 185.

²²⁹ Law School Conference Report, *supra* note 126, at 14.

²³⁰ *Id.*

²³¹ See Emergency Response Breakout Transcript, *supra* note 117, at 12, 13.

²³² Law School Conference Report, *supra* note 126, at 10-11.

²³³ *Id.* at 11.

²³⁴ See *id.*; Center for Disaster Philanthropy, *National Voluntary Organizations Active in Disasters*, available at: <https://disasterphilanthropy.org/resources/national-voluntary-organizations-active-in-disasters/>.

²³⁵ See NEW YORK RULES OF PRO. CONDUCT, Rule 6.1.

²³⁶ Law School Conference Report, *supra* note 126, at 17-18, 45-46. In the Pro Bono Scholars Program Breakout Session, there was discussion of the challenges presented by the compressed time frame of the program, which starts immediately after the February bar exam, and its impact on student wellness.

²³⁷ Law School Conference Report, *supra* note 126, at 13.

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ Legal Hand Breakout Transcript, *supra* note 115. The Legal Hand Call-In Center serving Schenectady County (in the Fourth Judicial District) and Albany County (in the Third Judicial District) is operated by the Center for Community Justice and supervised by Center Attorney Bethany Cereo.

²⁴¹ *Id.* The Nassau-Suffolk Legal Hand Call-In Center, serving the Tenth Judicial District, is operated by the Maurice A. Deane School of Law at Hofstra University, under the direction of Hon. Fern Fisher, who serves as the Center Attorney. Law students in Judge Fisher's access-to-justice seminar provide informational assistance and referrals. Judge Fisher highlighted the significance of a law school partnership for the Legal Hand Call-In Center, noting its dual role as an institutional community service ambassador and a learning environment for instilling practical lawyering skills in law students. The law students gain keen insight into the myriad issues confronting individuals in crisis that helps develop culturally sensitive lawyers.

²⁴² This Call-In Center will be operated by the Elisabeth Haub School of Law at Pace University.

²⁴³ Legal Hand Breakout Transcript, *supra* note 115, at 2 (remarks of Hon. Fern Fisher).

²⁴⁴ See *id.* at 4-5 (remarks of Bethany Cereo).

²⁴⁵ Hearing Transcript, *supra* note 4, at 80:24-81:3 (remarks of C. Kenneth Perri).

²⁴⁶ *Id.* at 44:14-16 (remarks of Elisabeth Benjamin); *id.* at 80:9-81:6 (remarks of C. Kenneth Perri); *id.* at 106:17-21 (remarks of Samantha Aguam).

²⁴⁷ *Id.* at 46:7-16 (remarks of Elisabeth Benjamin), 106:22-107:16 (remarks of Samantha Aguam).

²⁴⁸ *Id.* at 44:19-20 (remarks of Elisabeth Benjamin).

²⁴⁹ *Id.* at 44:14-16.

²⁵⁰ *Id.* at 45:14-19.

²⁵¹ *Id.* at 46:9-10; Written Statements, *supra* note 8, Statement of Elisabeth Benjamin, 2-3.

²⁵² Hearing Transcript, *supra* note 4, at 49:8-52:12 (remarks of Elisabeth Benjamin).

²⁵³ 56 Fed. Reg. 48,826, 48, 841 (Sept. 26, 1991); *see generally* Consumer Financial Protection Bureau (CFPB), Nursing Home Debt Collection, available at:

<https://www.consumerfinance.gov/consumer-tools/educator-tools/resources-for-older-adults/issue-spotlight-nursing-home-debt-collection/>.

²⁵⁴ Noam Levy, *Nursing Homes Are Suing Friends and Family to Collect on Patients' Bills*, NPR (July 28, 2022), available at:

<https://www.npr.org/sections/health-shots/2022/07/28/1113134049/nursing-homes-are-suing-friends-and-family-to-collect-on-patients-bills>.

²⁵⁵ *Id.*

²⁵⁶ *Id.* According to the CFPB:

[M]any lawsuits in New York used the following boilerplate language to allege that third parties had engaged in fraudulent conveyance: "Upon information and belief, from on or about [date of resident admission] through the present, Defendant [name] transferred to himself or as yet unknown third parties monies and other property owned by Resident (the "Transfers"). The Transfers were made by Defendant to himself and others, with actual intent to hinder, delay or defraud Plaintiff, and Resident's other then-present and future creditors."

CFPB, Nursing Home Debt Collection, *supra* note 253.

²⁵⁷ *See* Anna Anderson, *Defending Nursing Home Collection Lawsuits*, Nat'l Consumer Law Center (Nov. 15, 2021), available at: https://library.nclc.org/defending-nursing-home-collection-lawsuits?0=ip_login_no_cache%3D146aa8f25f9bcf00b1cf4ec27a945c4d.

²⁵⁸ *See* Local Civil Consumer Credit Filings 2018-Nov. 2022, OCA Division of Technology & Court Research, on file with the Commission. This data from City and District Courts shows over 150,00 filings in 2018 and 2019 (the two most recent years where filings were not influenced by the pandemic and therefore are more representative than subsequent years). When factoring in filings from the Town and Village, Supreme, and County Courts, the total number of statewide filings significantly increases.

²⁵⁹ Written Submissions from Non-Presenters, The Chief Judge's 2022 Hearing on Civil Legal Services in New York State [hereinafter Written Submissions] (Appendix 8 to this Report), Submission of Raun Rasmussen, 1-2.

²⁶⁰ *Id.* (footnote omitted). For a full description of this practice in New York, *see* New Economy Project, *The Debt Collection Racket in New York* (June 2013), available at: <https://www.neweconomynyc.org/wp-content/uploads/2014/08/DebtCollectionRacketUpdated.pdf>.

²⁶¹ *See* Consumer Credit Reform Resources, available at: <https://ww2.nycourts.gov/rules/ccr/index.shtml>.

²⁶² Written Submissions, *supra* note 259, Submission of Raun Rasmussen, 3.

