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COURT OF APPEALS

STATE OF NEW YORK

CHIEF JUDGE'S 2022 STATEWIDE HEARING ON
CIVIL LEGAL SERVICES

20 Eagle Street
Albany, New York
September 19, 2022

- Before: HON. ANTHONY CANNATARO,
Acting Chief Judge
- HON. DIANNE T. RENWICK,
Associate Justice of the First Department
- HON. HECTOR D. LASALLE,
Presiding Justice of the Second Department
- HON. ELIZABETH A. GARRY,
Presiding Justice of the Third Department
- HON. GERALD J. WHALEN,
Presiding Justice of the Fourth Department
- HON. LAWRENCE K. MARKS,
Chief Administrative Judge
- SHERRY LEVIN WALLACH,
President of the New York State Bar Association

Alexander Reaves
Official Court Transcriber



1 THE CLERK: All rise. Welcome to the 2022
2 Hearing on Civil Legal Services. President of the New York
3 State Bar Association, Sherry Levin Wallach. Associate
4 Justice of the Appellate Division First Department, Justice
5 Dianne Renwick. Presiding Justice of the Appellate
6 Division Second Department, Justice Hector LaSalle.
7 Presiding Justice of the Appellate Division Third
8 Department, Justice Elizabeth Garry. Presiding Justice of
9 the Appellate Division Fourth Department, Justice Gerald
10 Whalen.

11 Chief Administrative Judge of New York State
12 Unified Court System, Judge Lawrence Marks, and we have the
13 Acting Chief Judge of the State of New York, Judge Anthony
14 Cannataro. The hearing will now begin.

15 ACTING CHIEF JUDGE CANNATARO: Good afternoon,
16 everyone. Please be seated. Good afternoon and welcome to
17 our civil legal services hearing for 2022. It is an honor
18 and a privilege for me, as the Acting Chief Judge of the
19 Court of Appeals and the State of New York, to welcome you
20 to this, our 2022 public hearing on civil legal services.

21 These hearings have been mandatory viewing for me
22 in my past role as an administrator of a high volume needs
23 of life court in New York City, and I even had the
24 privilege of testifying at these hearings in 2020, so it is
25 a special honor for me to preside over today's proceedings.



1 Joining me in the courtroom today are leaders of the
2 Judiciary and the bar in New York.

3 Starting on my far right, the Chief
4 Administrative Judge of the courts, Lawrence K. Marks.
5 From the Appellate Division First Department, we have
6 Associate Justice Dianne Renwick to my immediate right, who
7 is representing Presiding Justice Rolando Acosta, who was
8 unable to join us today. And in the middle, we have the
9 Presiding Justice of the Appellate Division Third
10 Department, Elizabeth Garry.

11 To my left, starting to my immediate left, we
12 have the Presiding Justice of the Appellate Division Second
13 Department, Hector LaSalle, the Presiding Justice of the
14 Appellate Division Fourth Department, Gerald J. Whalen, and
15 the President of the New York State Bar Association, Sherry
16 Levin Wallach who leads the largest voluntary statewide bar
17 association in the country with over 70,000 members.

18 I want to thank each of these leaders for their
19 presence and participation today and for their joint
20 commitment to maintaining a civil justice system that is
21 accessible to all New Yorkers regardless of income,
22 background, or special needs.

23 I also want to recognize the Chair of the
24 Permanent Commission on Access to Justice, Helaine Barnett.
25 Her wise and devoted leadership of the Commission since its



1 formation in 2010 is one of the reasons that New York State
2 has become a national model for the effective delivery of
3 civil legal services.

4 Thank you, Ms. Barnett, and thank you to the
5 dedicated members of the Permanent Commission who have
6 worked tirelessly across the years to help ensure access to
7 civil justice for people of modest means.

8 One of the commissioners, once again present here
9 today, Deputy Chief Administrative Judge Edwina Mendelson,
10 deserves to be recognized for her leadership of the court
11 system's Office of Justice Initiatives, an office that
12 works closely with the Permanent Commission and
13 stakeholders across the state to ensure that our courts are
14 accessible to court users of all backgrounds, incomes, and
15 special needs.

16 Thank you, Judge Mendelson.

17 Thank you as well to Commission member Camille
18 Siano Enders, who I believe is joining us today, and for
19 your dedication to New Yorkers in need.

20 I am especially pleased to welcome our dear
21 colleague, Judge Leslie Stein, and to commend her for her
22 significant participation in this year's Law School Access
23 to Justice Conference from her new home at Albany Law
24 School, this year's virtual conference host.

25 Judge Stein, thank you for your remarkable public



1 service, your grace, and your commitment to access to
2 justice.

3 I would also like to recognize the presence of
4 Justice Lucy Billings from the Supreme Court, New York
5 County, who is a regular attendee at these hearings, and
6 finally, I would be remiss if I did not recognize the
7 Commission's outstanding support staff, including from the
8 Office of Court Administration, Barbara Mulé, Lauren
9 Kanfer), and Rochelle Klempner, and from the law firm of
10 Sullivan and Cromwell, which provides invaluable pro bono
11 support to this effort, Jessica Klein and Madeline Jenks.
12 Thank you all.

13 This is the thirteenth annual statewide public
14 hearing on civil legal services in New York. The purpose
15 of today's hearing is to hear from a broad range of
16 knowledgeable and experienced presenters and the clients of
17 legal service providers about the nature and extent of
18 unmet civil legal needs for low-income New Yorkers and the
19 challenges that need to be overcome to bridge the justice
20 gap going forward.

21 Also the impact of free legal aid and assistance
22 on the clients who are directly served, particularly in
23 matters involving essentials of life, the broader economic
24 and other benefits that accrue to our communities and to
25 our state and local governments from expanding access to



1 civil justice for people of modest means, and creative
2 ideas and strategies for how we can move forward to bridge
3 the access to justice gap in New York State.

4 The oral presentations we will hear today,
5 together with the written statements of interested
6 individuals and organizations, combined with the Permanent
7 Commission's year-round research and findings, will form
8 the basis for the annual report to the Chief Judge, which I
9 will be submitting to Governor Kathy Hochul and the New
10 York State Legislature on or before December 1st as
11 required by a joint resolution of the New York State
12 Legislature adopted in 2010.

13 The Chief Judge's report will summarize the state
14 of access to civil justice in New York State, including the
15 progress that has been made to narrow the access to justice
16 gap, the different obstacles and challenges that we need to
17 address to continue making progress, and our carefully
18 considered recommendations for the level of monetary
19 resources necessary to address the state's unmet civil
20 legal needs and promising and creative nonmonetary
21 strategies and solutions designed to increase access to
22 justice.

23 For the past twelve years, under the leadership
24 of Chief Judge Johnathan Lippman and Chief Judge Janet
25 DiFiore, these public hearings have been a driving force



1 behind the significant process we have made in
2 collaboration with our stakeholders and justice partners,
3 and the steadfast support of our partners in the executive
4 and legislative branches to expand the availability of free
5 legal aid and representation to low-income New Yorkers.

6 Not only does New York lead the nation in
7 judiciary funding for civil legal services, a funding level
8 that was increased from \$100 million to \$112.6 million in
9 the last fiscal year to address rising expenses and a surge
10 in pandemic-related legal needs, but our state has also
11 become a model for how to leverage collaboration,
12 innovation, and technology to achieve an effective and
13 efficient statewide justice delivery system.

14 We owe a debt of gratitude to the two remarkable
15 leaders who have put us on this positive trajectory. Chief
16 Judge Johnathan Lippman for his extraordinary vision and
17 foresight in establishing these public hearings and the
18 Permanent Commission on Access to Justice, and Chief Judge
19 Janet DiFiore for her wholeheartedly embracing these public
20 hearings and significantly advancing the cause of equal
21 justice in our state.

22 Now, turning to this year's public hearing, we
23 are fortunate to have an excellent group of legal,
24 judicial, business, and healthcare leaders who will help us
25 focus on the unmet civil legal needs of low-income New



1 Yorkers at this moment in time when so many individuals and
2 families continue to struggle with the fallout of the
3 COVID-19 pandemic, including serious legal problems
4 involving housing, healthcare, consumer and medical debt,
5 domestic violence, family stability, education, and so many
6 more.

7 We are grateful to these knowledgeable presenters
8 for their insightful perspectives on how we can ensure
9 access to justice for low-income New Yorkers in matters
10 involving the essentials of life. During this year's
11 hearings, we will once again hear from clients who have
12 received the help and assistance of legal service lawyers,
13 and we very much appreciate their courage in coming forward
14 to tell their stories so that we can better understand how
15 access to free legal aid and assistance affects the lives
16 of individuals and families and the well-being of our
17 communities.

18 For three and a half years, I have the privilege
19 of serving as the Administrative Judge of the New York City
20 Civil Court, which includes the New York City Housing
21 Court, a court with a very large population of indigent and
22 unrepresented litigants, and one that typified the daunting
23 operational, administrative, and policy challenges involved
24 in delivering legal services to communities in need. And
25 so you won't be surprised to hear that I have a very strong



1 interest in the issues and challenges under consideration
2 today, or that I am truly honored and excited to have this
3 opportunity now, as Acting Chief Judge, to be part of this
4 incredible effort to expand access to civil justice for all
5 New Yorkers.

6 And now, without further ado, let us proceed with
7 the 2022 public hearing on civil legal services. Before I
8 call our first presenter, I do want to briefly address a
9 few housekeeping matters to ensure that the hearing
10 proceeds smoothly. We have asked each presenter to limit
11 the length of their remarks so as to be respectful of
12 everyone's time today.

13 To aid in that, we use a system of lights in the
14 courtroom; white to signify that there are two minutes
15 left, and red to indicate that the time for remarks has
16 expired. For those appearing remotely who may not be able
17 to see the lights, I may let you know that your time is
18 about to expire and that you should bring your remarks to a
19 conclusion. Thank you for your cooperation.

20 Our first presenter today is Deborah Enix-Ross,
21 President of the American Bar Association, the world's
22 largest voluntary association of lawyers. Ms. Enix-Ross is
23 professionally employed as a senior advisor to the
24 International Dispute Resolution Group at the law firm of
25 Debevoise & Plimpton, and she has enjoyed a highly



1 distinguished career in the field of alternative dispute
2 resolution. Ms. Enix-Ross will provide a national
3 perspective on the dimensions of the access to justice gap
4 and how the pandemic has intensified the legal problems of
5 financially disadvantaged Americans.

6 Thank you, Ms. Enix-Ross, for appearing remotely,
7 I believe all the way from Edinburg today. We look forward
8 to your presentation.

9 Ms. Enix-Ross, if you're unmuted, we're ready to
10 hear from you.

11 MS. ENIX-ROSS: Yes, thank you. Can you hear me?

12 ACTING CHIEF JUDGE CANNATARO: Yes, we can.

13 MS. ENIX-ROSS: Oh, wonderful. Thank you very
14 much. So good afternoon. I am Deborah Enix-Ross,
15 president of the American Bar Association, and it is
16 certainly my honor to speak at this hearing on civil legal
17 services in New York, so let me start by first thanking
18 Acting Chief Judge Cannataro, and the other esteemed
19 members of this panel for your interest in this really
20 important topic, along with Chair Barnett of the New York
21 State Permanent Commission on Access to Justice for
22 inviting me to present remarks today.

23 I also want to acknowledge the participation in
24 this hearing of my counterpart, New York State Bar
25 Association President Sherry Levin Wallach, as the ABA



1 certainly values our collaboration with state and local bar
2 associations nationwide.

3 So as a lawyer with Debevoise & Plimpton in New
4 York City, and I was born and raised in Harlem, and started
5 my career as a legal aid lawyer in Manhattan, I have a
6 clear interest in this area, but I want to devote my
7 remarks not to my personal devotion, but also to my ABA's
8 perspective as their national president.

9 So as many of you know, the ABA is the largest
10 voluntary association of lawyers and legal professions in
11 the world, and our association has long understood that
12 when one cannot obtain the assistance of counsel to resolve
13 a civil legal problem, the result is often a denial of
14 access to justice.

15 Moreover, a lack of effective legal assistance
16 frequently compounds the problem, multiplying adverse
17 outcomes for the most vulnerable members of our
18 communities, resulting in hardships for them and
19 significant costs to society. So the key to avoiding these
20 outcomes is through the availability of high quality,
21 effective civil legal services for those in need, which can
22 only be achieved with adequate funding and staffing.

23 The ABA has several signature programs that
24 supports civil legal services and enjoys the support of
25 lawyers from across the country, including of course New



1 York State. Our annual association-wide advocacy event
2 called ABA Day in Washington mobilizes lawyers in part to
3 tell their members of congress how critical it is to
4 robustly fund the legal services corporation, which was
5 created to financially support state-based legal aid
6 organizations that help people with civil matters
7 nationwide, especially at times like this when low-income
8 Americans are still struggling in the wake of the COVID-19
9 pandemic as a result of natural disasters and the midst of
10 increasing inflation.

11 The ABA also hosts the national celebration of
12 pro bono to showcase our profession's commitment to
13 volunteer legal services, and the ABA also sponsors along
14 with the National Legal Aid & Defender Association, the
15 annual Equal Justice Conference for legal professionals who
16 provide a range of legal services for the poor.

17 The ABA's Standing Committee on Pro Bono and
18 Public Service administers Free Legal Answers, which is an
19 online advice clinic through which attorneys provide pro
20 bono civil legal advice to income-qualified users, and in
21 the seven years since launching ABA Free Legal Answers,
22 almost 11,000 volunteer attorneys have signed up to answer
23 nearly 250,000 civil legal questions.

24 Currently, forty jurisdictions, and I'm proud to
25 say including New York, are live for client access, and an



1 additional two jurisdictions have committed to participate.
2 The ABA has also long advocated for and supported the
3 establishment of state access to justice commissions, like
4 the New York commission, to expand access to civil justice
5 at all levels for low-income and disadvantaged people.

6 The ABA Resource Center for Access to Justice
7 Initiatives maintains a library of resources. We convene
8 access to justice commission members and other
9 stakeholders, and we host a racial justice working group,
10 which is composed of leaders from access to justice
11 commissions from around the country, including again the
12 New York State Permanent Commission on Access to Justice.

13 The ABA's Standing Committee on Legal Aid and
14 Indigent Defense, known by its acronym of SCLAID, helps to
15 define ABA's access to justice advocacy. SCLAID collects
16 and analyzes legal aid funding data in its ABA array legal
17 aid funding report and uses its findings to underscore the
18 dire need for substantially increased funding.

19 For example, SCLAID used data found in the
20 supporting justice report issued by the ABA Standing
21 Committee on Pro Bono and Public Service, as well as data
22 from the National Bureau of Labor Statistics, to determine
23 the average cost for representation in a typical civil
24 legal aid matter, and then compared it to the overall
25 funding available for civil legal aid.



1 The eye-opening result of this analysis is that
2 for each low-income household experiencing a civil legal
3 problem in 2021, the average cost of legal services to
4 resolve the issue was \$3,065, but the overall available
5 legal aid funding for all sources nationwide was only \$175
6 per low-income household.

7 So it is clear from this data and other sources
8 that our nation is not even remotely close to adequately
9 funding civil legal services for those in need. The global
10 pandemic has exacerbated the problem, significantly
11 affecting low-income individuals and families. The extent
12 and degree of legal problems created by the pandemic for
13 the most vulnerable in our society is sobering.

14 Thirty-three percent of low-income Americans
15 experienced at least one civil legal problem linked to the
16 pandemic in the past year, but overall, ninety-two percent
17 of those with civil legal problems did not receive
18 adequate, or indeed, any legal help for their problems.

19 The pandemic has unquestionably intensified an
20 already profound justice gap in this country. An unfair
21 advantage may arise when one party has the financial means
22 to retain counsel while the other does not, which often
23 occurs during landlord-tenant disputes, employment cases,
24 and healthcare matters.

25 The National Center for State Courts conducted a



1 study which found that the representational imbalance among
2 plaintiffs and defendants has dramatically worsened over
3 the last two decades. When determining funding, states
4 should consider the increased number of underrepresented
5 litigants in civil courts resulting from both inadequate
6 funding for legal aid and a large poverty population.

7 The United States of America promises every
8 citizen that the rule of law will be applied impartially
9 and equally regardless of circumstance, national origin,
10 gender, skin color, creed, or wealth, but our civil justice
11 system is simply not designed for those without legal help.

12 The law, as we know it, is a complex combination
13 of technical terms and procedures that can be exceedingly
14 difficult for the average person to understand. Help from
15 a legal professional is a necessity for even seemingly
16 routine matters, but millions of Americans lack the
17 resources to afford counsel as they seek to protect their
18 most basic and fundamental rights.

19 So as the demand for civil legal services
20 throughout the nation continues to rise, only a robust
21 increase in federal, state, and local funding for such
22 services can begin to close the growing gulf between those
23 who can afford legal representation to help resolve their
24 problems and those who cannot.

25 I appreciate this panel and what you're doing to



1 evaluate and address the unmet civil legal needs of people
2 in New York, and again, I thank you for this opportunity to
3 share the ABA's views.

4 ACTING CHIEF JUDGE CANNATARO: Thank you, Ms.
5 Enix-Ross. We're going to open it up to questions now, so
6 let me begin by asking you. You mentioned that you got
7 your start as a legal aid attorney in Manhattan, and now as
8 president of the ABA, you're in a unique position to gauge
9 progress that's been made over the course of your career,
10 both locally and nationwide.

11 So let me ask you, do you believe that we've made
12 progress, either here in New York or as a nation, to expand
13 access to justice, and what do you see as the single
14 greatest obstacle right now to ensuring equal access to
15 justice for all Americans?

16 MS. ENIX-ROSS: Thank you for that question, and
17 yes, I started out at MFY Legal Services in New York, and
18 certainly, I would say that there has been some progress
19 over these forty years that I've been practicing, including
20 a significant effort of lawyers, especially in New York, to
21 provide pro bono legal services.

22 And so from that perspective, there is progress.
23 People certainly understand the need, and as I mentioned
24 during my remarks, the ABA, during our ABA Day on the hill
25 efforts, we've seen significant understanding of the need



1 to provide legal services and to provide funding.

2 But the gap has grown, and part of it is because,
3 as I mentioned, there are so many more people in need, and
4 if you talk to, I'm sure, legal services corporation
5 representatives, they will talk about how there may be
6 increases in funding, but those increases haven't kept up
7 with the demand.

8 So I think having hearings (audio interference)
9 bar associations in particular encourage our members
10 through our pro bono efforts to try and meet some of that
11 need is important.

12 ACTING CHIEF JUDGE CANNATARO: Thank you.

13 Questions for Ms. Enix-Ross?

14 Thank you very much for your time, and we deeply
15 appreciate you coming to us from Scotland today, and we'll
16 let you get on with what I'm sure is some very busy and
17 important things you need to do.

18 MS. ENIX-ROSS: Thank you again for this
19 opportunity and for indulging me and allowing me to appear
20 virtually, taking advantage of the technology, so thank you
21 very much.

22 ACTING CHIEF JUDGE CANNATARO: Thank you.

23 Our next presenter today is Judge Meredith Vacca.
24 An elected judge of the Monroe County Court since 2021,
25 Judge Vacca serves as the presiding judge of the Monroe



1 County, or served as the presiding judge, of the Monroe
2 County Special COVID Intervention Part, or SCIP, an
3 innovative court model created during the pandemic to
4 provide integrated on-site services to parties in eviction
5 proceedings, including access to legal counsel prior to
6 scheduled court appearances, emergency rent assistance, and
7 other government and nonprofit services.

8 Judge Vacca, thank you for joining us today and
9 we look forward to hearing about your experiences in the
10 SCIP part.

11 JUDGE VACCA: Thank you. Good afternoon, acting
12 Chief Judge Cannataro, Judge Marks, Justice Renwick,
13 Justice LaSalle, Justice Garry, Justice Whalen, President
14 Wallach. My fellow presenters and all the other esteemed
15 guests who have taken the time to watch today's hearing.
16 To the Permanent Commission on Access to Justice, thank you
17 for inviting me to speak, and of course, for your ongoing
18 efforts and dedication to delivering fairness and justice
19 to all by improving access to civil legal services for the
20 people of New York State.

21 My name is Meredith Vacca. I am a Monroe County
22 court judge elected in November of 2020. I am very proud
23 to be here today to give a voice to my hometown, Rochester,
24 in the Seventh Judicial District in the Fourth Department.

25 As a county court judge, most of my work is in



1 the criminal realm. However, my first few months starting
2 out on the bench, I was asked to preside over our Monroe
3 County Special COVID Intervention Part, also fondly
4 referred to as SCIP. SCIP is a civil landlord-tenant court
5 and was created in response to the pandemic and the
6 hardships on individuals and families facing eviction.

7 In SCIP court, I presided weekly over all our
8 village and town landlord-tenant cases in one central
9 location. Before SCIP, our local town and village justices
10 would preside over these housing cases in their respective
11 jurisdictions. As part of Monroe County's SCIP court,
12 attorneys from local legal services providers came to court
13 to provide free representation to the tenants who
14 qualified, and honestly, I don't recall any tenant that
15 didn't qualify for these services.

16 So I'm here today to share with you my experience
17 in SCIP court, specifically as it pertains to the legal
18 representation provided to the tenants, and if I refer to
19 SCIP in the past tense, it is because except for one case,
20 one remaining case, SCIP very recently ended, so our town
21 and village court justices are back presiding over their
22 eviction proceedings, but I'm very happy to reflect a
23 little bit today with all of you regarding SCIP.

24 My experience in SCIP court, involving an area of
25 law I was unfamiliar with at the beginning, was challenging



1 and meaningful. There were significant stressors on both
2 sides of the eviction proceedings for the tenants and the
3 landlords, and the pandemic of course exacerbated
4 everything.

5 Many, many tenants could not pay rent or did not
6 want to move for medical reasons, and many landlords as a
7 result had great difficulties paying their mortgage.
8 Understandably, tensions could at times be quite high in my
9 courtroom. Nevertheless, my personal experience and I
10 believe the experiences of the litigants that came through
11 SCIP were made so much better by our outstanding attorneys
12 who came to court every week to represent and advocate for
13 the tenants facing eviction.

14 I can tell you with confidence that SCIP court
15 would not have been nearly as efficient and effective
16 without those attorneys. The attorneys who provided free
17 legal representation to the tenants were from organizations
18 that are part of the Tenant Defense Project, a program that
19 provides free legal services to low-income residents of the
20 Rochester area on housing matters, including JustCause,
21 Empire Justice Center, Legal Assistance of Western New
22 York, and The Legal Aid Society of Rochester.

23 My appreciation for them is immense. The
24 landlord's attorneys were equally as great, and more
25 importantly, they seemed to get along with each other, with



1 a few exceptions, of course. Landlord-tenant law is not
2 easy, and the special pandemic related landlord-tenant laws
3 and various moratoriums that changed over time were also
4 complex.

5 It is very difficult to imagine tenants being
6 able to navigate all of this on their own without counsel.
7 During much of my tenure over the SCIP court, tenants had
8 the option of completing a hardship declaration, which
9 would for the most part stay the eviction proceeding. At
10 the time, at least in Rochester, there was this general
11 public perception that a person couldn't be evicted no
12 matter what. Therefore, it was vitally important for the
13 tenant's attorneys to educate them about the hardship
14 declaration and advise them on many other things, legal and
15 practical.

16 The Tenant Defense Project attorneys also
17 educated their clients about the various rental assistance
18 programs they could apply for. We had many tenants and
19 landlords receive significant rental assistance payments,
20 and many tenants applied for rental assistance right in the
21 Hall of Justice - - - that's our main courthouse in
22 Rochester - - - at the incentive and with the help of their
23 attorney, so right in court, they were able to apply.

24 Rental assistance of course benefited everyone,
25 and I was always happy to see a case resolve in that way.



1 We had a little under 1,600 cases go through SCIP, and only
2 a small portion of those necessitated a hearing or trial.
3 Most of the cases concluded with a settlement, and I
4 certainly can't take credit for that.

5 The tenants' attorneys were integral at helping
6 come to a settlement for their client, advising them of all
7 the parameters of the agreement, as well as the potential
8 consequences if a condition was not met, and as judge, I
9 could feel confident that both sides were advocated for
10 zealously, concluding in a mutual agreement that both
11 parties understood.

12 Our court was in person but had a virtual option
13 that many tenants and some petitioner's attorneys took
14 advantage of. It was greatly beneficial to have the
15 tenant's attorney present in the courtroom to represent
16 their client and discuss various issues with opposing
17 counsel and the court.

18 Especially with COVID, there were many times
19 tenants were unable to appear in court, whether virtually
20 or in person, so having the tenant's attorney present to
21 update the court on rental assistance applications or
22 pending payments helped keep our docket running smoothly,
23 and sometimes helped protect a tenant from eviction.

24 Very few tenants went through SCIP without taking
25 advantage of the free legal representation that was offered



1 to them. Without the option of free legal representation,
2 I am uncertain of how many tenants would hire their own
3 attorneys, but my guess is that most would not, given their
4 financial circumstances.

5 I recognize that I was very fortunate to have
6 good attorneys in my court to represent tenants. As I said
7 earlier, I know that SCIP would not have run as smoothly as
8 it did without them. I think the landlords' attorneys also
9 appreciated the respondent's representation and the ability
10 to directly correspond with another attorney regarding
11 their cases.

12 And most importantly, I am certain that the
13 tenants significantly benefited from free legal
14 representation, providing them knowledge and protection of
15 their legal rights and a deeper understanding of their
16 options in a stressful situation.

17 For the felonies I preside over in criminal
18 court, defendants of course have a constitutional right to
19 counsel when facing serious charges and the loss of
20 liberty. Tenants involved in eviction proceedings also
21 face potentially serious consequences impacting their home,
22 their lives, their partners' lives, and their children's
23 lives.

24 The ability to be represented by a knowledgeable
25 and experienced attorney at no cost to them can be hugely



1 beneficial, whether it be by avoiding eviction, gaining
 2 some more time to find a new place to live before being
 3 evicted, or settling on a payment plan. I am certain that
 4 we can all agree that it is better for a person who finds
 5 themselves facing eviction to be represented by a
 6 knowledgeable and experienced attorney to advocate on their
 7 behalf and counsel them than to be unrepresented,
 8 especially when most landlords are represented by
 9 attorneys.

10 Accessible representation for the tenant is
 11 essential to basic principles of fairness and justice. Of
 12 course, I know there are so many other questions and
 13 obstacles in achieving that. I hope that sharing my
 14 personal experience in Monroe County SCIP court helped
 15 demonstrate the importance of access to free legal
 16 representation for tenants.

17 Many thanks to all of you for listening and your
 18 commitment to justice for all.

19 ACTING CHIEF JUDGE CANNATARO: Thank you. I note
 20 that your SCIP part was in a densely populated urban area,
 21 and it allowed you to bring in the landlords, the tenants,
 22 and you could have the legal services there in the part,
 23 and you could connect - - - notwithstanding the fact that
 24 you mentioned that some tenants connected with lawyers even
 25 before they came to court, you could put them together



1 right there in court.

2 But there are many places out in the Seventh that
3 are more rural, and I'm wondering if you think the SCIP
4 model could be replicated either in individual Town and
5 Village Courts, or maybe even creating regional SCIP parts
6 in various places in the district, and whether you think
7 that's a good model for delivering services in housing
8 cases outside of New York City and other big urban centers?

9 JUDGE VACCA: I think it could, and actually,
10 pre-COVID, the town of Irondequoit, which is one of the
11 larger towns in Monroe County, had a program where people
12 from JustCause or Legal Aid came and represented the
13 tenants, so I know that model is at least there.

14 I also recognize that other than funding, getting
15 attorneys to go out to these towns is one of the biggest
16 obstacles, if not the biggest obstacle. I think figuring
17 out the towns or villages that have the most landlord-
18 tenant cases and starting there would be the most
19 beneficial.

20 For example, my colleague who is a Pittsford town
21 court judge tells me that he does not get many landlord-
22 tenant cases, but there are other towns, such as the town
23 of Greece where I grew up, that get a lot.

24 And so I think finding those towns and starting
25 there, you know, I know the towns right now don't have



1 virtual options, because we talked about that. I talked
2 about that with the attorneys, as SCIP was ending, trying
3 to kind of figure out what could be done, and I think
4 having a virtual option would be helpful since a lot of the
5 towns and villages have court at night, and just getting
6 the people there at 6 o'clock is hard.

7 So virtual, maybe even recruiting new attorneys,
8 new, young attorneys that don't have families to go home
9 to, when they can go out to court at night, and, you know,
10 being assigned to certain courts even if you started out
11 with, you know, some of the bigger towns - - - Henrietta,
12 Irondequoit, and Greece - - - and worked from there. I
13 think that would be, could be helpful.

14 ACTING CHIEF JUDGE CANNATARO: That answer was
15 very helpful. Thank you.

16 JUDGE WHALEN: Judge, if I could - - - could I,
17 Chief?

18 Judge, obviously the work you're doing or you did
19 during the SCIP was very important in the Seventh. Kind of
20 carrying on with the question that the Acting Chief Judge
21 just asked, there are certain towns that do have very busy
22 dockets in town and village, dockets for landlord-tenant
23 problems.

24 And you do indicate that there's maybe the
25 possibility of a program where we could have young lawyers



1 who, in my experience, young lawyers are going out to those
2 town and village courts anyway on a regular basis at night
3 court, and so there might be a coordination ability there
4 with the people that are going out, handling criminal cases
5 on a regular basis, to also maybe capture them while
6 they're out there to have them handle some landlord-tenant.

7 Are the calendars separated in your experience,
8 out in those Town and Village Courts, where they wouldn't
9 be on the same night, and if so, is there some way that you
10 could think that we might be able to overcome that?

11 JUDGE VACCA: So the calendars for the towns and
12 villages vary depending on the town, so some - - - a lot of
13 them are at night. Some of them are during the day, some
14 are in the morning. They vary across the board. I think
15 that your point is good about using people that are already
16 there.

17 So for example, you go out to Greece Town Court,
18 there's a number of attorneys that consistently go out
19 there and using them because they go out there would be
20 good, and then I'm thinking about the towns that are kind
21 of further on the boundaries of Monroe County, the more
22 rural towns.

23 There are attorneys that go out there
24 consistently, and using them, so I think that's a great
25 point, to try to use the people that are already there.



1 Obviously, there is an assistant public defender that is
2 assigned to each town. Usually, they have, you know, two
3 or three towns they're assigned to, and they go there for
4 every court appearance.

5 As far as trying to make a more I guess regular
6 schedule, I think that's something that could be looked
7 into. It's trying to make a schedule that would make it
8 more accessible for these attorneys to go out there, so if
9 there was a virtual option, having all the landlord-tenant
10 in a certain time where the attorney could appear virtually
11 at a number of courts in the same time period, I think that
12 would be efficient and would get more access to those
13 towns.

14 ACTING CHIEF JUDGE CANNATARO: Thank you, Judge.

15 JUDGE GARRY: Judge, if I may?

16 ACTING CHIEF JUDGE CANNATARO: Go ahead, Judge
17 Garry.

18 JUDGE GARRY: Okay. Judge Vacca, this may be
19 unfair. You can tell me this is beyond your ken, but the
20 town and village judges, and you've raised this possibility
21 of them going virtual. They're not doing the virtual
22 proceedings now.

23 In your view from knowing the judges to the
24 extent you may and interacting with them, is it a failure
25 of technology or experience and comfort with using the



1 technology? In other words, should we make an effort to
2 provide them with material, you know, the tech to do the
3 job or would that be well received?

4 JUDGE VACCA: I think it would be well received.
5 I think there's going to be someone out there, even if it
6 wasn't maybe the judge himself or herself, that would deal
7 with the technology. I certainly did not. My court clerk
8 did, but I think there's going to be someone out there in
9 the towns that could deal with the technology, and you
10 know, I was talking about it with my colleague that I
11 mentioned from Pittsford Town Court, and he's a young Town
12 Court judge, certainly could deal with the technology, and
13 I asked him why isn't there virtual options out there, and
14 he didn't really know. He just - - - I don't know, it's
15 just not an option for us, and so I think it makes sense to
16 kind of head that way, not just for landlord-tenant, but
17 for other reasons, too.

18 I can tell you, you know, for landlord-tenant,
19 and this is a bit of a digression, but being in person with
20 a virtual option was so helpful to the tenants. There was
21 every court appearance, there were a number of tenants that
22 appeared virtually because they couldn't come, and you
23 know, and during the pandemic, a lot of them didn't want to
24 have to come down to the Hall of Justice.

25 So I think giving virtual options to town and



1 village courts would be beneficial for a number of reasons.

2 ACTING CHIEF JUDGE CANNATARO: Thank you, Judge.

3 Ms. Wallach?

4 MS. WALLACH: Thank you, Judge.

5 Judge Vacca, I'm building off the questions that
6 have been asked of you already slightly. We're talking
7 about resources in the town and villages in particular, and
8 to some of the points that have been made, the idea of
9 using services that are already out there, attorneys that
10 are already out there.

11 The question that I have for you is, do you have
12 any thoughts on what resources would be needed in order to
13 either provide expansion of those legal services from the
14 bigger cities and towns into the rural courts, or what
15 would be needed in order to expand potentially the purview
16 of the legal service providers both, as Judge Whalen
17 mentioned, the criminal justice providers as well as civil
18 legal service providers in order to bridge that gap?

19 JUDGE VACCA: Well, I think if we could bring in,
20 let's say, the public defender's office or have an assigned
21 counsel program like we do in the criminal realm, and so
22 the criminal defense attorneys that go out there, bring
23 them in as a resource, that's a possibility.

24 It seems to me that if they're going to be going
25 out to these Town and Village Courts anyway for their



1 criminal cases, they may be willing to take on some
2 landlord-tenant cases, too, if there was funding there. I
3 know that there was some funding because, you know, even
4 though I presided in the Hall of Justice in the city, I was
5 handling the Town and Village cases, and so our City Court
6 Judges were handling all the housing matters that occurred
7 within the city.

8 And so I guess in this post-COVID world, the City
9 Court judges have those attorneys there, so the people from
10 JustCause are still coming to the Hall of Justice, I think
11 probably because there's more landlord-tenant cases, and
12 it's a central location where they can all go to.

13 So I know that there's still funding there.
14 Obviously, we would need to extend it to the towns and
15 villages, but it is a very good thing now that even in this
16 post-COVID world, all of our City Court landlord-tenant
17 cases, they do have attorneys from JustCause and other, you
18 know, agencies from the Tenant Defense Project to come
19 there and help them, and there are still people getting
20 rental assistance even now.

21 I hope that answered your question.

22 MS. WALLACH: Thank you.

23 ACTING CHIEF JUDGE CANNATARO: Thank you, Judge
24 Vacca. We appreciate your time.

25 JUDGE VACCA: Thank you. Thank you, everyone.



1 ACTING CHIEF JUDGE CANNATARO: Our next
2 presenter, David F. Levine, is the Chief Legal Officer of
3 Bloomberg LP, where he oversees the company's global legal
4 and compliance functions. Mr. Levine leads Bloomberg's
5 award-winning pro bono program, which provides over 5,000
6 hours of free legal services to a broad range of low-income
7 individuals and small businesses.

8 Mr. Levine serves as a member of the New York
9 State Business Council on Access to Justice, established in
10 2020 by Chief Judge DiFiore to foster greater collaboration
11 with the business sector. He will speak to us today about
12 Bloomberg LP's and the business community's support for
13 civil legal services.

14 Mr. Levine, thank you so much for being with us
15 today.

16 (Pause)

17 MR. LEVINE: (Audio starts midsentence) - - -
18 Justices Renwick, LaSalle, Garry, Whalen, and Marks, and to
19 President Wallach of the New York State Bar Association for
20 convening this very important conversation to evaluate the
21 unmet civil legal needs of low-income New Yorkers.

22 I'm honored that Helaine Barnett and the
23 Permanent Commission on Access to Justice asked me to share
24 my perspective on the importance of civil legal services.
25 You'll hear today from clients whose lives have forever



1 been improved by this work. My written submission contains
2 one of many examples of clients we have helped by
3 partnering with legal services organizations.

4 There are many reasons to support this critical
5 work. We don't often focus on the benefit to the business
6 community. One critical cornerstone of a free society is a
7 robust set of laws that protect the most vulnerable. For
8 these protections to be impactful, everyone must have
9 quality legal representation and access to the courts.

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

18 Bloomberg's legal and compliance department
19 started our pro bono program in 2016. Our annual global
20 participation rate in the program is close to one hundred
21 percent. Department staff has contributed nearly 25,000
22 hours of time, expertise, and unique skills in meaningful
23 ways to help underserved communities.

24 We are firm believers that helping those in need
25 is a fundamental obligation of legal professionals, and our



1 commitment to pro bono work is firmly established in
2 Bloomberg's culture, where our values of philanthropy and
3 service stem from our founder's personal commitment to
4 giving back.

5 While we are proud of the scale of and
6 participation in our program, we measure our success in
7 lives permanently changed for the better. We've helped
8 individuals obtain asylum, veterans receive the benefits
9 they deserve, low-income victims of domestic abuse obtain
10 divorces and protection, and transgender individuals change
11 their names.

12 You can learn more about the depth of our program
13 and the many wonderful organizations we work with in our
14 written submission. In close partnership with Bloomberg's
15 corporate philanthropy team, we've built strong
16 relationships with organizations committed to service. We
17 specifically developed our pro bono program to work with
18 our partners to address the legal, mentoring, and other
19 needs of local communities.

20 Our partners include not-for-profits, law firms,
21 and other corporate legal departments, including those of
22 our clients. In addition, as a member of the Business
23 Council on Access to Justice, our pro bono program has been
24 able to further expand our offerings in collaboration with
25 the programs of other member organizations.



1 From our initial conversations with legal
2 services providers, we identified three initial clinic
3 programs to offer to our team. Helping veterans with
4 disability benefits, assisting small business owners with a
5 range of legal issues, and supporting green card holders
6 with applications to apply for U.S. citizenship.

7 We quickly realized that it would be critical to
8 work with legal services providers that could provide the
9 programmatic structure and supervisory support necessary to
10 ensure our team to deliver timely, high-impact legal
11 assistance to those who need it most.

12 None of these projects get off the ground without
13 the dedicated leaders and teams of the organizations in the
14 legal services community. Let me illustrate this by
15 discussing just two of the many nonprofit legal services
16 organizations in New York that our department does a lot of
17 pro bono volunteer work with: City Bar Justice Center and
18 Legal Services NYC.

19 Since 2018, our attorneys have volunteered over
20 1,000 hours with Legal Services NYC, working on citizenship
21 naturalization and visa applications for immigrant and
22 LGBTQ-Plus asylum seekers, transgender name change
23 petitions, public benefits and emergency rental assistance,
24 and VAWA south petition clinics for immigrant survivors of
25 domestic violence.



1 Working with the City Bar Justice Center since
2 2018, our staff has contributed almost 2,000 hours on the
3 Veterans' Assistance Project, over 1,000 hours on the
4 Neighborhood Entrepreneur Law Project, and hundreds of
5 hours on immigration relief and small business legal
6 advice.

7 We are involved with eight separate projects run
8 by the City Bar Justice Center and ten distinct programs
9 run by Legal Services NYC. In April 2020, at the height of
10 the COVID-19 pandemic, we quickly pivoted to the virtual
11 environment, and our department contributed more than 5,100
12 pro bono service hours in 2020 alone to help close the
13 justice gap for individuals and organizations.

14 We partnered with the City Bar Justice Center on
15 its small business clinic and expanded legal hotline
16 project to assist New Yorkers by providing limited scope
17 consultations to address COVID-19 related legal concerns on
18 top of our continued work with its existing pro bono work
19 projects.

20 While we initially launched the pro bono program
21 to enable our team to give back to our community and
22 support the cases that are important to our employees, we
23 realized quickly, much to our delight, that there are so
24 many secondary benefits stemming from pro bono engagement,
25 including developing skills and providing new experiences,



1 such as transactional attorneys appearing in court.

2 Of course, there are leadership and networking
3 opportunities. It provides us all with a collective sense
4 of purpose. Let me get back to today, though. Civil legal
5 services funding remains critically important to provide
6 and preserve the essentials of life for the most vulnerable
7 among us.

8 When our staff volunteers for the City Bar
9 Justice Center's legal hotline, it quickly becomes clear to
10 them that the greatest need for civil legal services
11 relates to housing, family, income maintenance, and
12 consumer issues, and many of the callers they speak to are
13 seniors, which makes sense since older adults are the
14 fastest growing segment of New York State's population.

15 From 2007 until 2017, the number of New Yorkers
16 aged sixty-five and over increased twenty-six percent,
17 while the state's overall population grew by just three
18 percent during the same period. Today, there are 3.2
19 million New Yorkers ages 65 and older statewide. That is
20 more than the entire population of twenty-one states.

21 This growth in our state's senior population and
22 increased poverty within that population shows the
23 continued need for advice and counsel for those who are
24 isolated and vulnerable. This all underscores the need for
25 more holistic solutions to human and legal services needs,



1 from increasing capacities and providing brief information
2 and advice services, to expanding public information and
3 education efforts via know your rights clinics and
4 published resources and partnering with local community
5 organizations and elected officials to ensure that those in
6 need of services know they exist and can access them.

7 These are all areas in which the private bar and
8 business community have the expertise and resources with
9 which to assist, but sustained efforts like these cannot be
10 deployed without stable, if not increased funding for civil
11 legal services, so we can all continue to make a real
12 difference in the lives of countless New Yorkers in need.

13 Thank you for your careful consideration in this
14 incredibly important matter.

15 ACTING CHIEF JUDGE CANNATARO: Thank you, Mr.
16 Levine. Mr. Levine, I don't know if you're aware, but we
17 can't see you. You should feel free to turn your camera on
18 if you're able to, and I'd also like to ask you. I was
19 struck in reviewing your comments about how robust
20 Bloomberg's pro bono effort is.

21 There you are. Very good to see you.

22 MR. LEVINE: Apologies for that. I'm sorry for
23 the technical glitch.

24 ACTING CHIEF JUDGE CANNATARO: That's okay.
25 Bloomberg has put together a really impressive program, and



1 I'm sure your efforts in that are no small part of that
2 success. I'm wondering if you've ever considered if there
3 are ways to export the model that you built at your company
4 to other businesses that might be interested in developing
5 similarly impactful programs, and even if you think maybe
6 there could be a role for the Chief Judge's Business
7 Council on Access to Justice to facilitate helping
8 companies that are looking to increase their pro bono
9 participation with doing that?

10 MR. LEVINE: Yeah, thank you very much for the
11 question. We are actively involved with other corporate
12 legal departments. Obviously, the Business Council on
13 Access to Justice is one avenue for us to do that. In
14 addition, we participate in multiple forums with other in-
15 house legal departments, and I've spoken on panels with
16 other general counsels and chief legal officers.

17 And we've been able to arrange efforts where we
18 work together, and some of those efforts had been with our
19 clients who also have very strong in-house corporate pro
20 bono programs, and so I do think if we sort of look back
21 through history, obviously, a very large percentage of the
22 sort of pro bono work done by the private bar has been done
23 by law firms, which have greater scale and connections to
24 perform that work.

25 Over the last five to ten years, I'm really proud



1 of the efforts not just of Bloomberg, but of many in-house
2 legal departments to get more involved, and I will say that
3 this sort of interest in-house and getting more involved
4 has only amped up as a result of the pandemic and the
5 greater need that we're seeing in our communities.

6 I will also note that I think a lot of companies
7 increasing their ESG [Environmental, Social and Corporate
8 Governance] efforts and desires to sort of give back to
9 communities have also enhanced their pro bono efforts. So
10 I think we are really well positioned if we're able to
11 combine our collective resources across these legal
12 services organizations, across law firms, across corporate
13 pro bono departments, corporate pro bono programs, and
14 other organizations to meet the need.

15 The funding piece obviously is important because
16 a lot of our efforts are in conjunction with these legal
17 services organizations. The need is unprecedented and I
18 cannot say enough wonderful things about the outstanding
19 individuals who do this work every day and make it
20 accessible to the rest of us.

21 ACTING CHIEF JUDGE CANNATARO: Apropos of the
22 last part of your answer, what has been your experience in
23 convincing governmental policy makers that an investment in
24 legal service providers is a net economic gain for the
25 community as opposed to the follow-on costs from the lack



1 of those services?

2 MR. LEVINE: So for, for me personally, it is a
3 new effort to be involved. I will say that I do serve on
4 the board of directors of Legal Services NYC and of the New
5 York City Bar Association who are actively involved in
6 those efforts, and I support them. This is the first time
7 I've had an opportunity to publicly discuss the business
8 case, to be candid, and it's something that I look forward
9 to continuing to advance, both in the context of my being
10 the Chief Legal Officer of Bloomberg, but also in my
11 involvement with these organizations.

12 ACTING CHIEF JUDGE CANNATARO: Thank you.

13 Questions for Mr. Levine?

14 We appreciate your time. Thank you very much,
15 Mr. Levine.

16 MR. LEVINE: Thank you, and again, apologies for
17 the video snafu.

18 ACTING CHIEF JUDGE CANNATARO: Happy to see you.
19 Thank you.

20 MR. LEVINE: Thank you.

21 ACTING CHIEF JUDGE CANNATARO: Our next presenter
22 will be Elizabeth Benjamin. Elizabeth R. Benjamin is the
23 vice president of health initiatives for the Community
24 Service Society of New York where she supervises health
25 policy, healthy advocacy, and consumer health assistance



1 programs that help over 100,000 New Yorkers to access
2 affordable healthcare and health insurance each year.
3 She's also co-founder of the Health Care for All New York
4 campaign, a statewide coalition of over 170 organizations
5 dedicated to securing affordable quality healthcare for all
6 New Yorkers.

7 Ms. Benjamin will speak to us today about the
8 dimensions and the consequences of the medical debt crisis
9 and the importance of providing legal aid and
10 representation to low-income medical debtors.

11 Thank you, Ms. Benjamin, for your appearance here
12 today.

13 MS. BENJAMIN: Thank you so much for having me.
14 Can you hear and see me? I feel like that's a critical
15 thing to ask.

16 ACTING CHIEF JUDGE CANNATARO: Yes, we can both
17 hear and see you.

18 MS. BENJAMIN: Fantastic. Thank you so much,
19 Your Honor, and to all the folks who are here and expressed
20 any interest in this topic today. It's a delight to be
21 here and to return to this courtroom. I feel very sad that
22 I'm not with you in person.

23 I had hoped to be here, but I had to put my
24 mother, who's in Oregon, in hospice over the weekend, and
25 so I flew back, but I wasn't able to get to Albany from



1 Eugene, Oregon. It's just too many complicated flights, so
2 forgive me for not being in person. It is no reflection on
3 how passionately I feel about this topic and access to
4 civil legal services, having grown up both at Bronx Legal
5 Services and The Legal Aid Society in prior professional
6 lives.

7 So thank you for having me today. I now work at
8 the Community Service Society of New York, which is an
9 august New York institution. It's been around since 1843,
10 and we're committed to improving the lives of low-income
11 people of color, and we do it through direct services,
12 policy research, and advocacy.

13 Our health team annually helps over 130,000 New
14 Yorkers each year. Our healthcare system, as you
15 personally may have experienced or if you have not,
16 certainly your family members have, is byzantine on a good
17 day. It's hard to navigate. Despite the best efforts of
18 our beloved healthcare providers who care passionately
19 about patient health, it's just hard to access care, hard
20 to deal with medical billing, hard to deal with insurance,
21 and that's where we come in.

22 CSS, in partnership with fifty community-based
23 organizations around the State of New York, run consumer
24 assistance programs where we help people both enroll in
25 coverage and kind of fight it out if they have a problem



1 with an insurance company or a medical bill, and we do that
2 in partnership with fifty community-based organizations,
3 and also through a live answer help line.

4 I'm delighted to say that a good critical mass of
5 those community-based organizations are in fact legal
6 services providers, and we are so grateful to have them as
7 part of our network. We do provide services in all sixty-
8 two counties of New York State, and collectively, since
9 2010, we've saved 140 million dollars for New York's
10 healthcare consumers, and we're very proud of that
11 statistic, and we, you know, have an incredible return on
12 investment if you want to get into any performance details,
13 I'm the person to talk to.

14 But recently, we've seen a tremendous spike in
15 medical debt cases. In fact, a sixty-four percent increase
16 over the last two years. Medical debt in America is
17 pervasive. It affects many people. It does
18 disproportionately affect low-income people and people of
19 color, but basically, you know, fifty-eight percent of all
20 consumer debt in America is medical debt, and you know,
21 there is a lot of, you know, empirical data about it out
22 there, and all that's in my testimony, so I will refer that
23 to you.

24 In New York, all this medical debt has real
25 consequences for people. Seventy percent of New Yorkers



1 are very fearful that they cannot handle a major illness
 2 should it come to that. Thirty-eight percent are avoiding
 3 getting care because they are worried about being able to
 4 afford it, and another thirty-four percent report having
 5 financial hardships because of their current debt burden.

6 We decided to investigate this. That's what we
 7 do at CCS, and we did, you know, in a very thorough way, we
 8 compiled an exhaustive database of all medical debt cases
 9 brought in New York in civil court. We looked by all 220
 10 nonprofit hospitals in the state in every single county
 11 civil court, and what we found was that the nonprofit
 12 hospital system in New York had sued 53,000 people, over
 13 53,000 people for medical debt between 2015 and 2020.

14 The reason why we focused on hospitals is by law,
 15 all hospitals are nonprofit charities, and there's real
 16 rules of the road about how they behave in medical debt
 17 circumstances, IRS rules and other rules, and they are not
 18 to take extraordinary collection practices, such as suing
 19 someone, but they do.

20 And they're not to do it unless they've evaluated
 21 someone for financial aid. Well, we looked at, you know, a
 22 random sample of all these fifty-three, you know, thousands
 23 of court docket cases, and you know, pulled a random sample
 24 in various counties, and this is what we found.

25 We found that 112 - - - not all hospitals sue



1 patients, but about 112 do. Twenty hospitals in fifteen
2 counties are really, you know, disproportionately suing,
3 are responsible for over eighty percent of these cases.
4 The amount they're suing for is just 1,900 dollars, which
5 is almost nothing for a hospital institution, but is, you
6 know, life threatening, really, economically for a patient.

7 All the hospitals were represented by counsel.
8 Ninety-nine percent of patients were not. Ninety-eight
9 percent. As a result, ninety-eight percent of these cases
10 were won on default, right. Patients don't go, they don't
11 have lawyers, they can't go to court, they don't understand
12 court, it's confusing, and you know, if that wasn't bad
13 enough, people are being sued and they're getting judgments
14 against them, the hospitals have reported that they're
15 taking over 2,200 liens a year on patients' primary
16 residences.

17 Just to be clear, ten states in the country bar
18 the practice of taking a consumer debt lien on a patient's
19 primary residence, and then another whole, you know,
20 thousands of other people are experiencing ten percent
21 gross wage garnishment, so let's just explain, break that
22 down.

23 Say a low-income person makes 500 dollars a week.
24 Twenty percent of their gross wages is 50 dollars, you now,
25 say their taxes is about half, 250, then they're down to



1 just 200 dollars a week to pay rent, food, school supplies,
2 you get the idea. It's an incredible burden on people.

3 So you know, the other thing that we're sort of
4 sad to report is, as we pulled the case files, we saw that
5 some hospitals are using sort of not the most highly
6 regarded members of our bar. They're doing some suspect
7 practices, you know, kind of improper, I would say,
8 service. Pleadings are not even notice pleading. You'll
9 often just see a five-sentence pleading with a date and an
10 alleged date of service and an amount and that's it.

11 So these cases are not the best of us, and
12 certainly not the kind of litigation you would see in that
13 room here. So you know, we have had some in roads
14 legislatively. We've managed to change the statute of
15 limitation for medical debt from six years to three.

16 We've changed the consumer judgment interest rate
17 from a commercial nine percent to two percent, and then we
18 have two bills that are pending the governor's signature.
19 We hope she will sign them. One would bar the practice of
20 medical providers taking liens on people's homes or
21 garnishing their wages, and we're very hopeful that that
22 will get past, and then another one regulating a form of,
23 kind of, resort fee called facility fees, and so we're
24 hopeful that one will get signed as well.

25 I'm going to close now. I just, you know, of



1 course, I come from a place, as many of you do or maybe
2 some don't, that we really believe healthcare should be a
3 human right, and this kind of practice of suing people for
4 getting, you know, medically necessary care is just kind of
5 unheard of in basically every other country that's sort of
6 our peer country, I would say, around the world.

7 And you know, our patients need help. There are
8 very few legal services, almost none as you can see. You
9 know, we found less than one percent of folks were
10 represented. When legal services did get involved,
11 usually, they weren't representing someone. They were
12 drafting pleadings and having the patient go pro se, and
13 it's really a desperate need out there, and I hope that
14 this Commission, in its wisdom, can help make, you know,
15 level the playing field for patients.

16 We need your help, and I'm, you know, free to
17 answer any questions you may have, or maybe you just want
18 me to stop talking, so thank you. Thank you very much
19 again.

20 ACTING CHIEF JUDGE CANNATARO: We're very happy
21 to hear from you. I will say personally, I thought your
22 statement was an eye opener for me, especially that
23 statistic that fifty-eight percent of all consumer debt is
24 actually medical debt, and that got me to thinking about
25 the way consumer debt is handled in New York City, which is



1 by aggregating all the consumer debt cases in consumer debt
2 parts in our court of lower civil jurisdiction.

3 And I also noticed that medical debt cases
4 generally don't make it into our consumer debt part, which
5 is unfortunate because there is an alarming lack of legal
6 services for all debtor cases - - -

7 MS. BENJAMIN: Yes.

8 ACTING CHIEF JUDGE CANNATARO: - - - but whatever
9 services there are, are generally available on site in the
10 consumer debt part. So I'm wondering if you think maybe,
11 structurally, it would be good to change the way the courts
12 handle consumer debt cases, A, by bringing medical debt in
13 as a category of consumer debt and centralizing them in a
14 part, or at least in a part in those fifteen counties that
15 you mentioned where most of the cases are so that whatever
16 services are available can be delivered to the debtors.

17 MS. BENJAMIN: I think that would be - - - I
18 mean, it was shocking how difficult our work was to find
19 this out, and it would be very helpful to have medical
20 debt, you know, consolidated in one part. We tried to
21 interview patients. It was really hard to track them down,
22 you know, like, we're literally physically pulling court
23 files.

24 I have to say that the court clerks weren't
25 always enthusiastic to have, you know, our law students



1 come and ask for copies of the court files, and then other
2 courts were great and would even PDF them and email them to
3 us, but you know, it was a difficult time to be doing this
4 research, so we don't know exactly what's happening in
5 these parts.

6 I think having judges that know, for example,
7 that our state law requires every single hospital to have a
8 financial aid policy, and that should be part of the
9 pleadings, that this individual patient - - - and our
10 financial aid policy under state law very generous. It
11 goes up to 300 percent of the federal poverty line.

12 I think it can be more generous, but even so,
13 it's more generous than some other states, and in exchange
14 for having hospital financial aid laws that require all
15 hospitals to operate up to 300 percent of poverty, the
16 hospitals, it's not like they're getting this for free.
17 They're getting a billion dollars a year to incentivize
18 them to provide this, but we found, not - - - and believe
19 me, we looked at thousands of court files.

20 We found only one case where a legal services
21 person had drafted a pleading saying this person had
22 applied for financial aid, but that was the only case in
23 the thousands of cases we reviewed where no hospital lawyer
24 ever alleged that someone was evaluated for hospital
25 financial aid.



1 If you had a medical debt part, presumably, those
2 judges - - - and we would be happy to, you know, train them
3 on the state law - - - could ask pointed questions on
4 behalf of the patients who really don't know how to defend
5 themselves in these cases, and as a result, just don't go
6 at all.

7 ACTING CHIEF JUDGE CANNATARO: Thank you.

8 MS. WALLACH: Judge, I have a question.

9 ACTING CHIEF JUDGE CANNATARO: Ms. Wallach?

10 MS. WALLACH: Thank you, Judge.

11 Ms. Benjamin, eye opening. I am in the same
12 position. My eyes have been widened to this need, and my
13 question for you is, do you see any access to pro bono
14 legal services or pro bono legal service programs that
15 would cover representing clients in this space, and if not,
16 what we can do to create more access for individuals to
17 those services?

18 MS. BENJAMIN: I mean, I think if we had a
19 medical debt part, then a pro bono lawyer could come in
20 person and staff that part. I think if we don't have that,
21 patients, you can see, they just don't go, so it's going to
22 be hard to connect patients to pro bono counsel if you
23 will.

24 You know, we are fortunately community health
25 advocates. We're listed on the explanation of benefits,



1 so, you know, CSS, we're privileged to run the central live
2 answer help line that handles about a third of the 30,000
3 people that come to community health advocates every year.

4 The rest is through community-based partners, and
5 those folks are able to kind of catch them before they ever
6 get sued. The problem is that these people are being sued
7 for essentially their deductible, and I think having pro
8 bono lawyers in these parts saying, hey, this person, you
9 know, yes, the reason why they have a high deductible plan
10 and this hospital, this rich hospital is suing them, is
11 because they were never evaluated for financial aid in the
12 first place.

13 I don't know how we can connect pro bono counsel
14 if the patients don't even know they have the right to ask
15 for financial aid or to be represented.

16 ACTING CHIEF JUDGE CANNATARO: Thank you.

17 MS. BENJAMIN: I'm welcome to sit down with
18 anybody who has good ideas about how to connect that. I
19 think that would be amazing.

20 ACTING CHIEF JUDGE CANNATARO: Thank you.

21 Justice Renwick?

22 MS. BENJAMIN: And it would really help because I
23 think some of these consumer debt firms really could use,
24 you know, some pointed questions leveled their way, let's
25 say. It's an opposition, you know. Right now, it's just a



1 mill.

2 JUDGE RENWICK: I just wanted to ask a question.
3 First of all, thank you so much for your very informative
4 and enlightening comments on things I really wasn't aware
5 of, and I hope that my question is not too granular in this
6 particular area, but you've talked about the legislative
7 in-roads you're attempting, the policy research and what
8 you're trying to promote through the governor, et cetera.

9 I'm just wondering, I was troubled by the fact
10 that there are so many nonprofit hospitals who seem to be
11 ignoring the IRS rules that already exist, and I wasn't
12 really sure whether you were saying that there was a way or
13 a need to augment pleadings to ensure that the rules to
14 require greater specificity so that they are having to make
15 these statements about whether they've checked on the
16 financial assistance of each individual, or if they're
17 already there, those pleading requirements and being
18 ignored.

19 And my other question, I'll just ask it now.

20 MS. BENJAMIN: Okay. Wait, can I answer that
21 one, and then you ask the second one, because I'm going to
22 forget.

23 JUDGE RENWICK: Oh, go ahead and answer the
24 question. Sure.

25 MS. BENJAMIN: Because I'm so excited about that



1 one. I love that you asked that one. Thank you, Judge.
2 So I want to say, first of all, California does it right.
3 They say the burden of proof is on the hospital, that they
4 have to say they're only suing someone who they've found is
5 ineligible.

6 We don't do that in New York. We have a bill
7 before the legislature. We'll have to get a new bill
8 number because it's a new legislative two-year cycle that
9 starts in January that would do just that. The other thing
10 our bill would say - - - we're trying to amend the hospital
11 financial aid law so that a CFO must sign off before a
12 patient is sued.

13 I mean, these are nonprofits. First of all, they
14 just get a billion dollars to support the provision of
15 financial aid and their so-called uncompensated care, but
16 beyond that, they get billions and billions of Medicaid
17 funding. They get no tax. They don't pay any tax,
18 federal, state, city taxes.

19 You know, they have so much, and rightfully so.
20 I mean, I don't want to sound like I'm anti-hospital. We
21 really believe in our hospitals. We want them nonprofit.
22 We love them and are proud that they're nonprofits. We
23 just think that this is some - - - I don't know. I think
24 they've all lost their mind, that these collection firms or
25 someone have gone and said, look, I have a way for you to



1 get an extra couple of dollars here, but it's the wrong way
2 to do it.

3 So yeah, sorry. So yes, there is so much we can
4 do legislatively to change the rules of engagement that
5 would make it fairer for patients, but right now, that's
6 not there.

7 JUDGE RENWICK: Thank you. No need to be sorry.
8 I appreciate your answer. Thank you very much, and I too
9 support and appreciate hospitals and agree that we need
10 them very much.

11 MS. BENJAMIN: Yes.

12 JUDGE RENWICK: I think we all agree there. The
13 other question was whether or not, and having said how much
14 I appreciate hospitals, whether or not there are avenues
15 that are being pursued to ensure compliance by the twenty
16 or so, twenty or so I think you mentioned, nonprofit
17 hospitals that are not seeming to comply?

18 MS. BENJAMIN: So as I mentioned, I am a
19 recovering legal services and legal aid lawyer. That's,
20 you know, so I'm feisty. You probably got that, and you
21 know, what we've done at CSS, we've really sort of embraced
22 this, and what we've done is we selected I would say the
23 top ten, I think we're up to ten hospitals that were suing
24 patients, and we have essentially made, I would say, you
25 know, they're not demand letters because we aren't



1 litigating against them. We're not going to, we never said,
2 oh, you're going to sue you, but we write them very, very
3 lengthy six-, nine-page letters that talk about, that pull
4 a random sampling of the cases that that particular
5 hospital has taken. We analyze the zip codes of the
6 defendants and point out, and this is true in every single
7 hospital we've analyzed, that they're disproportionately
8 suing in zip codes that are high poverty zip codes, or
9 actually also in the case of Albany County, high minority
10 or majority minority in some case zip codes, and then we
11 ask to sit down with them.

12 We also analyze their financial aid policy to see
13 if it complies with state law. After years of advocacy, we
14 got the state to have KPMG, the auditing firm, come in and
15 analyze hospital financial aid policies, and unfortunately,
16 many fail. Every single year fail different questions on
17 it.

18 That's been a long, this has been a twenty-year
19 campaign on some level. I started it when I was at Legal
20 Aid. Those conversations have been fairly helpful, I think.
21 You know, some hospitals are unrepentant, but others have
22 really said, we had no idea that this was happening in our
23 name.

24 So H&H, for Health and Hospitals, our New York
25 City public hospital, was shocked to find that there had



1 been 200 lawsuits brought in their name, and when we drew
2 it to their attention, they discontinued them all. NYU
3 Medical Center took over a medical center on Long Island.
4 They had a very robust medical debt patient suing practice,
5 and when we drew it to their attention, their general
6 counsel said, give us a couple months, we're going to
7 withdraw all these. And then other hospitals have stepped
8 up to say, we're no longer going to take liens and wage
9 garnishments, and done some other measures like that, and
10 so you know, it's sort of, our strategy is to write
11 individual hospitals. Our strategy is to put out public
12 reports. Our strategy is to help people one by one, and
13 then to draft laws that we think would help level the
14 playing field.

15 I'm so excited to speak members of the court
16 because if there's something we can do to make the court
17 system work a little better. For example, the hospital
18 collection firms say, "oh, these primary liens are
19 automatic. There's nothing we can do about it." The way I
20 understand it is they actually have to get a transcript of
21 judgment, go pay a fee, and file the judgment with the
22 court before a lien on a primary residence can occur.

23 So is that automatic? It doesn't seem that
24 automatic, but in any event, our bill would bar the
25 practice totally, and we would be joining ten other states,



1 and I'm talking about not progressive states. I'm talking
2 about Texas, and not Alabama. I mean, places I guess that
3 really prize home ownership which I think we should also.

4 So I hope that was a helpful answer.

5 JUDGE RENWICK: Yes, thank you.

6 MS. BENJAMIN: So we're trying. You know, and
7 we'll talk to anybody. We hope more will come forward, and
8 many have stepped up, I have to say, but that doesn't mean
9 that until we change the law, they can't go back to these
10 old ways once we stop. It's a lot of work, and once we
11 stop looking at all of this, it may come back.

12 JUDGE RENWICK: Thank you very much.

13 ACTING CHIEF JUDGE CANNATARO: Thank you.

14 Judge Marks?

15 JUDGE MARKS: Just one quick question. Are a lot
16 of these folks with medical debt, unpaid medical debt
17 Medicaid or for that matter, Medicare eligible?

18 MS. BENJAMIN: Yes.

19 JUDGE MARKS: And?

20 MS. BENJAMIN: Both Medicare and Medicaid
21 eligible. In fact, this whole campaign started, we have a
22 beautiful video with an older gentleman that had
23 (indiscernible). His name is John, and he basically spent
24 the last two years of his life fighting medical bills from
25 New York Presbyterian and just really lost that fight.



1 We were never able to sort out all the bills
2 because he was on Medicare and they just kept coming, and
3 one of our early bills had been to require hospitals to
4 issue one consolidated bill instead of letting every single
5 radiologist and surgeon and - - - and anesthetist and you
6 know, bill people separately.

7 That bill went down in flames. There was so much
8 opposition, we've been too scared to bring it back, but you
9 know, maybe after revising the charity care law, the
10 hospital financial assistance law, we could come back to
11 that. I mean, medical billing is just so hard for people.

12 JUDGE MARKS: And - - -

13 MS. BENJAMIN: But yes, Medicaid and Medicare.

14 JUDGE MARKS: Helping people navigate Medicaid
15 and Medicare, does that necessarily require a lawyer?

16 MS. BENJAMIN: It does not, and that's where
17 Community Health Advocates comes in. We're listed on every
18 Medicaid patient's explanation, notice of adverse
19 determination, so if a health plan says no, then our phone
20 number is on the back of it.

21 The problem is a couple of places, people end up
22 with bills before they are enrolled in Medicaid. Hospitals
23 are very happy to help people enroll in Medicaid. Some
24 people will not enroll in Medicaid. You know, in Yates
25 County, for example, there is a strong religious minority



1 there that will not take government assistance.

2 Other people are in concern for immigration
3 purposes about enrolling in a public program. Of course,
4 some immigrants are ineligible totally under federal law
5 for Medicare, so it's a challenge. The hospitals are
6 supposed to, there is a famous case called Mount Sinai v.
7 Kornegay. They're supposed to evaluate people for Medicaid
8 before suing them, you know, and that is a legitimate
9 defense to a medical debt case in New York State.

10 ACTING CHIEF JUDGE CANNATARO: Thank you. Ms.
11 Benjamin, thank you so much for taking the time to testify.
12 It was incredibly informative, and I hope your mother's
13 settled in in Oregon.

14 MS. BENJAMIN: Yeah, I am so sorry I really,
15 really wanted to be there, today. You know, I'm a huge fan
16 of legal services and of course, this Commission, so thank
17 you so much for your interest in our work.

18 ACTING CHIEF JUDGE CANNATARO: We understand.
19 Thank you.

20 MS. BENJAMIN: Bye.

21 ACTING CHIEF JUDGE CANNATARO: Okay. We're going
22 to take a short break now before we move on to the next
23 phase of our program today. When we return, we will hear
24 from clients of legal service providers, the first of whom
25 will be Ms. Jenna McCormack, so we'll be back in just a few



1 minutes. Thank you.

2 THE CLERK: All rise.

3 (Recess taken)

4 ACTING CHIEF JUDGE CANNATARO: Please be seated.

5 As I mentioned before the break, we are moving on to what
6 is in many ways the most powerful and impactful part of our
7 program, which is where we hear from clients and their
8 representatives about their experience with civil legal
9 services, and our first client presenter this afternoon is
10 Jenna McCormack, a client of the Empire Justice Center, and
11 she is joined by Kristin Brown, the President and CEO of
12 the Empire Justice Center.

13 We're very happy to have you here and to be able
14 to hear you and hopefully see you, and you can begin
15 whenever you'd like.

16 MS. MCCORMACK: Okay, great. I'm just going to
17 read a written testimony that I planned for the sake of my
18 nerves and my memory, but the big takeaway is I've had
19 massive chronic pain for a long time, insurance screwed me
20 over, and I could not have gotten a procedure that was
21 really, really helpful without the help of Empire Justice.

22 So all right. My name is Jenna McCormick. I'm
23 twenty-three years old and I'll be finishing my degree in
24 social work in a few years. I love working with children
25 with disabilities and I know it will be my purpose in life.



1 I also enjoy reading and spending time with my boyfriend of
2 four years and our pets.

3 Although my life might seem normal from the
4 outside, I also spend a lot of my time dealing with my
5 disabling chronic illnesses. They cause severe pain and
6 other symptoms that are difficult to live with. I have a
7 condition called occipital neuralgia which means the nerves
8 at the back of my head are inflamed and cause near constant
9 pain.

10 I couldn't go to work or go to school for over
11 two years because I was mostly bed bound. I went through
12 this two-year period of not being able to do anything
13 because my insurance company denied the procedures my pain
14 management doctor ordered. I first went through the appeal
15 process on my own overwhelmed by mountains of paperwork,
16 making stressful calls to the insurance company, just
17 hoping I was doing all the right things.

18 I hoped that telling the truth about my dire
19 situation would be enough to carry me through a Medicaid
20 fair hearing. It was not. I had a telephone hearing due
21 to the pandemic and it was difficult to know who I was
22 talking to and how they felt about what I was saying.

23 Ultimately, I just had a clerk going over my
24 appeal form and asking me if I wanted to add any comments.
25 I was not asked many questions and it didn't seem like a



1 real hearing at all. There wasn't actually a judge on that
2 call. It was weird.

3 I waited several weeks for my results and I was
4 heartbroken but not surprised that the system had failed me
5 again. I accepted this as my fate for a while before
6 seeking help with Empire Justice, so I had received a
7 denial from the appeal. I immediately felt so much more
8 comfortable working with Empire Justice and I felt so
9 prepared for the second fair hearing.

10 I worked with Alexia Mickles and Fiona Wolfe and
11 they were fantastic about keeping me updated about what
12 would happen next and what they needed from me. I felt
13 such relief knowing that my case was in the hands of people
14 who knew what they were doing.

15 They knew what questions the judge would want
16 answered and worked hard to get the evidence that supported
17 our appeal. This time around, I still had a phone hearing,
18 but there was definitely a judge, and Alexia was on the
19 line with me. It went quickly, but we had prepared, and I
20 answered questions confidently because I was simply sharing
21 my life story, and I felt like I was telling the truth for
22 the hundredth time.

23 Afterwards, Alexia called me, and we talked about
24 how I felt about the hearing process. I felt confident,
25 like we had laid out a solid case, and I'd gotten to say



1 everything I wanted to, and even though my attorneys
2 couldn't guarantee me great odds at winning this particular
3 case, I felt like we did the best we could on our end and
4 we just had to wait and hope the judge ruled in our favor.

5 Despite my confidence in our team at the hearing,
6 I tried to prepare myself for disappointment because I had
7 received so many denials for Medicaid in the past. I
8 actually couldn't believe it when I read that the judge had
9 ruled in my favor. I cried. My mom cried. Everybody
10 cried. This procedure could mean a world of difference for
11 me, and it did.

12 Nine months ago, I had what's called a
13 radiofrequency ablation performed at my pain management
14 clinic, so after a long healing time from the procedure, I
15 felt my pain reduce drastically. I was able to focus and
16 target my other health issues, and eventually tackle them
17 well enough to start getting better overall. I was able to
18 stand and walk with less pain and dizziness, build up
19 muscle in my legs that had atrophied from my time in bed,
20 and take my new dog for a walk which I never thought I'd be
21 strong enough to do when we first got him.

22 I was even able to start working short part-time
23 hours at a daycare to fulfill my love for children while I
24 wait to finish my degree, and that's what I'm doing now,
25 still. I'm beyond thankful for having Empire Justice



1 Center on my side for that hearing because I know they are
2 the reason we were able to address the insurance company's
3 points so directly and ultimately win our case.

4 It literally changed my life, and I'm on a path
5 now to a happy, productive life that I couldn't have
6 imagined years ago when I was stuck in bed every day.
7 Thank you.

8 ACTING CHIEF JUDGE CANNATARO: Thank you, Ms.
9 McCormack, and congratulations on getting the treatment
10 that you needed.

11 MS. MCCORMACK: Thank you.

12 ACTING CHIEF JUDGE CANNATARO: I'm interested
13 because fair hearings don't normally take place in court.
14 They take place in agencies. How did you connect with the
15 Empire Justice Center? Was that in itself a long process
16 or how did you know to even reach out to them?

17 MS. MCCORMACK: I don't think there was anything
18 particularly lengthy. I think I had talked to family and
19 friends, and they were, like, look at legal aid, because I
20 couldn't afford anything on my own, so I think I had
21 probably just kind of searched up on the internet, like,
22 legal aid near me kind of situation, and emailed a couple
23 people, and you know, if I remember, they got back to me
24 fast, and they were always super communicative about, okay,
25 this is about how much time we should expect for this. You



1 know, here's what I need you to do next. Here's when you
2 should hear from me next. Just always very clear and this
3 is what's happening, so I appreciated that so much.

4 ACTING CHIEF JUDGE CANNATARO: I appreciate that.
5 Any questions for Ms. McCormack?

6 Ms. Brown, congratulations on a successful fair
7 hearing process. I don't know if there are comments you
8 wanted to make.

9 MS. BROWN: Yes, thank you so much. Can you hear
10 me?

11 ACTING CHIEF JUDGE CANNATARO: Yes, we can.

12 MS. BROWN: Okay, great. So good afternoon. My
13 name is Kristin Brown, and I'm president and CEO of Empire
14 Justice Center. We're a statewide nonprofit law firm and
15 advocacy organization with six offices outside of New York
16 City in Albany, Rochester, Yonkers, Central Islip, and
17 White Plains. We have two offices in Rochester. We're an
18 organization that seeks to focus on areas of law where we
19 can have the most impact with the goal of addressing the
20 root causes of injustice through a blend of direct
21 services, targeted training, and systems change advocacy.

22 I want to thank you all for the opportunity to
23 speak today. We're deeply grateful for the ongoing
24 commitment you have to civil legal services, and I want to
25 note that the judiciary civil legal services funding is a



1 critical revenue source for Empire Justice and for our
2 peers, and also express particular gratitude for the
3 multiyear compounded cost of living adjustment that we
4 received last year.

5 We all know that the cost of doing business rises
6 every single year, and we're deeply grateful for your
7 recognition of this with that funding allocation in the
8 last state budget process. I also deeply appreciate Jenna
9 McCormack for sharing her story with us today.

10 Ms. McCormack was in many ways an ideal candidate
11 for the fair hearing process. She was and is, remains
12 motivated, accomplished, and highly capable, but as the
13 first decision showed, that simply was not enough, and in
14 order to get the medical care, she had to meet a burden of
15 proof that she really didn't know existed.

16 And it's clear from Ms. McCormack's case and many
17 others, to succeed in this process, you have to have an
18 understanding of how to apply evidence to meet a legal
19 standard. Identifying and meeting a legal standard is not
20 a patient's job. It's not a doctor's responsibility. That
21 is what lawyers do.

22 And you heard, after her first appeal was
23 unsuccessful, Ms. McCormack was referred to us, and I can
24 share with you that we connected with Ms. McCormack through
25 the community service societies, community health advocates



1 program which you heard from Ms. Benjamin about earlier,
2 and because of that, our lawyers were able to work with Ms.
3 McCormack to build her case.

4 Also work with her doctors who were all along
5 advocating for the treatment plan that Ms. McCormack was
6 fighting to access, but once again, the doctor's orders
7 were not enough, and clearly, she needed a lawyer.
8 Unfortunately, Ms. McCormack is not alone. According to
9 the Office of Temporary and Disability Assistance, the
10 agency that manages the fair hearing process that Ms.
11 McCormack went through, in 2021 alone, there were 150,000
12 fair hearings requested.

13 Data about the percentage of appellants that have
14 representation is not available. It's not published, but
15 based on advocates' analysis, we are consistently able to
16 determine that the vast majority of individuals are
17 unrepresented at these hearings.

18 There are many state agencies, including the
19 Departments of Health, Labor, Education that have fair
20 hearing processes similar to the Office of Temporary
21 Disability Assistance. This is because the due process
22 clause of our constitution, as well as federal and state
23 laws require that a person be afforded an opportunity for a
24 hearing before their public benefits can be denied,
25 reduced, or discontinued, which is important.



1 But unfortunately or fortunately as it is, the
2 fact is that the executive agencies are not part of the
3 judiciary branch, but their decisions impact hundreds of
4 thousands of New Yorkers' ability to access justice in the
5 essentials of life, and potentially in matters of life and
6 death.

7 Administrative hearings are intended to be
8 navigable by individuals without an attorney, but as Ms.
9 McCormack's story illustrates, all too often, they just
10 really are not. There's really little value to this right
11 if pro se appellants can't effectively exercise it, so
12 ultimately, too many New Yorkers like Ms. McCormack are
13 doomed to fail or be failed by this process because they do
14 not have representation.

15 Additionally, Ms. McCormack participated in the
16 fair hearing process in the early, very chaotic days of the
17 pandemic. However, many of the temporary measures that
18 have been in place are still in place now over two years
19 later, and continue to present challenges.

20 I want to note that to address some of these
21 challenges, the Coalition of Legal Services providers did
22 submit a list of recommendations to improve the fair
23 hearing process to the Office of Temporary Disability
24 Assistance and the Department of Health. Those
25 recommendations included increased clarity of



1 communications with appellants, transparency, and data
2 collection, and improving access for appellants whose
3 primary language is not English, and a copy of that letter
4 is available through the link in our written testimony.

5 Clearly, our legal system is not confined to the
6 judiciary, but our entire system must be examined for
7 accessibility and fairness throughout. All of this
8 underscores just how critical it is for New York to
9 continue in its progress in closing the justice gap.

10 Every client of a civil legal services provider
11 is one more New Yorker who has a fair shot at accessing
12 justice. Increasing judiciary civil legal services
13 funding, including an annual cost of living adjustment to
14 cover the cost of doing business, will provide thousands
15 more New Yorkers with that fair shot and will allow us all
16 to work together towards a more fair, equitable state for
17 everyone.

18 Thank you.

19 ACTING CHIEF JUDGE CANNATARO: Thank you. Do you
20 have any information concerning the numbers of appellants
21 in these fair hearing appeals or any administrative appeals
22 who are able to access legal services for their appeals?

23 MS. BROWN: Unfortunately, we don't have specific
24 data about the number of people who are represented at this
25 point in time. That's something that we would like to,



1 we're advocating for and we'd like to see in the future,
2 but what we find is that with, civil legal services
3 providers, we do work with folks. We do represent them at
4 fair hearings as much as possible, given resources, but the
5 vast majority do go unrepresented.

6 ACTING CHIEF JUDGE CANNATARO: 150,000 is a very
7 large number.

8 MS. BROWN: It is a large number, and that's only
9 for the Office of Temporary and Disability Assistance, so
10 it doesn't - - - you can multiply that number exponentially
11 across all of the different state agencies that have
12 administrative proceedings.

13 ACTING CHIEF JUDGE CANNATARO: Yes.

14 Judge Garry?

15 JUDGE GARRY: Ms. Brown, welcome and thank you
16 for your remarks. I just want to share with you, I just
17 tried to link through to that letter because I'm curious to
18 see it, and for whatever reason, it may be my technology,
19 but I couldn't. It came up as unavailable to me, and so if
20 you wouldn't mind, I'd like to see it if you could send it
21 along to Ms. Barnett so that we could review. I'd
22 appreciate that. Thank you.

23 MS. BROWN: Absolutely. I'm sorry about that.
24 We'll get you a copy of the letter and we'll fix the link
25 immediately.



1 ACTING CHIEF JUDGE CANNATARO: Anything else for
2 Ms. Brown?

3 Ms. Micklin, I believe Mickles, did you want to
4 be heard? No?

5 MS. MICKLES: Nope. I was just available in case
6 there were any questions.

7 ACTING CHIEF JUDGE CANNATARO: Very good.

8 MS. MICKLES: Thank you.

9 ACTING CHIEF JUDGE CANNATARO: Thank you. Thank
10 you very much.

11 MS. BROWN: Thank you.

12 ACTING CHIEF JUDGE CANNATARO: Thank you, Ms.
13 McCormack.

14 We'll move on to our next presenter, who is
15 Barbara Robinson, a client of Legal Assistance of Western
16 New York. Ms. Robinson received her legal assistance from
17 Legal Assistance of Western New York, and she is joined by
18 the executive director of that organization, C. Kenneth
19 Perri, and we will now bring Mr. Perri and Ms. Robinson
20 onto our screen.

21 We're ready for you to start your presentation
22 whenever you'd like.

23 MS. ROBINSON: Okay. Well, my name is Barbara
24 Robinson. I'm a former client of Western New York Law,
25 Western New York Legal Assistance, and I became involved



1 with them when I was sued for 21,000 dollars by the Monroe
2 County nursing home after helping a friend of my mom's, a
3 dear friend of my mother's supply Medicaid documentation,
4 and I became power of attorney and her healthcare proxy.

5 And I helped the liaison at Highland Hospital
6 where she was hospitalized do all of her Medicare - - -
7 Medicaid application documents, including all of her
8 financial statements. Mrs. Patterson (ph.) was only at the
9 nursing home for two months.

10 The first month was actually covered by her
11 supplemental Medicare insurance. At the time that I signed
12 her admission papers, there was a piece of the admission
13 that looked very sketchy to me. It looked like I was
14 agreeing to be responsible, and they assured me that what I
15 was agreeing to was to not stand in their way of receiving
16 any of her funds, that because I had power of attorney,
17 that I would agree that I would not, in any way, stop them
18 from being paid.

19 And of course I agreed to that. Mrs. Patterson
20 and I both understood that going forward, her Social
21 Security checks would go directly to them. I did sign the
22 admission paper after that reassurance. I spoke to her
23 social worker the day she was admitted. They told me
24 everything was fine, and I said, now, do I start bringing
25 her checks to you, to the financial office, and she said,



1 you will not be getting any more checks. They will all now
2 go directly here, and I gave notice of her apartment
3 building, a cousin helped me clean out the apartment. We
4 knew she was not going to be able to come home. I was at
5 the nursing home all the time in the next two months prior
6 to her death.

7 I had conversations with nursing supervisors,
8 with the social worker. No one ever said to me, you know,
9 her bill's not being paid. No one ever asked for any
10 information about it. Months after she had died, I
11 suddenly got a bill for the estate of Janet Patterson and
12 Barbara Robinson, and there was no estate, and since they
13 had all of her financial records, I really kind of
14 disregarded it. These people know there isn't an estate.
15 Why would they even do this?

16 But I was then sued by them for it, 21,000
17 dollars. I live on Social Security. I was seventy-eight
18 at the time. I had no income but Social Security, no way
19 to hire a lawyer. I was really, I don't know - - - I think
20 I was frightened, but I think I was also kind of
21 despairing. I was kind of defeated that this is going to
22 happen to me, I can't do anything.

23 A friend suggested that I call for legal
24 assistance. An attorney named Anna Anderson called me. I
25 had already missed dates to file, if I was going to put up



1 any kind of a defense.

2 Anna immediately contacted the attorneys that
3 were suing me and got some time, and began meeting with me,
4 called me on the phone, met with me in person, went through
5 all the documents. I was being accused of taking Mrs.
6 Patterson's money and using it for my own use, and that
7 really - - - I think that was one of the worst parts of it.
8 And why I thought they couldn't do anything to me because I
9 didn't have any money. It didn't seem to even slow them
10 down.

11 So Anna went over the laws. She told me that we, I
12 was going to have to go to court. I gave her - - -
13 explained to her what had happened. She just - - - she
14 kept with me every single step of the way.

15 I had to go to downtown Rochester and to the
16 courtroom. She met me there. A couple of her colleagues
17 were there, came into the courtroom with me, and the case
18 was dismissed because I had lost - - - my power of attorney
19 had ended. Had they called me, you know, the day she died,
20 I could have probably turned over records to them. I could
21 have given them her current bank statement, but since my
22 power of attorney had ended at her death, there was nothing
23 I could do to put up any kind of information.

24 I am very grateful. I would have had a \$21,000
25 lien put against me completely unjustly. The other part of



1 it is, that's important to me, over eighty years, I've been
2 a client. I've paid attorneys for various things. I've
3 been a paid client of different attorneys.

4 There was no time during all of this process - -
5 - I was treated with complete and total respect by Law New
6 York. I never felt I was less because I was not able to
7 write them a check. I didn't feel I was unimportant. I
8 was just something that they do. I called them and I just
9 felt valued as a client, and I felt protected and safe.

10 And I really can't say more. I'm just eternally
11 grateful.

12 ACTING CHIEF JUDGE CANNATARO: All right. I
13 appreciate your words and I think your story is just a
14 really striking example of the old adage that no good deed
15 goes unpunished, and I am incredibly happy that you were
16 able to connect with LAWNY, and I hope this doesn't
17 discourage you from helping friends in need in the future,
18 or anyone else for that matter.

19 But I'm going to turn it over to Justice LaSalle
20 from one of our downstate appeal courts who has a question
21 for you.

22 MS. ROBINSON: All right.

23 JUDGE LASALLE: Good afternoon, Ms. Robinson.

24 MS. ROBINSON: Good afternoon.

25 JUDGE LASALLE: I have to tell you, listening to



1 your story and what you went through is striking,
2 particularly because your story clearly demonstrates the
3 importance of civil legal services for those who might not
4 otherwise be able to obtain counsel. You said through your
5 own words today I think something that I think many New
6 Yorkers could relate to. You might not have even
7 responded. You were just willing to accept this \$21,000
8 lien because you didn't really have access. I'm personally
9 struck by the plaintiffs in this matter for bringing an
10 action and levying allegations absent what appears to be,
11 at least from what we've heard today, very little evidence
12 supporting it.

13 Nonetheless, their bureaucracy, right? You walk
14 in with your mother's friend. They need a name, right?
15 That's all they know. You give them a name, and that's
16 when your unfortunate journey begins, and it's striking to
17 me that their bureaucratic issues caused you all this pain.

18 So I really don't have a question, but I do want
19 to just give my regards to you and the fact that you fought
20 for yourself. You found Law New York and you were able to
21 get this literal monkey off your back, and again, I want to
22 echo the statements of the Chief Judge by saying that I
23 hope that this doesn't change anything about your
24 benevolent nature, and I hope you'll continue to help your
25 neighbors when needed because you're a wonderful friend at



1 a difficult time, so thank you for allowing me to make that
2 statement to you today.

3 MS. ROBINSON: Thank you.

4 ACTING CHIEF JUDGE CANNATARO: Thank you.

5 Mr. Perri, I know you'd like to make a statement
6 to our panel.

7 MR. PERRI: Thank you, Judge Cannataro and other
8 members of the judicial leadership team and President
9 Wallach for giving me a few minutes to speak with you
10 today. I am going to focus my remarks, my brief remarks,
11 on the world of consumer law matters and consumer law
12 issues that the legal services providers help low-income
13 people with.

14 I'd also like to thank Helaine Barnett for
15 inviting me to speak with you today, and for her many,
16 many, many years of leadership on this important issue
17 regarding the high, unmet need for civil legal services for
18 low-income people, and again, thank you to Ms. Robinson for
19 being here today and for sharing your story with all of us.

20 So my name is Ken Perri. I am the executive
21 director of Law New York, and Ms. Robinson presented with
22 regard to a particular type of consumer law matter or
23 collection matter involving nursing home debt. Not all of
24 the legal services providers have the resources to handle
25 consumer law matters, but for those who do, I wanted to



1 present the many, many different types of consumer law
2 issues that clients present with.

3 I'm just going to recite a bunch of them here.
4 We at Law New York at least work with consumers on car
5 repossessions, bankruptcies, problems with aggressive
6 creditors, inability to obtain loans or credit at
7 reasonable interest rates, unpaid utility bills, problems
8 with land sale contracts which are rent to own homes, home
9 improvement loan debt, wage garnishment, identity theft,
10 credit report inaccuracies, problems with contractors, and
11 then clients who are victims of a scam, and particularly,
12 in the past couple of years, victims of COVID-19 related
13 scams.

14 We are very, very proud of our consumer law unit.
15 We established it here at Law New York. Law New York has
16 been a program since 1968. Our consumer law unit was
17 established recently, relatively recently in 2015, and in
18 its inaugural year, the staffing for that project was paid
19 for completely with the grant that we received for the
20 judiciary civil legal services program.

21 Since its inception, our consumer unit has helped
22 more than 2,000 people, and we've documented more than one
23 million dollars in savings to our clients. In my written
24 comments, which there's no time to go through today,
25 there's examples of our work, including a story of a



1 healthcare worker whose wages were being garnished in
2 violation of the CARES Act by the Department of Education,
3 and that client was referred, we did a warm referral to the
4 National Consumer Law Center, and she then in turn became
5 the lead plaintiff in an action challenging the Department
6 of Education's wage garnishments of student loan debt
7 during COVID. And the outcome in that case impacted
8 thousands of borrowers who were in financial crisis.

9 In New York, just a metric on educational debt,
10 there are presently today 2.8 million student loan
11 borrowers, ten percent of them, 280,000 people are in
12 arrears on their educational debt. The cumulative debt is
13 just under 100 billion dollars, and the average student
14 loan debt is approximately 41,400 dollars. With all the
15 COVID-19 protections, some of which are still in place, and
16 with the new federal student loan forgiveness initiative,
17 and with changes to the old public service loan forgiveness
18 program, the need for advocates for New Yorkers who have
19 educational debt is really, really important at this time.

20 And nationally, you may be aware the Legal
21 Services Corporation, in the spring of this year, issued
22 its latest Justice Gap report, which is an assessment of
23 the unmet need for civil legal services for low-income
24 people across the country. The highest unmet need in this
25 report was found to be in the area of consumer issues, with



1 a finding that fifty percent of low-income Americans
2 experienced at least one consumer law problem in the
3 preceding year. And then it breaks these down into
4 experiencing difficulties with medical debt, utility
5 disconnections, aggressive creditor harassment, and victims
6 to scams.

7 So of course, consumer law is just one of the
8 types of civil legal problems that our low-income
9 communities come into our offices with. You know that
10 there are issues with access to healthcare and government
11 benefits and housing and family law and education and
12 employment law. We are one of the providers that does
13 provide services in all of those practice areas.

14 But the high unmet need, the need for enhanced
15 funding for civil legal services is really profound. And
16 the hope is that there will be the ability for JCLS
17 grantees to receive enhanced funding in the next State
18 fiscal year.

19 With regard to consumer, I'll just go back to
20 that for one more minute. We serve fourteen counties. We
21 have over 200,000 people who are financially eligible for
22 our services. In terms of attorney staffing, our consumer
23 law unit has four attorneys to meet the needs of that
24 population. And one of those positions right now is
25 vacant. So functionally, today, it's three attorneys.



1 Off topic, I did want to just briefly surface, I
2 know, I think I'm out of time, another issue that I'm
3 hoping you will be able to focus on at the judicial
4 leadership levels, which is the rural attorney shortage. I
5 am aware that another executive director was going to focus
6 her comments today on that issue. Kristin Brown from
7 Empire Justice Center, I don't know if she's already spoken
8 with you or if she's following me.

9 But with regard to that, back in the spring of
10 2020, the New York State Bar Association adopted a report
11 and recommendations made by a rural justice task force that
12 it had convened. And it confirms that there's a crisis
13 with access to justice in the rural parts of New York
14 State. It has findings. It has recommended solutions.

15 One of the most striking findings was that of the
16 attorneys practicing in New York State, ninety-six percent
17 of them primarily practice in the urban centers in the
18 state. Only four percent reported that they practiced
19 primarily in the rural counties in New York State. And the
20 impact of the rural attorney shortage is real for Law New
21 York.

22 So thirteen of the fourteen counties in our
23 service area are considered to be rural. The exception is
24 Monroe County, which has the City of Rochester. We
25 received two very large grants, one from a federal agency,



1 one from a state agency at the end of 2021 to allow us to
2 significantly grow our project to provide services to
3 tenants facing eviction.

4 Through the two grants, we've received enough
5 funding to grow our staff by twenty-six full-time attorneys
6 to provide services to tenants facing eviction throughout
7 the fourteen counties in our service area. It's now
8 September of 2022. We are nine months in from the
9 announcement of those awards. And to date, we've only been
10 able to fill seven of those positions.

11 We just cannot hire attorneys to come to work for
12 us in our rural offices. So I do recommend that the
13 Court's leadership work with the State Bar leadership to
14 move the recommendations in that spring 2020 report into an
15 implementation phase.

16 So thank you for letting me speak with you today.
17 Thank you for allowing Ms. Robinson to share her story.
18 And thank you. I know clients of other civil legal
19 services programs are with you today. And I thank them.
20 And thank you also to my colleagues from the other programs
21 who will also be speaking with you.

22 ACTING CHIEF JUDGE CANNATARO: Thank you, Mr.
23 Perri. We did hear from Ms. Brown. And we also heard,
24 before the break, from Elisabeth Benjamin, who gave us some
25 very impactful testimony about consumer debt and



1 specifically, medical debt. And I have so many questions
2 for you about that, which I'm going to save, maybe, for an
3 off-line - - -

4 MR. PERRI: Terrific.

5 ACTING CHIEF JUDGE CANNATARO: - - - opportunity.
6 I'll give you a call.

7 But the last thing you spoke about, hiring
8 attorneys, and I understand there are special concerns in
9 rural areas in terms of finding attorneys who can provide
10 services through your organizations. But this is actually
11 headline news today concerning the inability to hire
12 lawyers in the housing sphere, even in New York City. So
13 it's a statewide issue.

14 And I'm just wondering, and I think, in your
15 comments, you said you have funding to hire twenty-six new
16 attorneys. And so far, you've only been able to fill seven
17 of those openings. What are your projections? What's your
18 outlook for the hiring picture going forward? And when is
19 this rapidly becoming critical problem going to ease up for
20 legal service providers?

21 MR. PERRI: I don't know. It is disheartening.
22 One of the issues for us, and we can talk about this for a
23 long time, is our salary scales, which are just not
24 competitive with, at least for law in New York at this
25 point, not even competitive with other public sector



1 employment opportunities or public interest employment
2 opportunities that the attorneys that we can track are
3 interested in. We are pulling out all the stops in terms
4 of figuring out our finances to move forward.

5 We did do a slight revision to our salary scale
6 at the beginning of 2022. We were going to try to move
7 forward another one to take effect on October 1st and think
8 that we can do a robust increase to the entry-level salary
9 for attorneys. But it's only 52,000 dollars for a law
10 graduate with no experience. And we're going to try to
11 move it up, effective October 1st, to 58,000 dollars, which
12 may help. And then our salary scale has steps going up
13 based on experiential credit through to level 30.

14 So to attorneys with more experience the salary
15 may not be as off-putting as the dollar amount that we
16 offer to people who are just recently graduating from law
17 school, often with student debt and many times, with
18 families and homes and just unable to accept the salary, a
19 job at that salary level. And this issue for the providers
20 outside of New York City I think is pretty consistent with
21 our inability to pay what people deserve to do this work.

22 ACTING CHIEF JUDGE CANNATARO: I wish you luck.
23 I think Ms. Wallach has a question.

24 MS. WALLACH: How did you know, Judge?

25 ACTING CHIEF JUDGE CANNATARO: I could just sense



1 it.

2 MS. WALLACH: Thank you.

3 And thank you so much. And thank you for
4 referencing the State Bar report and for all the work that
5 you do at the State Bar and in your work with Law New York.
6 And I also am very well aware of the issues with regard to
7 legal services salaries, both legal service providers and
8 public defenders.

9 But I want to move away from that for one moment
10 because I thought you spoke of it very eloquently and
11 speak, or ask you a question, with regard to trying to fill
12 that gap in the rural areas. While we, as Judge Cannataro
13 mentioned, clearly, we are all dealing with, across the
14 state, a need for attorneys to fill positions and a lack of
15 attorneys being willing to take the positions.

16 Have you or do you consider, from the rural
17 standpoint, that attorneys would be willing to potentially
18 take a position maybe working virtually? And if, in fact,
19 they were able to do that, do you feel that your courts
20 that you deal with and the other organizations that you
21 deal with would be able to support that type of assistance?
22 And do you think that would help, or do you think that it
23 would not?

24 MR. PERRI: I think that it would help. I think
25 that it's a potential remedy that most definitely should



1 have brain power put to it and be explored. And I'd be
2 happy to commit my program to doing that. And I believe
3 that other legal services providers would as well.

4 It is complicated because evictions are in Town
5 and Village Courts. I guess that virtual proceedings can
6 take place in Town and Village courts. But I think it's a
7 heavy lift. And a lot of brain power and logistical work
8 would have to be done for that to become successful. At my
9 program, we would permit attorneys, right now, our
10 alternative work plan policy would permit them to work
11 hybrid or completely remote after they pass their
12 probationary period.

13 ACTING CHIEF JUDGE CANNATARO: Thank you.

14 Any other questions for Mr. Perri?

15 Thank you so much, Mr. Perri.

16 And thank you Ms. Robinson. That was an
17 inspiring story. And I'm glad you were able to deliver it
18 to us. We appreciate your time.

19 MS. ROBINSON: Thank you.

20 MR. PERRI: Thank you to all. We appreciate you.

21 ACTING CHIEF JUDGE CANNATARO: Okay. Our next
22 speaker will be Shane O'Brien, who is a client of the
23 Center for Elder Law & Justice. Mr. O'Brien will be joined
24 by Karen Nicolson, who is the CEO of the Center for Elder
25 Law & Justice. And I hope we will have them with us just



1 momentarily.

2 MR. O'BRIEN: Hello.

3 ACTING CHIEF JUDGE CANNATARO: Hello, Mr.
4 O'Brien. We can see you. And we can hear you. And we'd
5 love to hear your story of your association with the Center
6 for Elder Law & Justice whenever you're ready.

7 MR. O'BRIEN: Okay. Good afternoon, everyone.

8 ACTING CHIEF JUDGE CANNATARO: Good afternoon.

9 MR. O'BRIEN: Okay. Thank you for the
10 opportunity to share my story.

11 My name is Shane O'Brien. I'm forty-eight years
12 old, diagnosed with paraplegia, paralyzed from mid-torso
13 down, with limited use of my upper extremities as a result
14 of a severe motor vehicle accident. I'm here today to talk
15 about the vital impact that the Center for Elder Law &
16 Justice has had on my life over the last few years.

17 Throughout the pandemic, I have been helped by
18 attorneys and paralegals at CELJ with three separate
19 issues, each of which were resolved in a way that improved
20 my quality of life and secured my safety in my own home.
21 I'd like to tell you about the help I received, focusing
22 primarily on the most recent issue. Last year, I had a
23 fire in my mobile home. At that time, I was home alone.

24 I do receive 140 hours weekly of home care aide
25 services covered through my Medicare managed long-term care



1 plan. But this particular day, the aide who was scheduled
2 to provide those services did not show up. Sometimes aides
3 don't show up, which means there's more time for me to be
4 alone in my home without assistance. Given my limitations,
5 I could not open the door to get outside by myself. And I
6 could not put the fire out.

7 Luckily, I was able to call a friend who was
8 available and nearby. She came within minutes and put the
9 fire out. I was very, very lucky that I was not harmed and
10 did not lose my home.

11 This experience of being trapped in my home while
12 it was on fire, alone and unable to leave was traumatic.
13 In an effort to make it easier to leave my home or to leave
14 my home independently, I requested that my Medicare plan
15 pay for an automatic door opener and have it installed.
16 The Medicare plan denied my request, stating that in the
17 event of a fire, if I am alone, I can shelter in place
18 since I did so before.

19 I have a ramp outside my front door. But how can
20 I use it if I can't open the door and no one is here to
21 help me? After my experience with the fire on a day where
22 my Medicare home care aide did not show up for her shift, I
23 don't think I could safely stay in my home long term
24 without having this device installed. And it is not
25 something I could afford to do by myself.



1 I also could not afford to pay for legal help.
2 That is when I turned to CELJ for the third time in two
3 years. I reached out to CELJ for help appealing the denial
4 as my Medicaid plan was clearly not going to provide the
5 door opener to me without legal help. And CELJ helped me.

6 I requested a fair hearing and began preparing
7 for the hearing before the administrative law judge. CELJ
8 attorneys and paralegals helped me feel prepared to speak
9 to the judge at my hearing and encouraged me to be honest
10 about my traumatic experience with the fire and while I was
11 home alone. During the hearing, the CELJ attorney helped
12 me present my case to provide medical necessity. And
13 ultimately, the judge ordered the healthcare plan to cover
14 the cost of the door opener and its installation.

15 I cannot tell you how relieved I am that I was
16 able to have this door opener covered and installed. I
17 don't feel like it's something that just makes me more
18 comfortable or improves my quality of life but is
19 absolutely necessary for my safety and my ability to remain
20 safely in my own home. To think that the Medicaid plan
21 would tell disabled individuals to shelter in place during
22 a fire is truly terrifying. And it made me feel like they
23 did not care about me or my safety.

24 The ability to live where I choose independently
25 and with dignity is something that many people take for



1 granted. CELJ showed me they cared when my healthcare plan
2 didn't. And they helped me feel safe in my home once
3 again.

4 I do not think that I would've been successful in
5 getting these services covered by my Medicaid plan without
6 the help of CELJ's legal expertise and diligent advocacy on
7 my behalf. In the past, they also helped me with covering
8 the widening of my doorways and having an accessible shower
9 installed. I am very thankful for the services they
10 provide and think they should be provided the resources
11 they need to continue to do the work they do.

12 I am happy to have the opportunity to share my
13 experience with them, the impact their services had on my
14 life, and why their services are so valuable to me. That's
15 what happened to me in a nutshell. And I don't know what I
16 can say more than the way it happened. But it's
17 immeasurable to me the assistance they gave me, not once,
18 but three different times.

19 ACTING CHIEF JUDGE CANNATARO: Thank you so much,
20 Mr. O'Brien.

21 MR. O'BRIEN: I thank you.

22 ACTING CHIEF JUDGE CANNATARO: Just a question
23 for you, do you think you'd still be in your home today
24 without the intervention of CELJ? And how close do you
25 think you came to living in a far more restrictive



1 residential situation had it not been for the help you
2 received from CELJ?

3 MR. O'BRIEN: Had I not received the help from
4 them, I wouldn't have felt safe being in my own home. I
5 would've probably been in some sort of assisted living.
6 You know, I used to be nurse for five years. I was a CNA
7 for a few years. You know, I finished top of my class.
8 And without having this door opener, my doors widened, the
9 shower installed, I would definitely be in a in skilled
10 nursing or at least assisted nursing. You know, I'm
11 paralyzed from two inches above the nipples down. It's
12 actually called tetraplegia. My hands don't work very well
13 either.

14 So it was immeasurable. I'd like to meet them in
15 person eventually one day and definitely give them a
16 handshake and say thank you.

17 ACTING CHIEF JUDGE CANNATARO: Wow. I, for one,
18 am very happy to see you in your home. So thank you.

19 MR. O'BRIEN: I appreciate that.

20 ACTING CHIEF JUDGE CANNATARO: Any questions?

21 MR. O'BRIEN: I appreciate that and this is all
22 because of CELJ.

23 ACTING CHIEF JUDGE CANNATARO: Okay. Ms.
24 Nicolson, why don't you tell us a little bit about your
25 work with Mr. O'Brien?



1 MS. NICOLSON: Sure. Good afternoon, Your
2 Honors. And thank you for the opportunity to speak today.
3 It means a lot to me personally, having done this work for
4 a long time.

5 And I'm really happy to actually meet you, Mr.
6 O'Brien, through Zoom.

7 Mr. O'Brien was represented by my staff at the
8 Center for Elder Law & Justice. I'm the CEO there. And as
9 he's detailed, we've been representing him for multiple
10 years.

11 In addition to my role at the Center for Elder
12 Law & Justice, I'm also the volunteer treasurer of the New
13 York Legal Services Coalition, which is an association
14 that's made up of about fifty civil legal aid professionals
15 across the state. And we work together to ensure access to
16 civil legal justice for those in need like Mr. O'Brien.

17 It's the mission of the Center for Elder Law &
18 Justice, which we affectionately refer to as CELJ in our
19 office, to improve the quality of life for elderly,
20 disabled, and low-income persons in western New York. And
21 we do that by providing free legal services, primarily to
22 older adults and those with disabilities, but also, to the
23 general, low-income population as funding allows. And as
24 Mr. O'Brien so eloquently put it, our goal is to do just
25 what we were able to do for him, is to help our clients



1 live independently and with dignity.

2 As you heard from the dramatic testimony, our
3 services were critically important in this multiyear quest
4 to get the required services so that he could, you know,
5 not only live in his home, but also live safely in his
6 home. And Mr. O'Brien had been our client for a couple of
7 years before the fire, which is the only reason he knew to
8 call us when that last thing happened to him.

9 So back in 2020, he first called us when his
10 Medicaid managed care plan denied the request to widen his
11 doors. He needed that done so that he could do his
12 physical therapy at home, which he is entitled to do
13 pursuant to Medicaid. In addition, the plan then later
14 denied his request to build an accessible shower.

15 When we stepped in each time to help, the plan
16 did rescind their denials in those two cases without a fair
17 hearing. But then they still attempted to force Mr.
18 O'Brien to pay to remove his inaccessible bathtub. Through
19 our representation, Mr. O'Brien was able to prove that
20 these requests, as he said, were not just for vanity or
21 comfort, but they were medically reasonable and necessary
22 to keep him living home safely.

23 And without coverage of these necessary home
24 modifications, which the New York State Medicaid program
25 clearly covers, Mr. O'Brien was at risk, as he said, of



1 being placed in a skilled nursing facility or assisted
2 living in order to meet his care needs. And that is a
3 clear violation of the Americans with Disabilities Act and
4 the Supreme Court's decision in Olmstead.

5 Through the enactment of the Americans with
6 Disabilities Act, Congress found that individuals with
7 disabilities continuously encounter various forms of
8 discrimination, including outright intentional exclusion,
9 the discriminatory effects of architectural,
10 transportation, and communication barriers, overprotective
11 rules and policies, and failures to make modifications to
12 existing facilities and practices. In 1998, the Supreme
13 Court found that the ADA provides people with disabilities
14 the right to reside in the least restrictive setting where
15 their healthcare needs can be met. And noted that states
16 could provide these services through a Medicaid waiver
17 program, as they do in New York.

18 Despite the intent of Congress from more than two
19 decades ago to eliminate discrimination against people with
20 disabilities, you can see the burden very clearly falls on
21 individuals like Mr. O'Brien. Sadly, he's experienced
22 these discriminatory effects due to the failures of his
23 plan. And it's that exact type of discrimination that
24 Congress intended to eradicate through the ADA.

25 Without our advocacy in all three cases, Mr.



1 O'Brien would've been at risk of some form of
2 institutionalization even though, as you can see, he can
3 clearly be cared for and should be cared for in his home.
4 His case dangerously illustrates the barriers that
5 individuals with disabilities face every single day and how
6 access to justice is so critically important for them to
7 ensure these essentials of life.

8 According to the 2022 Legal Services Corporation
9 Justice Gap report, the pandemic has had devastating and
10 disproportionate impact on low-income Americans with
11 forty-seven percent of them experiencing at least one civil
12 legal problem in the last year. The pandemic impact is
13 also reflected in our statistics at CELJ. Healthcare
14 access, as Mr. O'Brien discussed, is really just one of the
15 areas where we practice in.

16 Overall, between 2019 and 2020, our agencywide
17 cases increased by twenty-six percent as people attempted
18 to navigate unemployment, healthcare, public benefits, all
19 during the initial months of lockdown. Even after
20 lockdown, our numbers continued to be high. In 2021, we
21 opened a total of 4,607 cases, and we served more than
22 10,000 people.

23 One of those people was Mr. O'Brien. And I thank
24 him again for his testimony today.

25 I'd like to close by noting that although the



1 Justice Gap is significant for all low-income people, it is
2 even more profound when looking at underserved populations
3 such as the elderly or disabled. According to Justice in
4 Aging, nationally, forty-five percent of individuals over
5 the age of sixty-five can't even meet their basic needs.
6 According to the Legal Services Corporation, there are 7.6
7 million senior in poverty in the United States and more
8 than 11 million people with disabilities. And this need
9 just keeps growing every day. According to the federal
10 government, 10,000 people are turning age sixty-five in the
11 U.S. each and every day.

12 So these statistics demonstrate the ever
13 increasing need to bridge the Justice Gap, particularly for
14 those most vulnerable among us. And I really do appreciate
15 your dedication to these issues and the opportunity to
16 share our experiences. Thank you.

17 ACTING CHIEF JUDGE CANNATARO: Thank you, Ms.
18 Nicolson. The quality of the work you do with the elderly
19 and disabled is evident from the result you received here.
20 And I just want to thank you for all that you do for this,
21 you're right, critically underserved community.

22 MS. NICOLSON: Thank you.

23 HONORABLE GERALD J. WHALEN: I have a question.

24 ACTING CHIEF JUDGE CANNATARO: Sure.

25 HONORABLE GERALD J. WHALEN: CEO Nicolson, you



1 are always out and endeavoring to raise funds, aren't you,
2 to help your mission. You're here today, I think, where
3 you're supposed to be somewhere else; aren't you? Isn't
4 there a fundraiser going on in Wanakah to help you with
5 your mission?

6 MS. NICOLSON: Oh, Judge. Yes, today is our golf
7 tournament, Judge.

8 HONORABLE GERALD J. WHALEN: Yeah. Well, I know
9 that because I get emails on a regular basis. And I would
10 like to be there also, but we both find our time here.

11 MS. NICOLSON: It's a little busy.

12 HONORABLE GERALD J. WHALEN: Right? Yeah.

13 MS. NICOLSON: It's a little busy today.

14 HONORABLE GERALD J. WHALEN: You do a wonderful
15 job. And we really appreciate your efforts. Thank you.

16 MS. NICOLSON: Thank you. Appreciate it.

17 MR. O'BRIEN: Yeah, thank you very much, Ms.
18 Nicolson.

19 ACTING CHIEF JUDGE CANNATARO: Well, I don't want
20 to delay anyone from an important fundraising golf. So - -
21 -

22 HONORABLE GERALD J. WHALEN: Or a Bills game.

23 ACTING CHIEF JUDGE CANNATARO: Or a Bills game.

24 MS. NICOLSON: Yeah. Or a Bills game, right?

25 MR. O'BRIEN: Go Bills. Go Bills. I've got my



1 jersey on, guys.

2 ACTING CHIEF JUDGE CANNATARO: So I will let you
3 go. And we'll move on to our next presenter.

4 MS. NICOLSON: Thank you.

5 ACTING CHIEF JUDGE CANNATARO: Thank you both
6 very much.

7 MS. NICOLSON: Thank you so much.

8 MR. O'BRIEN: Okay.

9 MS. NICOLSON: Thank you, Mr. O'Brien.

10 MR. O'BRIEN: Thank you very much. Bye-bye.

11 ACTING CHIEF JUDGE CANNATARO: Our next
12 presenters will be Vincent and Linda Massenzio and their
13 attorney, Samantha Aguam from the Volunteer Lawyers Project
14 of Central New York.

15 Vincent and Linda are both clients of the
16 Volunteer Lawyers Project of Central New York. And Ms.
17 Aguam has agreed to join them as well today to talk about
18 their experiences regarding debt collection issues that
19 they had.

20 Can you see and hear us, Vincent and Linda?

21 MS. MASSENZIO: Yes.

22 MR. MASSENZIO: Yes, sir.

23 ACTING CHIEF JUDGE CANNATARO: Okay. Well, we're
24 ready to hear your story whenever you are.

25 MR. MASSENZIO: Okay. My name is Vincent



1 Massenzio. And I'm seventy-two years old. My wife Linda
2 and I live in Central Square, New York, which is a small,
3 rural community in Oswego County. We've lived here for
4 over forty years and own our own home, which is the only
5 asset that we have besides two beautiful children and seven
6 grandchildren.

7 For over twenty years, I maintained a small taxi
8 business that supported my family. My clients consisted of
9 senior citizens who used my services for doctor
10 appointments, grocery shopping, and also consisted of
11 nonessential employees going to work.

12 In March of 2020, COVID shut my business down.
13 It came to a screeching halt. I was not able to service
14 any of my clients. And my VA doctors advised me that
15 continuing to work would compromise my health issues.

16 My only source of income was my Social Security,
17 Linda's Social Security, and a small ten percent disability
18 from the VA. I truly was at a very low point when my wife
19 Linda and I turned to the VA for help. The VA social
20 worker recommended that we contact the Volunteer Lawyers
21 Project of Central New York.

22 That's when we first met Adam Martin. That one
23 phone call that we made, with many to follow, set things in
24 motion. I told Adam that I had accumulated 16,000 dollars
25 in credit card debt, which consisted of five credit cards,



1 mainly from business expenses. Adam first recommended
2 answering any written correspondence by stating that our
3 only source of income was Social Security and my small VA
4 disability. He advised me that this was safe from
5 garnishment.

6 Three credit companies threatened collection
7 proceedings. Adam, in return, followed with a
8 cease-and-desist letter. After this was put into motion,
9 two of the companies stopped collection proceedings.
10 However, the third one served me with a summons and
11 complaint.

12 It became a rollercoaster ride over several
13 months. But Adam and his supervisor, Sally Curran, walked
14 us through the process from our answer to the summons and
15 complaint, including counterclaims to discovery and then
16 defending against the motion for a summary judgment.
17 Finally, on July 8th, 2022, the plaintiff agreed to a
18 discontinuance if we agreed to drop our counter claim.

19 Volunteer Lawyers Project helped us out of this
20 unfortunate situation. And we learned some valuable
21 lessons regarding the debt collection process. We will
22 forever be grateful to the Volunteer Lawyers Project of
23 Central New York.

24 ACTING CHIEF JUDGE CANNATARO: Thank you very
25 much, Mr. Massenzio.



1 Any questions?

2 We appreciate you coming to tell us your story.
3 And I'm glad that things worked out and that you were able
4 to connect with VLP.

5 Maybe Ms. Aguam would like to tell us a little
6 more about how that happened.

7 MS. AGUAM: Yes, I'd be happy to, Your Honor.
8 Thank you for having me. I appreciate it.

9 And thank you, Vince and Linda. We appreciate
10 your kind words.

11 MR. MASSENZIO: You're welcome.

12 MS. AGUAM: Thank you for having me today. My
13 name is Samantha Aguam, Sam Aguam. I am currently the
14 interim executive director of Volunteer Lawyer Project
15 along with my colleague, Mary John, while our executive
16 director is temporarily out of office. I will likely refer
17 to Volunteer Lawyers Project as VLP or VLPCNY just to save
18 a little breath as I talk about what our services are.

19 VLP of Central New York has a central office in
20 Syracuse, New York in Onondaga County. However, we serve
21 several other counties in the central region -- and beyond
22 -- in New York State.

23 VLP CNY began in the 1990s as a branch of the
24 Onondaga County Bar Association with just one staff member.
25 Today, VLP has become largest provider of pro bono legal



1 services in Central New York by a nonprofit organization.
2 VLP of CNY's staff of twenty leverages energies of a pro
3 bono panel made of 500 attorneys, law students, and other
4 community volunteers to provide civil legal services to
5 over 3,700 clients in an average year.

6 The mission of Volunteer Lawyers Project is to
7 provide access to justice by engaging the legal community
8 in volunteer services for those in need. We work closely
9 with local legal services providers to identify civil legal
10 needs that are not being met by other organizations and
11 that requires the energy of volunteers to meet those needs.

12 VLP serves civil legal needs covering the
13 essentials of life, including family matters, access to
14 health care, and education. Low-income individuals access
15 our programs through clinics located in courthouses and
16 community-based organizations, through telephone-based
17 services, and through direct referrals and collaborations
18 with other legal services providers in Central New York.

19 VLP operates these court-based legal clinics to
20 provide advice and assistance for unrepresented litigants
21 by preparing petitions for family court, surrogates court.
22 In an average year, VLP will defend over a thousand tenants
23 in eviction proceedings in Syracuse City and East Syracuse
24 Justice Court, avoiding or delaying evictions in
25 seventy-five percent of those cases.



1 In addition to those clinics, VLP provides
2 ongoing pro bono assistance on a wide variety of cases,
3 including uncontested divorce, elder law, trust and
4 estates, assistance with nonprofits that work with
5 low-income individuals with issues affecting the essentials
6 of life again. Our New Start Reentry Program provides
7 ongoing assistance to job seekers in removing barriers to
8 employment. And our Community Economic Development Program
9 assists low-income entrepreneurs.

10 Our Q Law Program assists transgender clients
11 with name changes and discrimination cases.

12 And finally, our CLARO program, that's the
13 Consumer Legal Advice Resource Office program, has
14 attorneys that provide free legal advice and help with
15 drafting court forms to fight debt claims. Help is
16 provided for court cases or judgments related to credit
17 card debt, medical debt, student loans, car loans, utility
18 collections, lines of credit, and charge accounts. This
19 program is offered through a collaboration with our local
20 Syracuse Financial Empowerment Center.

21 VLP, in general, and our supporters strive to
22 engage volunteer attorneys and professionals, dedicates
23 time to train those volunteers, support our staff, and
24 continue our programming. This is for the seemingly
25 endless need for civil legal services, that, since the



1 COVID-19 pandemic, has become ever-present and is greater
2 than ever before. There is a critical lack of pro bono
3 legal services available to help people outside the
4 metropolitan area.

5 Unsurprisingly, the vast majority of pro bono
6 legal aid services are concentrated in New York City. In
7 terms of population density, New York City does have the
8 highest concentration of persons requiring access to legal
9 services. However, venture beyond Westchester County,
10 where 8.3% of the population is living in poverty, this
11 quickly jumps to double-digits.

12 In Franklin County, the county farthest north
13 geographically from New York City, the poverty rate is
14 16.7, more than double. The counties in Central New York
15 account for the statewide average at 13.6 percent poverty
16 rate, which is the rate in Onondaga County, Syracuse. For
17 clients like Vince and Linda who live in Oswego County, the
18 poverty rate is 16.1 percent. And there are no pro bono
19 legal service organizations based in that area.

20 Clearly, in rural areas, we have a higher level
21 of poverty per capita with a lower number of attorneys per
22 capita. And even fewer attorneys available to engage in
23 pro bono legal services. While the statistics are
24 impactful, they are certainly not surprising. In the fall
25 of 2019 the state bar journal featured an article outlining



1 the problems that rural communities experience due to
2 lawyer shortages in small-town New York. And in April of
3 2020, NYSBA, New York State's Bar Association, Task Force
4 on Rural Justice produced a report which identifies sources
5 of this problem as the "graying of the rural bar."

6 Low attorney-to-resident ratios, the myriad of
7 legal issues, and above all the overall need for funding in
8 order to attract practitioners to meet all of these
9 challenges. In response, Volunteer Lawyers Project and
10 three other legal aid organizations based in Syracuse
11 routinely field all manner of legal questions from the
12 upstate area, Central New York area, and Western New York
13 counties, including evictions, landlord-tenant disputes,
14 immigration, LGBT rights, elder law, surrogates court,
15 custody, divorce, small business reentry, and most of all -
16 - - debt, which just seems like everybody seems to have,
17 unfortunately. Especially now in the time of COVID, we
18 have seen clients with upwards of \$50,000 debt - even up to
19 \$600,000 worth of outstanding debt stemming from medical
20 bills, compounded by rental and child support arrears and
21 debt from store cards, like Vince and Linda's.

22 The debt industry has adopted a business model in
23 which 75% of all credit card debts are sold to debt buyers.
24 The going rate for debt purchase fluctuates, but the
25 average is four cents per dollar, which is a very generous



1 profit margin. On the consumer's side, only 4% of people
2 are represented when sued for debt. Why is this? Mainly
3 people who simply don't know there are resources available
4 to help them. There's also a personal embarrassment when
5 you are not able to keep up with your payments. Geographic
6 isolation and a general notion that there's really nothing
7 that can be done about the situation.

8 Consequently, there are over 100,000 debt default
9 judgments against consumers per year in New York State.
10 This compounds and perpetuates the debt problem. The
11 situation is alarming because in less than 10% of the
12 cases, the debt buyers do not have the required paperwork
13 to pursue the debt legally. This paperwork includes
14 account statements and application terms and conditions of
15 original credit offer, payment history, and required
16 affidavits.

17 As we know in 2007, 2008, the buying and selling
18 of debt without these documents was a major factor in the
19 housing crisis that led to the great recession. So in our
20 cases, like Vince and Linda's, persistence is really key.
21 Knowing that only 10% of the time a debt collector has the
22 proper paperwork to pursue the debt. We were able to make
23 the process more difficult for debt collectors. Even just
24 answering the summons and complaint and raising counter
25 claims often is enough to make the debt collector



1 reevaluate whether it is a financial advantageous to pursue
2 the case. The more pieces of paper you have, the more
3 their pennies per dollars profit model is eroded.

4 With Vince and Linda's court case, we started
5 with an answer, then moved to discovery, interrogatories,
6 which went unanswered despite repeated requests. We were
7 obligated to submit a motion to dismiss when the creditor
8 sent them a letter offering to stipulate a discontinuance
9 if we would drop our counterclaims.

10 COVID-19 has deepened the impact of these
11 conditions and dramatically slowed the process of
12 recovering from debt. These proportions threaten to leave
13 large segments of our rural communities without critical
14 legal resources. It's little wonder that the New York
15 State Bar Association's report on rural justice recommended
16 above all else, funding-related interventions. It is JCLS
17 funding that VLP of Central New York relies on for the
18 delivery of our services which are completely dependent
19 upon receipt of steady, reliable funding. Without these
20 grants, these critical legal services could - not be
21 provided and these rural populations would go totally
22 adrift of the court system and access to justice.

23 Thank you for your time.

24 ACTING CHIEF JUDGE CANNATARO: Thank you, Ms.
25 Agum. I suspect you might be one of the hardest working



1 attorneys in Central New York.

2 MS. AGUAM: Oh, gosh. No, I have a wonderful
3 team, Your Honor, including who Vince and Linda mentioned,
4 Adam Martin. I do want to make a shoutout to him. He was
5 crucial in the success of their case. Amazing.

6 ACTING CHIEF JUDGE CANNATARO: We are very
7 grateful for his work with the Massenzios.

8 I noticed in going through your materials that
9 you leveraged the services you provide by seeking
10 assistance of nonlegal professionals. You have a number of
11 volunteers and other people who work with your clients.
12 And I'm just wondering whether you would be able to service
13 even those 3,700 clients a year without the assistance of
14 nonlegal professionals. And relatedly, whether you see
15 that as in any way positively or negatively impacting the
16 quality of the service you provide?

17 MS. AGUAM: Absolutely, that's a good question.
18 So when I say the non-attorneys, I do mean a large
19 percentage of law students that support almost all of our
20 programs. We crucially need them for everything from
21 intake to research to whatever it may take to support our
22 programs. And as you mentioned, other non-attorneys, who
23 include paralegals, and administrative experienced folks.
24 I absolutely do not think we'd be able to serve as many
25 clients as we do without that support of a nonlegal



1 community.

2 I think it is a good thing, absolutely. Because
3 what we try to strive for, and I know all the other legal
4 services providers do as well, is to think out of the box.
5 It's not necessarily that our services are limited to the
6 traditional client-attorney relationship. We have services
7 that are limited to a one-day representation, let's say a
8 landlord-tenant court, to limited advice of counsel on help
9 filling out petitions to file in family court or
10 surrogate's court. We do provide full representation on a
11 matter like with Vince and Linda's.

12 So we try and think outside the box in terms of
13 how we can serve the most clients with bulk. If we don't
14 have enough attorneys to take on the traditional attorney
15 roles, how can we fit non-attorneys into that?

16 ACTING CHIEF JUDGE CANNATARO: Thank you so much
17 for your time. We appreciate everyone's testimony and we
18 wish you all very good luck. Thank you.

19 MS. AGUAM: Thank you.

20 MS. MASSENZIO: Thank you so much.

21 ACTING CHIEF JUDGE CANNATARO: You're welcome.

22 Our next presenters will be first name, Keri, who
23 is a client of The Legal Project. And we will also be
24 hearing from Michele Pollock Rich, who is the executive
25 director of The Legal Project. And we will wait for them



1 to come on screen. Thank you.

2 I can see now that Keri is unmuted.

3 And you just voice check for us, Keri?

4 KERI: Sure. Can you hear me?

5 ACTING CHIEF JUDGE CANNATARO: Yes, we can.

6 KERI: All right. Excellent.

7 ACTING CHIEF JUDGE CANNATARO: And we're ready to
8 hear your testimony.

9 KERI: Excellent. Good afternoon. First, I
10 would just like to thank the esteemed panel before me and
11 for being receptive to hearing the need for these civil
12 legal services today and for the extreme honor to be the
13 real face these services have benefited. I do have to say
14 this is quite the platform for me to share just a small
15 fraction of my story publicly for the first time. I really
16 appreciate you allowing me the opportunity to show a face
17 of someone who has personally benefited.

18 ACTING CHIEF JUDGE CANNATARO: Thank you for
19 being here.

20 KERI: On the day of August 29th, 2011, I lost my
21 home in Hurricane Irene. I was eight and a half months
22 pregnant after losing my daughter in a previous pregnancy
23 in utero, and I left with my animals and the clothes on my
24 back. People helped. I was beyond moved and grateful for
25 all the help we received to rebuild our home. There was



1 one thing that could not be saved or replaced, my husband.

2 My husband chose the bottle. He chose
3 inebriation over determination, which ultimately ended in
4 addiction and domestic abuse. I see now after looking
5 back, my now ex-husband, was this person all along but used
6 less obvious vices and manipulations. I did not see it
7 because I simply didn't think that some people would seek
8 to manipulate and control in the most subtle ways and
9 completely strip you of your own life.

10 I made the decision on April 3rd, 2019 to leave
11 my home, my marriage, and my life as I had known it for two
12 decades. I left with zero dollars, no home, and no job. I
13 had my son as my priority, his well-being, where my now ex-
14 husband's priority was control. On November 19th, 2019, I
15 was picking my son up from a visit with my husband, and my
16 husband struck me. My son witnessed this. I remember
17 immediately thinking, stay strong; call the cops; don't
18 scare Daniel. It was in this moment that the advice of my
19 parents that they've given me my whole life flooded my
20 mind.

21 No one can put their hands on you. If you need
22 help, call us. We'll always be there for you. Stay calm
23 in overwhelming situations and you will receive a better
24 outcome. Breath. Later, I was shocked when my calmness in
25 that moment was presented as evidence of deception or



1 strategy on my part. In a whirlwind of events that
2 happened after this, from the cops telling me to meet them
3 at the station, to my ex-father-in-law walking into the
4 station, while my son and I were waiting there to sign
5 paperwork saying, "I hope he left a mark." I was also
6 introduced to YWCA and The Legal Project.

7 Attorney Storm advised me that divorcing a person
8 like my ex would not be quick. She could see farther into
9 my future than I could as I was just trying to survive. My
10 ex manipulated our system to find loopholes and excuses to
11 keep me homeless, broke, and in litigation, as long as
12 possible to ensure I couldn't afford to continue and to
13 continue on his own abuse cycle.

14 My ex was, at best, minimally involved in my
15 son's life prior to and even after our physical separation.
16 It wasn't until the night that I had him arrested that he
17 began to use my son as a pawn to make my life miserable.
18 It was right after I was physically assaulted that he filed
19 for fifty/fifty custody of my son to retaliate while not
20 bothering to show up for visitation that he already had. I
21 was homeless throughout the entire custody case and unable
22 to secure housing until the divorce ended.

23 I was lucky enough to keep my son in his school
24 district by virtue of his rights as a homeless student, and
25 my ex was fully aware that the delays caused by him kept us



1 from securing housing. The initial custody case was
2 scheduled for a five-month life span with a trial in May
3 2020 but was delayed by over eighteen months, in part by
4 COVID, but also by my ex's numerous delay tactics of not
5 filing documents, claiming to be out of town, and strategic
6 attorney changes multiple times at critical moments in our
7 case.

8 My ex is self-employed. He never once provided
9 tax returns, not even to this day. He successfully claimed
10 to only earn \$15,000 annually. I was divorcing a con man
11 and a good one at that. He's a certified private
12 investigator who knew how to work our systems and instill
13 fear to get his way. Throughout litigation, my ex
14 repeatedly asked me through his representation to recant
15 about the domestic violence. There were two reasons he
16 wanted this. One, to clear his name. And two, to receive
17 his guns back.

18 With every claim or counter, there was always an
19 ask of me to sign a letter saying that he didn't assault me
20 and telling the judge to return his weapons to him. The
21 clear implication was that his claim for fifty/fifty
22 custody was intended to coerce me into lying to cover up
23 his abuse. It was a bargaining chip to get me to say the
24 assault didn't happen and that he can have his guns back.

25 Attorney Storm assured me time and time again



1 that because he rarely showed up for scheduled visits that
2 he would not have a chance at fifty/fifty custody and
3 encouraged me not to write or sign such a letter. The
4 physical assault was actually caught on video, but his
5 attorney repeatedly insisted the assault didn't count
6 because I was also angry at the time of the assault. My ex
7 had just destroyed thousands of dollars of my personal
8 property. And then claimed I was too calm afterwards.

9 They withheld this video and this footage for
10 many years until it was finally produced, and the assault
11 was clear as day. I was beyond overwhelmed. I would
12 blindly take every piece of information that Attorney Storm
13 gave me and held it close to me not knowing how it would
14 help but trusting her that it would all make sense in the
15 end. Every step of this was excruciatingly painful and
16 exhausting, and I do not believe I would have ever made it
17 through without her or The Legal Project.

18 It takes extreme faith to put your trust into
19 someone you just met after your trust was destroyed by your
20 abuser. I had nothing left to lose, literally. And
21 trusting her was all I could do to help ease the worry of
22 keeping my son and myself as safe as possible. While
23 family and friends tried to understand and help, they
24 didn't understand and couldn't comprehend why certain
25 things were a certain way. I would often ask for their



1 help and input which would leave me feeling frustrated and
2 isolated.

3 The Legal Project did not have the resources to
4 help me with my divorce, but they did help me in custody.
5 And honestly, that was all that mattered and still matters
6 the most to me. I have the contrast of private
7 representation and the representation of The Legal Project
8 because of these circumstances. And I assure you the level
9 of care, concern, attention, and compassion exceeds that of
10 private representation. I never once felt that I was
11 brushed aside because of caseloads being too great. I had
12 lot of questions, no knowledge of the legal process behind
13 this, and no money to pay for any of it.

14 I'd like to fast forward to today. There isn't a
15 day that goes by or even an hour that I don't think of
16 Attorney Jennifer Storm or The Legal Project. Ask anyone
17 in my life and they will tell you how often I express my
18 gratitude towards her and The Legal Project. I am finally
19 happily divorced. I have an amazing job. And I have just
20 purchased a home for son and myself.

21 I have succeeded in my own eyes but only because
22 of the help of The Legal Project and Attorney Jennifer
23 Storm. I assure you that Attorney Storm will give me all
24 the credit, but it was her that I would think of on
25 sleepless nights when my heart raced over a simple text



1 from my ex that triggered me. It was when I did not know
2 how to handle when my son was not returned to me when he
3 was supposed to that Attorney Storm was there. The Legal
4 Project provided the most valuable and irreplaceable
5 assistance that I acquired in the last three years of my
6 life.

7 If only everyone in a situation like mine had the
8 opportunity to be helped by them. It is in these words
9 that I am now able to help others and let them know The
10 Legal Project is there for them.

11 ACTING CHIEF JUDGE CANNATARO: Thank you, Keri.
12 That was a ringing endorsement of The Legal Project. I
13 note in your comments you said sometime around November
14 19th, 2019 you were introduced to the YWCA and to The Legal
15 Project.

16 KERI: Correct.

17 ACTING CHIEF JUDGE CANNATARO: I'm just curious,
18 those are two strange things to happen at the same time.
19 How did you get introduced to The Legal Project?

20 KERI: It was a whirlwind of a night, but the
21 YWCA does this amazing thing on any arrest for domestic
22 violence, the police put a little stamp on the paperwork.
23 That stamp ultimately led me to the YWCA, and they
24 collaborate with The Legal Project and they were referred
25 to me by the YWCA.



1 ACTING CHIEF JUDGE CANNATARO: That's wonderful.

2 KERI: Yes, it was wonderful.

3 ACTING CHIEF JUDGE CANNATARO: How soon after you
4 went to the YWCA did you have your first meeting at The
5 Legal Project?

6 KERI: Within a week.

7 ACTING CHIEF JUDGE CANNATARO: That's great.

8 KERI: Yes.

9 ACTING CHIEF JUDGE CANNATARO: Thank you.

10 Any questions for Keri?

11 Thank you, Keri.

12 We're going to hear from Ms. Rich, now, I think;
13 is that correct? Whenever you're ready.

14 MS. RICH: Okay. Thank you.

15 Thank you to the panel for the opportunity to
16 provide remarks this afternoon. I know you've had a long
17 afternoon.

18 And thank you, Keri, for sharing your story with
19 us. I know it wasn't easy, and you did great. And
20 congratulations on buying your home. I hope that you and
21 your son will always be safe and happy.

22 I am Michele Pollock Rich. The executive
23 director at The Legal Project. And for twenty-seven years
24 The Legal Project has provided free legal advice and
25 representation in the Capital region of New York State. We



1 were founded in 1995 by members of the Capital District
2 Women's Bar Association who had been providing pro bono
3 services to victims of domestic violence who were trying to
4 navigate the family court system.

5 And these pioneering attorneys witnessed
6 firsthand the harm that can occur when a victim of domestic
7 violence goes unrepresented. And out of their experiences,
8 they founded The Legal Project. And over the years, we've
9 expanded our practice areas and response to the needs of
10 the community. So today, we provide consultation,
11 representation in the areas of domestic violence, crime
12 victim assistance, affirmative immigration, human
13 trafficking, civil legal assistance, family law,
14 foreclosure defense, and other matters as well.

15 And we also provide training to the legal
16 community on domestic violence best practices in law and
17 trauma-informed approaches in law. Legal assistance for
18 victims of domestic violence remains the largest part of
19 our work, though. And, as I think Keri's story emphasizes,
20 legal assistance is a critical step to helping domestic
21 violence clients move forward with their lives in safety
22 and with an understanding of their legal rights and their
23 legal entitlements.

24 Domestic violence is about power and control.
25 Specifically, coercive control. And coercive control is a



1 pattern of behaviors in which one partner exerts power over
2 another person by controlling them through fear. A
3 victim's fear and an abuser's control do not stop at the
4 threshold of the courtroom. I wish it did. And while it's
5 often invisible to the outside observer, these dynamics
6 continue to influence court outcomes and justice itself.

7 An attorney helps to correct the imbalance of
8 power between the parties so that the court can make
9 impartial just rulings. And without legal assistance,
10 domestic violence victims often give up their rights in an
11 attempt to avoid future conflict. But abusers don't want
12 to be appeased; they want to be in control. And many use
13 the court system itself, filing vexatious lawsuits to keep
14 the victim returning to court, weaponizing our court system
15 in their favor.

16 And in some cases, they do it to see the victim
17 when there's an order of protection because there's no
18 other way, but, in most cases, it is simply to exert power
19 and control and keep the victim who would like nothing more
20 than to put an end to the legal proceedings and move on
21 with their life, returning to court and wearing them down.

22 To be effective attorneys working with clients
23 who are victims of domestic violence require expertise and
24 training on domestic violence and in-depth understanding of
25 trauma-informed practice. And all of this can be learned,



1 but it takes time and dedication, and experience and heart.
2 And when this happens, the result is an attorney like
3 Jennifer Storm, Keri's advocate, and also our DV
4 supervising attorney. Jennifer would be an asset anywhere,
5 and I hope we can keep her.

6 As you know and you've heard a little bit today,
7 the whole country is in the grip of a hiring crisis. Here
8 in Albany, we compete not with just private law firms, but
9 also with New York State. And although at The Legal
10 Project we make every effort to be the best employer can
11 be, we find ourselves unable -- with current levels of
12 funding -- to compete with the salary and benefits and
13 stability offered to state employees.

14 Nonprofit employees have the strange distinction
15 of becoming accustomed to the instability of grant funding.
16 Meaning when a grant ends, there is no guarantee of
17 continued funding for a program. Programs end, jobs are
18 lost regardless of how good programs are or how much
19 they're needed by the community. So a vague sense of fear
20 permeates employees in grant-funded programs.

21 And during COVID, this unease sent many in the
22 nonprofit sector, not just at The Legal Project but across
23 the state, into the comparative stability of state
24 employment or sometimes private sector employment. And as
25 you've heard from many of my colleagues testifying today,



1 the community need is never-ending. And over years of
2 sustained insufficient funding, nonprofit salaries and
3 expectations are artificially low in our attempt to do as
4 much as we possibly can with the resources that we have.

5 And as a result, nonprofit employees have borne a
6 lot of the burden. They are the hardest working people you
7 will ever meet and they forego cost of living increases,
8 they forego fair salary, just to be able to help their
9 community. But at the end of the day, they can't eat the
10 mission, and they should be able to get to court without
11 worrying if their car is going to break down and do things
12 like be able to purchase a home and move on with their
13 lives knowing that they have some job security. And that
14 they may be looking for a job in a year and a half when
15 their three-year grant comes to an end.

16 Our employees are highly skilled, highly trained
17 professionals, and they're paying a price. And we need
18 people like Jennifer for her level of experience, her
19 expertise and her heart and her passion. So I urge you to
20 consider what I hope is a modest request today. We in the
21 nonprofit sector need you to be our advocates. Not just in
22 the JCLS process, but across the many state agencies that
23 help to fund legal services. Most legal service
24 organizations have a tapestry of funding.

25 And with The Legal Project, much of that is here



1 in New York State. Urge our colleagues to execute our
2 contracts on time and to pay us in a timely manner. Work
3 to increase civil legal services funding overall so that we
4 can meet community demand and provide our employees at
5 least the same salary and benefits as our colleagues in the
6 State without sacrificing the number of clients that we
7 serve in order to do so.

8 Please consider the process by which funding is
9 distributed. So instead of spending our time competing
10 with other legal service providers for dollars, we can
11 collaborate with them and work with them together to help
12 solve the problems in our community and provide for more
13 clients. Help our employees feel safe so that they can
14 concentrate on their clients, not job searches.

15 And finally, one more, please consider continuing
16 virtual court as much as it is appropriate. It helps
17 victims of domestic violence feel safe, especially in these
18 vexatious demands to return to court which can be, I know,
19 very difficult for the courts to tease out, you know, what
20 is a reasonable demand and - - - and what is just to
21 torture a victim. Video court does help them feel safe.
22 They don't have to worry about running into abusers in
23 parking lots or staring at them across hallways or even
24 bumping into opposing counsel. And it also helps our
25 attorneys to be efficient with their time instead of



1 traveling back and forth to courthouses; they can be very
2 efficient and spend more time with the client in front of
3 them.

4 I hope that these are modest requests. Our
5 employees love the work that we do. Even flat - - - what
6 we call flat funding, no increase, no decrease, is really a
7 funding cut when you think about inflation. And some of
8 our funding sources have continued flat funding over the
9 last - - - almost five to ten years depending on the
10 source. So we're not just trying to do more with less,
11 we're trying to do the same with levels of funding that are
12 effectively a decrease, even though on paper they are the
13 same.

14 Again, Keri, thank you for your very powerful
15 words.

16 And thank you to this panel for all of your time
17 today and for everything that you do and have been doing to
18 work to ensure access to justice for all New Yorkers and
19 everyone in our community. It's been my honor to address
20 you today.

21 ACTING CHIEF JUDGE CANNATARO: Thank you, Ms.
22 Pollock Rich. That was a very comprehensive list of
23 requests; just modest enough. And I'm not going to ask any
24 more questions of you since I don't know if there would be
25 more requests.



1 MS. RICH: I might think of one.

2 ACTING CHIEF JUDGE CANNATARO: I do want to
3 commend you for your work. And I especially want to
4 express my appreciation to Ms. Storm for her obviously
5 excellent representation.

6 And Keri, really, thank you so much for coming
7 today. I know it was anxiety-provoking, so I appreciate
8 it.

9 And I think we have a question from Ms. Wallach.

10 MS. WALLACH: Thank you, Judge. First, thank you
11 so much, Keri, for coming here and sharing your story. I
12 know it was probably not easy, certainly, not easy. And
13 congratulations on your successes. And I want to speak
14 from one deputy executive director of a legal services
15 organization to another -- understanding and thanking you
16 for speaking so clearly about the concerns for funding and
17 certainly in employment. And while this question may have
18 been answered indirectly, I think it deserves a direct
19 answer because one thing that Keri mentioned in her
20 comments that really struck me in this context was that The
21 Legal Project did not have the resources to help with her
22 divorce. And in the context of what she was going through,
23 I can imagine that that was difficult. And, so I would
24 like, if possible, for you to speak to the reasons for that
25 and how we could have helped in that regard, potentially,



1 as a legal community.

2 MS. RICH: I would say that sometimes timing has
3 a bit to do with it. We did experience quite a bit of
4 turnover in the early days of the pandemic. As I mentioned,
5 a number of employees moved to the government sector and
6 moved out of nonprofit to the private sector and they are
7 very difficult to replace. It takes a lot of training and
8 a lot of time to get somebody of Jennifer's caliber. We
9 are very careful in our hiring.

10 But the reality is that we have, until recently,
11 five open positions. We've just filled two and we still
12 have open positions in our domestic violence unit. And we
13 are not able to attract top talent because I think that the
14 nonprofit sector over the years again, in our attempts to
15 use our resources to serve as many people as possible, we
16 have in some ways contributed to those low salaries. And
17 it takes time and effort and years to bring those salaries
18 up, especially through grant funding. And we have been
19 working hard to do that.

20 So I believe it was a combination of one, we are
21 short-staffed, and as a contributing factor to being short-
22 staffed, it's hard for us to be competitive in this market.
23 I hope that makes sense.

24 MS. WALLACH: It does make sense. Is there
25 anything that you can think that the state bar association



1 can do to assist in that gap?

2 MS. RICH: We have a very active pro bono panel.
3 Depending on the time, we've had up to 180 to 200 pro bono
4 attorneys helping us, especially in our different types of
5 legal clinics, including our pro se divorce clinic. But we
6 don't like to send our domestic violence clients to pro se
7 divorce clinic. It's really not appropriate. So really, I
8 think that the most effective thing that we can do is to
9 acknowledge that our domestic violence attorneys are
10 trained to work with this very specific population. And
11 even pro bono members of the bar, unless they've gone
12 through our domestic violence training, they don't always
13 understand the dynamics that are happening as much as they
14 would like to.

15 So ideally, we would like to be able to
16 adequately compensate our employees and attract employees.
17 It's not just about the compensation, it's this feeling of
18 instability, right, when the grant ends or if the funding
19 is cut, I'm going to lose my job. And I've had many people
20 say that to me over the years, not just at The Legal
21 Project, in the nonprofit sector in general. And the
22 problem is they're right to be afraid because we all - - -
23 most nonprofits run on a very small margin and if a
24 program's funding ends, the program ends, and the employees
25 are laid off.



1 So create stability, acknowledge that nonprofit
2 professionals are highly skilled. It's not just this
3 little thing we're doing. They're highly skilled people
4 toiling to make our communities better so there is respect
5 and that's filling in that compensation. I think would go a
6 long way towards helping us to help more people like Keri.

7 ACTING CHIEF JUDGE CANNATARO: Thank you so much.
8 We will do our best.

9 MS. RICH: Thank you for having me.

10 ACTING CHIEF JUDGE CANNATARO: Appreciate it.
11 Thank you.

12 Our final client-provider presenter group today
13 are Camari Banks, who is a client of The Legal Aid
14 Society's Education Law Project, and Ms. Adriene Holder,
15 who is the Chief Attorney for Civil Practice at The Legal
16 Aid Society. And we will be hearing from them in just a
17 moment.

18 We're going to start by hearing from Camari. He
19 can tell us his story. And then we might have some
20 questions for you too, Ms. Holder.

21 Camari, whenever you're ready.

22 MR. BANKS: Hi. Good afternoon. I'm Camari
23 Banks. I'm eighteen years old. I'm a senior at City as
24 School High School in Manhattan. I also work at part time
25 at Popeye's. I live in an apartment with my mother and my



1 three younger siblings. I dance as a member of a dance
2 studio. I am here today to share with you how the work of
3 The Legal Aid Society's Educational Law Project has
4 impacted my life.

5 Growing up, my mom, Tanesha Aikens, provided a
6 solid loving home for me and my siblings. My mom
7 encouraged me to take school seriously and take ownership
8 of my life. Two things that stuck with me and served me
9 well as I got older. At school, though, I have often had a
10 different experience instead of the warmth and support I
11 felt at home. I often felt attacked just for being black.

12 I started getting bullied around the time I was
13 nine years old. I was told I wasn't masculine enough.
14 Which honestly, confused me. I was just being myself. And
15 because I had always been accepted at home. And never
16 understood why not showing enough masculinity was looked at
17 as a problem. Something I should ridiculed for.

18 Although I worked through it for most of my time
19 at school, these attacks were exhausting. It was sometimes
20 hard to stay motivated at school or to keep my focus on my
21 schoolwork and the positive things in my life. Throughout
22 most of high school, the bullying and threats got worse.
23 In the beginning of 2022, I was a student at the Food and
24 Finance High School where I was involved in a physical
25 fight. My identity was the focus. The altercation was the



1 combination of several events where another student would
2 bully me.

3 Before the incident, I tried to go to the school
4 personnel about the situation. But I felt that no one
5 heard my complaint. Nothing was done by the school staff
6 to resolve the situation. Ultimately, on March 7th, 2022,
7 I was suspended. And I got a letter in the mail saying
8 that I needed to show up for a suspension hearing.

9 To my surprise, in addition to the fight, the
10 school made several false allegations about me in the
11 suspension hearing. My mom held me to The Education
12 Project at The Legal Aid Society.

13 When my mom helped me connect with Joel and
14 Marie, two attorneys from The Legal Aid Society Education
15 Law project, they agreed to represent me in the suspension
16 case. They help me get the evidence packet in my case
17 assembled. They went over the facts of my case and they
18 explained the law in a way that helped me to understand and
19 participate in defending myself against the claims made by
20 the school.

21 On the day of the suspension hearing, both Joel
22 and Marie came with me. They helped me get some of the
23 more serious charges reduced. This also helped to reduce
24 the total amount of days I was suspended. I remember at
25 the suspension hearing, the hearing officer asked about me



1 if I wanted to transfer schools. I said I did, that I was
2 not going back to the Food and Finance High School because
3 I did not feel safe there. Even though the Department of
4 Education and the suspension office said they would offer
5 me a different school, this never happened.

6 I never heard from the DOE after I asked for the
7 transfer. In fact, it was my lawyers from Legal Aid who
8 continued to look for a different school for me. They
9 spoke with contacts at the City as School High School, a
10 public transfer school that offers fewer and longer classes
11 and then an internship for a few days per week. With their
12 help, I was accepted at City As School. I took an
13 internship at a farm. I really enjoyed it and at City As
14 School, I like I can be who am and explore who I am.

15 I know that most kids like me don't have anyone
16 advocating for them at their suspension hearings. Having
17 Legal Aid there as well as my mom made me feel supported.
18 The Education Law Project (ELP) is a unit at Legal Aid's
19 Civil Practice. They work on a variety of cases advocating
20 for low-income children and families.

21 ELP helps young people through and beyond
22 whatever educational issues they have. The ELP team
23 understands that most of the time kids are dealing with
24 more than one issue. I understand from working with my
25 attorney that suspensions are somewhat of a portal to the



1 school-to-prison pipeline, especially for black and brown
2 and LGBTQ students. My lawyer's belief is that if they
3 only handle the suspension and don't get to the root of the
4 issue then their job is unfinished because they have not
5 set kids like me up for success.

6 I just started my senior year and I'm looking
7 forward to graduating. I have many interests and I'm not
8 sure what I will do in the future. I love science, so I
9 was thinking about becoming a researcher or a scientist. I
10 also thought about going to the military or studying real
11 estate, or being a RN, registered nursing, psychology or a
12 teacher.

13 Because I no longer have to deal with the attacks
14 I faced at Food and Finance High School, I have been able
15 to focus on my education and personal interests. Since I
16 have been at City As School, I have had several positive
17 experiences academically. I have earned passing grades in
18 all of my classes. I continue to participate in my dance
19 group. And of course, I have work at Popeye's to help my
20 family; I have to work.

21 I love to dance and plan to continue dance with
22 the Secret Society Dance Company something I have been
23 doing for several years. Dance has been my calling and my
24 outlet to deal with all this stress of being a teenager.

25 My dance coach, Traequan Middleton, has been an



1 important mentor to me. He taught me how to be a better
2 dancer and how to be a better person by including political
3 and human rights issue in many of our routines. No one
4 discriminates against me when I'm dancing; I want to make
5 sure to find spaces like this as I get older.

6 In the end, now that I can look back at it, I see
7 that the people who bullied me were more unhappy and
8 insecure with themselves than anything else.

9 There were a lot of demons trying to take me down
10 in my old school. There was a lot of animosity there. Now
11 I also try to think about how and what I say might affect
12 someone else. I stop and think about how the person might
13 feel before I say something.

14 I am grateful for the help and the support I
15 received from Joel and Maria at The Legal Aid Society
16 because I can focus on the positive parts of my life and
17 explore my dreams and hopes without force or fear. The
18 Legal Aid Society provides essential legal services and
19 advocacy for New Yorkers. I've been told that so much of
20 what Legal Aid does would not be possible without the
21 consistent investment of Judiciary Civil Legal Services
22 funding since 2011.

23 Thank you for the invitation to appear before you
24 today to share my story.

25 ACTING CHIEF JUDGE CANNATARO: Thank you, Camari.



1 That was a very powerful statement, and I commend you and
2 your mom. I think you were very lucky that your mom knew to
3 seek out legal aid to connect you with the help that you
4 needed at this critical moment in your life. I know you're
5 eighteen now and you're an adult. But from where I sit,
6 eighteen still seems pretty young.

7 And I know your life could have gone in any
8 number of directions after your suspension hearing. And it
9 seems like it really went in the best possible way for you.
10 I'm thankful that you found the help you needed and I wish
11 you luck in your future career as a researcher, or a
12 scientist, or in the military, or in real estate, or
13 nursing, or psychology, or teaching. I appreciate you
14 taking the time to share your story.

15 MR. BANKS: Thank you.

16 JUDGE RENWICK: Camari, good afternoon. I just
17 want to thank you as well for your courage to come before
18 us and tell us your story. And also to highlight in a real
19 way - - -

20 Ms. Holder, I anticipate you'll tell us the
21 importance of a holistic approach to advocacy - - - for you
22 as an entire person, not just one who had an issue with
23 suspension but to treat your education issues and beyond
24 those educational needs. So thank you very much for
25 presenting that. And it helps us to grasp in real time



1 what that holistic approach really entailed. Thank you.

2 MR. BANKS: Thank you. I appreciate it.

3 ACTING CHIEF JUDGE CANNATARO: Thank you.

4 Ms. Holder, would you like to make a comment?

5 MS. HOLDER: Oh, yes, if I might. Yes.

6 ACTING CHIEF JUDGE CANNATARO: Okay.

7 MS. HOLDER: Thank you, Judge. So good
8 afternoon. I'm Adriene Holder, Attorney-in-Charge of The
9 Civil Practice of The Legal Aid Society. I first want to
10 thank Acting Chief Judge Anthony Cannataro, Judge Dianne
11 Renwick, Judge Hector LaSalle, Judge Elizabeth Garry, Judge
12 Gerald Whalen, Chief Administrative Judge Larry Marks, and
13 New York State Bar Association President Sherry Levin
14 Wallach, for the opportunity to address you today.

15 Camari Banks's experiences is a reminder to all
16 of us that without the proper supports and services, kids
17 and especially those from marginalized communities, can
18 easily fall into the school-to-prison pipeline.
19 Conversely, Camari's story's an illustration of how the
20 proper supports and services can help divert kids away from
21 that.

22 School disproportionately disciplines certain
23 groups of students, especially related to intersectionality
24 issues. This occurs not only through suspension and
25 expulsion but also by referring students to law enforcement



1 or emergency services. Students subjected to these
2 policies often achieve at reduced levels, they feel
3 disconnected from school, and they eventually leave or be
4 pushed out of school.

5 This treatment by the educational system steers
6 those students toward juvenile legal systems and adult
7 prisons. It's a pattern known as school-to-prison
8 pipeline. The school-to-prison pipeline is fueled by a
9 variety of factors such as the failure of school and law
10 enforcement professionals to understand that emotional,
11 learning and/or developmental disabilities are often at the
12 root of apparent misbehavior. Many students who have
13 experienced trauma present as anxious, depressed, explosive
14 or disengaged, and traditional communicative behavior
15 management systems, such as classroom removals and
16 suspensions do not effectively address these behaviors.

17 Further, these systems do not provide the trauma-
18 informed, healing-centered, and anti-racist interventions
19 necessary to place students on a path to success. In fact,
20 it often exacerbates the problems. The Legal Aid Society
21 handles scores of suspensions cases each year.
22 Representation at suspension hearings is vital for kids who
23 are suspended from school. Most kids do not have
24 representation which allows the Department of Education to
25 trample over their rights. Just the fact that Legal Aid is



1 there to advocate for these kids is an important factor in
2 helping to stop the flow of school-to-prison pipeline.

3 However, advocacy at a suspension hearing even if
4 a child wins, is not the end of the story for us. In every
5 suspension case we take on, we work to ensure that the
6 child is set up for success after their suspension hearing.
7 Sometimes this means getting special education evaluations
8 done and holding IEP meeting. Sometimes this means
9 requesting and obtaining a wide array of supports for the
10 student when they return to school, such as a behavior
11 intervention plan or at-risk counseling.

12 Sometimes, as in Camari's case, it means finding
13 a school where the student will feel comfortable and be
14 able to be themselves. So many of our clients are high
15 school students, who we work to ensure that they're on the
16 path to graduation instead of the path to prison. Through
17 this holistic advocacy, we have seen great changes in our
18 clients' lives.

19 We're on the frontline of efforts to dismantle
20 the pipeline through our representation of marginalized
21 communities. We have seen some success in our individual
22 cases, but this moment is a pivotal one in which to
23 recognize, address, and invest in solving this problem on a
24 systemic level. We have seen the resurgence of zero-
25 tolerance policies. It calls for more police in the



1 schools. These methods will only serve to embolden the
2 pipeline and threaten to undo much of the work around
3 restoring justice that we have supported and encouraged.

4 Although there is always more work to do, we
5 highlight, today, some of our successes. So much of this
6 work would not have been possible without the consistent
7 investment of Judiciary Civil Legal Services since 2011.
8 Investing in legal services is a long-term investment in
9 the fight against racism, injustice, and poverty. On
10 behalf of The Legal Aid Society, I thank you for your
11 continued support and again for the invitation to share a
12 part of our work with you here today.

13 ACTING CHIEF JUDGE CANNATARO: Thank you very
14 much, Ms. Holder. I've worked with you and your colleagues
15 at Legal Aid for a number of years now and of course, I've
16 heard the phrase school-to-prison pipeline before. But
17 Camari's story really brought home the dangers of that
18 dynamic very, very vividly. I appreciate you bringing him
19 here to talk with us today. And it is shocking to me that
20 Camari's challenge is he's different than the other
21 students and that the school he was in was unwilling to
22 handle that. I reiterate how lucky it was that Camari found
23 you and that you and Legal Aid were there for Camari, so
24 appreciate it.

25 MS. HOLDER: I think it's wonderful and note that



1 his mother found The Legal Aid Society -- that she really
2 dug deep. She understood at that the school suspension
3 hearing could easily cascade into even other things.

4 Camari shared with us the Department of Education
5 and some of the things that they had promised or things
6 they would do and they just didn't. And I'm so glad that
7 we were able to have an advocate available to him and that
8 his mother sought The Legal Aid Society out. I also
9 appreciate the fact that Camari is so mature. I mean, he
10 shared with our attorneys, you'll agree, that when he
11 reflected on it, and I know I even shared this with other
12 folks in access to justice, that he reflected on the fact
13 that he understood that even those who were bullying him,
14 who were committing all these bad acts against him, that
15 they too were actually suffering.

16 And how mature for a young person such as Camari
17 to understand that sometimes those bad acts come from the
18 fact that people themselves are hurting and they're
19 insecure. And I really appreciate that about him and so
20 many of his other attributes that really make him such a
21 remarkable person.

22 ACTING CHIEF JUDGE CANNATARO: That is incredibly
23 mature of him. That's really sophisticated thinking and
24 something I've been working on myself lately. Anything
25 else, Ms. Holder?



1 MS. HOLDER: No, I have nothing else.

2 ACTING CHIEF JUDGE CANNATARO: Since there are
3 not any questions from the panel, I'm going to let the two
4 of you go and I'm going to conclude our 2022 public hearing
5 on civil legal services.

6 I want to thank both of you and all the other
7 presenters for their informative and insightful
8 presentations.

9 I especially want to thank the six clients who
10 came before us for their courage in sharing their stories.
11 And by sharing their stories with us, we are reminded of
12 the truly life-affirming consequences of access to legal
13 representation. And we found all your presentations to be
14 extremely illuminating and instructive.

15 I also want to thank my fellow panelists for
16 their attention and participation, and their excellent
17 feedback, and their strong commitment to expanding civil
18 legal services in New York.

19 And finally, I want to thank everyone who viewed
20 today's live stream for your interest in today's
21 proceedings and for all that you do on a daily basis to
22 serve the legal needs of low-income New Yorkers. Thank
23 you. And we are adjourned.

24 (Hearing is adjourned)

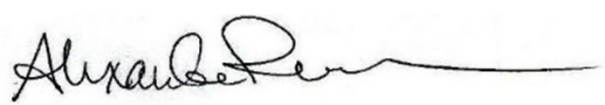
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C E R T I F I C A T I O N

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



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