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COURT OF APPEALS

STATE OF NEW YORK

CHIEF JUDGE'S 2024 HEARING ON CIVIL
LEGAL SERVICES

20 Eagle Street
Albany, New York
September 16, 2024

Before: HON. ROWAN D. WILSON,
Chief Judge

HON. DIANNE T. RENWICK,
Presiding Justice of the First Department

HON. HECTOR D. LASALLE,
Presiding Justice of the Second Department

HON. ELIZABETH A. GARRY,
Presiding Justice of the Third Department

HON. GERALD J. WHALEN,
Presiding Justice of the Fourth Department

HON. JOSEPH A. ZAYAS,
Chief Administrative Judge

DOMENICK NAPOLETANO, ESQ.,
President of the New York State Bar Association

Christian C. Amis
Official Court Transcriber



1 CHIEF JUDGE WILSON: Please be seated, everyone,
2 and welcome. And good afternoon. There are a few people I
3 should acknowledge. And I want to first thank everyone for
4 attending, both in person and those who are here remotely.
5 And in addition to my colleagues on the bench and President
6 Napoletano, there are a few other people I should mention.
7 Chief Administrative Judge Joseph A. Zayas, who will be
8 appearing remotely and is paying close attention. The
9 Honorable Edwina Richardson, who is the Deputy Chief
10 Administrative Judge for Justice Initiatives and is
11 everywhere in the state, as is the other Deputy Chief
12 Administrative Judge, James Murphy, who is the DCAJ for the
13 Courts Outside of New York City. The Honorable Kevin
14 Carter, the Administrative Judge for the Eighth Judicial
15 District. The Honorable Anne Minihan, Administrative Judge
16 for the Ninth Judicial District. Honorable Kathleen Hogan,
17 from the Court of Claims.

18 Members of the Commission, we have Helaine
19 Barnett, one of the co-chairs. She is appearing remotely
20 today. Same with the Honorable Christina Ryba, also a co-
21 chair of the Commission, and the Honorable Shah Ally, the
22 third co-chair of the Commission, who is here in person.
23 Thank you all.

24 Commission members: Camille Siano Enders,
25 Christine Fecko, Daniel Hurteau, Janet Sabel, and Neil



1 Steinkamp, who is not a Commission member, is a long-
2 serving consultant to the Commission and sort of an
3 invaluable resource to the Commission. Thank you all for
4 your attendance today.

5 From Sullivan and Cromwell, who for many years
6 has provided assistance to the Commission - - - hosted the
7 meetings, provided all sorts of support, not just
8 technical, but substantive as well. And especially to
9 their Special Counsel and head of pro bono, Jessica Klein,
10 associate Madeline Jenks, and the two legal assistants who
11 supported this effort, Georgia Macy and Thomas West.

12 From Proskauer, we also had help from Shaina
13 Maldonado in putting this together, and the Commission's
14 staff attorney from the Unified Court System, Barbara Mulé,
15 who's organized everything here. Thank you very much.

16 Before we start, I also wanted to especially
17 recognize Helaine Barnett, whom I mentioned previously, who
18 has served as Chair of the Permanent Commission on Access
19 to Justice since it was created in 2010 by Chief Judge
20 Jonathan Lippman, and who, after today's hearing is
21 stepping down as a co-chair, though she will remain a
22 member of the Commission as Chair Emeritus.

23 Helaine has devoted her entire professional
24 career to the provision of civil aid to the poor and in the
25 pursuit of equal access to justice. She began her career



1 at Legal Aid Society of New York in New York City, and was
2 there for thirty-seven years, ultimately as the attorney in
3 charge of its Civil Division.

4 Under her leadership, Legal Aid became the
5 nationally recognized leader in the provision of high-
6 quality civil representation to those who could not afford
7 it, and through such innovations as Legal Aid's
8 homelessness and health law practices.

9 In 2004, she left Legal Aid and was appointed by
10 the president of the United States as the president of the
11 Legal Services Corporation in Washington, DC. She was the
12 first Legal Aid attorney to hold that position, and the
13 first woman to serve in that position.

14 She created what is now a Legal Services
15 Corporation mainstay, the groundbreaking Justice Gap
16 Report, which documents the unmet civil legal needs of low-
17 income Americans.

18 Helaine's lifetime commitment to helping the less
19 fortunate among us is exceedingly rare. Two little
20 vignettes, which is, you know, hard to pull out. Two
21 little things that I can tell you in a couple of minutes
22 from a life as long and rich as hers. But two little
23 vignettes might help illuminate how she became the treasure
24 that she is. Helaine has recounted that her parents, Harry
25 and Helen Meresman, instilled in their two daughters the

1 moral value of social justice, concern for the less
2 fortunate, and the importance of giving back to society.
3 She said that she and her sister were raised to believe we
4 could do anything that we set our minds to. She enrolled
5 in Cornell at age sixteen, where she, in her words, was
6 quite popular and had a very busy social life, but told all
7 of her dates, "I'm going to law school," and if they had a
8 problem with that, "we shouldn't continue to go out."

9 So, though Helaine did not spring fully formed
10 from Zeus's head, it's something pretty close to that.
11 I've had the tremendous pleasure of spending time with
12 Helaine and her husband Victor, who has supported her in
13 every conceivable way.

14 So, Helaine, I know you're not here in person.
15 I'm sure you're listening. Thank you for your tireless
16 work for the underprivileged. It's inspired and cheered us
17 over many decades. And on behalf of everyone in the room,
18 everyone in the Unified Court System, and on behalf of the
19 people of New York, thank you for your humble, brilliant,
20 and loving service.

21 So, the mission of the Unified Court System is to
22 deliver equal justice under the law to achieve the just,
23 fair, and timely resolution of all matters that come before
24 our courts. That goal, however, cannot be achieved simply
25 by having good laws, good judges, and good court employees.

1 Good lawyers are essential.

2 Although indigent criminal defendants are now
3 guaranteed the right to counsel, that became true only
4 after I was born. For most of our country's history, if
5 you were charged with a crime and could not afford a
6 lawyer, you had to represent yourself.

7 When we think about how recently it is - - - and
8 that's because I think of myself still as young - - - that
9 our society came to understand that criminal defendants
10 must have a lawyer for our system of justice to operate
11 fairly, it provides a ray of hope that we might realize the
12 same for civil matters that might be equally or more
13 devastating, such as loss of one's home, loss of one's
14 livelihood, or loss of one's savings.

15 According to New York's Comptroller, Tom
16 DiNapoli, approximately fourteen percent of New Yorkers
17 live below the poverty level, which is higher than the
18 national average. A quarter of the people in the Bronx
19 live below the poverty level. The poverty level for
20 households led by single mothers is double the average.
21 The poverty level for a family of four in New York is
22 \$31,200 a year. Imagine trying to live in New York for a
23 family of four on that income.

24 Now, imagine you've received a notice of
25 eviction, or an accusation from Child Protective Services



1 that you've neglected your children because they're not
2 dressed warmly in cold weather, or that you've been fired
3 without justification. How do you have the wherewithal to
4 protect your rights?

5 According to the LSC's most recent Justice Gap
6 Report, every year three quarters of low-income households
7 have at least one civil legal problem. Forty percent of
8 such households have more than five significant civil legal
9 problems. Half of those people say that the civil legal
10 problems substantially hurt their mental health, physical
11 health, safety, relationships, and finances. But only a
12 quarter of the low-income people with significant civil
13 legal problems have even attempted to ask for legal help,
14 and about half of those who do can't find it.

15 Lawyers make a difference. In New York City,
16 low-income tenants who had lawyers were able to remain in
17 their homes eighty-four percent of the time. A randomized
18 study reported by the Department of Justice found that
19 unrepresented tenants lost their homes more than half of
20 the time, compared to only twenty-one percent of those who
21 were represented.

22 A cost-benefit study conducted for the Legal
23 Services Corporation nearly a decade ago showed that a \$6.5
24 million investment in legal services for low-income New
25 Yorkers generated more than \$100 million in savings from



1 the prevention of evictions, another \$85 million in cost
2 savings from reduction of domestic violence and created
3 5,300 new jobs.

4 We now have a substantial body of research
5 showing that there is a substantial positive return on
6 investment for every dollar we spend on civil legal aid for
7 those unable to afford it. Yet at the same time, legal
8 service providers face extraordinarily difficult times in
9 attracting and retaining lawyers because they are
10 overworked, under-resourced, and cannot pay salaries that
11 are competitive to what the city, state, and local
12 governments pay lawyers.

13 A little more than a century ago, in 1919,
14 Reginald Heber Smith, the director of the Boston Legal Aid
15 Society, wrote a book called Justice and the Poor. In that
16 book, he advocated for the provision of free legal
17 assistance for those who were unable to afford it. I'll
18 read you a short excerpt.

19 "A system which created class distinctions,
20 having one law for the rich and another for the poor, we
21 would unhesitatingly condemn as unjust, as devoid of those
22 essentials without which there can be no justice."

23 And yet, "the facts, though not the causes which
24 underly them, are well known. The administration of
25 American justice is not impartial. The rich and the poor



1 do not stand on equality before the law. The traditional
2 method of providing justice is operated to close the doors
3 of the courts to the poor and has caused a gross denial of
4 justice in all parts of the country to millions of
5 persons."

6 "Nothing rankles more in the human heart than the
7 feeling of injustice. It produces a sense of helplessness,
8 then bitterness. It is brooded over. It leads directly to
9 contempt for the law, disloyalty to the government, and
10 plants the seeds of anarchy. The conviction grows that law
11 is not justice and challenges the belief that justice is
12 best secured when administered according to law. The poor
13 come to think of American justice as containing only laws
14 that punish and never laws that help. They are against the
15 law because they consider the law against them."

16 Exactly one hundred years later, Kenneth Frazier,
17 the Chairman and CEO of Merck, wrote, "When one looks
18 objectively at how the system dispenses justice to the poor
19 and disadvantaged, the inequities are obvious."

20 "The credibility of the legal system, people's
21 faith in the fairness of the system and its rulings is
22 critical to its success. And the ongoing health of
23 democracy demands a well-functioning system. [. . .] The
24 system is not credible when it treats the poor,
25 marginalized, and disadvantaged [. . .] differently.[. . .]

1 The rate at which societies fall apart and chaos ensues
2 accelerates exponentially when people have no stake in the
3 social order, or at least believe they do not."

4 Whether you hear today's testimony as stating a
5 moral imperative, an economic imperative, or a socio-
6 political imperative is up to you. Whichever way, it is an
7 imperative. And as I see it, it is all three.

8 In closing, I again want to thank everyone who's
9 here, particularly those who are here to share their
10 stories and experiences and advice. Our work today brings
11 us closer to upending the disparities that Smith wrote
12 about 105 years ago, and to creating a reality in which all
13 have equal access to our courts and genuine membership in
14 our democracy.

15 And I would like to begin this afternoon's
16 program by welcoming our first speaker, Professor Matthew
17 Diller, Professor of Law and Dean Emeritus of Fordham Law
18 School.

19 Professor Diller?

20 PROF. DILLER: Thank you, Chief Judge Wilson.

21 And thank you all the distinguished members of
22 the panel. Thank you for giving me an opportunity to speak
23 with you today.

24 I began my career as a staff attorney in the
25 Civil Division of The Legal Aid Society. I had the good



1 fortune to be hired by Helaine Barnett a few years ago.
2 And the experience has been critical to my understanding of
3 the legal system, both its shortcomings and its potential.
4 And that understanding has really guided me ever since.

5 When I was at Legal Aid, my clients faced
6 tremendous challenges as they struggled to feed their
7 families and obtain the necessities of life, even while
8 living in a city that contained great opulence and
9 abundance. Time and time again, they dealt with systems
10 that were ostensibly intended to assist them, but in
11 reality, failed them in important ways. The systems were
12 often incredibly difficult to navigate and frequently
13 produced erroneous and unjust results. All too often, the
14 court system appeared as simply another impenetrable
15 bureaucracy rather than as a source of justice.

16 I learned the difference that direct legal
17 representation makes in outcomes. The knowledge and
18 perseverance of legal services lawyers has helped tens of
19 thousands of New Yorkers avoid catastrophic outcomes such
20 as loss of housing, custody of children, access to food,
21 appropriate education, and health care.

22 Since my time as a Legal Aid lawyer thirty years
23 ago, New York has made strides in the provision of access
24 to justice, including expansion of funding for civil legal
25 services and the creation of innovative reforms and



1 programs. These advances have been made possible because
2 of New York's judicial leadership, including your
3 leadership, Chief Judge, which has been steadfast in
4 understanding that in order to administer justice, the
5 courts must play a leadership role in tackling the crisis
6 in access.

7 The court system is not simply a means of
8 processing cases. It plays a vital role in upholding
9 principles of fairness and the rule of law. This role
10 requires its leaders to be proactive in promoting access to
11 justice within our state, across a range of dimensions.

12 New York's Judiciary has partnered with legal
13 services organizations, the private bar, and its law
14 schools to make real progress and to build a culture of
15 commitment to access to justice across the New York legal
16 community, and yet so much more needs to be achieved.

17 Despite the expansion of civil legal services and
18 the establishment of New York City's groundbreaking civil
19 right to counsel in eviction cases, thousands of New
20 Yorkers appear unrepresented in New York courts, even on
21 issues of vital importance. Tens of thousands more will
22 never reach the courts, not recognizing that they have
23 legal rights and avenues of redress.

24 I've just completed fifteen years of service as
25 dean of two of the great law schools in our state, Fordham



1 Law and Cardozo Law School, and I'm proud of the role that
2 all of New York's law schools play in educating new lawyers
3 about the ways that they can move the needle to bring us
4 closer to the goal of equal access to justice under law.

5 New York's law schools are national leaders in
6 clinical education, which provides hands on experience to
7 students in representing underserved clients and
8 communities. Our schools have taken advantage of the Pro
9 Bono Scholars Program, developed by the Court of Appeals,
10 to enable students to spend their final semester in full-
11 time access to justice work, and to gain bar admission
12 early so that they can hit the ground running upon
13 graduation. Law schools are also active partners with the
14 justice community in New York in promoting innovative and
15 pioneering approaches to addressing issues of access.

16 Let me underscore: our students have a passion
17 for justice, and in these troubled times, they are a beacon
18 of hope, filled with energy and creativity and a passion
19 for justice.

20 It's critically important that we address the
21 challenges in achieving access to justice for all New
22 Yorkers with a multi-pronged approach. There's no simple
23 magic bullet. Yes, more resources are desperately needed,
24 but it's not simply a matter of resources. We also must be
25 creative and practical in approaching this crisis. Access



1 to justice can only be achieved by rethinking systems to
2 forestall unnecessary disputes, by expanding the role
3 public institutions play in helping individuals navigate
4 complex legal systems and processes, by increasing the
5 range of professionals empowered to assist those in need
6 with advice and support, and yes, through the robust
7 provision of legal counsel.

8 Let's start with the last point. Stable and
9 increased funding for legal representation is critical,
10 and the establishment of a statewide right to counsel in
11 eviction proceedings must be a top priority. Our law
12 schools are producing a new generation of smart and
13 passionate advocates for justice, and legal services
14 funding enables us to draw on this new generation of
15 advocates.

16 Similarly, we must continue to support and
17 cultivate pro bono work by members of the private bar.
18 New York's bar associations are national leaders in
19 mobilizing the bar to play a vital role in closing the
20 justice gap.

21 As critical as direct legal representation is,
22 however, studies reveal that access to justice is not
23 attainable through the provision of lawyers alone. First,
24 legal needs studies show that the number of legal problems
25 is astronomical. It is simply not possible to supply a



1 lawyer for every need.

2 Second, the research shows that people often do
3 not seek help from lawyers, but instead turn to persons
4 tied to their local community, in part because they don't
5 perceive their problems as legal in nature, and in part
6 because they turn to people whom they trust and have pre-
7 existing relationships with. Often people in need turn to
8 the other kinds of service providers, including social
9 workers, counselors, and clergy.

10 In recognizing that these service providers can
11 play important roles, we can better define what forms of
12 advice and assistance can be constructive pieces of the
13 puzzle, and what roles would not be helpful. Opening up
14 opportunities for qualified allied legal professionals to
15 provide limited legal advice on routine discrete matters is
16 not second-class legal service delivery, but rather it's a
17 smart component of the solution to access to justice. It's
18 time to reexamine our approach to the regulation of
19 unauthorized practice of law to expand the range of service
20 providers available to people in need.

21 We must concentrate on other dimensions as well.
22 Government agencies that deliver services and those that
23 enforce legal rights, such as those of consumers, tenants,
24 workers, and patients, must embrace access to justice as an
25 essential aspect of their mission and rethink their



1 processes to address the barriers that so many New Yorkers
2 face in accessing services, including tangled and
3 incomprehensible rules and procedures and barriers posed
4 by language and disability. Our public institutions need
5 a deep understanding of how they come across to the public
6 they're intended to serve. And I would include the court
7 system on this list as well, for while the Judiciary in
8 New York understands this need and its importance, there's
9 still much more work to do.

10 And we must focus on the potential and the
11 challenges of new technologies. New technologies,
12 including AI and remote modes of participation, can enable
13 us to provide critically needed information and support to
14 New Yorkers. Many innovative projects are already underway
15 in our state and across the country. The conferences held
16 by the Permanent Commission on Access to Justice have
17 featured discussions of many of these exciting initiatives.
18 We must be creative and bold in seizing the opportunities
19 that new technologies create, while at the same time be
20 vigilant in protecting vulnerable populations from the new
21 harms that these technologies make possible.

22 As we develop a multi-pronged approach to solving
23 the crisis in access to justice, we must draw on and
24 participate in the growing body of research into what works
25 and what doesn't. A focus on data collection is essential



1 to enabling experts to conduct serious appraisals of new
2 programs so that refinements and adjustments can be made.

3 New York is a national and global leader in the
4 legal profession in terms of its bar, its judiciary, and
5 its law schools. We're a state that is blessed with great
6 resources, and yet so many New Yorkers have tremendous
7 needs. By working creatively on multiple dimensions, we
8 can and must close the justice gap.

9 Before I close, I just want to take a personal
10 moment to offer my own congratulations and thanks to
11 Helaine Barnett, who has been a mentor to me for so many
12 years. And I wish you all the best, Helaine, and I'm
13 grateful to you.

14 And thank you, Your Honors.

15 CHIEF JUDGE WILSON: Thank you, Professor Diller.

16 If the panel has questions for the professor, we
17 can take them now.

18 I have one that is actually prompted by my seeing
19 the statewide coordinating judge for Family Court matters
20 in the back, Judge Richard Rivera, whom I should have
21 acknowledged earlier.

22 My impression - - - well, I'm sorry. Let me
23 start a different way. We have a shortage of lawyers who
24 practice in Family Court, and I think that erosion was
25 caused because the 18-B rates hadn't been adjusted for a

1 long time, and many of the legal services providers haven't
2 been funded properly for a while. What is it, if anything,
3 that the law schools and the courts might be able to do
4 together to interest law students into going to this area,
5 because I think it's perhaps the most important area of
6 law?

7 PROF. DILLER: So traditionally, I think there's
8 been an assumption that there will always be law students
9 who want all the jobs that are available. In other words,
10 the number of law students was always bigger than the
11 number of jobs, particularly the number of public interest
12 and government jobs. You know, at this point, that's far
13 from clear that that's true. And I think, you know,
14 government agencies and public interest agencies need to
15 think about how to interest and how to recruit lawyers
16 early on, the way law firms do. Law firms start early, and
17 I think public interest employers need to do the same. And
18 we on the law school side need to facilitate that and get
19 the message across. It's something I, as dean, worked on
20 and will continue to work on as a professor.

21 And then second, the economics are just very
22 important, which is that the gap in compensation between
23 the private sector and the public sector has just grown
24 from a major gap into a giant chasm. And so that's just a
25 major challenge that needs to be addressed.

1 JUDGE GARRY: In your materials, Professor, you
2 reference a study in Indiana that showed, to my surprise,
3 that - - - and perhaps it shouldn't be surprising - - - but
4 that self-represented litigants prefer virtual proceedings,
5 both for ease of access, but also for ease of the
6 difficulties, you know, the challenges of attending, and I
7 just, you didn't comment on that, but I wanted to explore
8 it a bit.

9 PROF. DILLER: Well, what I would say - - - what
10 jumped out at me about that study - - - and it is only one
11 study, but it shows you the potential that research
12 provides in unpacking some of these issues - - - is that,
13 you know, the convenience everyone thought about and
14 understood. But what I think people had focused on less is
15 the feeling of discomfort of being in a courtroom, in a
16 courthouse, which is so alien to most vulnerable
17 populations, whereas if they could do it - - - participate
18 remotely - - - they can do it in a setting that's more
19 familiar and more comfortable, and where that gap between,
20 you know, the court officials and counsel and the
21 individual litigant is not magnified but rather reduced.
22 Everyone's on the same screen.

23 So, I think that study is far from definitive.
24 And there are still lots of issues about, you know, the
25 digital divide and access to remote proceedings. But

1 nonetheless, it shows that at there are dimensions to these
2 technologies that, you know, are fascinating and go beyond
3 what you might see on the surface.

4 JUDGE GARRY: Thank you.

5 PROF. DILLER: Thank you.

6 CHIEF JUDGE WILSON: Any other questions?

7 Thank you, Professor Diller.

8 PROF. DILLER: Thank you very much.

9 CHIEF JUDGE WILSON: We will next have the great
10 privilege of hearing from the Honorable Betty Calvo-Torres,
11 who is an Acting Supreme Court Justice in the Eighth
12 Judicial District and a Supervising Judge for the Town and
13 Village Courts in Genesee and Wyoming Counties.

14 JUDGE CALVO-TORRES: Good afternoon, Chief Judge
15 Wilson, Chief Administrative Judge Zayas, Presiding
16 Justices Renwick, LaSalle, Garry, and my P.J. Whalen, and
17 as well, New York State Bar President, Mr. Napoletano. I'm
18 honored to be with you today. I'm honored to be before you
19 today.

20 As a little girl who grew up in Harlem, living in
21 subsidized housing, it was beyond my imagination that
22 someday I would appear before such a distinguished panel to
23 address issues of concern for low-income New Yorkers and
24 vulnerable communities, the very community that I hail
25 from. As I prepared my remarks, I kept having a recurring

1 thought: "There but for the grace of God go I." It is not
2 lost on me that, but for agencies like some of those you
3 will hear from today, my mother and I would have been
4 evicted on one of the occasions we faced the prospect of
5 homelessness.

6 Today I stand before you as a Court of Claims
7 Judge. I sit in the Criminal Term of Supreme Court in the
8 Eighth Judicial District. I am also, as Judge Wilson
9 mentioned, a Supervising Judge of the Town and Village
10 Courts in Genesee and Wyoming Counties. I have been a
11 proud upstater, and more specifically, a proud Buffalonian,
12 for over twenty-five years now. Having lived in
13 Binghamton, Rochester, and now Buffalo, I realize that for
14 as different as upstate and downstate may be, we have many
15 things in common. Unfortunately, the struggle of low-
16 income and marginalized communities to access justice is
17 one of our commonalities.

18 As you know, we have about 1,200 Town and Village
19 Courts throughout New York State. The judges that sit on
20 these benches come from all walks of life. Their
21 backgrounds vary greatly, but their commitment to serve and
22 to justice are the same. Conversations with Town and
23 Village Judges makes it clear that they are committed to
24 providing justice to those who elected them.

25 In addition to Town and Village judges, I've



1 spoken to other stakeholders, including Special Counsel for
2 the Eighth Judicial District, professors from UB and
3 Cornell Law Schools, attorneys supervising tenant advocacy
4 practicums at these law schools, and attorneys at
5 Neighborhood Legal Services.

6 The full impact of evictions upstate on low-
7 income and vulnerable communities cannot be fully assessed
8 due to the lack of data from Town and Village Courts.
9 Anecdotally, we know that the numbers were high post
10 pandemic, and that today, while eviction rates are starting
11 to level out, they are astoundingly high.

12 This lack of data is due to the inconsistent use
13 of the current case management system in the Town and
14 Village Courts. The system currently in place is not cloud
15 based, and it's not intuitive. Knowing that, the immediate
16 solution will seem to appear to be as simple as investing
17 in a data-collection system to be used statewide.

18 Whatever system is used is rendered useless
19 unless we have an actual person to enter the information
20 into the system. And this is where the challenge lies.
21 Each Town and Village Court is funded by its locality. We
22 know that the work of the Justice Courts is no small feat,
23 and in the aggregate, what they do is remarkable.

24 In 2023, the Justice Courts handled 1.4 million
25 cases, yet most of the jobs in these courts are funded at a

1 part-time level at best. Without an understanding of the
2 crucial role the courts play in the lives of its residents,
3 the local town boards will not make the necessary
4 investment in their local courts.

5 I've admired how this Administration has worked
6 tirelessly to rebuild the relationship with the
7 legislature. I submit that a similar effort on OCA's
8 behalf to, in some cases, inform, and in other cases remind
9 the local municipalities of the crucial role the courts
10 play would go a long way towards incentivizing the local
11 municipalities to properly fund the Justice Courts.

12 We can demonstrate our continued commitment to
13 supporting the Justice Courts by increasing the amount of
14 money allocated to the Justice Court's Assistance Program,
15 JCAP, which will free up monies received from the local
16 municipalities, allowing for increased access to justice
17 through, among other things, increasing court hours or
18 hiring or increasing hours of court personnel, staff, et
19 cetera.

20 Signage in the local courts is an issue. The
21 smaller Town and Village Courts, by and large, do not have
22 any signage regarding the rights or resources for a person
23 facing eviction. Providing signage for the courts
24 containing a list of resources available to court users
25 during a time of crisis is a quick, easy, and relatively



1 inexpensive way of increasing access to justice on this
2 essential life issue. Doing so in different languages
3 based on the local population would further that goal.

4 Whether they are attorneys or not, we have an
5 obligation to ensure that our judges understand the law
6 they are charged with interpreting and applying.

7 Currently, the Office of Justice Court Support provides a
8 great amount of training to the Town and Village Courts.
9 This is an area where OCA can double down its efforts by
10 offering an increased number of trainings specifically on
11 landlord-tenant and housing laws, ethics, implicit bias,
12 and procedural fairness. I am assured that the trainings
13 would be welcomed because the judges are committed to
14 getting it right, and it will help them meet their legal
15 and moral obligation to ensure that only legally warranted
16 evictions are granted. These trainings would also allow us
17 to inform judges about diversion efforts and begin setting
18 a culture where the courts are open to exploring
19 alternatives to eviction. On this issue, lastly, I'll
20 submit that the trainings I've referenced be required by
21 all Town and Village Court judges, whether they are trained
22 attorneys or not.

23 In many of the upstate counties, as you'll know,
24 and has already been mentioned, there is a shortage of
25 attorneys to represent litigants during their time of



1 crisis. I'd like to submit four solutions for your
2 consideration.

3 First, OCA can help equip and train each court to
4 allow for virtual proceedings. Recurring theme. This is
5 essential in rural areas where many residents do not have
6 access to transportation. Remote appearances also expand
7 access to legal representation and cuts down on the time
8 and expense of an in-person appearance.

9 Second, Help Center services should be expanded
10 to assist residents facing eviction in the Town and Village
11 Courts.

12 Third, we must continue to tap into the resource
13 that law students are. When you ask any law student why
14 they went to law school, they will answer with some version
15 of wanting to help people. What could be more fulfilling
16 than helping families in the middle of a crisis as they
17 face the prospect of homelessness?

18 Through current existing housing clinics at the
19 UB and Cornell law schools, students have been able to
20 provide free eviction defense and advocacy in nineteen
21 upstate counties. They do so through the Western New York
22 Eviction Prevention Program and Legal Services of Central
23 New York.

24 I'm sure that today you'll hear about the funding
25 sources and the need for additional funding, so I will not

1 address that other than to say the court system's support
2 for the continuation of these programs is essential in
3 ensuring access to justice in the rural parts of our state.

4 Lastly, I would suggest the creation of a HUB
5 Court in each county. Admittedly, the creation of a HUB
6 Court is quite the undertaking, but the benefits to the
7 residents of every county abound. They include immediate
8 access to court files for providers, consistency, and
9 uniformity in how the cases are handled and decided and
10 increased access to the court because of the regular hours
11 of operation.

12 Based on the success in Erie and Monroe Counties,
13 we know that consolidated parts work. The Eighth Judicial
14 District, now under the leadership of Administrative Judge
15 Kevin Carter, has a reputation for implementing successful
16 pilot programs. I know that we're up for the challenge if
17 OCA is.

18 In closing, I'd like to thank you for the
19 opportunity to appear before you today and for your
20 commitment to access to justice for all New Yorkers.

21 CHIEF JUDGE WILSON: Thank you, Judge Calvo-
22 Torres.

23 Do we have questions?

24 PRESIDENT NAPOLETANO: Good afternoon, Your
25 Honor.



1 JUDGE CALVO-TORRES: Good afternoon, Mr.
2 Napoletano.

3 PRESIDENT NAPOLETANO: I agree with you that
4 virtual appearances, especially in upstate rural areas, is
5 probably the most vital way to access justice. But I have
6 a question. How do we deal with the bandwidth issue?

7 MS. CALVO-TORRES: That's a great question and
8 thank you for it. I know that that's an issue for a lot of
9 rural New Yorkers. So, if we were to create a HUB Court,
10 one of the things we could do would be to create kiosks in
11 the local courts so that instead of having to drive across,
12 let's say, the Eighth Judicial District, which is my home,
13 they would be able to drive to their local court and have a
14 kiosk where they'd be able to access the virtual proceeding
15 there. So, I think that's one suggestion.

16 And I have to say, frankly, I don't know many
17 people that don't have cell phones nowadays, but I do
18 recognize that that could be an issue, and I would submit
19 that that a kiosk would be a simple solution to that.

20 PRESIDENT NAPOLETANO: Well, my question really
21 went beyond the issue of the access to the device itself.

22 MS. CALVO-TORRES: Okay.

23 PRESIDENT NAPOLETANO: It went to the question of
24 the bandwidth that is provided in rural areas in order to
25 even access the computer system itself.

1 MS. CALVO-TORRES: Right.

2 PRESIDENT NAPOLETANO: You know, I had the honor
3 - - - I'm going to use that word because it was - - - to
4 have a conversation with many of the upstate legal service
5 providers a few months back because I wanted to be educated
6 on how things work upstate because that's not where I come
7 from. And I did learn an awful lot. And of course, I did
8 know this question that I posed to you, but even more so,
9 in terms of the virtual appearance, I was rather shocked
10 that some of the judges in upstate areas are requiring
11 legal service attorneys to make in-person appearances where
12 they have to travel from, as you said, from one part of the
13 district to another. It's not like New York City, where
14 you could just jump on a train, right? So, I don't know
15 how we deal with that as well.

16 I guess that may be an OCA issue to direct judges
17 and perhaps all of the counties to allow attorneys and
18 litigants to appear virtually. I know that the issue
19 downstate is more a question of showing a need for why
20 virtual appearances, as opposed to in-person appearances,
21 are required. And there are some issues that, you know,
22 people face, medical issues, that don't allow them to make
23 in-person appearances, so I understand that, but thank you.
24 Thank you very much for - - -

25 JUDGE CALVO-TORRES: And I understand your point.



1 And I have heard that during my conversations with
2 stakeholders, and that's part of why I have suggested that
3 we equip and train the Town and Village Judges to be able
4 to hold those virtual appearances. I suspect that when
5 there are judges who do not allow for that, it's perhaps
6 because they may not have the ability to get on virtually.
7 But if we as OCA equip them with that ability and train
8 them to do so, I don't see that being a problem.

9 And insofar as folks who live in the rural areas,
10 certainly a kiosk would address that issue as well.

11 PRESIDENT NAPOLETANO: Thank you, Your Honor.

12 JUDGE CALVO-TORRES: Thank you.

13 CHIEF JUDGE WILSON: I didn't really have a
14 question, but I had a little bit of an observation that
15 married an observation of Professor Diller's and yours
16 about kiosks, particularly that I recall that the Permanent
17 Commission for a few years now has supported kiosks in
18 public libraries in Suffolk County that periodically in the
19 evening hours there are there are lawyers who volunteer to
20 help people with the kiosks, and sometimes the library
21 staff with technical issues is also able to help.

22 So, we can think creatively, not just about
23 kiosks in a court. We can think creatively that the courts
24 could be part of the community in other places where people
25 could have easier access to them.

1 JUDGE CALVO-TORRES: Absolutely. I agree with
2 you.

3 JUDGE LASALLE: And I want to thank the Chief for
4 mentioning Suffolk County in such a positive light.

5 CHIEF JUDGE WILSON: As a former Long Islander, I
6 felt an obligation.

7 Thank you, Judge Calvo-Torres.

8 JUDGE CALVO-TORRES: Thank you.

9 CHIEF JUDGE WILSON: We'll next hear from Heidi
10 Dennis, who is the Executive Director of the Rural Law
11 Center.

12 MS. DENNIS: Good afternoon, Chief Judge Wilson,
13 Justices Garry, Renwick, LaSalle, and Whalen, New York
14 State Bar President Napoletano and Chief Administrative
15 Judge Zayas. Good afternoon. My name is Heidi Dennis, and
16 I am the Executive Director of the Rural Law Center of New
17 York, located in Plattsburgh.

18 The Rural Law Center is a statewide, not-for-
19 profit legal services program devoted to addressing
20 systemic legal and economic issues that affect low-income
21 New Yorkers who live in our state's forty-four rural
22 counties. We also provide extensive civil legal services
23 to those in need, and our legal staff for these services
24 consists of three attorneys and five paralegals.

25 I'd like to thank Judge Wilson for his



1 leadership, and for continuing to offer opportunities for
2 providers and individuals to talk about some of these
3 challenges for low-income rural New Yorkers to have access
4 and navigate through the justice system.

5 Rural New York is a large area with a substantial
6 population. It is as big as fifteen of the fifty states
7 that we have. If rural New York was its own state,
8 resources would not be denied simply due to the locations
9 of the populations. Yet in New York, legal and human
10 services and rural counties are sparse, and that sparseness
11 results in unfair encounters with the legal system, and
12 that fosters persistent and generational poverty.

13 The problem faced by rural New Yorkers in
14 accessing justice are compounded by issues that are unique
15 to rural areas. Lack of transportation is a barrier for
16 access to legal as well as other human services. There are
17 virtually no homeless shelters in rural areas. Land
18 contracts are frequently used when people purchase homes,
19 only to find out that the seller may have a mortgage and
20 risk foreclosure. Rural poor are targets for predatory
21 lending and illegal debt collection practices. Illegal
22 evictions take place because lawful eviction procedures are
23 not being followed. Victims of domestic violence live in
24 small communities where privacy is a rare commodity, and
25 therefore a victim fears seeking protective action.

1 The New York State Bar and then-Bar President
2 Hank Greenberg created the Task Force on Rural Justice in
3 2019, and the task force generated a report in 2020. I was
4 lucky to be a part of this task force. They made
5 recommendations in five key areas: rural law practice,
6 funding, broadband and technology, law schools and new
7 attorneys, and law and policy. These issues continue to be
8 prominent in the discussions about rural access to justice.

9 Many of the civil legal services we provide
10 derive out of cases in Justice Courts. These are courts
11 that operate with overwhelmingly few attorneys and even
12 fewer legal service providers. They are overseen by Town
13 and Village Justices, eighty-five percent of whom have no
14 formal legal training. Some of our rural counties have no
15 attorney-trained judges.

16 We see firsthand the challenges faced by
17 litigants in these courts and routinely help clients
18 navigate through them. These courts handle serious civil
19 matters involving housing cases that may result in
20 homelessness, family safety issues involving domestic
21 violence, and loss of income. These matters should be
22 handled by attorney-trained judges. Individuals living in
23 cities have that benefit because cities with populations
24 over 20,000 qualify as a city-court designation, and the
25 judges must be attorneys. Yet a City Court judge and a

1 Town and Village Court judge hear many of the same types of
2 cases. While training is provided to magistrate judges,
3 that training is not a substitute for formal legal training
4 when it comes to such significant issues. It is in this
5 Town and Village court system where rural discrimination
6 comes into play.

7 The consequences of having non-attorney judges
8 are particularly evident in summary proceedings. The
9 provisions of law governing landlord tenant matters are
10 complex, yet non-attorney judges with insufficient legal
11 training have the authority to decide these types of cases
12 that impact the ability of individuals and their families
13 to remain in their homes.

14 A prime example are provisions of the landlord
15 tenant law that town justices have interpreted as requiring
16 a respondent to appear with counsel on an adjourned court
17 date. However, no such requirement exists in the law. We
18 advise clients to obtain adjournments so that we can assist
19 them. Our attorneys prepare pleadings, answers, motions,
20 orders to show cause for the respondents to bring with them
21 on their adjourned date, only to have a judge reject them
22 because an attorney is not physically present.

23 Unreasonable interpretations like this cannot be
24 allowed to continue. The prejudice is profound to an
25 individual who has tried to access their local civil legal

1 services office, if there is one, which is already at
2 capacity, and then turning to the Rural Law Center for
3 limited scope representation in order to protect their
4 rights.

5 While training is provided to Town and Village
6 justices, more routine, extensive training is needed on ex
7 parte communications, making a record, and updates on
8 substantive law that can only improve the delivery of
9 justice in these areas. Since there are over one million
10 cases heard each year in the Justice Courts, it is
11 imperative that enhanced training become a greater
12 priority.

13 Half of New York's forty-four rural counties do
14 not have physical legal services offices. Those county
15 residents seek assistance from regional offices or
16 helplines. Many times, there are also no attorneys to
17 refer residents to in their home county.

18 With the emergence of remote technology that was
19 relied upon during the pandemic, the courts in many ways
20 became more accessible to the rural poor. While still
21 plagued with lack of internet availability, many were able
22 to access the court system from smartphones.
23 Unfortunately, since the return of in-person court
24 proceedings, remote appearances are often not available or
25 severely limited. These limitations impact our ability to

1 effectively serve rural clients. We offer clients document
2 preparation, consultations, and advocacy, but we cannot
3 commit to make a physical appearance with the client in
4 court. Remote access to these courts would assist us
5 significantly in providing more extensive legal services.
6 If we were able to appear virtually, we could ensure that
7 clients we serve actually have attorney representation.
8 This would fill a huge unmet need for tenants facing
9 eviction by expanding attorney representation to all forty-
10 four counties in our state that are rural.

11 Attorneys and staff at civil legal services
12 organizations are some of the most collaborative,
13 innovative, and dedicated individuals in our profession.
14 We work together, refer matters to each other, and try to
15 maximize each other's strengths. We combine our resources
16 to better serve our populations with what we have. We have
17 created coalitions in order to promote advocacy on behalf
18 of civil legal services organizations. The Rural Law
19 Center belongs to the New York Legal Services Coalition.

20 There are approximately fifty member
21 organizations who have joined together in order to support
22 each other and advocate for our programs. We know the art
23 of maximizing our resources, and we are still not able to
24 meet the demand for our services. Additional financial
25 support is critical.



1 Again, thank you for allowing me to testify
2 today.

3 CHIEF JUDGE WILSON: Thank you.

4 JUDGE GARRY: Ms. Dennis, a couple of things that
5 you've mentioned. Limited-scope representation, which was
6 designed to be of assistance, it has been helpful to your
7 organization and others, the efficacy, that development has
8 been of assistance?

9 MS. DENNIS: Thank you for the question, Justice
10 Garry. Yes, it has been very much of assistance because we
11 provide a lot of our services remotely. We prepare
12 documents and can communicate with clients and just be able
13 to reach out to the court in some instances and to provide
14 information on just one subject.

15 The difficulty is with limited-scope
16 representation is that it often is not welcome, and we need
17 to have a greater acceptance and really a push that
18 limited-scope representation is available, is appropriate,
19 and definitely would serve the needs of our rural poor.

20 JUDGE GARRY: The other related thing that you
21 addressed was the need for virtual appearances.

22 MS. DENNIS: Yes.

23 JUDGE GARRY: Can you describe within your
24 region, do they happen at all in the Town and Village
25 Courts, or is there no capability? Where are we now with

1 that?

2 MS. DENNIS: It is a huge challenge, continues to
3 be a huge challenge. There are instances where we can
4 contact certain offices to try and determine if we can
5 appear virtually. Many Surrogate's Courts have been open
6 to the idea; Town and Justice Courts have not. And it may
7 in fact be limited ability to access that information
8 themselves. It may be the fear of that technology. But
9 when we are not allowed to make those appearances, there
10 are clients that you have, that you just know will not
11 succeed without an attorney next to them. And if we were
12 able to be that person with them, they may keep their home,
13 they may avoid a foreclosure, they may avoid a judgment
14 against them, and it would just allow us to provide so much
15 more.

16 PRESIDENT NAPOLETANO: Good afternoon.

17 MS. DENNIS: Good afternoon.

18 PRESIDENT NAPOLETANO: Good to see you again.

19 MS. DENNIS: Thank you.

20 PRESIDENT NAPOLETANO: You mentioned having
21 judges tell your clients that unless an attorney is
22 standing there with them, papers that have been prepared by
23 your office and brought by the client, they're not going to
24 be accepted. Can I assume from that that NYSCEF does not
25 exist?

1 MS. DENNIS: Correct.

2 PRESIDENT NAPOLETANO: So, what, if any, push has
3 been made to get NYSCEF filings so potentially, at least,
4 to avoid that type of a scenario?

5 MS. DENNIS: Thank you for the question. In the
6 Town and Justice Courts, there's just not the capability to
7 have that communication with each of the courts. Many of
8 them don't use technology, and having the client come and
9 bring physical papers with them to court is often the way
10 that we are able to try to put our legal arguments in front
11 of a court. In fact, we will attach the actual sections of
12 law and other information so that it is easier for the
13 justice to access the information. But there is a true
14 need for an electronic component with these Town and
15 Justice Courts. Many of them are held in very rural areas
16 in fire departments and town halls, in various rural areas
17 that have very limited capability to even have broadband
18 access in their facilities.

19 PRESIDENT NAPOLETANO: I just want to share
20 something with you. This past April, I believe it
21 was - - - or it could have been May - - - the ABA had a
22 Lobby Day in Washington, and I went with my immediate past
23 president, Richard Lewis, and my president-elect, Kathleen
24 Sweet, and others, down to Washington. And Dick was
25 proposing to the legislators that we met, utilizing the



1 report that you mentioned before that you were on the task
2 force, which was a great report, very educational. I mean,
3 it really opened up a lot of people's eyes to what goes on
4 in upstate region. The possibility of having law student
5 loan forgiveness by having an attorney commit to a seven-
6 year, at a minimum, pilot program where they would come to
7 upstate regions, hang their shingles, practice law for that
8 period of time, and then have their debt forgiven because
9 they've given that much time to those communities. So,
10 enhancing both the person's financial burden, and at the
11 same time enhancing the ability to have more representation
12 for upstate areas. So, I just wanted to share that with
13 you.

14 MS. DENNIS: Thank you. I appreciate that. That
15 was one of the recommendations that came out of that
16 report. And I certainly think, in my remarks that I
17 submitted, is one of our recommendations as well, to entice
18 attorneys to come back to rural areas and small communities
19 and establish their practices.

20 PRESIDENT NAPOLETANO: There were at least two
21 legislators that we met with - - - I'll leave their names
22 to be anonymous - - - that felt that it was a worthwhile
23 endeavor on their behalf to bring it to Congress, so let's
24 keep our fingers crossed.

25 MS. DENNIS: Sounds good. Thank you.



1 CHIEF JUDGE WILSON: Thank you.

2 Our next presenter is Muhammad Faridi, who is the
3 President of the New York City Bar Association.

4 MR. FARIDI: Chief Judge Wilson, Chief
5 Administrative Judge Zayas, Presiding Justices Garry
6 Renwick, LaSalle, Whalen, and New York State Bar President
7 Mr. Napoletano, it is my honor to appear on behalf of the
8 New York City Bar Association to discuss the need for
9 increased funding for civil legal services in our state.

10 I want to begin with some foundation for my
11 testimony. Our bar association contains approximately 150
12 committees, many of which focus their work on substantive
13 areas of the law that impact New York's poorest and
14 vulnerable communities. Equally important, the City Bar's
15 legal services affiliate, the City Bar Justice Center,
16 leverages pro bono assistance from the private bar to
17 provide free legal services that benefit over 25,000 New
18 Yorkers every year.

19 At the outset, I want to highlight the difference
20 that the provision of free legal services can make. In the
21 housing sector, New York City has reduced evictions by
22 thirty percent and has helped eighty-four percent of the
23 represented tenants remain in their homes. In the
24 immigration arena, the provision of free legal services
25 significantly improves the chances of securing legal



1 immigration status. The data show that detained immigrants
 2 with representation were nearly eleven times more likely to
 3 seek asylum or other relief than those without it, and
 4 represented non-detained immigrants were nearly five times
 5 more likely to obtain relief than those who were
 6 unrepresented.

7 The need for civil legal services is increasing
 8 as New York moves further away from the pandemic era aid
 9 programs that lifted many of our neediest residents, and
 10 I'll provide some data based on our experience. The City
 11 Bar Justice Center assisted nearly 26,000 New Yorkers in
 12 need in the past year. We closed six percent more cases
 13 than the prior year, and we saw seventeen percent more use
 14 of our online resources and information. And we had to
 15 redouble our community outreach efforts, which resulted in
 16 a 168 percent increase in people assisted through that
 17 aspect of our work.

18 But despite increased staffing and increases in
 19 staff efficiency, the data for our Civil Legal Services
 20 hotline, which is in many ways the way that many needy
 21 people are able to access our justice projects, the data
 22 show that in recent months, our staff did not have the time
 23 or the resources to respond to eight out of ten hotline
 24 callers. This is a consistent and concerning trend. It is
 25 about thirty-three percent higher than historical rates.



1 And that is despite the fact that our hotline staffing, as
2 well as our staff efficiency, has improved. Quite simply,
3 existing resources do not meet the growing need for civil
4 legal services.

5 Based on our experience and analysis, there are
6 three communities where the need for free civil legal
7 services is the most acute: children and youth, seniors,
8 and migrants. The Chief Judge already spoke earlier about
9 the poverty rate for New Yorkers. And the poverty rate
10 among children in New York City is more than double the
11 national average, twenty-five percent in New York City
12 versus twelve percent nationally. This represents a steep
13 increase since the pandemic when it had dropped to about
14 fifteen percent. The City Bar Justice Center data show
15 that our services for households with children and youth
16 under the age of twenty-five increased nineteen percent
17 from 2020 to 2023, but we are not able to assist everyone
18 who seeks our help.

19 At the other end of life spectrum, the senior
20 population in New York City, individuals aged sixty-five
21 plus, increased by about 363,000 from between 2011 and
22 2021. Unfortunately, poverty rates among New York City
23 seniors also increased, hitting twenty-four percent in
24 2022. The data compiled by the Legal Services Corporation
25 show that over seventy percent of low-income senior

1 households had at least one legal problem in the past year,
2 and over ninety-one percent of that cohort received
3 insufficient or no legal help whatsoever. The data from
4 the City Bar Justice Center hotline show that our services
5 assisting those aged sixty and over have increased steadily
6 each year since 2020. The 2023 caseload is thirty-three
7 percent higher than the pre-pandemic case count for hotline
8 services assisting those sixty and over. Again, as with
9 young people, we are unable to assist everyone who seeks
10 our help.

11 With over 200,000 migrants who arrived in New
12 York City in the last two years, the legal services
13 provider capacity is at a breaking point. The City Bar
14 Justice Center's immigration caseload has increased thirty
15 percent from 2019 to 2023, and our caseload six months into
16 2024 is thirty-nine percent higher over the same time in
17 2023. We need more resources to meet the critical need of
18 the migrants in ensuring that New York remains a place
19 where immigrants can find a new home and build a new life.

20 The Chief Judge spoke earlier about the return on
21 investment that free legal services provides, and I'll
22 share some anecdotes based on our own experience. Our own
23 experience confirms that civil legal services funding is a
24 good investment. In our most recent fiscal year, the City
25 Bar Justice Center services realized \$14.4 million in

1 measurable direct financial benefits for our clients,
2 representing nearly a 300 percent return on investment
3 relative to our budget but stemming from under three
4 percent of the total caseloads that we handled. And there
5 are numerous successful matters, for instance, securing
6 asylum, resolving a landlord-tenant dispute, or a family
7 law dispute that do not have a quantifiable financial value
8 but have tremendous value in human rights secured [and]
9 vindicated, and stress is relieved.

10 Finally, a few words about what concrete
11 increases in funding might accomplish. Despite staffing
12 increases and increased staff efficiency, which I spoke
13 about earlier, the City Bar Justice Center's legal hotline
14 does not have the resources to connect up to eighty percent
15 of those seeking our assistance. Our analysis shows that
16 just \$163,000 in additional annualized funding could result
17 in an additional 2,000 hotline matters being addressed each
18 year. That's about \$81.50 per matter. And an additional
19 \$1 million could support over 12,000 more legal hotline
20 cases, benefiting roughly 25,000 more New Yorkers in need
21 every year. We can really use additional financial
22 resources, and our work will make a significant difference
23 in the lives of those who we serve.

24 Thank you very much for continuing to assess the
25 need for resources that are necessary to improve access to



1 justice for low income and vulnerable communities.

2 CHIEF JUDGE WILSON: Thank you. I'll start with
3 a question. I'm sure others have questions for you, as
4 well. But again, I have no bias in favor of New York. I'm
5 a native Californian, not a native New Yorker. But I think
6 of New York as the greatest city in the world. And I've
7 been to a lot of the other big cities in the world, not
8 everyone. But when I hear that a quarter of our children in
9 New York City are living below the poverty level, it gives
10 you pause. I think if you're a lay person and you hear
11 that, the first reaction isn't, "Oh, they need lawyers."
12 First reaction is probably they need food, and they need
13 clothing, and they need shelter. And so how do we marry
14 those two things? I mean, do we provide every dollar we
15 can to lawyers? Is that the best way to get the return on
16 investment? Do we need a mix? How do we, as lawyers, work
17 with the legislators and the executive branch to address
18 human needs that are other than having a lawyer?

19 MR. FARIDI: I won't pretend to have an answer to
20 that great question. I think that question needs analysis.
21 I think we need to study the issue. But there are a
22 tremendous amount of things that a good lawyer can do in
23 helping alleviate poverty: ensuring that the family is able
24 to access public benefits, ensuring that the family is not
25 evicted from their apartments, and ensuring that the family

1 has access to basic services that those who are not in
2 poverty have access to. So, a lawyer, I think, will go a
3 long way in helping resolve some of those issues, but
4 perhaps not all of them.

5 CHIEF JUDGE WILSON: Thank you.

6 MR. FARIDI: If there's no further questions, I
7 thank you for your time.

8 CHIEF JUDGE WILSON: Thank you.

9 We'll next hear from Kristin Brown, who is the
10 President and the CEO of the Empire Justice Center.

11 MS. BROWN: Thank you so much. Good afternoon.
12 I'm Kristin Brown, and as you noted, I'm President and CEO
13 of Empire Justice Center. We are a statewide, not-for-
14 profit law firm with seven offices across the state from
15 Rochester to Long Island. I'm also President of the New
16 York Legal Services Coalition, which is the membership
17 association for civil legal aid organizations here in the
18 great State of New York. Thank you all so much for being
19 here. Thank you, Chief Judge, for holding this hearing
20 today.

21 In my comments, I will be focusing on why
22 Judiciary Civil Legal Services funding must be increased
23 and why the initial focus must be on addressing the civil
24 legal services community's severe recruitment and retention
25 challenges.

1 While it may seem counterintuitive to focus on
2 current staff rather than expanding services, as I'll show,
3 these steps are absolutely essential to the sustainability
4 of the field and to our progress in closing New York's
5 civil justice gap, which is the difference between civil
6 legal needs of low-income individuals and the resources
7 available to meet those needs.

8 It's important to note, as we have earlier today,
9 that New York is a leader in funding civil legal services,
10 and we're immensely proud of this. And the Chief Judge and
11 the Court of Appeals, the Judiciary, are an important part
12 of this. But at the same time, the need remains vast with
13 the current estimate of what it will cost to close the
14 justice gap at approximately \$1 billion. This is an
15 astronomical number, but it's important that we don't let
16 it overwhelm us.

17 When we think about this collective goal, we
18 naturally think about client needs and areas of law where
19 New Yorkers are going unrepresented. We think about how we
20 can represent more people, provide more services, do more.
21 But what we don't often think about, and we don't think
22 about enough is what do civil legal services providers need
23 to be successful in serving more people? How do we
24 interrupt the vicious cycle of trying to do more with less
25 when it's resulting in attrition, burnout, stress for our



1 employees, and ultimately, fewer people being served?

2 Thinking about these questions, I can tell you,
3 from my own experience running a civil legal services
4 organization for the past five years, that without the
5 active support for thoughtful organizational infrastructure
6 investment and without aligning compensation with the
7 systems we work within, New York's efforts at closing the
8 justice gap will falter. We're already faltering, and we
9 need your help. I can also tell you that the data bears
10 out my own experience. I'm going to touch on three
11 studies, but there's a lot more information in my written
12 testimony.

13 First of all, at the national level, the American
14 Bar Association's 2023 profile of the legal profession
15 noted a shortage of civil legal aid lawyers, stating that
16 civil legal aid lawyers are among the lowest paid attorneys
17 in the nation, and identifying low salary is one of the
18 primary drivers of the shortage.

19 Second, the New York Legal Services Coalition's
20 2024 survey of members identified the need for pay parity
21 with government attorneys as a top priority. The survey
22 found that experienced civil legal services attorneys are
23 paid sixty-two percent less than their counterparts in the
24 Attorney General's Office in some parts of the state.

25 Third, a recent survey of Judiciary Civil Legal



1 Services grantees by the Permanent Commission brought these
2 issues into light in a new way. The survey clearly showed
3 that civil legal services providers are losing attorneys to
4 the public sector, to positions in the public sector, at an
5 alarming rate because of salary and because of pensions.
6 The data was stark. Outside of New York City, an average
7 of forty-two percent of our attorneys left for government
8 jobs. We are acting as a training ground for government.
9 In New York City, that percentage was a little bit better
10 at twenty-five percent.

11 While salary was mentioned as the primary reason
12 for departures, the public pension was also, of course, a
13 major factor. At my own agency, within a one-month period
14 this summer, three of our long-term attorneys resigned to
15 take jobs as administrative law judges at a state agency.
16 All three loved their jobs, but with a significant higher
17 salary with the state pension, economics had to drive
18 their decision. And to give you a sense of what this looks
19 like for my organization, our starting salary for attorneys
20 is \$57,000. That's the national average. The Attorney
21 General's Office starting salary is in the low \$80,000.

22 The survey also looked at vacancy rate, which is
23 the percentage of positions that remain unfilled. And we
24 also looked at how long they remained unfilled. Vacancies
25 impact staff morale, workload, and the ability to serve



1 clients, as well as our organizational ability to draw down
2 funds because most of our contracts are reimbursable. We
3 found that the statewide vacancy rate averaged thirteen
4 percent. This is a consistent rate upstate, downstate, New
5 York City; the whole state, about thirteen percent. So,
6 that means that at any given time, there are approximately,
7 based on our calculations, 426 vacant attorney positions
8 across the state.

9 If we assume that each of those attorneys can
10 handle 120 cases per year per attorney, we can estimate
11 that there are approximately 50,000 people who are not
12 served every year due to the inability to fill these vacant
13 positions. To look at it from a more positive light, if we
14 address the factors that make it difficult to fill the
15 positions, most notably compensation, and we're able to
16 drop the vacancy rate from thirteen percent to five
17 percent, which is the standard rate, we can serve
18 approximately 30,000 more clients annually.

19 In addition to investments and compensation, the
20 survey identified the need for more infrastructure across
21 the sector - - - underscoring the importance of all of our
22 funders supporting investment in the business functions
23 that help organizations to run efficiently and effectively;
24 IT, HR, accounting, all these things are critical to an
25 effectively running organization.



1 In conclusion, as we move forward together, our
2 collective goal must be to get to a place where civil legal
3 services provide a viable, lifelong career for those who
4 choose it, just like a career in the public sector. Let's
5 work together to ensure that mid-career attorneys do not
6 question whether they can afford to stay in the job that
7 they love and also pay for college for their children.
8 Let's build towards a system where our staff are confident
9 in their ability to retire when they're ready to do so,
10 just like their counterparts in government.

11 To attain this goal, I ask that you take steps to
12 increase Judiciary Civil Legal Services funding by at least
13 \$20 million annually so that we can reach a baseline for
14 salaries in civil legal services that's consistent with
15 other government-funded attorney systems, and also create a
16 sustainable infrastructure that will support expansion of
17 services so that we're able to move forward steadily to
18 narrow the justice gap over time.

19 Thank you so much for your ongoing commitment to
20 civil legal services and for your time and attention today.
21 I'm happy to take any questions you may have.

22 CHIEF JUDGE WILSON: Thank you. Are you willing
23 to take a rant instead of a question? I'll try to make it
24 as simple rant as I can. So, invariably, I've spoken with
25 many providers around the state, and the message that

1 you've delivered is exactly what they tell me. They're
2 unable to hire young people; they are unable to retain the
3 existing people they have. And it isn't because a first-
4 year associate at Manhattan law firm can make more than the
5 Chief Judge of the Court of Appeals. It isn't because of
6 that. And look, I've had both jobs, and this is a better
7 job. It's because - - - and you know, when I think about
8 my own law clerks, and I turn them over every year, they're
9 usually pretty young people - - - many of them want to go
10 into public service or government service. That's the
11 choice they're making. They're not choosing some high-
12 paying job on Wall Street.

13 But the gap you described is what winds up with
14 some of them being at Corp Counsel's Office or at the
15 Attorney General's Office or you know, in other
16 governmental positions because of exactly the two factors
17 you mentioned. And when Judge Zayas and I and others have
18 gone to the legislators and said, you know, just to give
19 you a small example, you know, Family Court is a priority.
20 The response is, "Great, we'll get you more Family Court
21 judges," which they did, and we're grateful for. But the
22 message we keep delivering is, that doesn't do any good
23 unless we have lawyers in Family Court, and this attrition
24 and inability to retain people means we're not going to
25 have lawyers. You can add judges if you want. You can add

1 court personnel if you want. But without the lawyers to
2 serve that population, you're not really doing any good.

3 So, in my view, this is really the highest short-
4 term priority. Harder things are how do you get people to
5 move to rural areas, how do you get Town and Village
6 justices to be lawyers when there aren't any lawyers in the
7 county; those are longer-term problems that need solutions.
8 But this is something that can be addressed and really has
9 to be addressed now. Otherwise, as you said, this is sort
10 of existential.

11 MS. BROWN: I absolutely agree. Thank you so
12 much for your remarks. I don't know that there's much more
13 I can add to what you said. You really made the point when
14 you delivered your opening remarks as well. Our system is
15 really failing our entire society if we're not able to make
16 advances towards ensuring that there's a level playing
17 field and that the law is applied the same way regardless
18 of your economics.

19 So, I think there are innovative ways that we can
20 move forward. You'll hear from colleagues today about
21 those. But I do agree that, you know, if we're not able to
22 fill positions, if we're not able to hire attorneys to
23 represent people, our system is at a loss.

24 CHIEF JUDGE WILSON: I mean, of course we should
25 pursue innovative ways, new technologies, and so on. But

1 we can't let people think that is a solution, right? It's
2 helpful, it can be Band-Aids in the short run, but it's not
3 a solution.

4 JUDGE LASALLE: May I ask a question?

5 CHIEF JUDGE WILSON: Absolutely.

6 JUDGE LASALLE: Just quickly. I just initially
7 want to take a moment. He's too humble to take the credit
8 for this. This is a reality, though, here in New York
9 State, this court system is a leader by far across the
10 nation in providing money and resources - - -

11 MS. BROWN: Absolutely.

12 JUDGE LASALLE: - - - to civil legal services.
13 And we dwarf in New York State what any other state in the
14 Union does. I would argue - - - I mean, I don't have the
15 numbers in front of me, but I'm willing to bet we probably
16 provide more money as an institution than any other - - -
17 everybody else combined in the nation - - - as far as
18 states are concerned and that's still a drop in the bucket.
19 I mean, I heard \$1 billion to correct the shortfall. And
20 so, my question for you is this, the Constitution is pretty
21 clear about who handles money in this state. It's not the
22 Judiciary. I'm curious, what do you hear from our friends
23 across the street when you bring these legitimate
24 consequential concerns to them, and what explains their
25 failure to respond adequately to this crisis, as you've

1 pointed out today?

2 MS. BROWN: Thank you so much for the question.
3 It's a very, very good question. I will note that before
4 the Judiciary came in and really in a really remarkable way
5 invested in civil legal services, starting with Chief Judge
6 Lipman and to today, the State legislature was our only
7 government funding source and were incredibly supportive
8 for many, many years. We do receive funding from multiple
9 State agencies for specific types of services: immigration
10 services, access to federal disability benefits, the
11 disability advocacy program, foreclosure prevention. There
12 are other very specific funding sources that are at play
13 and taken into account when we talk about that billion-
14 dollar number necessary. But when it comes to general
15 civil legal services funding to respond to what's happening
16 across the state, it's really IOLA and the Judiciary Civil
17 Legal Services funding.

18 I think that we can do a better job - - - our
19 community can do a better job engaging with the executive
20 on general civil legal services funding. I think there's
21 an opportunity for all three branches of government to come
22 together to recognize this, as you noted, Chief Judge
23 Wilson, this existential crisis, but also the civil justice
24 gap, and provide a three-pronged solution. Because it
25 can't just be about the Judiciary. It can't be about



1 significant individual programs and you know, by issue area
2 after issue area. We need a systemic solution, and we need
3 an integrated all-hands-on-deck solution.

4 CHIEF JUDGE WILSON: Thank you. Yeah. Thank you
5 very much.

6 MS. BROWN: Thank you so much.

7 CHIEF JUDGE WILSON: We will next hear from
8 Adriene Holder, who is the Attorney-in-Charge of the Civil
9 Practice at The Legal Aid Society of New York.

10 MS. HOLDER: Good afternoon. I'm Adriene Holder,
11 Chief Attorney of the Civil Practice of The Legal Aid
12 Society, and I also serve as a member of the Permanent
13 Commission on Access to Justice, as a board member for the
14 New York Legal Services Coalition, and I also am on the New
15 York State Bar Association's House of Delegates. I first
16 want to thank to Chief Judge Wilson and Presiding Justices
17 Renwick, LaSalle, Garry, and Whalen; and Chief
18 Administrative Judge Zayas, and New York State Bar
19 President Napoletano for the opportunity to address you
20 today. So, I have more extensive remarks that you all
21 have. I'm giving you a summary. I have so much to say
22 about everything that has already been said today, but I
23 will stick to my part of the testimony.

24 Investing in civil legal services is crucial for
25 advancing the fight against racism, injustice, and poverty.



1 By providing low-income New Yorkers with access to
2 essential civil legal services, we empower individuals to
3 achieve greater stability and economic opportunity. This,
4 in turn, strengthens families and communities, enhancing
5 both the economic and social fabric of New York City and
6 the state. On behalf of The Legal Aid Society and the
7 broader New York State civil legal services community, I
8 extend our sincere gratitude for your continued investment
9 and support.

10 New York stands out, as you have said, Judge
11 LaSalle, as the first jurisdiction to make a large,
12 sustained commitment and investment in civil legal
13 services. Our experiences have served as a roadmap for
14 other jurisdictions seeking to implement similar
15 investments. Based on years of implementing civil legal
16 services programs and understanding our client communities'
17 needs, it's crucial to now turn to the issues of wages,
18 fundamental funding fairness, and staff recruitment
19 training and retention to sustain our legal programing
20 gains as well as best serve our clients.

21 Civil legal services providers face unprecedented
22 staff attrition, reflecting, of course, what you always
23 hear about the Great Resignation, affecting both the
24 private and public sectors. However, the need for civil
25 legal services, especially here in New York City, is more



1 urgent than ever. Organizations need to be fully staffed
2 with experienced attorneys and advocates to address those
3 needs. Unfortunately, as you've heard, turnover rates in
4 some offices exceed over thirty-five percent, with the loss
5 of seasoned attorneys being particularly damaging. These
6 experienced advocates support vulnerable clients facing
7 critical issues like housing instability, domestic
8 violence, immigration challenges. And when they leave,
9 newer staff are already overburdened. Colleagues must take
10 on their caseloads, leading to delays and added challenges.

11 Recruitment and retention efforts have been
12 hampered by low salaries, significantly lower than
13 comparable government positions. Most departing attorneys,
14 as you've heard, cite inadequate pay as a primary reason
15 for leaving, noting that the cost of living in New York far
16 exceeds what civil legal services salaries can support.
17 And as you also heard, surveys indicate that civil legal
18 services attorneys earn on average eighteen percent less
19 than their counterparts in government, with paralegals and
20 administrative staff earning fifteen percent less. This
21 wage disparity impacts the quality of services for
22 vulnerable populations, as attorney positions remain open
23 for months with few qualified candidates. To address these
24 challenges, funding must increase to offer competitive
25 compensation, including retirement benefits, allowing



1 organizations to attract and retain experienced attorneys
2 and ensure stable, consistent representation.

3 Funding must account for more than just attorney
4 costs. It must also support necessary staffing for
5 holistic services. Paralegals are essential in our
6 organizations because many of them provide administrative
7 law advocacy and legal support, while social workers
8 address clients' mental health, economic, social, or age-
9 related challenges. Without paralegals, attorneys must
10 take on additional tasks; and without social workers, they
11 handle crisis management without adequate support or
12 training.

13 New civil legal services attorneys must
14 immediately dive into aspects of litigation. There's never
15 a time for them to wait to acquire skills and experience,
16 and that requires extensive supervision to ensure high-
17 quality work. However, attracting and retaining
18 experienced supervisors is a challenge due to insufficient
19 funding for competitive salaries. Most civil legal
20 services providers trail experienced government attorneys'
21 salaries by more than \$20,000 annually.

22 Staffing alone isn't enough. Investing in
23 focused strategies to train new attorneys in advocacy is
24 essential. These new advocates need a solid foundation to
25 quickly become effective in their roles. Dedicated



1 resources should be committed to creating a comprehensive
 2 training institute that leverages the expertise of the
 3 legal services provider community. By prioritizing
 4 comprehensive training, providers can adjust expectations
 5 for newer staff, allowing them to focus on skill
 6 development without the immediate pressure of full
 7 caseloads.

8 Civil legal services providers face increasing
 9 operational costs beyond attorney salaries. Adequate
 10 funding must also cover expenses related to occupancy,
 11 technology, health care, equipment infrastructure, and
 12 support staff. Rising occupancy costs such as rent and
 13 utilities strain budgets. Technology and equipment are
 14 essential for modern legal practice, but maintaining and
 15 upgrading this technology has become a financial burden.

16 Health care costs have surged, making it
 17 difficult to provide affordable coverage for staff.
 18 Without sufficient funding, we may need to cut benefits or
 19 reduce the workforce, undermining our ability to retain
 20 experienced staff and attract new talent. Support staff
 21 are critical to delivering high-quality legal services, yet
 22 employing these team members is often overlooked in funding
 23 allocations and priorities.

24 We can't stress enough that flat funding is
 25 effectively a budget cut, directly impacting client



1 services. Our flat contract budgets fail to account for
 2 annual increases in costs like health care premiums,
 3 utilities, rent, and other operational expenses, which
 4 continue to rise. On average, space, utilities, and other
 5 operating costs increase by up to three percent each year,
 6 while health care premiums can rise as much as twelve
 7 percent. Yet most of our contracts remain stagnant,
 8 forcing us to delay critical investments necessary for
 9 effective service delivery. In practical terms, every
 10 \$100,000 spent on rent increases means eliminating a staff
 11 position. For legal services providers, funding
 12 adjustments for salary increases, benefits, and operating
 13 costs should be centrally covered, as they are for
 14 government agencies.

15 Recruiting attorneys to work in rural or
 16 underserved areas is challenging due to lower salaries,
 17 limited exposure to these communities, geographic and
 18 social isolation, high caseloads, limited resource, and
 19 loan repayment pressures. Offering financial incentives
 20 like loan forgiveness programs, salary supplements,
 21 mentorship programs, and fostering early exposure to rural
 22 legal work through internships can help attract more
 23 students to civil legal services to work in these regions.

24 In closing, thank you for your continued
 25 commitment to funding civil legal services. We look

1 forward to our continued partnership in ensuring access to
2 justice for all New Yorkers. Oh, and I would be remiss if
3 I did not take as personal privilege to also thank Helaine
4 Barnett, who also hired me, and has always served as a
5 mentor and an inspiration in my development and being able
6 to say that I've been at The Legal Aid Society for my
7 entire career. Helaine has always led with excellence and
8 vision and a real commitment to the quality of services
9 that we provide. And as the first and dynamic leader of
10 the Permanent Commission, she has continued to serve as a
11 beacon as to what can be and what should be. And we've
12 been able to implement that with your partnership as well.
13 So, I just would like to thank her. Helaine, if you're
14 listening, just know I'm extremely grateful, as we all are
15 in this community. Thank you.

16 CHIEF JUDGE WILSON: You have questions for Ms.
17 Holder?

18 MS. HOLDER: No questions?

19 CHIEF JUDGE WILSON: No. But let me call out
20 something you said that I don't want to be missed. I think
21 it's important. When we think about provision of legal
22 services, we do need to think about it holistically. That
23 is the mental health professionals that you have on staff,
24 the paralegals you have on staff, they're important not
25 simply to the representation of people once those people

1 find themselves embroiled in legal system, but they are
2 people who can serve as future points of contact when some
3 other issue arises that hasn't yet wound up in court. And
4 they can give advice. And I know that your clients do come
5 back to you, and that many times it's not the lawyer or not
6 just the lawyer, but another person on your staff who
7 provides that point of contact. And I think it's just
8 important to recognize that those people provide a very
9 important role and are part of - - - when we talk about the
10 return of investment, that's part of that. That's part of
11 why you have that return on investment.

12 MS. HOLDER: So, my staff would tell you that
13 Adriene always talks about doing the body scan, like doing
14 the body scan of a household. I often say that people come
15 to us by incident of paper. You know, you have an eviction
16 notice, and so you're, like, "I have a housing matter."
17 But when our folks actually interview and screen the
18 client, sometimes they find out that the reason why they
19 fell behind in their rent is because perhaps they lost a
20 job. And perhaps the reason why they lost their job was
21 actually illegal. And there's something that can happen
22 around that. Our employment law unit can help. Or perhaps
23 they just didn't really understand the best way in which to
24 pursue unemployment insurance, and so we can still help out
25 with that. Perhaps during the course of trying to resolve

1 the case, you find out that there is a mental health
2 challenge in the household, and the social workers can help
3 to connect that person to longer term services; deal with
4 the immediate crisis and connect them to other services,
5 while our lawyer continues to help out with the work. And
6 as we look for additional income supports to perhaps make
7 sure that that family does not end up in housing court
8 again, as we're doing that, we of course, have government
9 benefits attorneys and other folks. But looking at the
10 income support, sometimes we've also found, like, "Oh, you
11 have a member in your household is actually eligible for
12 SSI."

13 And so, there's all the range of things that our
14 paralegals on the administrative, especially for the
15 benefits access and helping people to apply, there's all
16 the things in terms of dealing with the immediate crisis in
17 the household and stabilizing that household, as well as
18 dealing with the issue that they came in with, just
19 thinking that they had a housing court problem because they
20 have an eviction notice that you're able to do. And our
21 attorneys are able to stave off burnout in that they are
22 able to be lawyers and not necessarily having to figure out
23 ways in which to be mental health professionals and
24 connections as social workers to services and having to
25 deal in administrative law practice and everything else



1 while they're trying to deal with the matter in housing
2 court. So, I thank you for that.

3 And I, too, grew up in Northern and Southern
4 California, and New York City is the best city in the
5 world. I mean, the upstate cities are great. New York
6 State is the best state in the nation. So, thank you.

7 CHIEF JUDGE WILSON: Thank you. We are going to
8 take a recess until 3 o'clock, and we'll resume with
9 presentations made remotely.

10 (Recess)

11 CHIEF JUDGE WILSON: Please be seated, everyone.
12 In the hope that we can use the technology in the ways that
13 some have suggested we might be able to, we're going to
14 turn to the remote presentations. And we're going to start
15 with Rebecca Sandefur, who's a Director and Professor at
16 the Sanford School of Social and Family Dynamics at Arizona
17 State University and a Faculty Fellow for the American Bar
18 Foundation. Professor, welcome, and thank you for joining
19 us.

20 PROF. SANDEFUR: Thank you. And thank you for
21 the opportunity to be with you today and to share these
22 remarks.

23 By way of introduction, I'm a social science
24 researcher who has spent over two decades studying access
25 to civil justice and the role that traditional and



1 nontraditional legal services can play in expanding access
2 and in equalizing it. Today, I'm going to focus my remarks
3 on activities in New York and elsewhere that seek to give
4 people access to justice through working with personnel who
5 are not licensed attorneys. I'm going to describe some of
6 these efforts. I'm going to describe empirical, scientific
7 evidence about the safety and effectiveness of some of
8 these efforts. And I'm also going to describe evidence of
9 the capacity of these kinds of programs to scale to meet
10 New York's and America's vast unmet legal need. I will be
11 concise here. Further details are available in my written
12 remarks.

13 New York's access to justice crisis is well known
14 to this Court and to the Permanent Commission, and its
15 details need not be rehearsed here. Traditionally, we have
16 relied largely on lawyers to attempt to fill the justice
17 gap. The latest study from the Legal Services Corporation,
18 nonetheless, found that fully ninety-two percent of the
19 civil legal problems of low-income Americans received no
20 help or inadequate legal help. Lawyers will always be a
21 critical and essential part of making justice accessible.
22 But they are not enough, and fortunately, they are not
23 always necessary. Other safe and effective sources of
24 legal help exist and can be expanded. Let me start with an
25 illustration from New York.



1 In the years leading up to the pandemic, the New
 2 York City courts partnered with community organizations to
 3 create new programs to help people facing eviction and
 4 being sued for debt. That assistance was provided by
 5 trained people who were not licensed attorneys. These were
 6 the New York City Court Navigator Programs.

7 With a colleague, Thomas Clark, from the National
 8 Center for State Courts, Tom and I conducted a multi-year,
 9 multi-method study of these programs. We discovered that
 10 they offered a powerful example of the impactful assistance
 11 that people who were not licensed attorneys can provide
 12 when people face potentially life-altering justice issues.
 13 So, in New York City's pioneering project, trained and
 14 volunteer nonlawyer navigators assisted low-income tenants
 15 in the Brooklyn Housing Court by helping them answer
 16 landlord petitions for nonpayment of rent. We found that
 17 litigants who were assisted by these navigators asserted
 18 more than twice as many defenses as litigants who did not
 19 get any help. And as a result, those litigants that had
 20 navigators' help were eighty-seven percent more likely than
 21 those with no help to have their defenses recognized and
 22 addressed by the court. That is, the court was more likely
 23 to order repairs to their apartment or note that they had
 24 in fact paid back rent and their landlord should recognize
 25 that. Even more encouragingly, one type of navigator, who



1 happened to work cases from inception through resolution,
2 had one hundred percent success rate. That is, zero
3 percent of the tenants assisted by this particular type of
4 navigator experienced eviction from their homes by a
5 marshal.

6 These navigator roles in the New York City pilot
7 were conducted within the bounds of existing rules about
8 the unauthorized practice of law. The research evidence
9 also supports expanding legal roles further, to include
10 giving people who are not licensed attorneys the capability
11 and the authorization to offer legal advice and to engage
12 in forms of representation. I'm going to describe a high-
13 level summary of selected developments in other states, and
14 also a high-level summary of the research evidence that
15 supports those states in taking these new steps.

16 Recognizing just how acute is the access to
17 justice crisis and the challenge of existing legal aid and
18 pro bono models to adequately scale, state supreme courts
19 in Alaska, Arizona, Utah, and Texas have already granted or
20 are proposing to grant waivers of unauthorized practice of
21 law restrictions that permit justice workers to provide
22 legal services. These models are described in more detail
23 in my written remarks. The design of each state's model is
24 different, but each reflects a key insight from social
25 scientific research.



1 A key part of justice workers' effectiveness is
2 their capacity to provide actual legal services, including
3 the ability and authorization to give legal advice and to
4 represent people in specific kinds of hearing settings and
5 negotiations. In U.S. jurisdictions, some of this justice
6 work is already permissible and has been for decades,
7 including in tribal courts, in immigration proceedings, in
8 some state tax courts, and across a range of federal
9 benefits.

10 The research evidence suggests that justice
11 worker programs that work have three important qualities
12 that make them effective in bridging the justice gap.
13 They're accessible, they're safe and effective, and they
14 can scale.

15 So, the evidence for accessibility comes across a
16 range of fora where these helpers can already assist
17 Americans. And what we see is that when they're available,
18 Americans use them. Americans turn to nonlawyer justice
19 workers in state tax courts, in immigration, in federal
20 benefits, in tribal justice, and in those states that I
21 described earlier, where they are already permitted. When
22 they have a choice of getting assistance from a justice
23 worker, many Americans make that choice. So, they're
24 accessible.

25 They're also safe and effective, and a range of



1 research demonstrates that the legal work provided by
2 justice workers is, in fact, safe and effective. These are
3 studies that measure the quality of services in a variety
4 of different ways. So, some of them look at case outcomes,
5 some look at customer satisfaction, some look at the
6 successful completion of the legal act you're trying to do.
7 So, effectuation. Some look at complaints, and some have
8 experts review the legal work product produced by different
9 kinds of legal workers.

10 One of the most rigorous and illuminating studies
11 comes from England and Wales, and it compared nonlawyer
12 justice workers to solicitor providers of legal advice. It
13 looked across a range of civil case types, including
14 benefits, housing, debt, personal injury, immigration, and
15 employment, and it had peer reviewers assess the quality of
16 the services provided by looking at closed case files. An
17 encouraging finding was that both kinds of providers were
18 equally likely to do quality work.

19 Another interesting finding was that justice
20 workers, the nonlawyer justice workers, were six times more
21 likely than lawyers to produce work that the reviewers
22 rated as excellent. That is, justice workers can not only
23 perform as well as lawyers; in some instances, they can
24 perform better. And that is because they specialize in
25 doing particular kinds of work. They are trained to do

1 specific things, they do them repeatedly, and they become
2 very good at them.

3 If you look at the new models of justice work in
4 the United States, you also see evidence of safety and
5 effectiveness. This is true both in Alaska and in Utah.
6 So, Alaska's Community Justice Worker Program currently
7 boasts a one hundred percent client success rate. And in
8 Utah's Legal Services Regulatory Sandbox, where over 75,000
9 services have been delivered over almost four years, there
10 is no evidence of significant consumer harm.

11 It's great to be accessible, it's great to be
12 effective, but even an accessible and effective service
13 cannot solve our massive justice gap if it cannot scale,
14 and there is good evidence that justice worker programs can
15 scale. Unmet legal need in this country is vast, and it's
16 vast in New York State. Justice worker solutions are shown
17 to scale both at home and abroad. So, in England and
18 Wales, a range of legal advice providers are staffed with
19 justice workers who exist to help people with their civil
20 justice issues. And these include something called
21 Citizens Advice that's been around for seventy years. It
22 has offices around the country. You can also access its
23 services by telephone and by internet. And in this
24 service, trained volunteers provide legal advice about a
25 range of civil issues. In a recent year, this service



1 alone, which is only one of England and Wales's advice
2 services, assisted over 2.5 million people. In Alaska,
3 implementation of their justice worker program allowed
4 Alaska Legal Services Corporation to substantially increase
5 the number of people served. In the year after
6 implementation, they almost doubled the number of people
7 that they were able to serve, and they further extended
8 their reach to more communities across that vast and rural
9 state, including villages that had no attorney and are
10 completely off the road system. Utah's Legal Services
11 Regulatory Sandbox, the first of its kind in the world,
12 delivered, as I said a moment ago, over 75,000 services
13 since it opened in 2020.

14 So, in summary, a robust and growing body of
15 research evidence demonstrates that justice workers can be
16 an effective and scalable solution, part of the toolkit in
17 responding to the United States' long-standing crisis of
18 access to justice. New York State stands poised to be a
19 leader in expanding access through expanding legal roles,
20 and the social scientific evidence base provides both
21 support for doing this and insights into how to do it and
22 how to move forward. And I commend the state for starting
23 this exploration, and I thank you for the opportunity to
24 share these remarks.

25 CHIEF JUDGE WILSON: Thank you, Professor. We



1 have a few questions for you.

2 JUDGE GARRY: Professor, in the various states
3 that you've described in the submissions utilizing the
4 community justice workers, what percentage, roughly
5 speaking, are volunteers, or are more of them just paid but
6 at a lesser rate than lawyers? How does that sort itself
7 out?

8 PROF. SANDEFUR: So, the different models
9 implement justice work in different ways. So, in Alaska,
10 some of the justice workers are employees of Alaska Legal
11 Services Corporation, but some of them are employees of
12 other community and social service organizations who are
13 grateful to add on justice work as an additional capability
14 that lets them get their work done. In Utah, there are
15 different kinds of entities that have been authorized to
16 provide innovative legal services. Some of them do that
17 through employees. Some of them do that through upskilling
18 members of government agencies so that when you come in for
19 certain kinds of help, there's somebody there who can
20 assist you. It just depends on the particular state and
21 the particular model. So, there's a diversity of different
22 ways of staffing these kinds of efforts.

23 JUDGE GARRY: I wondered whether you saw any
24 difference in effectiveness between the lower paid, you
25 know, group of staff, perhaps, or volunteers as you look

1 across the various means of doing this.

2 PROF. SANDEFUR: Well, so I would say Alaska,
3 which staffs this in different ways, has a one hundred
4 percent success rate across all the different kinds of
5 staff. But I don't know of a specific study that has
6 looked specifically at the pay that you receive and the
7 quality of service you provide. I do know that lawyers
8 differ dramatically in their pay. I wrote my dissertation
9 on lawyers many years ago and their pay. But I don't know
10 that we think that pay itself is something that changes the
11 quality of legal work. We think more about things like
12 caseloads and the resources that you need to do your work.

13 JUDGE GARRY: Thank you.

14 PRESIDENT NAPOLETANO: Good afternoon, professor.
15 You mentioned earlier that the use of nonlawyer assistants
16 passed muster with the issue of whether they're practicing
17 law, correct?

18 PROF. SANDEFUR: So, in New York's navigator
19 programs of several years ago, those were within the rules
20 about what you could do in court and what people who are
21 not attorneys could do. In Alaska and Utah and Arizona,
22 and now under contemplation in Texas, there are or will be
23 waivers for the unauthorized practice of law that will
24 allow people who are authorized under those programs in
25 different ways to provide legal advice to appear in certain

1 kinds of fora as representatives.

2 PRESIDENT NAPOLETANO: So, the question that I
3 have is, what happens in those instances where you
4 mentioned earlier that there was a great success rate in
5 answers being submitted, defenses being raised more than
6 they would have if the person was there pro se. What if in
7 that scenario a case has to go to trial? What if
8 defenses - - -

9 PROF. SANDEFUR: So - - -

10 PRESIDENT NAPOLETANO: - - - are, you know,
11 stricken whether the petitioner, for whatever reason,
12 decides, "you know what, I want this case to be tried."
13 What happens?

14 PROF. SANDEFUR: So, that's a great question.
15 Different programs are thinking about different ways to
16 handle that. In Alaska, they follow a model from medicine,
17 where there are phlebotomists and nurse practitioners and
18 physician's assistants, and they operate under a model
19 called standing orders. So, part of your training is you
20 learn when you need to hand this off. So, there are a
21 range of ways to deal with that issue, that if you're
22 trained to do a specific part of a specific legal problem,
23 you're not going to be trained to do every part of a legal
24 problem, so part of your training needs to include
25 understanding when you need to refer that elsewhere.

1 PRESIDENT NAPOLETANO: But my problem, Professor,
2 is this. To me, this is an access to justice issue for
3 both sides of that fence. So, if you get as close as
4 possible to the fence, when you have to hand it off, and
5 then there's a delay, right? Because now you have to get
6 someone who has to get up to speed with what that case is
7 about. And to be honest, in my opinion, from what I see,
8 both sides lose in terms of time. So, especially in a
9 landlord and tenant proceeding, where the delays are there
10 inherently now anyway, especially in the city. And I know
11 you're referencing other states, but I live here, and I
12 practice here, so I have to be concerned with what goes on
13 here. I appreciate the fact that in other states, things
14 may be handled differently, but I'm more concerned about
15 how this program is going to be handled here when you find
16 yourself, as I mentioned before and as you stated, having
17 to hand it off, so - - -

18 PROF. SANDEFUR: Well, during the research I did
19 in the Brooklyn Housing Court, I spent a lot of time
20 watching people who didn't have attorneys, and also
21 attorneys and their staff handle these kinds of justice
22 issues, as you say, on both sides of the issue. And one of
23 the things that you see is attorneys are already working
24 with paralegals all the time who do all kinds of work to
25 get the case to a certain point, and then they hand it off.

1 And that's effective, because those attorneys and those
2 paralegals have worked out protocols about what kind of
3 information needs to be transferred, about what that
4 attorney needs to know to pick that up at a certain point
5 and take it on. And that's what happens in these other
6 programs. This is a model that we already know how to do,
7 so it's not something that concerns me greatly because we
8 already do it very successfully.

9 PRESIDENT NAPOLETANO: Thank you.

10 CHIEF JUDGE WILSON: Thank you, Professor.
11 Thanks for joining us. I think we - - -

12 PROF. SANDEFUR: Thank you for the opportunity to
13 talk with you.

14 CHIEF JUDGE WILSON: We are next going to hear
15 from Lauren Manning, who is a client of the Legal Aid
16 Society of Northeastern New York.

17 Ms. Manning, good afternoon. Thank you for
18 joining us. Can you hear us okay?

19 MS. RANGEL: This is Nic Rangel.

20 CHIEF JUDGE WILSON: Oh.

21 MS. RANGEL: I'm sorry. Hi.

22 CHIEF JUDGE WILSON: Yeah.

23 MS. RANGEL: You are actually very quiet on the
24 bench.

25 CHIEF JUDGE WILSON: All right. Hold on a



1 second, and let's see if we can get Ms. Manning on, too.
2 Is that any better now? Can you hear better?

3 MS. RANGEL: Yes, yes, it is.

4 CHIEF JUDGE WILSON: Ms. Manning, can you hear
5 us?

6 MS. MANNING: Yes, I can. Can you hear me?

7 CHIEF JUDGE WILSON: Yes, perfectly. Thank you.
8 Thank you for joining us. And we'd love to hear from you.

9 MS. RANGEL: Wonderful.

10 MS. MANNING: Nic, are you going first? Am I
11 going first?

12 MS. RANGEL: Let me just introduce you - - -

13 CHIEF JUDGE WILSON: Sure.

14 MS. RANGEL: Thank you, Chief Judge Wilson and
15 all, for convening this public hearing. My name is Nic
16 Rangel. I'm the Executive Director at the Legal Aid
17 Society for Northeastern New York, LASNY for short. I'm
18 grateful for the opportunity to contribute to this
19 discussion on unmet needs for civil legal services for low-
20 income New Yorkers.

21 Among our areas of expertise, we specialize in
22 family law, homelessness prevention, and public benefits.
23 Many of our issues intertwine with challenges faced by low-
24 income families when children do not receive special
25 education services or are suspended or expelled from

1 school. I'm here to discuss our efforts to address the
2 school-to-prison pipeline through the protection and
3 preservation of the education rights of children.

4 I'm so honored to introduce you to Lauren Manning
5 from the City of Albany. She's been a client of ours for
6 several years, but also a tremendous advocate for the
7 residents of Albany. She previously worked at the Center
8 for Law and Justice, where she helped local residents
9 identify and access assistance and resources, including
10 making referrals to LASNY. Lauren knows firsthand how
11 important it is to have access to legal services when
12 addressing major legal matters and has been a staunch
13 supporter of civil legal services for over a decade. We
14 are grateful for her agreeing to share her story. Now I'll
15 pass it off to Lauren.

16 MS. MANNING: Thank you.

17 Good afternoon, Chief Judge Wilson, and the
18 honorable members of the Court. My name is Lauren Manning,
19 and I'm a lifelong resident of the City of Albany.

20 Let me begin by expressing my deep appreciation
21 and gratitude for extending me the opportunity to share
22 with you my experiences within the legal aid system in our
23 state. I have utilized the services of the Legal Aid
24 Society of Northeastern New York in many different
25 capacities, including public benefits assistance, housing



1 assistance, eviction prevention, and educational
2 assistance. Today, I will talk about my experiences using
3 their services to help me with educational issues I faced
4 with my daughter, who has a learning disability severe
5 enough to have been classified disabled by the Social
6 Security Administration.

7 I originally found Legal Aid when my child's IEP,
8 her individualized education program, was not implemented
9 correctly and was not renewed as agreed upon at our special
10 ed committee meeting. I have over ten years of case
11 management and advocacy experience, and I feel that I am a
12 good advocate for myself. Even with all of my advocacy
13 experience, I felt like I was hitting the proverbial brick
14 wall, attempting to secure the services my child
15 desperately needed. Legal Aid provided me with
16 representation, and their attorneys were able to ensure
17 that my child received all the services she was legally
18 entitled to based on her needs. Using their expert advice,
19 I was empowered to fight for my child's rights for free and
20 appropriate education.

21 During my child's time in remote schooling, I
22 again had to ask Legal Aid for representation after months
23 of advocating on my own for my child with our home school
24 district. My child was provided with four core classes in
25 four different school districts in four different cities



1 and no IEP support. At this time, the school was also only
2 communicating with her and told her there was no room in
3 science class and she would receive a future notification
4 when there was space. Months later, my child still had not
5 been placed in a science class and was failing math. At
6 that time, I found out that none of my child's teachers
7 were given her IEP, or even made aware that my child had a
8 learning disability.

9 I advocated at the superintendent level for my
10 child to be given a science class and a tutor, as she had
11 made it halfway through the school year with no IEP
12 supports, including resource room, and no science class,
13 all things afforded to her under federal law.

14 My trust in the school system as a parent was
15 broken. While dealing with the school district, I felt
16 gaslit. I was forced into an endless maze of different
17 contacts, different answers, excuses, accusations, but no
18 resolution as the school year was continuing to move
19 forward. Again, Legal Aid provided me with representation.
20 They were able to communicate with the school district's
21 lawyers directly and resolved the issue successfully by
22 getting my child into science class and getting a tutor
23 assigned to my child for one hour per day for the remainder
24 of the school year.

25 It's important to highlight that Legal Aid's



1 advice in the absence of representation has been invaluable
2 to me. I have successfully used their legal advice to win
3 my child's Social Security hearing after she was denied as
4 not learning disabled twice. However, with all my advocacy
5 experience and even with legal information advice, I would
6 not have been able to successfully protect my child's
7 education rights and services without representation. The
8 school system was just too big, with too many departments,
9 leaders, contacts, and too many resources for me to
10 successfully handle on my own.

11 Throughout my years of relying on Legal Aid
12 assistance for educational services, their lawyers taught
13 me so much about New York State education law and my
14 child's rights within the special education system that I
15 am even better equipped to advocate for my child and other
16 children in my school district. I also appreciate knowing
17 Legal Aid remains a resource to me and my child in the
18 future if needed. My daughter was reading at a 3rd grade
19 level entering the 9th grade. Now, in the 11th grade, she
20 is reading on level, she is buying books with her own
21 money, and she now has the confidence and ability to do so.
22 I couldn't be prouder of her.

23 Chief Judge Wilson, I know that you and the Court
24 of Appeals are committed in attempting to resolve the
25 obstacles and roadblocks that I have faced. I only ask

1 that you remain committed and vigilant in your leadership
2 roles in addressing these issues so other parents in our
3 state don't face and continue to face the same issues I've
4 experienced. I deeply appreciate your time and listening
5 to me today. Thank you.

6 CHIEF JUDGE WILSON: Thank you, Ms. Manning. And
7 thank you, really, for your time and sharing your
8 experience with us.

9 Do we have questions for Ms. Manning?

10 I have two little things, I guess, I could add.
11 One is, I had an experience a little bit like yours many
12 years ago, where the public school district we were living
13 in had misinterpreted the age cutoff for speech services.
14 And you know, I was in practice, and I was not a judge.
15 And I sort of, you know, took it to them and showed
16 their counsel the laws and regulations, and they relented.
17 But my wife and I wondered to ourselves whether they were
18 going to change their policy or whether they simply backed
19 down because we had caught them, but they were going to
20 continue to - - - you know, there was a substantial
21 population in the district that would have benefited from
22 speech services. I never found out what they did. But it
23 really, you know, for me, emphasizes what you're saying.

24 The other is if you have any advice about how I
25 can get my thirteen-year-old to buy books with their own

1 money, I'm all ears. Right now, it's just Roblox.

2 MS. MANNING: So, my daughter just turned sixteen
3 this year, and she had a reader, thank God, because of
4 Legal Aid services and all these things. So, she would
5 listen to books, but she's a big Roblox fan. There's
6 something called manga. They like this sort of Asian anime
7 kind of stuff at that age - - -

8 CHIEF JUDGE WILSON: Yeah.

9 MS. MANNING: - - - and they're huge books, and
10 she loves them. And so, you just got to find out, like,
11 what's her thing? And then she was able to work a summer
12 job. Because of her IEP, was able to give the city summer
13 job, like, hey, this would be a good fit for her. So, it's
14 actually a program that supports her education that she
15 goes to every summer, rather than being like a camp
16 counselor taking care of kids. So, I think it was a
17 combination of all of it. And since you asked, I'd like to
18 mention that I already had to send an email. They had my
19 daughter handwrite a 400-word essay with none of her
20 supports. And as soon as I sent the email, they were
21 calling me at 8 o'clock at night because they know I will
22 call Legal Aid in on them.

23 CHIEF JUDGE WILSON: Yeah. My daughter - - -

24 MS. RANGEL: Thank you.

25 CHIEF JUDGE WILSON: My daughter had to read two



1 books over the summer - - - the summer reading for her
2 school. And one of them, she said, well, that was really
3 easy. It was a comic book, and she showed me this kind of
4 manga thing that she'd read. And I guess reading is
5 reading, but we figured out that part of it. But thank
6 you.

7 MS. MANNING: No problem.

8 CHIEF JUDGE WILSON: Ms. Rangel, we're up to you.

9 MS. RANGEL: Thanks very much.

10 Lauren's story demonstrates an example of the
11 many reasons we are particularly concerned with the
12 educational rights of children. Education rights are one
13 part of addressing the school-to-prison pipeline, and the
14 disproportionate rate at which BIPOC children and children
15 with disabilities are often involved in disciplinary
16 actions. In too many instances, children with disabilities
17 are referred to law enforcement for misconduct instead of
18 provided with the services they need to thrive. We are
19 addressing this issue by providing legal assistance,
20 community training, advocacy, and representation for
21 students in principals' conferences, or superintendents'
22 hearings when facing disciplinary actions through the
23 Education Law Project.

24 There is substantial evidence that students need
25 greater access to legal assistance in conferences and fair

1 hearings to mitigate the negative impact disciplinary
2 actions have on their permanent record. In 2021, the New
3 York State added new funding to provide representation in
4 special education and related discipline cases for children
5 through the Division of Criminal Justice Services, DCJS,
6 for entities across the state. Our allocation from this
7 appropriation was \$47,272, which is less than a third of
8 the cost of a full-time attorney. As a result, the
9 Education Law Project is funded by both DCJS and our
10 Judiciary Civil Legal Services funding, JCLS.

11 With this funding, we provide representation,
12 advice, and information to children and their guardians for
13 their rights in the Capital Region. While we are
14 tremendously grateful for the funding we received to start
15 the project, I echo what my colleagues will discuss in this
16 hearing, that civil legal services are woefully underfunded
17 in all categories.

18 Specifically, children who live in rural and
19 remote areas have even less access to appropriate classroom
20 support and special education options. These children also
21 have virtually no access to civil legal services because
22 our Education Law Project funding currently only supports
23 the Capital Region. Expanding the Education Law Project is
24 one of the many opportunities to close the access-to-
25 justice gap in Upstate New York.

1 In addition, I wish to mention a few of the
2 barriers we face in our effort to expand our services
3 across our service area so that we can have more offices
4 closer to where our clients are in our more rural and
5 remote areas of the state. For one, it's incredibly
6 difficult to recruit attorneys. I know you'll hear this
7 theme throughout this hearing, but civil legal service
8 salaries are notoriously below market in all professionals
9 that we employ. Housing costs and inflation rates across
10 the state are notoriously high. And finding attorneys
11 either in or willing to move to more remote service areas
12 is exceptionally challenging.

13 Second, our employee benefits are a strong
14 recruitment tool, but I wish that they could be better.
15 Much of our student loan support, for example, is
16 restricted to attorneys and does little to help other
17 professionals, like our accountants and human resources
18 staff. While LASNNY pays most of the health care premiums
19 for most staff, the cost of our health care benefits has
20 increased by fourteen percent in each of the last two
21 years, while many grant funding allocations remained flat.

22 Third, it is very difficult to access funding to
23 keep our office space in good working condition. We have
24 tried to ensure that our buildings are on a main bus line,
25 have free parking for clients, are wheelchair accessible



1 and easy to access for the local community. But the cost
2 of space continues to climb, and because of most program
3 grant restrictions, we must find a separate capital
4 improvement funding to update our buildings so we can stay
5 in those communities where our clients need us the most.
6 Finding that separate funding is difficult and very
7 limited.

8 Finally, there is and kind of remains to be, a
9 bias against the administrative cost of running a nonprofit
10 law firm. Many of our program grants cap or prohibit
11 overhead administrative expenditures. Several grants
12 prohibit administrative expenditures but still require
13 heavy documentation, reporting and auditing, which we have
14 to pay for from other sources. As a result, organizational
15 infrastructure such as adequate human resources staff,
16 accounting staff and operations staff, and other
17 administrative roles, though essential, are often
18 unsupported in grants.

19 Nonetheless, LASNNY and all of the other legal
20 service organizations in the state persevere. When Lauren
21 came to LASNNY in 2021, her child was going into the ninth
22 grade. The whole world was in the middle of a pandemic
23 crisis. Students and educators struggled with mental
24 health challenges, higher rates of violence, and much lost
25 instructional time. As you heard, Lauren's daughter was



1 reading at a third-grade educational level and was at risk
2 of falling even further behind. But instead of telling a
3 story here today of failure or of the "Lost Generation," as
4 they're being called, we're telling a story of hope.
5 Because of our ability to provide civil legal services to
6 protect and defend Lauren's daughter's educational rights,
7 we're here telling a story of resiliency and empowerment.

8 LASNNY supports increased funding to civil legal
9 services in ways that allow greater flexibility to meet
10 salary demands, ensure work life harmony for hard working
11 people who choose public service, and to both maintain and
12 expand access to the hardest-to-reach regions of the state.
13 Thank you so much for your time today.

14 CHIEF JUDGE WILSON: Thank you.

15 Anybody have questions?

16 JUDGE GARRY: I do.

17 Good afternoon, Ms. Rangel. Good to see you
18 again.

19 MS. RANGEL: Good to see you, Judge.

20 JUDGE GARRY: And I noted, and you've just
21 stated, that the Education Law Project is restricted to the
22 Capital Region. So, a couple of things. That means that
23 someone in Clinton or Essex County who needs those services
24 is just told no, I think. And you just can't provide it.
25 And the other question is, is that because of an

1 administrative decision or do you have a grant funding
2 that literally said, "we are only going to support this
3 location?" How does that come to be, and what do you do
4 about it?

5 MS. RANGEL: So, we have sort of combined funding
6 sources to have one full-time employee equivalent here in
7 the Albany office. And that FTE only has the bandwidth and
8 capacity to serve this area. We know that, for example,
9 Albany City schools have a disproportionate rate of
10 suspensions and expulsions for BIPOC students. We just
11 don't have the capacity to add an FTE to those other school
12 district regions. And the travel time to send a person
13 from here to Clinton County makes that a tremendous
14 undertaking.

15 These hearings do tend to be in person. We do
16 try to meet clients in real life, something that, you know,
17 is a little bit lost and changed over the course of the
18 last five years, but which is very important for building
19 relationships with clients. So, I think it's twofold. We
20 don't have enough funding to add additional FTEs to those
21 North Country offices where we do provide other types of
22 services. And the FTE here doesn't have the capacity
23 to expand into additional school districts.

24 JUDGE GARRY: Yeah. My apologies if it sounded
25 like a criticism. It really was a question. I appreciate

1 that you can't have one person covering that enormous area.
2 But one of the things we've been speaking about, in a lot
3 of contexts today, is expanding appearances. I heard you
4 just say that the IEP meetings are in person. Is there an
5 opportunity there for potentially expanding to them, and
6 dropping the windshield time, as I've heard it described?

7 MS. RANGEL: I love that. I haven't heard that,
8 and I'm going to keep it.

9 Yes. So, if we were to hire additional attorneys
10 in Albany who served more of our service area, virtual
11 access would allow us to reach other offices. We have six
12 offices in sixteen counties, which means the majority of
13 the counties we cover do not have an office at all. So,
14 even with the option of adding virtual appearances, the
15 closest office for a client to reach is sometimes several
16 hours away from where we are. So, somebody is traveling to
17 a location to ensure that we have the correct paperwork,
18 that we conduct the correct intake, that we process a
19 person's intake appropriately and drop off or make
20 documents available.

21 So, even in the case where virtual hearings are
22 available, there are a number of instances where clients
23 need some in-person assistance or support. Maybe they
24 don't have access to great internet service, so they have
25 to drop off documents. Maybe they don't have a lot of



1 service in the Adirondacks. We all know that service in
2 the Adirondacks is unreliable and scarce. So, those
3 individuals still have to go somewhere where they have
4 internet access, a computer, an email address, and some way
5 to get documents to us or to their school district. So,
6 there are still barriers to service, even when virtual
7 hearings are available.

8 CHIEF JUDGE WILSON: Yes, Ms. Manning?

9 MS. MANNING: I just wanted to add that that was
10 actually the cause when the pandemic first hit, my daughter
11 was in 6th grade going into 7th. That was the cause of me
12 having to call Legal Aid in the first place. They moved
13 the meeting to virtual, and everything I thought we
14 discussed - - - and they don't record them - - - was not in
15 the IEP. And I found it to just be a huge barrier to
16 getting to the understanding of what my child needed. And
17 as a parent, I would never prefer a virtual special-ed
18 meeting about my child's services over in person, as well
19 as I did have to exchange lots of documents with Legal Aid.
20 And I am thankful because they're located in my city, on a
21 bus line.

22 So, I just wanted to add that as a parent who
23 went through a virtual meeting, it was a disaster.

24 MS. RANGEL: We held listening sessions in
25 partnership with IOLA over the summer, where we had past

1 and current clients come in and tell us what we could do to
2 improve their access to services. And we thought it would
3 be very clever to create an app where they could upload
4 information, and we could track their applications for
5 service. And they were vehemently opposed. Many people
6 who are at the lower-income brackets don't have enough,
7 like, minutes on their phones or data limits on their
8 phones. And so, when you add lots of meetings and email
9 exchanges and the need for data or internet or minutes,
10 that can deplete the service that they do have, which they
11 try to save for emergencies between their children or
12 between family members.

13 JUDGE LASALLE: Counsel, I just had a question.
14 I apologize for my ignorance here. I've heard this term.
15 You used it twice. I'm assuming it's an acronym, BIPOC.
16 I don't know what that means.

17 MS. RANGEL: It's Black, Indigenous, and people
18 of color.

19 JUDGE LASALLE: So, people of color are different
20 from Black Indigenous? Black, Indigenous people of color?

21 MS. RANGEL: Yes.

22 JUDGE LASALLE: Or Black, Indigenous, and people
23 of color? I'm just trying to - - - does it include
24 everybody? Or is it just - - -

25 MS. RANGEL: It includes everybody who is a

1 person of color, Black, or Indigenous.

2 JUDGE LASALLE: Very good. Thank you so much.

3 MS. RANGEL: Of course. A lot of acronyms in
4 the DEI space.

5 JUDGE WHALEN: Thank you. Thank you, Chief.
6 I have a question. And Counselor Rangel, I think you might
7 be the perfect person to ask this question of. You're
8 right on the front lines of providing these services to
9 people. And you know, we're dealing with the funding
10 that's going into providing these services. And when
11 you're dealing with these success stories, those success
12 stories are by themselves, it seems, a reason to continue
13 providing the funding.

14 But isn't there also in your line of work and in
15 the front lines of that work, you see where people didn't
16 get the services they needed and fell out of or away from
17 the educational services that they should otherwise be
18 entitled to? And isn't there a cost associated with that,
19 in terms of sometimes them finding themselves in trouble
20 with the law or in other circumstances where there's a cost
21 to society that is outside of what we're trying to provide
22 with the funding?

23 MS. RANGEL: Of course, there are always going to
24 be people who fall through the cracks. I think, when I am
25 considering a client and a family, I think of a snapshot.

1 I'm available to assist, for example, Lauren's daughter on
2 one piece of their household puzzle. But if they don't
3 have access to an attorney for their disability claim, or
4 they don't have access to an attorney for their public
5 benefits, then other pieces of that snapshot can kind of
6 fall apart. And those disruptions can cause
7 destabilization in a household, which, as you mentioned,
8 can cause destabilization across the community.

9 And I think that is part of why legal services
10 are so crucial. We can provide almost wraparound services.
11 When somebody comes into our office, we're screening for
12 other legal issues that maybe they don't realize is a legal
13 issue. Most people don't know that they have a right to an
14 attorney to sit with them in an expulsion hearing with
15 their superintendent, right? So, they may come in and say,
16 "I'm actually here for an eviction." And then we learn
17 their story, and we learn, "Oh, well, you also have these
18 disability benefits that could help bring in income to your
19 household that would help prevent eviction in the future."
20 So, you know, I think you're highlighting the benefit to
21 fully funding and expanding funding for civil legal
22 services where there are so many people who have no access
23 or little access to the services that we can provide.

24 JUDGE WHALEN: Thank you, Counsel.

25 MS. RANGEL: Of course. Thank you.



1 CHIEF JUDGE WILSON: Before I let you both go,
2 P.J. Whalen's comment fits with something that we were all
3 talking about at the break, which is that we need to better
4 get the message out that when we talk about investment - -
5 - that if you invest in legal services, you can provide
6 benefits to society, generally, as well as to the
7 individual and save social costs. And I think Ms.
8 Manning's daughter now has a bright future where, without
9 your services, that wouldn't have happened. The other
10 thing I wanted to say is that I'm sure that the two of you
11 worked incredibly hard to get that result. But we
12 shouldn't forget the person who probably worked the
13 hardest, who's your daughter. So, congratulations, and our
14 gratitude to her.

15 MS. RANGEL: Absolutely. And moreover, much of
16 the work we do brings federal money into the State of New
17 York as well. So, disability benefits are really owed by
18 the federal government to people who live in the State of
19 New York. And without access to those benefits, the State
20 of New York is paying for a person's, you know, cost of
21 living and state-level benefits. So, there's the
22 additional benefit to civil legal services at the state
23 level as well.

24 CHIEF JUDGE WILSON: Great. Thank you both very
25 much.



1 MS. RANGEL: Thanks so much. It's been a
2 pleasure to be here.

3 MS. MANNING: Thank you very much. And I don't
4 know if you guys have a minute, but I do have the opposite
5 side that addresses exactly what you're talking about. My
6 children - - - my two children are very far apart. I have
7 a twenty-seven-year-old son. He needed special-ed services
8 and things. He was expelled, you know. Disproportionately,
9 we all know, like, Albany School District was under
10 receivership by the State Attorney General. Always being
11 suspended, always being suspelled (sic). For me, well,
12 expelled once. For example, he was taking car shop
13 vocation, and they let him use the screwdriver for a
14 skateboard. That was considered a weapon, and he was
15 expelled.

16 I didn't know - - - back then, I was younger, and
17 there was not a lot of marketing about Legal Aid, so I
18 never got him any help. And unfortunately - - - but I'm
19 not afraid to say this because I know he was raised right
20 - - - he is in his third year in State prison. He goes to
21 parole in April, and he will get out in June. He had never
22 been arrested before, but you know, he barely made it
23 through high school. I think he was twenty when he finally
24 graduated. And I really chalk it up to not - - - if he had
25 received services like my daughter did, I think we would

1 have saw a whole different path for him. So, I do want to
2 point that out, that that's very relevant of what you guys
3 were speaking of.

4 CHIEF JUDGE WILSON: Yeah. That's a tremendously
5 important point. Thank you. Thank you again, both.

6 MS. RANGEL: Thanks so much.

7 CHIEF JUDGE WILSON: We are next going to hear
8 from Carol Lucas and Lori O'Brien. Carol is a client of
9 Legal Assistance of Western New York, and Lori O'Brien is
10 the Executive Director of Legal Assistance of Western New
11 York.

12 We're just adjusting the screen a tiny bit, so we
13 get both Ms. Lucas and Ms. O'Brien on there. I think we've
14 got you both. Can you both hear us?

15 MS. O'BRIEN: We can.

16 MS. LUCAS: Yes.

17 CHIEF JUDGE WILSON: Great. So, I've introduced
18 you, Ms. O'Brien. The floor is yours when you're - - - I'm
19 sorry. We're to start with Ms. Lucas, I guess. Is that
20 correct?

21 MS. O'BRIEN: Yes, that is.

22 CHIEF JUDGE WILSON: Okay. Let's start with Ms.
23 Lucas.

24 MS. LUCAS: Okay. Good afternoon, Your Honor,
25 and all others present in the room. I thank you for the

1 opportunity to be here today and allow me to speak about my
2 experience with Legal Aid, Western New York. My name is
3 Carol Lucas. Prior to what I'm about to describe to you,
4 my husband, Charlie, a disabled veteran, and I lived on our
5 property for forty years. And before that, the property
6 belonged to my family for a number of years.

7 Before I came to LawNY, we'd lost our home due to
8 a tax foreclosure. We lived in Woodhull, New York, which
9 is a small town in Steuben County in Upstate New York.
10 Charlie had taken an early retirement years ago due to his
11 health beginning to decline. And while tending to
12 Charlie's daily medical needs and doctor's bills and doctor
13 visits, we'd fallen behind on our property taxes. We
14 became overwhelmed by the bills, and we were embarrassed to
15 ask our children for help.

16 By this time, Charlie had been hospitalized for
17 fifteen days with COVID-19. He was discharged in place at
18 inpatient rehabilitation to regain strength and mobility
19 but came home with permanent oxygen. We were told that the
20 highest bidder would take our home after an auction was
21 conducted. The property and farm had been in my family
22 since the 1920s. My grandparents lived there. My parents,
23 and Charlie and I, lived and raised our children there.
24 Our home and our house for over forty years sold at auction
25 for \$45,000 to a stranger. To make matters worse, after it

1 sold, the buyer issued us a ten-day notice to vacate the
2 property.

3 I came to LawNY feeling helpless and hopeless.
4 We understood that we needed to move. However, it was
5 difficult to move forty years' worth of possessions with my
6 husband, Charlie, relying on a walker for mobility, among
7 other health issues. During this process, my husband
8 passed away on the 20th of September, last year. LawNY
9 negotiated a lengthy adjournment of the case to allow me
10 time to remain in my home and gather more of my possessions
11 and mourn the loss of my husband. LawNY met with me and
12 advocated on my behalf to the buyer's attorney, allowing me
13 more time to move out.

14 I unfortunately was not able to gather all of the
15 forty years' worth of possessions in time to move out.
16 Many items were placed in a dumpster by the new owner of my
17 home. However, I made peace with not wanting to go to
18 small claims court and instead wanted to focus on a new
19 beginning. The new beginning was made possible by LawNY.
20 They filed a motion in Supreme Court against Steuben County
21 and recovered surplus funds from the auction in the amount
22 of \$34,264. After a hard, long search, I found permanent
23 and affordable housing that allows me to have my companion
24 and emotional support dog, Phoebe, live with me. I thank
25 LawNY advocates who worked on my case, including Michele



1 Kreamer, Liam O'Halloran-Veazey and Mark Wattenberg. I
2 truly appreciate all of their help and support during this
3 very difficult time in my life.

4 Do you have any questions for me?

5 CHIEF JUDGE WILSON: Thank you, Ms. Lucas. And
6 I'm very sorry for your many losses, particularly your
7 husband. And you know, a farm that's been in your family
8 for one hundred years, it's hard for somebody who, like me,
9 is more of an itinerant, to understand how important that
10 must have been and how much of a loss it must have been.
11 But - - -

12 MS. LUCAS: Absolutely.

13 CHIEF JUDGE WILSON: - - - I feel very badly for
14 you. And you know, doing the rough math in my head, it
15 seems like you lost your home over what's not a huge amount
16 of money. It's great that you were able to recover most -
17 - - you know, the sale price. But that's a small
18 consolation, I'm afraid. I don't know if we have questions
19 from the - - -

20 UNIDENTIFIED SPEAKER: No, thanks.

21 CHIEF JUDGE WILSON: No? Thank you so much.

22 MS. LUCAS: Thank you.

23 CHIEF JUDGE WILSON: Ms. O'Brien, we can turn to
24 you.

25 MS. O'BRIEN: Thank you.



1 CHIEF JUDGE WILSON: Maybe give us some context.

2 MS. O'BRIEN: Thank you, Chief Judge Wilson,
3 distinguished panelists. We appreciate so much the
4 opportunity to share comments related to our work, the work
5 of many civil legal services practitioners, and the
6 challenges faced by our programs as we work towards
7 achieving access to justice.

8 Thank you so much, Ms. Lucas, for sharing your
9 story.

10 So, my name is Lori O'Brien. I'm the Executive
11 Director of Legal Assistance Western New York. I've been a
12 civil legal services practitioner for over seventeen years.
13 LawNY provides comprehensive civil legal services in three
14 judicial districts. Our staff serve a geographical area of
15 fourteen counties. Thirteen of those counties are rural in
16 nature. We serve an area of almost 10,000 square miles.
17 So, to put that into perspective, it's larger than the
18 State of New Jersey, the State of Rhode Island, the State
19 of Connecticut.

20 Ms. Lucas's case illustrates the critical
21 importance and stabilizing effect of civil legal services
22 when individuals and families are in crisis. It also
23 demonstrates the opportunity we have to create long-term
24 economic success for our clients and their families by
25 preserving equity. LawNY has long prioritized stopping the



1 loss of equity in tax foreclosures, including through the
2 precedent-setting Second Circuit decisions in *Gunsalus v.*
3 *Ontario County* and *Hampton v. Ontario County*. These cases
4 established a path for homeowners to preserve equity
5 through a bankruptcy claim, up to two years after the tax
6 foreclosure.

7 Moreover, the U.S. Supreme Court decision in
8 *Tyler v. Hennepin* in May of 2023 opened up new
9 opportunities to protect homeowners from losing their
10 property or equity to tax foreclosure. So, in *Tyler*, a
11 ninety-four-year-old woman had accrued arrears of \$15,000
12 in late taxes and penalties. The County foreclosed and
13 held a tax sale. The unit sold for \$40,000. The County
14 kept the proceeds. The Court ruled that keeping the
15 windfall of \$25,000 violated the Takings Clause of the
16 Fifth Amendment.

17 In Ms. Lucas's case, you just heard the home was
18 sold at auction for \$45,000. LawNY was able to recover the
19 surplus funds of over \$34,000. Since the *Tyler* decision,
20 LawNY has challenged individual counties that retain excess
21 funds from real property tax foreclosure sales. To give
22 you an example, out of the same office that Ms. Lucas
23 received assistance in in Bath, New York, our Bath office
24 filed a hybrid Article 78 and [section] 1983 complaint,
25 challenging a county's retention of the surplus funds after

1 a tax foreclosure sale. This complaint was the first case
2 in the state to challenge a county's retention of tax
3 foreclosure surplus. Citing Tyler, the team argued that
4 the county's retention of surplus funds after selling the
5 foreclosed property at auction constituted a taking without
6 just compensation. The Court ruled in that client's favor,
7 ordered the county to return more than \$20,000.

8 In addition to this litigation work in these
9 matters, to ensure that the decision in Tyler is fully
10 implemented, legal services staff across the state need to
11 engage in coordination and education with our local
12 counties, the communities that we serve, and the agencies
13 that serve community members who may be affected.
14 Advocates also need to take into account the other needs of
15 our clients while we work to resolve their legal issue.
16 So, while Ms. Lucas was looking to relocate to new housing,
17 an eviction proceeding was filed. LawNY staff were able to
18 intervene, negotiate a lengthy adjournment, giving her time
19 to relocate. That eviction was ultimately withdrawn.

20 This case also highlights challenges that are
21 faced by legal service practitioners. A challenge often
22 faced by our organizations is having enough resources to
23 handle complex or litigated legal cases. Complex cases
24 frequently address novel or significant legal questions
25 that can set up important precedents. These cases help



1 shape and develop legal principles and standards,
2 influencing future legal interpretations and applications.
3 The lack of specialized expertise to handle complex or
4 litigated matters is particularly acute in our rural
5 service areas. Rural areas have fewer attorneys. Those
6 who are available may have limited specializations.

7 LawNY is a member of the Legal Services
8 Coalition. And I would be remiss if I didn't mention that
9 noncompetitive salaries for civil legal services staff have
10 also led to an inability to recruit and retain a sufficient
11 number of talented attorneys and other legal professionals.
12 This shortage can make it difficult for residents to obtain
13 legal representation or advice, and for legal services
14 agencies to maintain the expertise necessary to handle
15 complicated legal matters. Your support is vital and
16 necessary, not just for the work we've done with Ms. Lucas
17 and many clients similarly situated, but it's vital for the
18 future of our programs and for the future of our client
19 communities.

20 And I want you to know, in closing, that your
21 resources have had a profound impact on clients like Ms.
22 Lucas. They've also had an incredible impact on
23 practitioners that are able to devote their time, their
24 energy, their expertise to contributing to the public good.
25 Thank you so much for the time to give remarks today.

1 CHIEF JUDGE WILSON: Thank you, Ms. O'Brien, and
2 thank you for everything you've been doing.

3 Do we have questions from the panel.

4 PRESIDENT NAPOLETANO: Just one, Judge.

5 Ms. O'Brien, good afternoon. I'm just curious.
6 What was the County's legal justification for holding back
7 surplus monies from Ms. Lucas?

8 MS. O'BRIEN: So, Tyler is really what made this
9 decision. And our ability to help Ms. Lucas was aided by
10 having the Tyler decision. So, the role that LawNY and
11 civil legal services practitioners played after Tyler is
12 really also educating our counties. Now, in this case, our
13 staff was able to file a motion, the County ultimately
14 consented. And so, when a decision that sets a precedent
15 occurs, a large role that our organizations play is in that
16 education in implementation of those decisions.

17 PRESIDENT NAPOLETANO: So, prior to Tyler, then,
18 what was the justification, if at all any, of withholding
19 surplus money? So, they just withheld it and hoped for the
20 better? I'm trying to understand what the mindset was, if
21 you - - -

22 MS. O'BRIEN: Well, I think, us looking at it
23 now, it seems like an unfair taking of those surplus funds.
24 But at the time, without a legal decision, there was no
25 other precedent or other ruling for the County to say that

1 that wasn't the appropriate decision.

2 CHIEF JUDGE WILSON: And Domenick, to answer your
3 question a little bit: I recall it was probably in the late
4 spring or early summer of 2023, I got a letter from an
5 Upstate New York judge whom I didn't know, but who said
6 that the general practice had been that counties would keep
7 the money. But he'd been very vigilant about ordering them
8 that they had to return the surplus. And he was urging me
9 to sort of either implement a court rule or - - - I know it
10 must have been just before the Tyler decision, because as I
11 was looking into it, the Supreme Court decided Tyler.

12 PRESIDENT NAPOLETANO: The fact that it's labeled
13 a surplus seems to be counterintuitive, right?

14 CHIEF JUDGE WILSON: Right. Right. But you
15 know, at least it does seem as if, for that particular
16 issue, the U.S. Supreme Court has given you a pretty good
17 weapon.

18 MS. O'BRIEN: Absolutely. And you know,
19 oftentimes, frankly, even in the face of an issue, if it
20 appears unfair, without the litigation that goes into
21 making those decisions, we may not have that tool to seek
22 justice or seek access to justice for our client
23 communities.

24 CHIEF JUDGE WILSON: Yeah. Well, thank you both
25 very much. We really appreciate your time and everything

1 you've been doing.

2 MS. O'BRIEN: Thank you.

3 CHIEF JUDGE WILSON: And Ms. Lucas, best wishes.

4 MS. LUCAS: Thank you so much, Your Honor.

5 CHIEF JUDGE WILSON: We were going to hear next
6 from Colleen Stephens and Keisha Williams of Neighborhood
7 Legal Services. Ms. Stephens is unable to present today,
8 but we do have a written statement, which we'll put in the
9 record, as well as the statement of Keisha Williams from
10 Neighborhood Legal Services.

11 So, we're going to turn next to Tracy Luter, who
12 is a client of the Volunteer Lawyers Project of Central New
13 York, and Sal Curran, who is the Executive Director of the
14 Volunteer Lawyers Project of Central New York. We'll take
15 a minute to get them on the screen.

16 MX. CURRAN: Are we good to go?

17 CHIEF JUDGE WILSON: We're almost good to go.
18 We've got Ms. Luter on. We're waiting for Mx. Curran.

19 MX. CURRAN: I'm here.

20 CHIEF JUDGE WILSON: Oh, there you are.

21 MX. CURRAN: Yes, Your Honor.

22 CHIEF JUDGE WILSON: I was looking for two
23 different screens, but you're just off stage there. But
24 great. Glad to know you're there.

25 MX. CURRAN: Okay. Let me get us started, then.

1 Here we go.

2 MS. LUTER: Yeah, okay. Good afternoon,
3 everybody. My name is Tracy Luter, and I am a former
4 client of the Volunteer Lawyers Project of Central New
5 York. I was born and lived the majority of my life here in
6 Syracuse, and most of my adult life, struggled with housing
7 stability. Husband and I currently lost our previous
8 housing, and most of our housing, due to serious code
9 violations, whether it be mold, mice infestations, leaking
10 roofs, leaking basements. And we have landlords that have
11 refused to make the repairs, despite being cited by codes,
12 in which time that caused my condition to become sicker and
13 sicker, and eventually causing severe pulmonary issues and
14 congestive heart failures.

15 Once that happened, we had to move out, just
16 leaving our stuff there, staying with friends, family, and
17 then eventually, to a hotel. Finally, August of 2023, we
18 found our current apartment, which seemed great at first,
19 from the outside. The neighborhood's beautiful, yard is
20 good, the inside, everything looked great. But we quickly
21 learned how erratic and unstable, mentally, our landlord
22 had become or would become. In late October of last year,
23 we began smelling gas in the apartment, which, you know,
24 caused me to call National Grid at which time they had come
25 out, red-tagged the furnace, and turned off the gas flow in



1 our house, because the gas was seeping into the apartment.

2 That caused the landlord to become extremely
3 furious with me, banging on my door, threatening to attack
4 me with a shovel because I had not called her first. She
5 stated that she needed to have a professional come and fix
6 the furnace, which she had not done. And that caused me to
7 call National Grid once again, in which time they red-
8 tagged it, but they hadn't turned off the gas flow. And
9 because I had to call them again, she started refusing to
10 take our portion of the rent. Our rent is subsidized
11 through an agency here, Liberty Resources, due to my
12 husband's disabilities. And so, our portion was \$281, on
13 which she tried to take me to court for nonpayment of.

14 I reached out to Volunteer Lawyers Project, who
15 then represented me in that case, and the case eventually
16 became thrown out because it was stated that she could not
17 refuse to take the rent. Once that happened, she then
18 began doing other erratic and unhealthy things to us and
19 tried to get us evicted once again, because we were still,
20 at this point, calling Code Enforcement for code violations
21 and National Grid once again. So, she tried to have us
22 evicted. Now, not because of nonpayment, now just because
23 she wanted us out. And once I reached out to Volunteer
24 Lawyers Project again, who represented us, they had this
25 particular case thrown out, because we were able to prove

1 that what she was doing was retaliating against us because
2 we were asserting our right to have safe housing and you
3 know, habitability standards.

4 And retaliation, I never knew that that was a
5 defense that you could actually have until I worked with my
6 attorney here through the Volunteer Lawyers Project and,
7 through that, learned my rights, how to stand up against
8 the landlord, and how to still be housed in, you know, my
9 apartment, although she's continuously harassing us. It
10 does take a while to find housing here, in the Syracuse
11 area, that is affordable and habitable. Most of the
12 apartments are inhabitable or they're overpriced.

13 And through Volunteer Lawyers Project and their
14 landlord tenant program, it has taught me how to fight, how
15 to get a backbone. And it allows me to advocate not only
16 for myself - - - excuse me. I swore I wasn't going to cry.
17 But this is so personal to me because I watch what
18 landlords do, and they get away with it. And there are
19 other tenants that don't know. They get intimidated by
20 their landlords, and they don't fight back. So, with my
21 work with Volunteer Lawyers project, it's allowed me to be
22 able to fight for myself and to help others advocate for
23 themselves, which I continuously do on a regular basis.

24 So, I either give them the information that's
25 been shared with me, or I send them down here to Volunteer

1 Lawyers Project, because I now know what resources are
2 available to me and to them. So, this advocacy is very
3 personal to me because it affects not only me, but my
4 community as well. And my community means everything to
5 me. So, I want to thank you for your time and your support
6 of programs like Volunteer Lawyers Project of Central New
7 York and everywhere else, because it's much needed.

8 Everyone have a blessed day. Thank you.

9 CHIEF JUDGE WILSON: Thank you very much for
10 sharing that with us. You know, there's pretty good data
11 that half of the people in your situation don't even try to
12 get legal help because they don't know that it might be
13 available. I mean, most - - -

14 MS. LUTER: Right.

15 CHIEF JUDGE WILSON: - - - oftentimes can't find
16 it, but half of people wouldn't even have known. So, I'm
17 curious how you found out about the Volunteer Lawyers
18 Project.

19 MS. LUTER: I'm a researcher, so I'm going to
20 dig. And fortunately for myself, there is an employee here
21 at Volunteer Lawyers Project whom I had worked with
22 previously through one of the shelters, when I had to stay
23 in a shelter. She was a case manager through another
24 program here in Syracuse called Hill. And then I found out
25 she was the intake worker here for the tenant landlord.

1 And so, she was very instrumental in getting me set up here
2 with the Volunteer Lawyers Project. So, she knew me
3 personally from having been a previous case manager of mine
4 to getting me lined up here.

5 CHIEF JUDGE WILSON: So, kind of just, you know,
6 fortuitous in a way, right? Just - - -

7 MS. LUTER: Yeah.

8 CHIEF JUDGE WILSON: - - - that connection.

9 MS. LUTER: And it is. And I'm about paying it
10 forward. So that's why this - - - things like this are
11 very important to me, whether it's here, a food pantry I
12 know about; it could be anything. The program that the
13 intake worker has shared with me, I'm about paying it
14 forward. So, I don't keep that information to myself. I
15 would like others to know what is out there.

16 CHIEF JUDGE WILSON: That's great.

17 Do we have questions from panel at all? No?

18 Mx. Curran, we're over to you.

19 MX. CURRAN: All right. Thank you so much.

20 Thank you, Tracy, for those really powerful
21 remarks.

22 You know, I think, Chief Judge, when you mention
23 that it's fortuitous, I would just posit that it's not just
24 fortuitous. Organizations like mine intentionally try to
25 hire folks from the community that are deeply connected,

1 who will help tenants trust us, you know?

2 So okay. Going to my prepared remarks, good
3 afternoon. I am Sal Curran, the Executive Director of the
4 Volunteer Lawyers Project of Central New York. I am a
5 member of the Permanent Commission on Access to Justice and
6 a board member of the New York Legal Services Coalition.
7 And first, I want to thank you, Chief Judge Rowan D.
8 Wilson, and also this entire honorable panel of leaders
9 from our legal community, for the opportunity to address
10 you today and for your ongoing commitment to improving
11 access to justice.

12 VLP is a legal aid program in central New York
13 whose mission is to provide access to justice by engaging
14 the legal community and service to those in need. Our
15 staff and panel of over 700 volunteers serve more than
16 4,000 clients throughout Upstate New York every year,
17 benefiting over 10,000 community members.

18 Again, I want to thank Tracy for her remarks.
19 Tracy has demonstrated tremendous strength in fighting for
20 her right to safe housing, even when doing so put her at
21 risk of losing that housing. Sadly, Tracy's experience is
22 too common. Landlords regularly try to evict tenants who
23 complain about habitability concerns that put the health of
24 their family at risk, like infestations, sewage in the
25 basement, and more. Like for Tracy, these habitability



1 issues can lead to health issues as serious as congestive
2 heart failure, resulting in ICU stays.

3 Tenants have fought long and hard to get laws
4 passed that protect their right to safe housing, free from
5 landlord retaliation, harassment, and illegal lockouts.
6 But these laws have little effect without a lawyer to
7 defend the tenant. In some senses, Tracy was actually
8 lucky because she lives in the City of Syracuse, where
9 there are more attorneys available to represent tenants.
10 Had Tracy lived in one of the 1,300 towns and villages in
11 Upstate New York that have Justice Courts, she almost
12 certainly would not have found an attorney to represent
13 her.

14 Just in central New York, there are over 300
15 Justice Courts that collectively hear thousands of eviction
16 matters. But there are only just over two dozen Legal Aid
17 attorneys to represent tenants in this region. Pro bono
18 can't fill the gaps. Most rural counties do not have
19 enough attorneys to do the necessary court-appointed work
20 in criminal and family matters, let alone to do pro bono
21 work in eviction. Most tenants have no attorneys in
22 eviction, and evictions have terrible consequences.
23 They're tied to long term housing instability, job loss,
24 negative health consequences, education loss, and more.

25 In central New York, where rents have been



1 increasing by twenty percent or more year after year for
2 the past few years, tenants who are evicted are no longer
3 able to find housing that they can afford, which has led to
4 the highest rates of homelessness, and especially family
5 homelessness, that have ever been recorded. With new
6 protections in place, such as good-cause eviction, it's
7 more critical than ever that the New York courts support
8 efforts to close the justice gap by ensuring that all
9 tenants have access to legal representation in eviction
10 proceedings, and that those who are entitled to legal
11 representation, such as those in New York City and
12 Westchester, are given time to obtain such counsel before
13 the matter proceeds.

14 And secondly, I wish to speak to the need to
15 address the low wages paid to staff at legal aid
16 organizations, which negatively affects recruitment and
17 retention. My colleagues, Kristin Brown and Adriene
18 Holder, already spoke at length about the findings of the
19 surveys and the effects that wage gap has on recruitment
20 and retention. When I completed these surveys, at first, I
21 thought, "oh, we're not doing so bad because we have
22 brought up our starting wages." But then, as I dug in
23 deeper, I realized that by ten years into practicing, my
24 attorneys are being paid fifty percent less than their
25 government counterparts. And that doesn't even take into

1 account the long-term pension. I suspect that this may be
2 the case for other organizations.

3 This has resulted in it taking six months or more
4 to fill a vacant position in my organization, putting
5 serious strain on other staff filling in, and ultimately
6 resulting in less clients being served during the vacancy
7 and onboarding process. I, myself, as Executive Director,
8 had to fill in representing clients in eviction court for
9 six months earlier this year. And I was the one that
10 represented Tracy and her husband.

11 The problem is that this wage disparity is built
12 into our funding structure and gets worse every year. Most
13 sources of funding have not increased, despite the real
14 costs of operating our organization and the real cost of
15 living drastically increasing. When additional money is
16 made available, we're expected to increase the number of
17 clients that we serve proportionately, leaving no room to
18 increase salaries or reduce caseloads. To ensure
19 consistent representation for those in need, we need for
20 funding to increase to allow legal aid organizations to
21 provide compensation that's competitive.

22 I want to thank you so much for this opportunity
23 to speak with you on these important matters and for your
24 past and future support, not only for my organization, but
25 for all of our colleague agencies in the civil legal



1 services community throughout the state. Together, I know
2 that we can continue to close the justice gap. Thank you.

3 CHIEF JUDGE WILSON: Thank you. We do have some
4 questions for you.

5 JUDGE GARRY: I do. Counselor Curran, we have
6 had the opportunity to meet in the context of collaborating
7 on some issue in the past, as I recall. And it's good to
8 see you here today. I did not know - - - and I think I
9 want to start with congratulations - - - that over twelve
10 years, you built this organization from two full-time
11 employees to thirty, I think I read. And you know,
12 amazing. What a tremendous job you have done in service
13 for your community.

14 MX. CURRAN: Thank you so much, Your Honor. It
15 wasn't alone, I assure you.

16 JUDGE GARRY: But 700 volunteers, that's an
17 awesome management responsibility. I have a couple of
18 questions. One is the staffing: of those thirty positions,
19 how many of them are lawyers, and how many of them are
20 functioning in other ways? But the other thing that we've
21 heard a lot about today is the use of virtual proceedings.
22 And specifically in the far-flung rural Town and Justice
23 Courts, the fact that virtual proceedings are not being
24 utilized in those courts.

25 And we've heard some pro and con, but it's such



1 an irony that, you know, one of the perennial
2 justifications of Town and Village Courts' existence is
3 that they are close to the community. And yet conversely,
4 what we've been hearing for much of the day is that that
5 makes it exceptionally difficult to provide legal
6 representation in those courts. So, I know that was a lot,
7 so first, congratulations. How does the staffing
8 breakdown? And then finally, your view, if you could, on
9 one approach being to enhance virtual access in the Town
10 and Village Courts.

11 MX. CURRAN: Absolutely. So first, with regard
12 to the attorneys and non-attorneys, I believe we have
13 fourteen attorneys, including myself. And the remainder
14 are non-attorneys. In our organization, we're what you
15 might call a hybrid organization, where we do have some
16 attorneys in certain programs providing some direct legal
17 services, mainly in immigration. But in the vast majority
18 of the rest of our programming, the attorneys are very
19 experienced attorneys. We have several that have twenty,
20 thirty years of experience. And they're really there to
21 supervise, coach, train, and help along the volunteer
22 attorneys who might not have experience in those areas.

23 So, what we try to do is, in each program, we
24 have an experienced supervising attorney who's the director
25 of the program. And then we have a pro bono coordinator

1 who's working as the primary interface with the volunteers.
2 And then, if we do have direct representation going on,
3 like we do in eviction court as well - - - we have both pro
4 bono and direct by our staff - - - then we try to have a
5 legal assistant as well. So, it's really a combo.

6 With regard to solving the issue of the outlying
7 counties, I will say we have tried extensively to recruit
8 and retain volunteer attorneys in the outside counties.
9 Syracuse, we're really lucky because not only do we have an
10 outstanding law school in Syracuse University, but many of
11 the large statewide firms and even local firms have
12 staffing here. And so, we have tried to have services in
13 Cayuga, Oswego, Jefferson. And in all of the instances,
14 we've only been able to recruit just a handful of
15 volunteers to staff programs there, which has been really
16 frustrating. And so, I've attended meetings with local
17 county bar associations over the years to talk with them
18 about this. And over and over again, they have expressed
19 that there's just an extreme lack of volunteers in those
20 regions, lack of attorneys, right? Everybody is already
21 working full tilt, and if they have any extra time, they're
22 going to do court-appointed at that point, you know?

23 And so, I really do think that in order to reach
24 a point of being able to provide right to counsel in
25 eviction proceedings, which I'm a very strong proponent



1 for, we will have to end up doing virtual appearances. And
2 I have spoken at length with my colleagues out in Erie
3 County, where they have done a HUB Court. During COVID,
4 they did the HUB Court so that they can consolidate most of
5 the Justice Court proceedings. And my understanding is
6 they had really great success with that. So, I would very
7 much be in favor of a HUB Court.

8 I do think that the remarks that were made, I
9 believe it was Judge Calvo-Torres who made the remarks
10 about, "how do we go about making it so that the clients
11 can still access court?" You know, we do have a great
12 model here in Onondaga County of the Virtual Court Access
13 program that our law library has really taken over. And
14 so, in addition to having kiosks at the Justice Courts, I
15 would actually say that the kiosks might be better located
16 at the libraries, which have more hours, because the
17 Justice Courts in most towns have very, very limited hours
18 and extraordinarily limited staffing. And doing virtual
19 court appearances does require the assistance of somebody
20 else to get you connected. If you need to scan any
21 documents or anything like that, they can scan them.

22 And I have found that the county libraries have
23 been the best partners for that. So, I think that there's
24 a couple of different models. I know our Virtual Court
25 Access program has placed kiosks at community-based

1 organizations and faith-based organizations, both of which
2 are also very good solutions. But again, because of the
3 hours and the staffing, it can be a little difficult.

4 JUDGE GARRY: Thank you.

5 CHIEF JUDGE WILSON: We have another question for
6 you.

7 PRESIDENT NAPOLETANO: Good afternoon, Mx.
8 Curran.

9 MX. CURRAN: Good afternoon.

10 PRESIDENT NAPOLETANO: Your client mentioned that
11 the way she found the VLP was through her own research. I
12 served on the VLP at the Brooklyn Bar for a whole bunch of
13 years. And what we did there - - - and I'm questioning
14 whether you can do it where you are - - - we had signage in
15 the courthouse. Are you able to have signage in the
16 courthouse so that people, when they go and they see, they
17 can call you and can avoid, you know, having to miss you?
18 Is there a way of doing that?

19 MX. CURRAN: Thank you, Bar President. And thank
20 you for your leadership and all of the volunteer work
21 you're doing with the Bar Association, not only this year
22 but over the years.

23 Yes. Our City Court is very good at letting
24 unrepresented tenants know about the availability of legal
25 representation and actually hands out a handout with all

1 the organizations listed if somebody appears at court
2 unrepresented at the first appearance. That is not
3 necessarily the case in all of the Town and Village Courts,
4 nor is it possible for attorneys to be present, of course,
5 at all the Town and Village Courts. And even in the City
6 of Syracuse, right now, we are far from being able to
7 provide representation to all tenants that appear.

8 PRESIDENT NAPOLETANO: Thank you.

9 MX. CURRAN: Yeah. I will say that the court
10 clerks across the board are the best promoters of civil
11 legal aid. I would say across the state, the court clerks
12 are really remarkable at letting people know about the
13 availability of services in all of our programs.

14 CHIEF JUDGE WILSON: Thank you very much.

15 And Ms. Luter, thank you as well. Thanks for
16 spending the time with us.

17 MX. CURRAN: Thank you very much, Your Honor.

18 CHIEF JUDGE WILSON: We are next going to hear
19 from Ashley Garcia, who is a client of The Legal Project,
20 and Carla Brogoch, if I pronounced her name correctly, who
21 is the Legal Director there. The floor is yours. We'd
22 love to hear from you.

23 MS. GARCIA: Okay. Do I just go?

24 CHIEF JUDGE WILSON: Yes.

25 MS. GARCIA: Okay. On December 21st, 2023, I



1 asked the Family Court to protect me and my children from
2 my husband. We have been married for eleven years. We
3 have two children, now ages ten and eleven, and we own a
4 home. Within that home, my husband was controlling,
5 mentally unstable and prone to violence, but he kept that
6 abuse inside our home. Since 2019, my husband has hit me,
7 raped me, threatened me with a metal baseball bat,
8 threatened to cut me with a box cutter, swipe it at me,
9 strangle me until I briefly passed out. He frequently
10 threatened to kill himself, cut himself, or hurt himself.
11 He hurt our pets and, towards the end, our children. And
12 that's when I started looking for help.

13 The Legal Project explained how I could file a
14 family offense petition and get an order of protection, and
15 it worked. The court immediately issued a temporary order
16 of protection, removing my husband from our home, and
17 keeping him away from me and the children. For the first
18 time in years, I felt safe within my home, but
19 unfortunately it was temporary. I returned to court about
20 two weeks later. My husband was assigned a public
21 defender, and my children were also assigned an attorney
22 assigned by the court. I was alone and as a teacher, I
23 make too much money to qualify for the court to assign an
24 attorney, but not nearly enough money to hire one. I also
25 did not know that I needed an attorney. I thought that it

1 would be as simple as telling my part of the story, but it
2 was not.

3 My husband's attorney insisted that my husband
4 would be homeless, and my children would miss him, and no
5 one discussed my husband's violent behavior. I barely got
6 the chance to speak and ultimately did not know what to
7 say. The Family Court allowed my husband to return to our
8 home after a mere two weeks. The court reduced my order of
9 protection from a "stay away" order to a "no illegal
10 contact" order. Essentially, the Family Court ordered my
11 husband not to commit any new crimes against me or the
12 children.

13 I called The Legal Project again, and Attorney
14 Weinhold was assigned to represent me in court. At that
15 point, my husband had been home for about a week without
16 violence. I understood that the court might not remove him
17 until he committed a new crime, but I was afraid of
18 experiencing that crime. Attorney Weinhold began gathering
19 evidence while I began to look for apartments for me and
20 the children. It was very unfair that we would have to
21 leave our home to escape my husband's violence. I knew
22 that I would not be able to find an affordable apartment
23 that allowed us to take our dogs and cats. But I feared
24 that if I left the pets at home under my husband's care, he
25 would hurt them. I also knew that I would not be able to

1 find an affordable apartment in my children's school
2 district. But we could not continue to live with my
3 husband, waiting until the day that he had a relapse and
4 went back into his violent behavior.

5 My third court date, the first with Attorney
6 Weinhold, was just a few weeks later. And she warned me
7 beforehand that she probably could not get my husband
8 removed again, since he had not yet violated the no illegal
9 contact order.

10 But then she did exactly that. Attorney Weinhold
11 had listened carefully to me and worked hard to gather
12 supporting evidence, so she was able to show the judge that
13 it was too dangerous for my husband to live in our home,
14 even though he had successfully abstained from violence for
15 a few short weeks.

16 And just like that, I began to feel safe again in
17 my home. My family court case technically did not resolve
18 until mid-April, where I gained sole custody of my children
19 and my final order of protection. But Attorney Weinhold
20 was with me for each step of the way, and I was able to get
21 the help that I needed to keep myself and my children safe,
22 because I had access to an attorney with the right
23 expertise who was committed to helping me.

24 CHIEF JUDGE WILSON: So, the circumstances you
25 described are ones that are too familiar and pose another

1 problem because in some ways, the people who the system is
2 the least capable of helping are people who make enough
3 money that they don't qualify for help, but they don't make
4 enough money that they can actually afford to hire lawyers.
5 And particularly in situations where there is violence or
6 threat of violence, or criminal behavior involved, you're
7 really caught in this sort of limbo where we don't yet have
8 good resources other than, you know, essentially legal
9 services providers who take this on themselves, and really
10 don't have the resources or staff to help everybody who's
11 in those situations. So, you're fortunate. Really
12 fortunate. But there are many people, I think, who are in
13 your situation where the systems writ large have failed,
14 which is, I think, a huge problem.

15 We may have some questions from the panel for
16 you. You certainly have one here from Justice LaSalle.

17 JUDGE LASALLE: Thank you so much, Chief.

18 Ms. Garcia, let me initially just say how happy I
19 am that you were able to obtain the help that you needed in
20 this particular matter. From what you described, you were
21 a victim of numerous crimes during a long period of time.
22 So initially, I feel very fortunate that you've been able
23 to remove yourself and your children from that situation.

24 I guess the question that I have for you, and I
25 know that you can really only speak for yourself, but you

1 know, as a victim of domestic violence, what are we missing
2 as far as the situation you were in regarding obtaining
3 these services? You were able to do it, right? But what
4 are we, as a court system, perhaps, or as a society, what
5 are we missing? What was missed, perhaps, in your
6 situation that prevented you from earlier on perhaps
7 obtaining this help? Because I know you say it goes back
8 to 2019. So, I'm just really curious, perhaps your
9 testimony today can help us and help other victims of
10 domestic abuse.

11 MS. GARCIA: Back in 2019, I didn't have the
12 resources. Like there was a situation back in 2020 where I
13 did go to get an order of protection, but just due to fear,
14 I wasn't able to finish out and continue with the order of
15 protection, even though, like within a week or two, he was
16 back to his violent behavior. And then this time around,
17 back in 2023, or actually in 2024 because it was in
18 January, I sat there kind of by myself. I didn't have the
19 resources there to have an attorney by my side, where the
20 court assigned him immediately an attorney - - -

21 JUDGE LASALLE: That was my question.

22 MS. GARCIA: - - - and the attorney - - -

23 JUDGE LASALLE: I'm sorry, Ms. Garcia. So, he
24 had counsel, as the criminal - - -

25 MS. GARCIA: Yes.

1 JUDGE LASALLE: - - - defendant - - -

2 MS. GARCIA: Yes.

3 JUDGE LASALLE: And you, as the victim, had no
4 counsel. Is that - - -

5 MS. GARCIA: No.

6 JUDGE LASALLE: - - - what happened here?

7 MS. GARCIA: Yes.

8 JUDGE LASALLE: Interesting. Thank you.

9 MS. GARCIA: He was assigned a public defender.
10 The children were also assigned an attorney. And both
11 attorneys, they completely disregarded all of the violent
12 behavior that was in my petition and stood with the fact
13 that he was going to be homeless. And pretty much I was by
14 myself, and even as I was trying to explain the situation
15 to them, they just were not listening to it. It was me
16 against two qualified lawyers, pretty much.

17 JUDGE LASALLE: I'm sorry you had to go through
18 that and thank you for answering my question.

19 MS. GARCIA: You're welcome.

20 CHIEF JUDGE WILSON: Ms. Brogoch, I think we can
21 hear from you.

22 MS. BROGOCH: All right. Good afternoon. I
23 would like to thank you for the opportunity to speak on
24 behalf of the attorneys and clients of my organization, as
25 well as the wider New York civil legal services community.

1 My name is Carla Brogoch and I'm the Legal
2 Director at The Legal Project, a private civil legal
3 services agency that has been representing residents of the
4 Greater Capital Region for nearly thirty years. The Legal
5 Project works to make the legal system more accessible for
6 those in need, to increase the legal community's
7 involvement in pro bono work, and to serve as a resource on
8 important legal issues.

9 Our clients do not pay for our services. Rather,
10 we are funded by a combination of state grants, federal
11 grants, and private donations. Our state grants include
12 vital JCLS funding, for which we are extremely grateful.
13 Our aim is, and always has been, to make legal
14 representation more accessible in a practical way by taking
15 into account a person's ability to afford legal assistance.

16 For a large portion of New York residents, having
17 a lawyer is out of reach, no matter how dire the
18 circumstances. Even though legal services can be essential
19 to obtaining and maintaining what an individual or family
20 may be entitled to under the law, when you have bills to
21 pay and money is tight, attorney fees are never going to
22 come before rent, food, utilities, or medical costs. While
23 increasing the number of volunteer attorneys and expanding
24 the use of technology are excellent suggestions for
25 increasing these services, the reality is that the only way



1 to reliably make civil legal services available to New
2 Yorkers is to adequately and sustainably fund these
3 services.

4 Our civil justice system has ways to ensure New
5 Yorkers have access to help maintain the essentials of
6 life, but without legal representation from qualified,
7 experienced attorneys, these protections remain out of
8 reach and are rendered essentially useless. We have
9 created a justice system that depends on the idea that both
10 sides of a dispute have the expertise to argue their case
11 before an impartial finder of fact. By not adequately
12 funding civil legal services, we perpetuate an unjust
13 system where only wealthy litigants receive the protection
14 of the law. This is not acceptable.

15 It is also imperative to fund competitive and
16 sustainable compensation for legal services attorneys. Our
17 attorneys earn significantly less - - - including health
18 benefits and retirement contributions - - - than their
19 government and private counterparts, though their expertise
20 and experience are identical. Recent data show that in
21 some areas of New York, civil legal services attorneys with
22 ten years of experience earn up to seventy-five percent
23 less than assistant AGs with the same amount of experience.
24 We rely on the willingness and ability of individuals who
25 have spent seven years pursuing a law degree to sacrifice



1 their earning potential and the financial security of their
2 own families to close the access to justice gap within this
3 state. This is neither realistic nor sustainable. The pay
4 disparity also makes it extremely difficult for civil legal
5 services agencies to recruit and retain attorneys.

6 Experienced attorneys will often be forced by economic
7 factors to leave civil legal services so that they can
8 afford to purchase a home and raise a family.

9 Funding for civil legal services needs to take
10 into account the ability of civil legal services to compete
11 in a job market with the better salaries and benefits
12 offered by the state and private sectors. If we cannot
13 hire attorneys to do the work, if we cannot retain
14 experienced attorneys, if we cannot compete as employers,
15 then we cannot provide the legal services that are
16 necessary for our civil justice system to function in a
17 fair and equitable manner.

18 It is not acceptable to perpetuate a civil
19 justice system that favors individuals represented by an
20 attorney, but then makes access to said attorneys a
21 financially out-of-reach or impossible idea. It is not
22 sustainable to rely on the idealism and naivete of young
23 attorneys fresh out of school who do not understand the
24 long-term economic impact of their decision to pursue a
25 career in civil legal services.

1 The reality is that there are thousands of New
2 Yorkers who face civil cases involving the essentials of
3 life who will not be able to obtain the legal assistance
4 that they need, and whose lives will therefore be forever
5 altered. Adequate, sustainable, and forward-thinking
6 funding for civil legal services is essential for the
7 justice system in New York to remain fair and equitable.
8 Such funding must ensure the continued existence of these
9 services at a sustainable level that respects the humanity
10 of both the client seeking these services and the attorneys
11 and support staff providing them. We are all New Yorkers
12 and we all deserve respect, regardless of our financial
13 situations. Thank you again for the opportunity to speak
14 on this vital topic.

15 CHIEF JUDGE WILSON: Thank you, Ms. Brogoch. We
16 may have some questions for you.

17 JUDGE RENWICK: Yes. Thank you.

18 CHIEF JUDGE WILSON: I do have one at least - - -

19 MS. BROGOCH: Um-hum.

20 CHIEF JUDGE WILSON: - - - which is, I assume you
21 get more requests for help than you can handle. Is that
22 fair?

23 MS. BROGOCH: That is absolutely fair, Your
24 Honor. We do get more requests in all of our departments
25 than we can handle in terms of our capacity. And we have a



1 system where we try to triage cases based on what other
2 options a client might have, how dire or dangerous the
3 situation might be - - - in the case of domestic violence,
4 we will look at lethality factors - - - but we do turn
5 people away, and I think that's true across the state.

6 CHIEF JUDGE WILSON: Yeah. I mean, my follow up
7 was going to be how you how you sort them out, but I think
8 you already answered that, which is you triage them, which
9 to me implies there's a bunch of good cases that you can't
10 take.

11 MS. BROGOCH: Yes.

12 CHIEF JUDGE WILSON: Well, thank you very much,
13 both for your time and your information and observations.
14 And we understand the problems and are working hard to try
15 and fix them, and I think you've given us some good
16 ammunition. So, thank you.

17 MS. BROGOCH: Thank you so much.

18 CHIEF JUDGE WILSON: And then our final
19 presenters for the day are Aeryn Nikova Watts, who's a
20 client of the New York Legal Assistance Group, and Lisa
21 Rivera, who is the President and CEO of the New York Legal
22 Assistance Group. We'll get them on the screen in a
23 minute.

24 Good afternoon. Can you hear us okay?

25 MS. RIVERA: Yes. Good afternoon.



1 CHIEF JUDGE WILSON: Ms. Watts and Ms. Rivera?

2 MS. RIVERA: Yes.

3 CHIEF JUDGE WILSON: Hello.

4 MS. RIVERA: Hello.

5 CHIEF JUDGE WILSON: I think we're eager to hear
6 from Ms. Watts first and then Ms. Rivera.

7 MS. WATTS: Hello. My name is Aeryn Nikova Watts
8 and I'm here to talk about my experience getting a legal
9 name change and how the support I got from NYLAG helped
10 make this possible. My name is gender neutral, but when I
11 was born it was spelled the traditionally masculine
12 way - - - two A's, R-O-N. When I was fifteen, I began
13 identifying as nonbinary, wearing makeup and feminine
14 clothing. I created the own spelling of my name using an A
15 from the masculine spelling, E from the feminine spelling,
16 and I added a Y to make it my own.

17 Growing up, my mom and I didn't get along. She
18 had a lot of mental health struggles. We moved around a
19 lot. She's from Alabama and very conservative, so she
20 wasn't supportive of me and how I expressed my gender. As
21 a result, I've been on my own since I was sixteen years
22 old, and I had to move in with my friend's family when I
23 was in high school.

24 I'm a very self-motivated person. Even though I
25 was on my own, I still managed to graduate from high school



1 and receive financial aid to attend ASU. It was in my
2 sophomore year of college that I realized I am a woman. I
3 ended up taking time off from college. I was dealing with
4 significant health issues and also having issues with my
5 roommates. I got a job as a night auditor at a hotel. I
6 put my studies on hold, and I moved back in with my
7 friend's family. This time, however, my friend's father
8 did not approve of me living as the woman I am, so I had to
9 leave.

10 It was time for me to start over. A friend said
11 I could stay with her here in New York City. This seemed
12 like a great opportunity for me to have a fresh start, find
13 community, and pursue my interest in fashion and
14 journalism. But the masculine spelling of my name was
15 becoming more of a problem for me as I lived my life as the
16 woman I am. Sometimes my coworkers would see how my name
17 was spelled on my records and look at me funny or ask me
18 about it. I was afraid of how they would respond if they
19 knew. I would laugh it off and make excuses, like "my mom
20 had a sense of humor." I knew I needed to change my name
21 legally, but I was not sure how to do it.

22 I researched getting a name change while I was
23 still in Arizona, but there was a lot of stuff about
24 publication, and I didn't understand it. Moving to New
25 York, I was also confused. There's so many different

1 courts in New York City and the whole process is very
2 intimidating. I started up saving up money for the fees
3 and also to pay someone to help me. I moved to New York in
4 October of 2023. I got a job and stayed with my friend for
5 a few months. I ended up losing my job and I had to move
6 into a shelter. I wanted to move forward with the name
7 change, but life got in the way. I got my medical care
8 through the HEAT program at SUNY Downstate, and HEAT stands
9 for Health and Education Alternative for Teens. It's a
10 program that provides comprehensive health care, including
11 gender affirming care. I was there one day for my hormone
12 therapy appointment when I saw a flyer for an information
13 session on getting a legal name change, which was being
14 offered in partnership with NYLAG's LGBTQ Law Unit. I knew
15 this was exactly what I needed, so I copied down the list
16 of documents to bring, and I made a plan to attend the
17 event. It took a huge weight off me because I felt like I
18 was finally on track to getting this done.

19 At the event, I met my attorney, Adena Wayne, and
20 the law students who were volunteering to help. Adena
21 explained to everyone how the process works and what to
22 expect. She told us we might be eligible to waive the
23 court fees and that NYLAG would assist us free of charge.
24 Then I met with Gaby, a law student volunteer who talked to
25 me about why I wanted a name change, took down all my

1 information, asked me questions, and reviewed my documents.
2 Gaby and Adena prepared the court papers, and I went to the
3 NYLAG office to review and sign them. I was thrilled when
4 I got a call about a month later saying the judge had
5 signed the orders and my name change was complete. I
6 returned to NYLAG to pick up my name change orders and
7 learned about the next steps for updating all of my
8 identity documents.

9 This is a major step in affirming my gender. Now
10 I feel safer. I feel more capable of blending in. I feel
11 so much less anxiety, not worried all the time about what
12 people are thinking and being afraid of how they might
13 react. Now I feel more confident applying for jobs and
14 making plans to return to college. I just moved out of the
15 shelter and got a lease with my correct spelling of my
16 name. I feel like my life is beginning and I'm ready to
17 tackle my five-year plan. I'm grateful that my lawyers
18 were willing to come to the HEAT program. With the
19 pressures of day-to-day survival, I don't know when I would
20 have been able to accomplish this on my own. Thank you for
21 this opportunity to tell my story and for your support of
22 free legal services.

23 CHIEF JUDGE WILSON: Thank you. That is an
24 amazing story. And you know, I guess I have two quick
25 reactions to listening to you - - - well, maybe three. One



1 is how articulate you are.

2 MS. WATTS: Thank you.

3 CHIEF JUDGE WILSON: Two, it's almost
4 unfathomable to me how much prejudice you've had to deal
5 with in your life. And you're still young and hopefully
6 things will get better, but, you know, all of us had to
7 deal with some, and it's sort of staggering. And the third
8 is, earlier on - - - I'm not sure if you were tuned in or
9 not - - - I made a serious but also slightly humorous
10 remark about not being a New Yorker originally, but being,
11 you know, in New York now, and New York is the greatest
12 place, I think - - - and I was referring to the city,
13 - - - in the world, and your story kind of reaffirms that a
14 bit, because you came here, and things have worked out.
15 You know, I'm thrilled. I don't know if we have some
16 questions or observations or anything from the panel?
17 Nope.

18 We're on this issue. We had a meeting of the
19 Administrative Board of the Courts today and adopted
20 something that will help people in your situation going
21 forward, too. So, Ms. Rivera?

22 MS. RIVERA: Hello. Good afternoon. And thank
23 you to Chief Judge Wilson, Chief Administrative Judge
24 Zayas, and all the presiding judges for gathering us here
25 today. I'm Lisa Rivera, and I'm the President and CEO of



1 the New York Legal Assistance Group, otherwise known as
2 NYLAG.

3 NYLAG uses the power of the law to help New
4 Yorkers in need combat social, racial, and economic
5 injustice. We address emerging and urgent legal needs with
6 comprehensive free legal services, impact litigation,
7 policy advocacy, financial counseling, and community
8 education. The work that organizations like NYLAG do to
9 promote access to justice empowers individuals and
10 families, uplifting entire communities with legal services
11 as we also pursue systemic solutions.

12 We just had the immense honor of hearing from
13 Aeryn, whose story captures the strength and resilience
14 that brought her to New York and eventually to work with us
15 at NYLAG. Her story, and the others that we heard today,
16 also capture the real importance of our work, which we can
17 only sustain and grow with increased funding from the
18 Judiciary Civil Legal Services grants that we receive.
19 NYLAG's LGBTQ Law Unit works to defend and expand the
20 rights of New Yorkers' LGBT community and offers legal
21 advice and representation in a wide variety of
22 poverty-related civil legal matters such as employment,
23 housing discriminations, public assistance, immigration,
24 name and gender marker changes, and family law.

25 Each year, the LGBTQ Law Project, or Unit,



1 represents hundreds of transgender, gender nonconforming,
2 and nonbinary New Yorkers seeking name changes. The
3 importance of identity documents that properly reflect
4 transgender, gender nonconforming, and nonbinary New
5 Yorkers for who they are can't be overstated. As we just
6 heard from Aeryn, accurate documents are instrumental for
7 her health, for future planning, and her stability. As you
8 heard, she now can pursue her five-year plan. We also
9 heard from her about the arduous journey to acquire these
10 accurate documents, namely in attempting to navigate New
11 York courts and its rules.

12 All these systems are complicated to navigate. I
13 think many of us who are here today will readily admit,
14 even as attorneys, we often have a hard time making sense
15 of the many hoops that our clients have to jump through
16 just to accomplish what should be a simple task. So, for
17 people who aren't attorneys or an advocate and who are in
18 crisis with already limited access to resources and support
19 or limited English proficiency, it's even more overwhelming
20 to say the least. Ultimately, that's why NYLAG and our
21 fellow legal services organizations exist.

22 People shouldn't need an attorney to meet their
23 basic needs, to live fully as their authentic selves, to
24 not only survive but thrive in their lives beyond whatever
25 brought them our way. But until that's an actual reality,



1 we're here to do the work with our clients to help them
2 achieve their goals. Yes, our systems are actually really
3 complicated, but justice is simple to understand. It's all
4 we want and what we deserve. Justice for Aeryn, and for
5 thousands of New Yorkers in similar situations, is being
6 who they are, having access to affirming health care, being
7 safe, having a secure roof over their head, and having
8 every opportunity to build a life without the obstacles
9 that come with inaccurate identification documents.
10 Justice, again, for Aeryn and for so many others, is
11 finding an advocate that can work with them, to get them
12 there in the spaces where they already are, like the HEAT
13 program that she'd referenced earlier.

14 At the core of these efforts stand our advocates,
15 our dedicated paralegals, attorneys, case managers, our
16 dedicated employees who need to be able to make ends meet
17 so they can show up for their colleagues and their clients
18 every single day in these really difficult circumstances.
19 Long term continued investment in legal services is
20 absolutely critical to meet the current and future needs of
21 individuals and families in New York. Legal services
22 providers need funding that meets our costs and supports
23 our ability to provide innovative, trauma-informed, and
24 culturally responsive services to continue to assist
25 individuals in navigating the complexities of various



1 systems our clients have to face when they attempt to
2 achieve justice.

3 NYLAG's ability to respond to the ever-increasing
4 need in the community, to recruit and retain staff, and to
5 pay our advocates competitive and fair wages is
6 significantly challenged because of depressed wages in our
7 market. Our work is about expanding access to justice, and
8 this is not possible without increased funding, so that we
9 can raise salaries for the people on the ground doing our
10 work, work that our community would otherwise go without
11 and desperately need.

12 It is essential for our advocates doing this
13 life-changing work to receive this funding so they can
14 afford to live here, so their salaries can reflect their
15 experience and their dedication to making New York more
16 equitable for all.

17 I want to thank, again, Chief Judge Wilson and
18 Chief Administrative Judge Zayas and the Office of Court
19 Administration for your ongoing support in funding vital
20 civil legal services. We're looking forward to continuing
21 our work together to meet the needs of every New Yorker
22 with high quality civil legal services. Thank you.

23 CHIEF JUDGE WILSON: Thank you. Questions from
24 the panel?

25 JUDGE RENWICK: Not so much a question, but a



1 statement about legal services and the great work, and the
2 great breadth of work. We've heard today about the
3 importance of housing, of the evictions that take place, of
4 Family Court, of abuses that take place, and about identity
5 issues. And it all leads to respect, and respect that
6 clients deserve, and the representation that they deserve,
7 and the wages that those who do this difficult and
8 important work deserve. So, thank you very much, along
9 with the other presenters who have made the importance of
10 equal wages for civil service attorneys so clear, and it's
11 so important. Thank you.

12 MS. RIVERA: Thank you, Judge Renwick. I will
13 say that, you know, NYLAG and all the other organizations
14 that testified today, that's how we want to lead. Many of
15 our clients often feel the lack of respect and the lack of
16 dignity as they navigate the systems they must in order to
17 be safe in their home, in order to be able to have a roof
18 over their head, to be able to access benefits. And us
19 providing services that bring back that dignity is crucial.
20 And us being able to take the time, learn their stories,
21 understand how they want us to advocate for them, and lead
22 them to be able to use their voice so they can also
23 advocate for themselves, is really why we all exist at the
24 end of the day, and I so appreciate your remarks.

25 JUDGE RENWICK: Thank you.



1 CHIEF JUDGE WILSON: Thank you. That actually
2 ties in very well to where we started, which is that people
3 need to have faith in the system, and there are all sorts
4 of consequences when they don't. And you know, we've known
5 that for a long time, and we're not doing as good a job as
6 we could, and we need to do better. So, thank you both
7 very much.

8 MS. RIVERA: Thank you.

9 CHIEF JUDGE WILSON: And good luck, Ms. Watts.

10 MS. WATTS: Thanks.

11 CHIEF JUDGE WILSON: Thank you. Well, that
12 concludes our hearing for this year. We have a lot of
13 information, a lot of things to do. I appreciate all of
14 you who stuck through this in person and online. Thank you
15 very much. And we'll do it again next year and we'll maybe
16 have a little bit happier news, too. Thank you.

17 (Court is adjourned)

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

I, Sophia Long, certify that the foregoing transcript of proceedings in the Court of Appeals Hearings on Civil Legal Services in New York was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

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Date: September 17, 2024

