

**Written Statements Submitted at the
First Department Hearing on September 28, 2010**

Statements of Testifying Witnesses

Yulia Abayeva (Client of New York Legal Assistance Group)
Lars Anderson (Client of MFY Legal Services)
John Brown (Client of Legal Services NYC)
Juliet D'Souza (Client of The Legal Aid Society)
Michael S. Helfer (General Counsel of Citigroup)
Catherine Johnson (Client of The Legal Aid Society)
David R. Jones (President of the Community Service Society)
Julie Kushner (Director of UAW Region 9A)
Hon. Jaya Madhavan (Housing Court)
Hon. Ruben A. Martino (Harlem Justice Center)
Hon. Jeffrey K. Oing (Civil Court)
Hon. Christine Quinn (Speaker of the New York City Council)
Kenneth E. Raske (President and CEO of the Greater New York Hospital Association)
Melanea Richardson (Client of Legal Services NYC)
Benito Romano (Chairperson of the Board of the IOLA Fund of the State of New York)
Margarita Rosa (Executive Director of the Grand Street Settlement)
Samuel W. Seymour (President of the New York City Bar Association)
Michael P. Smith (President and CEO of the New York State Bankers Association)
Joseph Strasburg (President of the Rent Stabilization Association)
Kathryn S. Wylde (President and CEO of the Partnership for New York City)

Yulia Abayeva

Client of New York Legal Assistance Group

I am here today to talk to you about my story and how the lawyers at the New York Legal Assistance Group (NYLAG) (I call them my Angels) changed my life and helped find safety for me and my daughter.

I was married in Uzbekistan in 1999 and immigrated to the U.S. in 2004 to be with my husband who immigrated several years before me. We had been a couple since we were 17 years old.

Prior to leaving Uzbekistan my husband beat me regularly and severely. On one occasion I was hospitalized for two weeks because of the injuries he inflicted upon me. My husband was arrested by the police in Uzbekistan but was released because he gave the police officers \$50 to tear up the police report. I followed my husband to the United States even though he was beating me because I loved him, he told me he would change and hoped this was true.

Once I arrived in New York the beatings, verbal and emotional abuse got worse. My husband was extremely controlling and would not even let me leave the house or make friends. I had nothing in New York. I spoke only Russian and no English. My husband did not let me speak on the telephone and one occasion locked me in the apartment. I did not even know how to take the subway.

My husband regularly put on special, thick-soled shoes and beat me and kicked me with the shoes on. I would get scared every time I saw him putting on the shoes because I knew that it meant that he was going to assault me. Often he would assault me because I was breathing too loud or he was not pleased with the way that I moved or had cleaned the house. After he beat me, he would rape me.

My husband frequently called my parents in Uzbekistan, put them on speaker phone and let them listen to him beating me up. He threatened to have my mother raped and my father beaten if they did not send him money. My husband had criminal connections and was powerful in Uzbekistan. I believed that he had the power to hurt my family there.

Less than one year after I came to New York I became pregnant with our daughter. Even though my husband knew that I was pregnant he continued to beat me. At this point, I decided that I must leave my husband because I thought that he would kill our baby and me.

I tried many times to leave my husband but until I met the lawyers at the New York Legal Assistance Group, in 2008, I did not understand my legal rights in this country. On one occasion, I spent the night in Time Square after fleeing my husband's abuse. On another occasion, I slept on the boardwalk in Brighton Beach. I tried to find safety in my sister's house after she moved to the United States but he pursued me there and threatened her family to the point that it was no longer safe for me to stay there. Finally, when I was

several months pregnant, I entered a domestic violence shelter but my husband found me in the shelter and the staff needed to relocate me several times. I had filed for an order of protection in 2005, but I did not go to court after the first appearance because I was scared and alone and I did not have a lawyer who spoke my language. I did not understand the system in this county and didn't have any trust in the legal system. I spent the next several years hiding from my husband.

In 2008, my husband found me when I was in the airport picking up my parents on a flight to New York from Uzbekistan. Immediately my husband started threatening me again. I was very frightened because I knew that he would pursue my family. I went to a Jewish Community Center where I met with a Russian speaking family law attorney from the NYLAG very quickly. The attorney helped me file for an order of protection and for custody of my daughter. Since my husband was arrested after I reported the threats he made to me in the airport, the case was heard in the Integrated Domestic Violence Court. NYLAG lawyers were able to explain that court to me and helped me find my way through the cases being heard there.

NYLAG helped explain and fight for me in the criminal court too. On more than three occasions during the course of my trial in the Integrated Domestic Violence Court, my husband violated the temporary order of protection and approached me, threatening my family and attempting to get me to stop testifying about his abuse. Without the support and advocacy of my lawyers at NYLAG I probably would have withdrawn my cases but

instead I reported his threats to the police and spoke with the district attorney's office and testified in front of a grand jury.

During the entire process my attorney from the New York Legal Assistance Group advocated for me with the district attorneys office and accompanied me to meetings and court appearances. They understood the importance of the criminal case and helped me follow through. My husband currently faces felony charges for this intimidation and harassment of me during the family court trial.

In 2008, going to court with the lawyers from the New York Legal Assistance Group was much different then going alone in 2005. Now, I had a lawyer to speak with in my own language, I met with the NYLAG lawyers before going to court and the entire process was explained to me and safety measures, such as having a court officer escort me to a special room before my court appearance were taken to ensure my safety while I was in court.

My trial lasted over one year. The Judge said that it was the longest that she had ever had in her courtroom for an order of protection. In preparation for the trial, my lawyers and the New York Legal Assistance Group let me tell my story in a way that I had never been able to before. For the first time I felt safe to share the horrors I had undergone and I felt that I had a chance to tell my story and be believed. I showed the attorney from New York Legal Assistance Group audio recordings of hours of threatening voice mails that my husband had left me which she then arranged to get translated from Russian to

English. NYLAG helped me present other evidence to the Judge during my trial including video tapes of my injuries and hospital records. I got my order of protection and full custody of my daughter – he doesn't have any visitation.

On many occasions during the trial, I considered settling. It was very difficult for me to tell my story because of the horrible memories that it invoked and the ongoing threats from my husband throughout the trial. When the trial finally was over the Judge said that this was one of the worst cases of domestic violence she had ever heard and I understood that my story was finally believed. I was so happy to be believed. To go through this and have the judge tell you he did something wrong. He told me there was no God, that he was God. Well now the judge told him he was wrong.

With the help of New York Legal Assistance Group, I have an order of protection against my husband, I have full custody of my daughter, my husband does not visit our daughter and I receive child support and am I finally divorced. NYLAG found social services for me and my family and we are trying to relocate out of New York so that my husband cannot find me.

Lars Anderson

Client of MFY Legal Services

Lars Andersen is a 48 year old former small business owner who lives alone in Manhattan. Since September 2004, he has been disabled by a chronic medical condition and unable to work. He lived off his savings and retirement account until late 2007 because he had too much pride to apply for government assistance. Since 2008, he has been forced to rely on public assistance from the City of New York and social security disability benefits.

Mr. Andersen will testify about the assistance he received from MFY Legal Services after he fell behind on his mortgage and nearly lost his co-op apartment in a wrongful foreclosure sale. When Mr. Andersen first sought help from MFY, he was on the verge of being evicted by the bank which had purchased his apartment at the foreclosure sale. With the help of MFY, he was able to reverse the foreclosure sale and avoid eviction. Due to MFY's intervention, the public assistance he receives to assist him with maintaining his home is now timely tendered each month to the company servicing his mortgage.

Testimony of Lars Andersen

September 28, 2010

My name is Lars Andersen. Thank you for the opportunity to tell you about how the legal assistance I received from MFY Legal Services saved my home and may have saved my life. I am forty-eight years old and have lived alone in my co-op apartment building in Manhattan since 1997.

Beginning in September 2004, I became seriously ill with a chronic medical condition and was unable to work. As a result, my small business collapsed and I began living on my savings and retirement account until November 2007, when the money and my credit was exhausted. I had never previously been late with a single monthly mortgage or maintenance payment, but at that point I could no longer keep up with my payments. I discovered a program through the New York City Human Resources Administration (“HRA”) that would cover my housing costs by paying my monthly mortgage payment and maintenance fees going forward, so long as I met a certain eligibility criteria and provided evidence documenting my medical disability. I applied for the HRA assistance program on February 21, 2008, and my application was accepted. In May 2008, the bank company servicing my mortgage loan began a non-judicial foreclosure process against my co-op apartment.

A non-judicial foreclosure sale of my apartment was scheduled for May 29, 2008. Once HRA issued the checks to bring my account current, I thought everything would be all right. Unfortunately, I was wrong. Although HRA was willing to pay all arrears on the mortgage and make all required payments going forward, the bank servicing company returned the payments twice. The first time, the bank servicing company stated that the payments were being returned

because they did not have my loan number on the check. The second time, the bank servicing company returned the payments, stating that the funds were insufficient.

My apartment was sold at a non-judicial foreclosure sale on May 29, 2008 and the bank purchased the apartment at the auction. After the sale, the bank quickly commenced an eviction action against me in Housing Court. The Housing Court judge dismissed the first action, but the bank commenced a second eviction action against me immediately after the first eviction action was dismissed.

In order to stop the eviction action, and on the advice of MFY Legal Services, I filed a pro se lawsuit in the New York County Supreme Court against the bank servicing company for negligent servicing and violation of the New York Deceptive Practices Act. I obtained a temporary stay of the Housing Court eviction action from the Supreme Court Justice, but soon realized that I would not be able to handle the litigation on my own because the legal process and procedure was too complex for me to navigate on my own.

I returned in early 2009 to MFY Legal Services, which agreed to represent me in the litigation. Over the course of the next fifteen months, MFY aggressively pursued the bank servicing company to (1) set aside the sale of my co-op apartment to itself, (2) reinstate my mortgage loan with the funds from HRA, (3) accept future monthly payments from HRA going forward, and (4) discontinue the Housing Court eviction action.

MFY filed a number of motions, appeared at over fifteen court appearances on my behalf in Supreme Court, and engaged in countless hours of settlement negotiations with both the servicing company and HRA. It was a hard battle. At first, the bank servicing company was unwilling to admit that it was wrong and give my home back, but MFY continued to press until the bank loan servicing company relented. In November 2009, MFY obtained a settlement and

loan modification on my behalf.

MFY was able to negotiate a settlement in which the bank loan servicing company agreed to set aside the foreclosure sale, restore my ownership of the apartment, accept only half of the arrears up front, reduce the interest rate on the loan to 3.207% until the end of the loan term, and discontinue the Housing Court eviction action. HRA has continued to make the monthly payments and the bank loan servicing company is now accepting them.

I am extremely grateful for the hundreds of hours of work that MFY dedicated to my case. There is no way I could have reached a successful resolution of this problem on my own. MFY's work enabled me to remain in my home and has removed a major source of stress from my life, enabling me to focus on maintaining my physical and mental health. Without a safe and stable home, I literally don't know if I would still be alive to be telling you my story. It breaks my heart to think that there are tens of thousands of New Yorkers every year who need the kind of help I received, but who do not receive it because of insufficient state funding of legal services. I urge all of the branches of New York's government to come together to find a fair and permanent solution to the problem of inadequate funding for civil legal services in our state.

Thank you once again for the opportunity to testify.

John Brown

Client of Legal Services NYC

John and Tiffany Brown

John Brown and his wife, Tiffany, are residents of New York City. John returned from seven months' service in the U.S. Army last year, and was able to complete a degree at Queens College, but has struggled to find steady work as a civilian. Tiffany is currently pursuing her own degree and has worked multiple internships in the garment industry—all while trying to help out her parents, who are unemployed, whenever possible. John and Tiffany became clients of Legal Services NYC's Bankruptcy Assistance Project in November, 2009. Currently, they are awaiting discharge of their debts so that they can start on a new path, and John is looking forward to going back on active duty in the Army early next year.

Testimony of John and Tiffany Brown

Legal Services NYC Clients

The Chief Judge's Hearings on Civil Legal Services

First Department
September 28, 2010
New York, New York

Good morning. My name is John Brown, and this is my wife, Tiffany Brown. We are clients of Legal Services NYC's Bankruptcy Assistance Project. In late 2009, I had just returned from seven months in the Army and was struggling to find steady, stable work as a civilian. I had worked as a construction worker, a salesman, and a truck driver, but the work did not last and I was constantly having to look for the next job. Tiffany was in college and had a very low-paying internship in the garment industry. Tiffany's parents were unemployed at the same time, and whenever we had a little money, we tried to help them out as best we could.

Because our income was low to begin with, the job losses really set us back, and we were forced to use credit cards to make ends meet.

When my wife and I came to the Bankruptcy Assistance Project in November 2009, our burden of debt had reached over \$70,000. Volunteers at the Project worked with us to prepare our bankruptcy petition, but our case was complicated because I had received a lump sum combat pay bonus that made us look better off than we were. But the Bankruptcy Project attorneys didn't give up—they found a special protection in the law for combat veterans that allowed us to proceed. These attorneys went the extra step to help us to correctly file the petition. We have now completed our creditor meeting and other steps, and we are waiting for our debts to be discharged.

Tiffany was recently laid off from her internship, but she's going back to school to finish her degree. Steady work for me is still hard to find. But I have just completed a BA at Queens College and look forward to going back to active duty in the Army early next year. Going forward, we're in a much better position now to support ourselves and to help Tiffany's parents. And it is a big relief for me to do the work I need to do without worrying about a wolf at the door back home.

Without the Legal Services Bankruptcy Assistance Project attorneys, I don't know how my wife and I would have dealt with our financial situation.

Thank you for holding these hearings, and for listening to our story.

Juliet D'Souza

Client of The Legal Aid Society

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Introduction by Hollis Pfitsch

My name is Hollis Pfitsch and I am a Staff Attorney at The Legal Aid Society, Employment Law Project, and a member of UAW Local 2325, Association of Legal Aid Attorneys. I have been at Legal Aid since 2006. I am here today with my client Juliet D'Souza. The Legal Aid Society was able to assist Ms. D'Souza with two issues – an immigration issue and an employment issue – these two issues were connected because she was a victim of labor trafficking.

Testimony of Juliet D'Souza Task Force Hearing on Funding for Civil Legal Services

My name is Juliet D'Souza. I was born in Mangalore, Karnataka, India. When I came to The Legal Aid Society for help, I had recently escaped from my former employer's home. I needed help with my immigration status and I wanted to claim wages that my former employer owed me.

My former employers are a wealthy family who brought me to the United States to care for their baby. I agreed to come to the U.S. to work for them because after my husband died in 2002, I was left alone to support my son and my parents. My husband had brain cancer and died after four years of being sick, leaving me with a large amount of medical debt. The debt caused great stress for me. I began looking for opportunities to earn more money to pay off this debt.

This family told me I would be paid well and that I would work a normal work schedule during the week, with days off on the weekends. However, once I arrived, they required me to care for the baby at all hours of day and night, to clean, and to cook their meals. At first I was paid only \$600 a month. I was very isolated and was only left alone at their home with the baby – so I could not leave. There was no public transportation and since they sent my wages to India for my son, I didn't have much money in hand.

I spoke to a mutual friend in India about the situation – and when my employers found out I had told her what I was paid and that I wanted more, they accused me

of being greedy and threatened that they could make me pay back all the money they spent to bring me here if I left their home. They also told me that because I did not have valid immigration status, I could be arrested if I went outside their home. I did not know at the time that there are laws here which protect people like me. I felt I had to stay there and keep working for them – I thought I had no other options.

I knew the name and phone number of one person in the United States – a friend in India had given me the information for a relative of hers who lived outside New York City. I contacted her and she offered to help me escape. However, each time I asked for one day off, my employers said no – and since I was always with the baby, I could not leave. Finally, after a few more months, they agreed to give me one day off as long as I agreed to return that night. My friend's relative sent her husband to pick me up. I snuck a bag of clothes into his car and we left. I did not return.

My new friends put me in touch with a friend of theirs who had been through a similar situation. She knew of an organization called NYANA and I contacted them and was assigned a social worker. My social worker got me an appointment with Legal Aid.

Legal Aid helped me apply for a T-visa as a victim of trafficking. After interviews, fingerprints, and lots of paperwork, my visa was granted. Now, my son is waiting for his visa and he should be able to join me here soon.

Together with the Asian American Legal Defense and Education Fund, Legal Aid also filed a case in court against my former employers. I claimed my unpaid wages – at the minimum wage and overtime rates the law requires. I also included a claim under the federal law against trafficking. I wanted to do what I could to make sure that my employers did not do the same again to anyone else. The case is over now and I can't discuss the result because it is confidential.

I am now able to work legally here and support my son and parents in India. I never actually dreamed that all this would come true. I would not have had the courage to stand and talk here about what happened to me if it were not for the services I received. I really appreciate the services that Legal Aid was able to provide me – I am very thankful for the assistance.

Michael Helfer

General Counsel of Citigroup

Michael S. Helfer is the General Counsel and Corporate Secretary of Citigroup, Inc. and a member of the Management Executive Committee. Prior to joining Citigroup in 2003, Mr. Helfer was President of Strategic Investments and Chief Strategic Officer at Nationwide Insurance. He had previously been a Partner and Chairman of the Management Committee of Wilmer, Cutler & Pickering, clerked for Chief Judge David Bazelon (D.C. Cir.), and served as Counsel for the Subcommittee on Constitutional Amendments of the U.S. Senate Judiciary Committee.

Mr. Helfer will testify about the unmet legal services needs of consumer borrowers who are facing foreclosure, what Citigroup is doing to prevent foreclosures so that consumer borrowers can keep their homes, and the role Citigroup urges its lawyers to play to help consumer borrowers work their way through New York's mandatory foreclosure mediation process.

Remarks of Michael S. Helfer for
Chief Judge Jonathan Lippman's Hearings on Civil Legal Services
September 28, 2010

My name is Michael Helfer, and I am the General Counsel of Citigroup. I want to thank you for inviting me to participate in this important program today.

I am here on behalf of Citi to talk about the unmet legal services needs of consumer borrowers who are facing foreclosure in New York. While mortgage delinquencies are decreasing, foreclosure prevention remains an important issue for Citi, and we are guided by the principle that it is generally in the interests of everyone – lenders, borrowers, and communities at large – for mortgage holders to keep their homes.

From January 1, 2007 through June 30, 2010, Citi has helped approximately 990,000 homeowners in their efforts to avoid potential foreclosure. During the same period, our various programs have helped many families stay in their homes in New York. In the second quarter of 2010, the number of borrowers serviced by Citi in New York who were able to benefit from foreclosure prevention actions to stay in their homes exceeded the number of those who were foreclosed by approximately 32 to one. Citi has had relatively few foreclosures in New York – totaling only approximately 0.1 percent, or four hundred for calendar year 2009 out of the over 365,000 mortgages serviced by Citi statewide. These numbers reflect Citi's current moratorium on initiating a foreclosure or completing a foreclosure sale on any eligible borrower where Citi owns the mortgage and the borrower wants to stay in the home, is working in good faith with Citi, and has sufficient income to afford a reasonable mortgage payment.

Citi engages in a number of activities to help borrowers who are having trouble meeting their mortgage payments. Within Citi, we have a specially-trained servicing unit that works with at-risk homeowners to find solutions short of foreclosure, and tries to ensure that, wherever possible, no borrower loses his or her home. In 2009, Citi increased this foreclosure prevention staff by more than 1,600 employees, to over 4,100 total, in an effort to best meet the growing demands of its customers in need of assistance.

Beyond training our own employees to work with at-risk homeowners, we at Citi also partner with third party organizations that help the borrowers Citi services to keep their homes. Citi is a founding member of HOPE NOW, a coalition of counselors working to facilitate homeownership preservation solutions. Citi is also a sponsor of Neighborworks America Center for Foreclosure Solutions and Center for Homeownership Education and Counseling, which brought high quality training to New York City nonprofits for certification of homeownership counselors in the area of foreclosure prevention. In 2007, Citi founded its Office of Homeownership Preservation, which gives borrowers access to qualified housing counselors from non-profit organizations. In 2008 and 2009, our Office of Housing Preservation trained close to 1,600 counselors from hundreds of organizations in more than 25 U.S. cities, including New York. Our Office of Housing Preservation also has ongoing commitments to provide more than \$2 million in contributions and grants to support aggressive and innovative foreclosure prevention outreach, counseling and education programs to local and national nonprofits.

In addition to the role that housing counselors can play, there is also a role for lawyers to assist borrowers in avoiding foreclosures in New York. Lawyers can play an especially important role in the context of the mandatory mediation programs that have been instituted in New York and other judicial foreclosure states, where all foreclosures are overseen by the courts.

New York began requiring mandatory foreclosure settlement conferences in court for all mortgages in February 2010. In Citi's experience, however, one conference is often insufficient to address the issues in a particular case, creating in many cases the need for multiple court conferences and delaying resolution. While there may be many reasons for this delay, one contributing factor we have recognized is that borrowers often need assistance to prepare for the conferences in a way that makes them meaningful. We estimate that seventy percent of our cases in New York today require more than one settlement conference.

In the context of New York's mandatory court-ordered settlement conferences, lawyers may be able to help facilitate communication and guide borrowers through the process to work out solutions more quickly, without the need for repeated sessions. By helping to streamline the process, lawyers can work to benefit borrowers, lenders and the judicial system. Today, however, we estimate that only thirty percent of borrowers in the New York City area who are involved in this process have legal representation.

One program designed to provide legal representation to New York borrowers facing foreclosure is the Lawyers' Foreclosure Intervention Network, which Citi has supported since its inception in 2008. The Network is a pro bono program co-sponsored by the Federal Reserve

Bank of New York and the City Bar Justice Center, with a goal of pairing consumers facing foreclosure and those at risk of foreclosure with lawyers who can deliver legal representation and counseling services to those consumer borrowers without charge. Citi has sent letters to the law firms it uses urging them to participate in the Network. Additionally, knowing that lawyers in many large firms may face ethical impediments to representing consumer borrowers in contexts adverse to Citi, we offered conflict waivers to firms to allow their lawyers to participate in the Network. Today, the Network has 250 volunteers who have signed up to provide pro bono legal services to consumer borrowers in working with lenders to find alternatives to foreclosure.

Similarly, in July 2009, Citi lent its support to a pro bono organization in Philadelphia called Philadelphia VIP to give large law firms conflict waivers so they could participate in Philadelphia's Mortgage Foreclosure Diversion Program and its Foreclosure Rescue Effort. The Philadelphia program replicated the model created by the New York's Lawyers' Foreclosure Intervention Network to make pro bono attorneys available to consumer borrowers to help them work out affordable loan modifications and payment arrangements. In contrast to the government loan modification program, which reports a success rate of 29 percent, Philadelphia VIP reports that over 62 percent of their clients who receive assistance from volunteer attorneys in the program have obtained some form of loan modification, worked out a loan repayment, refinanced or received emergency mortgage assistance to bring their loans current.

Citi is also a founding sponsor of the Center for New York City Neighborhoods, which is a coalition of housing counselors and legal aid agencies that was founded by Mayor Bloomberg, former Housing Preservation Commissioner Sean Donovan, and others to help at risk borrowers.

Through its network partners, the Center has provided free housing counseling and legal services to close to 6,000 distressed homeowners to date.

Citi lawyers are committed to doing what we can to address the unmet civil legal services needs in New York. In June, the Citi legal group received the inaugural “Public Interest Award in Law” from the Burton Foundation in recognition of Citi’s outstanding pro bono program. Citi was chosen for the accomplishments of our CitiLegal Pro Bono Initiative, a formal program through which Citi lawyers provide pro bono legal services to individuals in need and the nonprofit organizations that serve them – among other things, Citi lawyers provide advice and other legal assistance to low-income parents in New York’s family court, to homeless families applying for government benefits, to microentrepreneurs starting new business ventures, and to nonprofit organizations looking to address corporate governance, employment, intellectual property and other issues. We know the importance of ensuring the availability of civil legal services here in New York, and we are glad the panel gave us the opportunity to discuss this issue today.

Catherine Johnson

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Introduction by Tashi Lhewa

Good morning Chief Judge Lippman, and members of the Task Force Committee and thank you for the opportunity to testify. My name is Tashi Lhewa. I am a Consumer Law Attorney with The Legal Aid Society, Queens Neighborhood Office and a member of UAW Local 2325, Association of Legal Aid Attorneys. I am here today with my client, Catherine Johnson. Catherine is one of an increasing number of low income New Yorker's facing civil litigation in areas including bankruptcy, foreclosure, consumer credit, and housing law.

During this period of economic uncertainty the number of individuals and families in Catherine's circumstances has grown exponentially. Currently, The Legal Aid Society can only assist 1 out of every 9 New Yorkers seeking our help and consequently only a fraction of civil representation that is needed for low income consumers.

Catherine is a former client of the mine whom along with numerous other tenants was systematically made the victim of unscrupulous housing practices by her landlord. The Legal Aid Society was able to provide her with direct representation, protect her rights as a consumer, and is now in the process of pursuing affirmative litigation against her landlord on behalf of numerous tenants. Catherine will now share her experience.

Testimony of Catherine Johnson Task Force Hearing on Funding for Civil Legal Services

Good Morning. My name is Catherine Johnson. I am a former client of The Legal Aid Society and one of thousands of New Yorkers that have been assisted by The Legal Aid Society. I am here today to support continued funding for The Legal Aid Society and other civil legal services programs, and to inform you of the assistance The Legal Aid Society has provided to me and countless other New Yorkers. I currently reside in Brooklyn and work as a healthcare provider. My personal

experience with The Legal Aid Society was when one of their attorneys represented me an eviction and collection arrears case.

My problems started when I was unable to obtain employment in 2008, and was admitted into a homeless shelter. I was living in the shelter for seven months before I moved into an apartment at Arverne Houses. This was possible through the assistance of the Work Advantage program, of which Arverne Houses was a participant. The program is meant to assist low income New Yorkers make the transition from shelter and homelessness to independent living. The program has assisted numerous other families today facing homelessness to obtain housing, by providing financial benefits to landlords and protections to tenants. Yet, when there are vulnerable individuals, who lack legal resources and knowledge regarding their consumer rights, programs such as Work Advantage are regularly abused.

In 2008, I signed a lease and moved into Arverne Houses in Queens, NY. Shortly thereafter, my landlord had me sign a second lease, with a higher rent amount, in direct violation of the terms of the Work Advantage Program. The landlord did not mention this to me for two years, until they filed an eviction action, seeking arrears for the unpaid portion of the higher rent amount. Furthermore, the landlord increased my rent during my second annual lease period in direct violation of the terms of the Work Advantage Program. In total, Arverne Houses was seeking to obtain thousands of dollars from me, which they were not entitled to.

When Arverne Houses took me to court, I had no knowledge of my rights as a tenant and consumer. Even though I did file a response to their court action, their attorney obtained a default judgment against me. After being homeless and unemployed I managed to obtain employment and an income working as a home healthcare aide. After the judgment was issued my wages began to be garnished.

I knew it was crucial that I get information about what my rights were, even if I was not able to get representation. It was under these circumstances that I came across information regarding The Legal Aid Society. I was asked for information by the Legal Aid intake staff and promptly referred to a consumer law attorney. Shortly thereafter I was able to meet with the attorney, who reviewed my case, answered my questions and informed me as to my rights under the law.

The Legal Aid Society provided representation for me in my case. The Legal Aid Society vacated the default judgment against me, stopped all wage garnishments, submitted defenses and after proving the illegality in Arverne Houses actions, obtained a dismissal of the case against me. The Legal Aid Society not only provided me with direct representation and advocated on my behalf, they provided me with information and education about consumer protections.

Many other tenants of Arverne Houses who have taken the first step out of homelessness have faced the same challenges in facing litigation and violations their rights obtained under the Work Advantage program. Many have been lucky to

obtain representation by The Legal Aid Society, but many others have not access to legal representation. I am now glad to find out that The Legal Aid Society is in the process of pursuing affirmative litigation to stop the illegal practices of Arverne Houses, so that the rights of all tenants will be protected.

Personally, by having a Legal Aid attorney represent me I felt empowered by having access to legal resources that were previously only available to my landlord. If The Legal Aid Society had not been there to assist me, I would likely be facing dire poverty or even homelessness again. The problems faced by myself and other low income New Yorkers are not restricted to housing law, but rather having access to legal resources, and some equality when facing the civil judicial system.

The Legal Aid Society provides crucial services in the civil justice system for those low income New Yorkers, who are most in need of access to representation and who lack legal resources. I am speaking here today in support of funding for The Legal Aid Society and all civil legal services programs, and in support of all low income New Yorkers right to legal resources. I ask you on behalf of myself, and other low income New Yorkers, who depend upon and civil legal services programs to support continued and increased funding to civil legal services in New York.

Thank you.

David Jones

President of the Community Service Society

**Biography of
DAVID R. JONES, ESQ.**

David R. Jones is President and Chief Executive Officer of the Community Service Society of New York (CSS), a nonpartisan, not-for-profit organization that promotes economic advancement and full civic participation for low-income New Yorkers. Mr. Jones writes bi-weekly newspaper columns in the New York Amsterdam News and El Diario/La Prensa and a weekly blog on the Huffington Post website that serve to educate the public and government officials on issues of importance to minority and poor communities. Mr. Jones has led CSS since 1986. From 1983 to 1986, he served as Executive Director of the New York City Youth Bureau. He was Special Advisor to Mayor Koch from 1979 to 1983 with responsibilities in race relations, urban development, immigration reform, and education.

Mr. Jones was appointed by Mayor Bloomberg to several commissions, including his transition committee. He is Chair of the Advisory Board of New York City's Independent Budget Office and a board member of the Scherman Foundation. He is also Chairman of the Board of the Nation Institute. Mr. Jones is past chairman of the National Committee for Responsive Philanthropy, which is committed to making organized philanthropy more responsive to socially, economically, and politically disenfranchised people.

From 1996 to 2000, Mr. Jones was Chairman of the Board of Carver Federal Savings Bank, the largest African-American managed bank in the nation. He also served on the board of the New York City Health and Hospitals Corporation and was Vice Chairman of the Primary Care Development Corporation, which finances health care programs and facilities in medically underserved communities. Mr. Jones is currently a member of the Advisory Council of the New York City Department of Health & Mental Hygiene.

While receiving his Bachelor of Arts degree from Wesleyan University, Mr. Jones interned for the late Senator Robert F. Kennedy in Washington, D.C. He received a Juris Doctor degree from the Yale Law School in 1974, afterwards clerking for Judge Constance Baker Motley of the U.S. District Court for the Southern District of New York. Mr. Jones was a recipient of the Thomas J. Watson Fellowship. Prior to his nonprofit and public service careers, he specialized in corporate antitrust cases and contract litigation at the law firm of Cravath, Swaine & Moore.

Summary of Testimony of David R. Jones
President and CEO, Community Service Society
Civil Legal Services Task Force Hearing

The Community Service Society has collaborated regularly with the Legal Aid Society and Legal Services of New York to help poor and low-income New Yorkers with civil legal matters. These include problems concerning housing, health care, and unemployment insurance benefits.

As president of the Community Service Society, I can attest to the hardships affecting the low-income New Yorkers. Our annual survey of New Yorkers, “The Unheard Third,” remains the only regular polling of low-income residents in the nation. Our latest survey, conducted this summer, reveals the hardships that poor New Yorkers face in their daily lives.

These include housing hardships, especially the threat of eviction and the struggle against deteriorating conditions in their apartments and buildings. Our surveys have also reflected the importance of access to health care as a requisite to employment of low-income New Yorkers. This is reflected in local organizations, such as Community Health Advocates, that help people enroll in and navigate the health care system as well as in reforms such as the recent federal health legislation that will enroll more than 30 million new consumers in health care over the next decade. At a time of near record unemployment and a “jobless economic recovery,” the access to unemployment insurance is vital for thousands of low-income New Yorkers. Our survey finds that two-thirds of unemployed, low-income New Yorkers have been jobless for more than a year. Yet only three in ten New Yorkers are receiving unemployment insurance.

These issues are a major concern of legal services, but they cannot do the work that they have been created for without adequate funding and competent attorneys. We know that legal services for the poor are at the breaking point in New York City. Increased funding for these agencies is essential if those New Yorkers without resources are to be accorded equal justice under law.



**Testimony of David R. Jones, Esq,
President and CEO, Community Service Society**

**Hearing of Task Force to Expand Access to Civil Legal Services
September 28, 2010**

Good morning and thank you for inviting me to address this task force on expanding access to civil legal services in New York. I am president of the Community Service Society, an independent, nonprofit organization whose primary constituency for more than 160 years has been low-income New Yorkers. As such, we have a compelling interest in the legal services available to this group of individuals.

Over the years, the Community Service Society has collaborated regularly with the Legal Aid Society, Legal Services of New York, and other legal assistance organizations to help poor and low-income New Yorkers with civil legal matters. Our attorneys have worked closely with attorneys from these organizations, including filing several amicus briefs in support of lawsuits brought on behalf of clients by Legal Aid and Legal Services.

As an agency that works to help poor and low-income residents, we regularly see New Yorkers in need of legal help on a number of issues. These include problems concerning housing, health care, and employment discrimination, areas that directly affect the lives of clients and their families. The Legal Aid Society and Legal Services of New York are usually places of last resort for many people. Most have little in the way of financial resources. In our latest survey of New Yorkers, “The Unheard Third,” one-third of low-income respondents said that they have no savings at all in case of an emergency.

As president of the Community Service Society, I can attest to the hardships affecting low-income New Yorkers. Our annual survey remains the only regular polling of low-income residents in the nation. Direct feedback from low-income respondents provides us with the best up-to-date opinions on a number of issues that concern this group of New Yorkers. Our latest

survey, conducted this summer, reveals the catalogue of hardships that poor New Yorkers face in their daily lives.

Among these are housing hardships, including the threat of eviction, the spread of predatory equity, and the struggle against deteriorating conditions in apartments and buildings. Evictions are increasing as many low-income New Yorkers lost jobs during the recession. Without a regular income – and often with little or no savings – they are prey to being evicted. Many end up in Housing Court without an attorney and little chance of saving their homes. At CSS, we often see clients who need legal representation because of a dispute with a landlord, problems with rent arrears that could lead to eviction.

Predatory equity entails investing in rental apartment buildings at inflated prices, calculating to replace poor and working people with tenants willing to pay higher rents. In addition to the many illegal tactics used to displace low-income tenants, when higher rents do not materialize, the consequences for residents are often reduced services, building deterioration, and, ultimately, foreclosure. Without competent legal representation, residents are often pushed out of their apartments or see their buildings deteriorate below decent living conditions.

Our surveys have also reflected the importance of access to health care as a requisite to employment. We found that health problems are a continual leading impediment to looking for a job for unemployed low-income New Yorkers. Without a job, most of these people do not have access to health insurance. Even those who are enrolled in health care organizations often cannot determine how to access the care they need or how to appeal decisions that deprive them of necessary health care. These situations underscore the importance of local organizations, such as Community Health Advocates at the Community Service Society, that help people enroll in and

navigate the health care system as well as reforms such as the recent federal health legislation that will enroll more than 30 million new consumers in health care over the next decade.

We have seen numerous complex cases involving clients who have been turned down by government agencies or their HMOs for necessary health benefits. Without attorneys who are specialists in these types of cases, they would have little or no chance of an appeal being successful even if they knew how to conduct an appeal. These are two typical cases where our clients needed legal services. Our Center for of Benefit Services recently sent a disabled client to the Legal Aid Society who was denied Social Security benefits because of paperwork problems and needed legal representation in a hearing. Another client was twice turned down for recertification for Medicaid benefits because she was not a citizen. She was finally recertified after an attorney from the Legal Aid Society intervened.

Employment discrimination cases, particularly cases involving the reentry of the formerly incarcerated, are often complex and long-term. Without adequate legal representation, clients – who are usually without many resources – are unlikely to gain or hold the very jobs that would prevent their return to criminal activities as their only avenue of survival and, ultimately, their return to prison. New York State has the fifth highest rate of recidivism in the U.S. This not only destroys lives; it affects whole communities. The Community Service Society in 2006 formed the New York Reentry Roundtable, which represents over 50 stakeholder organizations, providing a forum for strategies to successfully transition the formerly incarcerated back into family life and their communities. The Roundtable focuses on systemic change through an advocacy agenda primarily at the state legislative level.

An example of our work with Legal Aid concerning employment discrimination affecting the formerly incarcerated is the case of *Acosta v. Department of Education*, where a woman was fired by the department for a criminal incident occurring 14 years previously. CSS has filed an amicus brief in support of the Legal Aid client. The Appellate Division found for the plaintiff, reversing the judgment of the Supreme Court. This case has become an important test of employment discrimination issues and the rights of formerly incarcerated individuals to employment after their reentry into society. It is now before the Court of Appeals.

The gap between the wealthy and everyone else in New York is wide and has been growing for many years. Add that to the fact that the recent recession has hit low-income New Yorkers especially hard. And while, statistically, New York City is doing better than the nation in recovering from the recession, its effects were spread unevenly. Lower wage workers lost jobs or saw their pay cut as a rate greater than those in higher wage positions. At a time of great economic insecurity, legal services have become a bastion against disaster for many low-income New Yorkers. Yet the need for legal services is so much greater than what is currently being provided.

The work of legal services organizations often has had far-reaching effects – well beyond a specific case - such as changing public policy on issues concerning the well-being of low-income New Yorkers. But these organizations cannot do the work that they have been created for without adequate funding and competent attorneys. We know that legal services for the poor are at the breaking point in New York City. This is a safety net service that must be strengthened. Increased support for these agencies is essential if those New Yorkers without resources are to be accorded equal justice under law.

Julie Kushner

Director of UAW Region 9A

**Biographical sketch of
Julie Kushner
Director
UAW Region 9A**

Julie Kushner was elected director of UAW Region 9A by delegates to the UAW's 35th Constitutional Convention on June 16, 2010, in Detroit. Kushner has been a union activist for more than 30 years.

In 1977 she joined District 65, an independent union that later affiliated with the UAW. She participated in many successful organizing drives.

In 1992 Kushner became the first president of UAW Local 2110, an amalgamated local with units in a variety of nonmanufacturing settings. As local president, Kushner was responsible for collective bargaining for more than 35 Technical, Office and Professional (TOP) units, including Barnard College, Teachers College of Columbia, the Museum of Modern Art and The Village Voice.

In 1994 then-UAW President Owen Bieber appointed Kushner to the International staff at Region 9A and assigned her to education. In 1998 then-UAW President Stephen P. Yokich appointed Kushner as subregional director in the New York Region 9A office under then-Director Phil Wheeler. During her tenure as subregional director, the union was successful in organizing thousands of graduate student employees and adjunct faculty at New York University and the part-time faculty at the New School University.

In 2006 Kushner was appointed assistant director of Region 9A by newly elected Director Bob Madore. In addition to her administrative responsibilities in the region, Kushner worked with the Foxwoods Resort Casino organizing staff and committee, which resulted in an overwhelming election victory by 2,500 dealers in November 2007.

Kushner led the campaign and negotiations for a first contract that was ratified by Region 9A's newest members in January 2010.

Involved in a number of civic organizations, she served as a board member of the New York Committee on Occupational Safety and Health, the Working Families Party and Citizen Action of New York. Kushner has worked to build Region 9A's coalition building program, bringing labor and community groups together to elect progressive candidates.

**Summary of Testimony of Julie Kushner, UAW Region 9A Director
Prepared for Judge Lippman Task Force Hearing on September 28, 2010**

Julie Kushner is the Regional Director for the United Auto Workers Region 9A covering the New England states, New York City including Long Island and up to Albany, and Puerto Rico. Director Kushner has been a union activist for more than 30 years.

As Regional Director for UAW Region 9A, Kushner presides over 2 local unions whose members provide direct civil legal services in the City and several counties throughout the State.

In her testimony, Kushner will discuss the challenges faced by both locals to continue to provide quality, effective and consistent civil legal services to New Yorkers during these harsh economic times.

She will emphasize major cuts sustained by these programs over the past 3-4 years and the critical importance of increased, committed and sustained funding to allow for continued civil legal service provision to New York's poorest and neediest residents.

Kushner will also provide information and insight about the impact the current economy has had on all sectors of labor and working families and subsequently the dramatically increased need for civil legal services.

TESTIMONY OF

THE UNITED AUTO WORKERS, REGION 9A

UAW Local 2325 – Association of Legal Aid Attorneys

**UAW Local 2320 – National Organization of Legal Services
Workers/Legal Services Staff Association**

On

**IMPACT OF THE UNMET CIVIL LEGAL SERVICES
NEEDS THROUGHOUT NEW YORK STATE**

Presented before:

Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. Luis A. Gonzalez, Presiding Justice of the First Department
Hon. Ann Pfau, Chief Administrative Judge
Stephen P. Younger, President of New York State Bar Association

Presented by:

Julie Kushner
UAW Regional Director, Region 9a

September 28, 2010

Good afternoon, my name is Julie Kushner. I am the Director of UAW Region 9A which has over 60,000 active and retired members in New England, Puerto Rico and New York including the city to Long Island up to Albany. I began my career in the labor movement in 1977, was elected President of UAW Local 2110, an amalgamated local with units in a variety of non-manufacturing settings in 1992, and then came on staff of the international union in 1994. As a staff member for the union I have held various positions including education representative, organizing coordinator, assistant director and now Director.

In UAW Region 9A, our membership is very diverse and includes legal service and legal aid attorneys, technical and office professionals, casino dealers, auto mechanics, non-profit professionals, municipal employees, graduate students, adjunct professors and postdoctoral researchers, manufacturing workers, and more.

Since its founding in 1935, the UAW has been a leader in the struggle to secure economic and social justice for all people. The UAW also has played a vital role in passing such landmark legislation as Medicare and Medicaid, the Occupational Safety and Health Act, the Employee Retirement Act and the Family and Medical Leave Act. In Washington and state capitols, the UAW is fighting for better schools for kids, secure health care and pensions for retirees, clean air and water, tougher workplace health and safety standards, stronger worker's compensation and unemployment insurance laws and fairer taxes. The UAW fights for these things to raise the quality of life for all the beneficiaries of a more just and civilized society, not just for our members.

Equal access to justice is an important issue to labor, especially the UAW. Equal access to justice is the cornerstone of our legal system, yet sadly due to constant underfunding of vital legal service programs like those provided by our members, such access is increasingly challenging.

There are two locals under my purview in New York State whose members provide comprehensive civil legal services to thousands of the neediest New Yorkers each year.

UAW Local 2325, the Association of Legal Aid Attorneys (ALAA) represents over 800 staff attorneys at the Legal Aid Society, the Legal Aid Society of Orange County, and the Federal Defenders of the Eastern and Southern Districts. **SEIU 1199** proudly represents the support staff at Legal Aid and works closely in solidarity with ALAA on many issues.

UAW Local 2320, the National Organization of Legal Services Workers (NOLSW), with over 4,200 members nationwide, represents some 650 lawyers, paralegals, secretaries, receptionists, social workers, process servers, intake officers, and other staff employees in legal services programs throughout the state of New York. The **Legal Services Staff Association (LSSA)** is part of Local 2320 and represents about 270 staff employees at Legal Services NYC and at MFY Legal Services, both housed in New York City. NOLSW also represents New York legal services workers at Housing Conservation Coordinators, Goddard Riverside, Housing

Court Answers, Legal Services of Central New York, the Legal Aid Society of Northeastern NY, Legal Services of the Hudson Valley, Nassau-Suffolk Law Services, the Legal Aid Society of Mid-NY, and Farmworker Legal Services.

Our members in these two great unions are social first responders, addressing the most emergent needs of New York's poorest and most vulnerable citizens when all else fails. They make our systems work when they have otherwise not. In so doing, they avert personal and familial tragedies that need not occur. They personify our most cherished common values as a society. They deliver functional and economic efficiency in the short term, and minimize social costs in the long term.

Large and growing numbers of New Yorkers lack the economic opportunities and social supports to avert personal and familial crisis. When they turn to public systems that exist to provide a range of assistance, they too often do not receive the help they need. When they then turn to the courts and administrative fora that should vindicate their rights and should provide a corrective to society's corrective measures when those fail the poor find more often than not that without representation these courts and fora are unable to help them as well. Our members routinely avert the catastrophes that otherwise follow when a string of failures culminates in the lack of meaningful access to justice. Statistics comparing the success rates of our clients with those of the unrepresented show this all too clearly. Unemployment insurance benefits claims are a case in point, when our members represent claimants, 80% win their hearings and receive desperately needed unemployment benefits.

The success rates and cost-effectiveness of civil legal services programs owe much to the efficiency of the staff model. However, they must also be attributed in large part to the experience, expertise, and continuity that result when legal services is made a viable career due to the wages and conditions for which our union has fought so long and so hard. Much credit must also go to the passionate dedication of the workers themselves, who have chosen these careers over other options that remain far more lucrative, and very many of whom routinely work additional, unpaid hours to see justice done. Our members who work in these programs dedicate themselves to serving clients and winning their cases to continually have to turn away more and more needy people each year when they could have helped them is heartbreaking.

It is not to the advantage of the poor alone that our members fight and win. Our members in anti-eviction and homeless prevention units save the State and localities millions in emergency shelter costs. The family law work done by our members stabilizes families and keeps children with their parents, avoiding costly and unnecessary foster care placement. When our members help a displaced worker get unemployment insurance benefits, this saves the State additional public assistance expenditures and keeps a worker connected to the job market through services offered by the Department of Labor. Realizing the rights of disabled New Yorkers to federal benefits saves the State still more. If funding for civil legal services continues to be reduced, more bureaucratic mistakes will go without effective challenges, to ensure equal access to justice will also be reduced, thereby increasing the ultimate costs to the State in emergency assistance.

These members struggle to provide quality representation despite crushing caseloads and grossly inadequate staffing levels and resources. They often struggle to make a living or raise a family on far-below-market wages while carrying large amounts of educational debt.

Our members also pay an emotional price when, because of inadequate and dwindling resources, they must turn away families and individuals who desperately need their help: families facing eviction and homelessness, victims of domestic violence, elderly and disabled people struggling with the bureaucratic maze of Medicare and Medicaid, families fighting to support children, people living in uninhabitable apartments, disabled people unable to secure government benefits, and people who have just lost their jobs and need help fighting for unemployment insurance benefits. The interests of our members are inextricably intertwined with those of the impoverished clientele they represent, and they feel this truth deeply. Justice is neither an abstraction nor a mere option for our members, and they find it intolerable when power relationships are used to treat people without fairness or respect.

What our members bring to their jobs cannot be bought at any price, but the jobs themselves, of course, depend on adequate funding. Our members, the jobs that they do, the justice that they achieve, and the savings that they realize, are needed now more than ever.

Our country continues to struggle with the worst economic crisis since the Great Depression, and vast numbers of the working class have suffered massive job losses. Here in New York State, the economic crisis continues to worsen as the State grapples with ever growing budget deficits and an unemployment rate of 9.4 percent. Many UAW members, as well as workers from the private sector, have lost their jobs and continue to remain out of work, putting their families, their homes, and their futures in jeopardy. Many more are facing the threat of layoffs daily. .

It is no surprise that the impact of this recession has been felt most acutely by those at the bottom of the earnings scale. As the *New York Times* reported on September 16, 2010, recent figures from the Census Bureau show that the percentage of Americans struggling below the poverty line in 2009 was the highest it has been in 15 years; reaching 44 million or one in seven residents. Rates for Blacks and Hispanics reached over 25%, or one in four residents

Times like these make the work of civil legal services workers more indispensable than ever. At times like these, government should be keeping social service programs running at current or expanded levels instead of continuously slashing their funding to save a few dollars in the immediate overall budget. And yet, over the past several years, New York has consistently failed to protect the social safety nets that are already in place, like the civil legal services programs that our unions represent. In the mid-1990s, a task force led by then Chief Judge Judith Kaye found that at least \$40 million in additional State funding was needed to bridge the justice gap in New York State., but nothing further ever came of that study until this past fiscal year. New York State remains dead last in the level of spending on such programs when compared to its neighboring states in the Northeast where the Executive has partnered with the legislative branch to provide far more significant funding for civil legal services.

And it is getting worse. The same economic downturn that has led to spiking demand for our members' services led directly to the substantial loss of IOLA funding over the past two years. The initiative led by Chief Judge Lippman to include funds in the Judiciary budget to offset these losses was absolutely vital and deeply appreciated. A number of programs may well owe their continued existence to that initiative, but it was still a partial first step toward reversing the overall downward funding spiral.

In the wake of this same economic downturn, State and City funding for civil legal services has been drastically reduced when increases are most needed. As a result, the programs represented by these two unions have faced and continue to face layoffs, elimination of advocacy positions, elimination of support positions, dislocation of staff from areas of hard-won expertise, and reductions in client services. Program after program has reduced the healthcare benefits available to our members and their families, and/or has limited other benefits and wages, and/or has frozen wages altogether compromising in multiple ways their capacity to retain staff.

Despite increased need, these programs have been cut to the bone. They have exhausted the approach of trying to resolve budget gaps on the backs of our members through staff eliminations, givebacks at the bargaining table, and getting staff to try to do more with less. They cannot absorb further reductions in funding and further severe disruptions in service.

Even so called "temporary fixes" promoted by the State to help fill these budget gaps do not solve the problem of unmet need. Such fixes simply result in forcing those seeking help to enter the courts unrepresented, or to forego legal assistance altogether. We can seek additional pro bono counsel and distribute pamphlets or sample court papers to unrepresented litigants, and none of these are bad ideas, to be sure, but without trained advocates like the members that we represent, litigants will never have full access to justice. Without a permanent, adequate funding source, programs like the ones represented by these two unions will no longer be the presence in the communities of New York City and throughout the State that they have always been, when the need for their services has been rapidly rising due to the worsening economy.

We are mindful of the extreme financial difficulties that the State is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low income New Yorkers as more of the programs that provide assistance close their intake programs or shut their doors and disappear. Moreover, it would be fiscally irresponsible not to support greater funding for civil legal services given the demonstrably high savings to the State in emergency assistance. In the coming fiscal year, the State will be faced with tough choices in balancing the budget, but it is time that funding for civil legal services becomes one of its top priorities. New York State was once an historic leader in protecting the poor and ensuring for all New Yorkers access to the basic necessities of life, shelter, sustenance and safety. It's time we become a leader once again. For all these reasons, the UAW supports the Judiciary's initiative to ensure adequate funding for civil legal services.

Hon. Jaya Madhavan
Housing Court

Testimony of Hon. Jaya K. Madhavan
Task Force Task Force to Expand Access to Civil Legal Services
September 28, 2010

Biography

- 2007 – Present: Supervising Judge, Bronx Housing Court
- 2004: Appointed, Judge, Housing Court, by Hon. Jonathan Lippman
- 1995 – 2004: Staff Attorney, The Legal Aid Society, Community Law Offices, East Harlem NY

Summary of Testimony

- Lack of access to civil legal services is most dramatic in NYC Housing Court: Over 97% of landlords in Housing Court are represented by counsel while only 12% of tenants have legal representation
- The national economic crisis has resulted in even greater numbers of unrepresented litigants attempting to represent themselves in Housing Court
- In 2009, NYC Marshals evicted 26,492 individuals and families
- One study shows that only 22% of tenants representing themselves are able to avoid eviction while almost 100% of tenants with counsel, and 56% of tenants receiving brief legal advice, avoid eviction
- In 2005, Bronx Housing Court launched the Housing Help Program (HHP). It provided civil legal services to the poorest communities with the greatest degree of shelter activity
 - Result: From 2005 – 2008, HHP assisted 1,388 families and prevented a loss of housing for 91% of these families
- Cost of providing legal services can be as little as \$1260 per case. Cost of housing a family of four in the NYC shelter system for one year was \$38,405 in 2009.
- Time for civil *Gideon* is now.

Testimony of Hon. Jaya K. Madhavan
Task Force to Expand Access to Civil Legal Services
September 28, 2010

Chief Judge Lippman, Chief Administrative Judge Pfau, Presiding Judge Gonzalez, State Bar President Younger and Chairwoman Barnett, thank you for holding this invaluable hearing. I am honored to provide testimony in support of expanding access to civil legal services.

I have been a judge of the Housing Court for the past six years, the last three of which have been as the Supervising Judge of the Bronx Housing Court. Prior to my appointment to the bench, I was an attorney with The Legal Aid Society for nearly 10 years where I represented low-income individuals and families in various civil matters, concentrating in summary eviction proceedings.

In my view, nowhere has the dearth of civil legal services been felt as hard and for as long as in the NYC Housing Court. A 1993 study found that over 97% of landlords in Housing Court were represented by counsel, while only 12% of tenants had legal representation.¹ That chasm appears to be widening even further in the wake of our current economic crisis. Today, ever-increasing numbers of low and moderate income individuals and families face eviction in Housing Court for non—payment of rent. These litigants then vie for one of only a handful of weekly appointments offered by legal service providers who are inundated by unprecedented demand. Consequently, tens of thousands of single adults and families are left to navigate the Housing Court without counsel while their fundamental need for shelter lies perilously at risk.

Indeed, the difference between having and not having counsel in Housing Court is often the difference between litigants remaining in affordable housing or becoming homeless. Consider that in 2009 NYC Marshals evicted 26,492 individuals and families: a figure which has been steadily increasing since at least 2006.² However, one study found that only 22% of tenants representing themselves are able to avoid eviction whereas almost 100% of tenants receiving full representation, and 56% of tenants receiving brief legal advice, avoided eviction.³

¹ Community Training and Resource Center and Citywide Task Force on Housing Court, “Housing Court, Evictions & Homelessness: The Costs and Benefits of Establishing a Right to Counsel,” June 1993, at iv.

² Housing Court Answers,

http://www.cwtfhc.org/images/stories/pdf/evictions_marshals_2009.pdf

³ “The Efficacy of Unbundled Service Provision: A look at the Low-Income Eviction Project of the East Bay Community Law Clinic,” Rachael Knight, 2001. *See also* Law & Society Review, Volume 35, Number 2 (2001), “The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City’s Housing Court: Results of a Randomized Experience,” 2001, finding that 22% of represented tenants had final judgments against them, compared with 51% of tenants without legal representation.

Recent data further supports the conclusion that providing litigants with direct access to civil legal services levels the playing field and dramatically improves case outcomes. In 2005, the Bronx Housing Court in partnership with the United Way of NYC, and presently with the NYC Department of Homeless Services (DHS), launched the Housing Help Program (HHP). The HHP aimed to provide families in neighborhoods with the highest rates of shelter activity with access to civil legal services from the very outset of an eviction proceeding. Between 2005 and 2008, the HHP provided legal services to 1,388 families in zip code 10456⁴—one of the poorest communities in NYC⁵. Dramatically, in merely three years the HHP prevented 91% of these families from losing housing⁶ and over 94% of its clients from entering the NYC shelter system.⁷ DHS, the United Way of NYC and the Seedco Policy Center deserve great credit for this groundbreaking effort.

The extraordinary results that can be obtained by providing litigants with access to civil legal services are also highly cost—effective. Some civil legal services organizations represent families facing eviction in Housing Court for as little as \$1000 per case⁸. In sharp contrast, in FY 2009 the cost of housing a family in the NYC shelter system for one year was \$38,405.⁹ The cost to the families and communities affected by these evictions is however exponential and incalculable. Thus, we pay a far greater cost when we fail to provide low and moderate income litigants with access to civil legal services.

In closing, courts have endeavored mightily to create programs to improve access to justice. These initiatives, though invaluable, are nevertheless not a substitute for direct, individualized assistance that can only be obtained through civil legal service providers. Courts simply cannot do it alone. Civil legal services providers are vital partners in our mission to ensure meaningful access to justice for all litigants. I respectfully urge the Task Force to seize upon this opportunity to make civil Gideon a reality in New York State and a model for national reform.

⁴ Housing Help Program: Homelessness Prevention Pilot Final Report, Seedco, June 2010, at p. 2.

⁵ The poverty rate in zip code 10456 in 2000 was 45% compared with 21% citywide. *See id.* at p. 17.

⁶ *id.* at p. 31

⁷ *id.* at p. 28.

⁸ Negotiated representation rate between NYC Department of Homeless Services and The Legal Aid Society, effective October 1, 2010.

⁹ NYC Mayor's Management Report, September 2009, at 37.

Hon. Ruben A. Martino
Harlem Justice Center

Hon. Ruben A. Martino

Summary of Background and Testimony for Access To Civil Services Hearings

I have been the Presiding Justice of the Harlem Community Justice Center since 2004. This problem solving community court handles cases involving housing, family and small claims. The overwhelming majority of litigants are unrepresented. Prior to that I sat in Family Court for one year and before that I was a Housing Court Judge from 1994 to 2003. Both of these courts handle many unrepresented litigants. Prior to the bench, I was a Senior Supervising Attorney, Supervising Attorney and Staff Attorney at the Legal Aid Society's Bronx Neighborhood Office representing poor people in civil matters. Before that I was a staff attorney at Bronx Legal Services. I am a graduate of the University of Pennsylvania Law School and Yale University.

My brief testimony will focus on my experience as a judge presiding over thousands of cases involving unrepresented litigants and the importance of representation in civil matters. Representation is important because the process and outcomes are more just when parties have lawyers, judges do not have to face the challenges of balancing neutrality with trying to compensate for pro se litigants' unfamiliarity with law and procedure and the consequences involved in many civil cases are great (homelessness, foreclosure, etc.). There has been an increase in the number of litigants appearing without attorneys and an increase in certain types of cases because of the current state of the economy. Access to civil legal services will protect the rights of litigants, ease the burden on courts and result in a fairer justice system.

Hon. Ruben A. Martino

Testimony for Access To Civil Services Hearings, 9/28/10

Good morning. I would like to thank you for giving me the opportunity to address this distinguished panel on a topic that is dear to my heart. Consider the following scenario. I would like you all to imagine that for some reason beyond your control you lost your jobs, and, because of the current state of the economy, you couldn't find another one. When eventually the eviction case or foreclosure action is commenced against you and you are there at home looking at your family, spouse or significant other and wonder what's going to happen, which one of you would not try and get help from an attorney?

Now imagine another scenario, we were all transported to another country where the laws and procedures were different and unknown to us. We suddenly get sued and summoned to appear in court. Would any of us, even with our training, attempt to navigate through a foreign justice system without a lawyer from that country. Of course not.

This is what unrepresented litigants face in our courts. We would want representation in the imaginary situations I described and our own courts because in many civil proceedings litigants face the infringements of important and fundamental rights. For example, the stakes are high in eviction, foreclosure, forfeiture and certain family cases.

I've been a housing court judge, family court judge and now I sit in a community problem solving court. I've presided over thousands of cases with unrepresented litigants. Most of these litigants don't know what they are doing. They don't know court procedure. They don't know their rights or how to raise and protect them. They don't know how to present their position. Forget about trial procedures, motions and evidence. We do our best. We have help

centers, court forms, computer programs, pamphlets and pro se attorneys. However, it's a different matter when a person steps into a courtroom and tries to fend for him or herself.

Remember, it took us a long time and lots of training, study and experience to become competent attorneys. Giving pamphlets and a short session with a pro se attorney - who can't give legal advice- helps, but is no substitute for legal representation. Our system should do better.

In comparing outcomes between people who have attorneys and those who do not, I've found that litigants with attorneys, by far, end up with better outcomes. Their settlements are better in terms of the issues that are addressed, how they are addressed, the language used, enforcement and recovery. They do better at trials. Their case gets presented, evidence is introduced and appropriate arguments are made. In housing cases I would estimate that of the people who I've seen evicted, 98% were not represented. It is extremely rare to see a litigant represented by an attorney lose his or her apartment through an eviction.

Providing civil legal services will also benefit the court. Because of the important consequences of many civil cases and our desire to ensure that justice is done, judges have to bend over backwards to try and level the playing field. What do you do when a pro se litigant turns to you during trial and says, "I don't know how to ask my witness questions," or "how do I get this into evidence," when the other side is objecting and you know that piece of evidence is important for the case. How much help can and should a judge provide. We have to walk a fine line between being neutral and making sure that there is fundamental fairness and justice. This dilemma is not present when people have attorneys. In addition, the entire process moves smoother from motions, settlement conferences to trials. Valuable court time doesn't have to spent on people who are lost in our courts and we can better handle our busy calendars.

This issue is compounded by the current state of the economy. Lately I've seen a rise in

the number of people who appear without attorneys and a rise in people who have cases related to a recent loss of their employment. Legal services and social services offices are turning people away more frequently because of their limited funds. Even smaller landlords are appearing pro se more often. We are facing a crisis. As a court we must respond to ensure that our primary purpose -dispensing justice to the people we serve- can be carried out in a way that allows parties to participate meaningfully so that the important interests at stake are protected and so that we can efficiently make fairer and more informed dispositions. Thank you. I would be happy to answer any questions you may have.

Hon. Jeffrey K Oing
Civil Court



CIVIL COURT OF THE CITY OF NEW YORK

111 CENTRE STREET
NEW YORK, N.Y. 10013

CHAMBERS OF
HON. JEFFREY K. OING
SUPERVISING JUDGE

Jeffrey K. Oing was elected to Civil Court, Countywide, on November 4, 2003, and took office on January 1, 2004. On June 18, 2009, Judge Oing was appointed Supervising Judge of the New York County Civil Court and was designated an Acting Supreme Court Justice of the Supreme Court of the State of New York. As Supervising Judge, Judge Oing is responsible for the day-to-day Civil Court operations at 111 Centre Street. In addition to his supervisory duties, Judge Oing presides over jury trials, and conducts bench trials for nonjury cases and commercial landlord tenant proceedings. Judge Oing also presides over Special I and II calendars, and conferences and mediates cases.

In 2002-2003, Judge Oing served as Deputy General Counsel, Office of the General Counsel, The Council of the City of New York, overseeing litigation and legal matters involving the City Council. During that year, he was appointed by Speaker Gifford Miller to the post of Deputy Director for the New York City Districting Commission, where he was responsible for assisting the Districting Commission in redistricting the City's fifty-one City Council districts, and for obtaining from the United States Department of Justice preclearance under the Voting Rights Act for these council districts.

Judge Oing has over twenty years of legal and administrative experience, the majority of which has been in public service. Between 1993 and 2002, he held various positions in the NYS Supreme Court. From 1993 to 1995, Judge Oing served as Court Attorney in the NYS Supreme Court (New York County). He also served as Law Secretary to Justice Marilyn G. Diamond (1995-1998) and to Justice Walter B. Tolub (2000-2002). Between 1998 and 2000, Judge Oing was a Principal Appellate Court Attorney in the Appellate Division, First Department. In those positions, he had the opportunity to assist in authoring major decisions ranging from contract law to constitutional law.

Before coming to the NYS Supreme Court, Judge Oing spent several years in private practice concentrating on commercial litigation. In the midst of private practice, he served a brief stint as Assistant Counsel to New Jersey Governor Jim Florio. Prior to entering private practice, Judge Oing began his legal career as judicial law clerk to Chief Justice Robert N. Wilentz of the Supreme Court of New Jersey. During his clerkship, he worked on Abbott v. Burke, a major education funding case in which the Court held that New Jersey's education funding formula was unconstitutional because it denied poorer urban school districts a "thorough and efficient" education as mandated by the state's constitution.

Judge Oing received his B.A. in English from Columbia College (1986), and his J.D. from New York University School of Law (1989). At NYU, he was a staff editor for the Journal of International Law and Politics. Judge Oing serves on the board of directors of The Chinese-American Planning Council, Inc., a not-for-profit social services, educational and planning organization serving the City's Asian communities. Other memberships include: The Association of the Bar of the City of New York; New York State Bar Association; New York County Lawyers' Association; Asian American Bar Association of New York; NYS Women's Bar Association; Jewish Lawyers Guild; and The Brehon Law Society.

September 28, 2010

Hon. Jeffrey K. Oing

Testimony

Task Force to Expand Access to Civil Legal Services in New York

Good afternoon members of the Task Force. My name is Jeffrey Oing and I am the Supervising Judge of New York County Civil Court located at 111 Centre Street. I want to thank Chief Judge Jonathan Lippman, Chief Administrative Judge Ann Pfau, Deputy Chief Administrative Judge Fern Fisher and Presiding Justice Luis Gonzalez for giving me the opportunity to testify today on this very important issue.

Nearly fifty years ago, the United States Supreme Court held that the Fourteenth Amendment constitutionally required states to provide counsel to indigent defendants in a criminal prosecution. Today, in light of the economic crisis facing this country and this State, I submit that the time has come to consider whether the right to counsel should be extended to indigent defendants in civil actions. To put this in perspective, consider these numbers. The filings for consumer credit cases is staggering. For calendar year 2009, the Citywide filings in Civil Court were about 250,000. Of that number, we enter approximately 150,000 default judgments. Stated differently, 60% of the filings end up being default judgments. I can tell you anecdotally that from where I sit at 111 virtually all of the OSCs to vacate a default judgment involve self-represented defendants. These stark numbers demonstrate the importance of having a dedicated consumer credit part. You cannot simply put these cases with the general civil actions that find their way to Civil Court.

Putting aside the numbers, I want to spend the remainder of my time on describing what goes on in the consumer credit part. At 111, the consumer credit part is treated differently. I have a Judge assigned to that part for a six month term. By providing a long rotation in that part, we are able to afford the litigants continuity, which is very important in the sense of settling the action.

At 111, the consumer credit part is virtually standing room only every day. While the economic crisis has negatively impacted the middle class, and we see that in the part, many still are the economically disadvantaged. 99% of the defendants do not have legal representation. A significant number of them do not speak English, do not know their rights with respect to the discovery process, and have had their bank accounts frozen. Many are frightened and at a loss for what to do in terms of navigating the court system. In my mind, it has become a crisis – having to decide between debt payments and keeping a roof over one’s head or food on the table. Indeed, in some ways, these consequences may be more compelling than those facing defendants in criminal proceedings.

We as Judges face a dilemma when facing self-represented defendants who are in dire straits. How much can we ethically disclose to them with respect to their rights under the law. What Justice Fisher has done to alleviate that problem and at the same time level the playing field is to introduce the Volunteer Lawyer for the Day program. It works incredibly well. Often times, the defendants acknowledge owing a debt. With the assistance of the VLD attorney, the defendant is able to negotiate a fair and workable settlement. Then there are those cases where the defendant does not remember owing a debt or contests having the debt. The VLA attorney is able to advance and articulate defenses that the self-represented defendant is not even aware of.

I hope my testimony gives you some sense of how pressing the problem is with respect to the lack of legal representation for the poor. My hope is that this Task Force will be able to work a change that will benefit society. Thank you.

Hon. Christine Quinn

Speaker of the New York City Council

**Task Force to Expand Access to Civil Legal Services
NY State Office of Court Administration
Testimony of the Hon. Christine C. Quinn
Speaker
New York City Council
September 28, 2010**

I am so pleased to join you this morning. First, I would like to commend Chief Judge Lippman for holding these hearings. I would also like to acknowledge Hon. Ann Pfau, the Hon. Luis A. Gonzalez, and New York State Bar President Stephen Younger, as well as the distinguished members of Judge Lippman's Task Force, and the numerous witnesses from the business community, the judiciary and the many organizations that provide services to New York's neediest residents.

I applaud and support the initiative of the Chief Judge and the Judiciary to support permanent ongoing State funding for civil legal assistance. The Judiciary knows as well as any other institution in our society how important it is for everyone, regardless of their ability to pay, to have access to justice. It is a question of fairness. It is also a question of ensuring that people have the basic necessities in a civilized society.

The City Council has taken an active role in protecting New York City's neediest residents. We have worked to create a network of legal protections for tenants, consumers, the elderly, victims of domestic violence, workers, and homeowners facing foreclosure.

But, the laws that we enact are of limited use unless the beneficiaries of the laws can enforce these rights. Often, to do so, individuals need legal representation. They need legal help to protect them from illegally high rents or unhealthy conditions in their apartment building. They need legal help to enforce an order of protection or to get a divorce in the face of a violent marriage. They need legal help to stop a bank from foreclosing on their home. They need legal help when their employer fails to pay them the wages they are due. And they need legal help to obtain food stamps or other benefits to which they are entitled under state or federal law. Since the 1990s, we have worked to provide direct local funding for a wide range of civil legal services providers.

Studies have found that no more than 20 percent of the legal needs of low income families and individuals are being met. This means that individuals have no lawyer to represent them on matrimonial matters, in housing court, when seeking unemployment benefits or when in immigration court. The Council has allocated as much funding as possible over the years from its own initiative funding. We cannot satisfy the tremendous need for legal assistance though through the City's legislative initiative funding – funding that we have had to cut at the same time that the need is increasing.

This underscores the need to address legal services for low income residents of New York City and other communities on a State-wide basis. The lack of legal services

is a State-wide problem akin to the challenge to quality indigent criminal defense services. It requires a State response. We must work together at the state and local levels to ensure access to justice through the provision of vital civil legal assistance for vulnerable New Yorkers.

As we all know, New York City and New York State owe so very much to the diversity, creativity, and tenacity of our residents. We are all in this together – and we can work together to solve our problems. Harnessing the expertise of the business community, the experience of those who have worked with people in need, the lessons from those who are in need of assistance themselves, and the knowledge of policy makers together with the leadership, commitment and understanding of Judge Lippman and the many excellent judges throughout the state, we can address this challenge. I look forward to working with you to provide my constituents, and residents throughout New York City and New York State with the legal help that they desperately need. I recognize that the solution here involves substantial resources. But, the hidden costs and consequences of insufficient representation are great both from a human perspective, and from a financial one.

Kenneth Raske

President and CEO of the Greater New York
Hospital Association



TESTIMONY OF

**KENNETH E. RASKE
PRESIDENT
GREATER NEW YORK HOSPITAL ASSOCIATION**

**AT A PUBLIC HEARING
TO ASSESS THE EXTENT AND NATURE OF
UNMET CIVIL LEGAL SERVICES NEEDS
CONVENED BY
THE HON. JONATHAN LIPPMAN,
CHIEF JUDGE OF THE STATE OF NEW YORK**

September 28, 2010

10:00 a.m.

First Department, Appellate Division

27 Madison Avenue, New York City

Chief Judge Lippman, Presiding Justice Gonzalez, Chief Administrative Judge Pfau, and New York State Bar Association President Stephen Younger, my name is Kenneth E. Raske. I am the President of the Greater New York Hospital Association (GNYHA), which represents 250 not-for-profit and public hospitals and continuing care facilities throughout the metropolitan New York region and throughout New York State. I appreciate the opportunity to testify today on the extent and nature of unmet civil legal services in New York State.

We are living in extraordinarily difficult times. There is no question that the challenges facing our State and nation are enormous, and we must all take the time to work together to find thoughtful, balanced solutions to the fiscal problems facing us. New York's hospitals, perhaps more than any other corporate citizens, understand the depth of the financial crisis and its impact on individuals and communities. Our hospitals are seeing more uninsured and underinsured patients, as well as a higher Medicaid caseload due to the recession. GNYHA members themselves have been subject to a dizzying succession of cuts and taxes since April 2007, with additional reductions implemented as recently as two weeks ago. The financial situation is impacting the delivery of health care at all levels, and our patients and communities are experiencing a growing need for comprehensive support services.

Increasingly, our hospitals are looking towards civil legal services as a critical part of those support services. Such legal assistance may relate to benefits and insurance enrollment, but they also go far beyond issues that traditionally relate to health care. This testimony will: 1) present some examples of identified needs for legal services for hospital patients and the far-reaching effects of these needs; 2) provide aggregate statistical evidence of the growing demand for civil legal services; and 3) briefly discuss possible models for the provision of necessary legal services.

I. Identified Needs for Civil Legal Services in Hospitals

Insurance coverage and benefits

Perhaps the most obvious role for civil legal services in the hospital setting is assistance for patients as they pursue authorization for and financial coverage of necessary health care services. Patients may need help in registering and qualifying for Medicaid or other insurance coverage, support to negotiate with third-party payers, and advocacy to qualify for coverage for medically necessary post-discharge care. The patients or their family members can be enormously resourceful and resilient in waging these types of battles, but problems are resolved much faster if the patient has a legal advocate for assistance. Such assistance is often necessary as a very basic element of a patient's medical treatment; it is at the core of what the patient needs and what our hospitals provide.

As such, legal advocacy to access insurance and benefits is hugely significant to patients and providers. One hospital attorney from a smaller facility tells the following story of a necessary confrontation with a managed care plan on a patient's behalf.

“Just this morning I worked on a case in which a low-income patient was scheduled to get medically necessary neurosurgery at 7:30 a.m. Literally as she was being wheeled into the Operating Room, her Medicaid managed care plan told her family that the surgery needed to be re-authorized, even though it has been pre-authorized the day before. Without the re-authorization, they would not pay for the surgery. Of course, the managed care plan wouldn't re-authorize the surgery until the right office opened at 8:00 a.m., so the operation had to be delayed. I spent the next few hours arguing with the managed care plan on the

patient's behalf because the family was not able to and there were no other legal services available. In the meantime, other patients in the queue for surgery had to wait until the situation was resolved.

We've had even worse situations when we had to perform emergency surgery on a patient, only to have the surgery denied by the managed care plan afterward. The patient is then stuck with a huge legal battle as he is trying to recover physically. A legal advocate would make a big difference in that situation."

Comprehensive support services

As critical and labor-intensive as coverage-oriented legal assistance is, it may be the most straightforward part of a patient's legal needs. As you can well understand, patients are rarely burdened by "just" their immediate medical problems. Whether a patient is in a hospital for an Emergency Room visit or scheduled surgery, he or she typically has a range of personal, individual needs that must be met to ensure recovery and future good health. She or he may be burdened by inadequate housing, unsafe working conditions, or stressful family dynamics. None of these issues is medial *per se*, yet each is a significant barrier to health. If a patient does not have an adequate place to live, she cannot receive the ongoing home health care she needs. If a patient with diabetes isn't allowed proper lunch or work breaks, he cannot monitor and maintain his blood sugar levels. If a disabled patient lives in a building without a functioning elevator, she will be unable to leave the building to pick up medication to treat chronic illness. To have a legal advocate at the ready to resolve these social problems with a patient is to take another step toward a patient's overall well-being and improved health.

This is particularly true in New York State, where 19.8% of the population lives in poverty, 13.6% of the population is uninsured, and roughly 26% of the population is enrolled in Medicaid.¹ Our diverse, complex population makes the provision of health care and all social services complicated and demanding. The provision of legal services is no exception, and dedicated civil legal advocates can be very helpful in meeting patient's individual needs.

Impact of unmet legal needs: returning patients

The larger social problems confronting our patients also have significant financial implications for the health care delivery system. As noted above, a patient who is unable to meet his or her medical needs due to an ongoing legal problem—access to benefits, housing needs, immigration status, or others—may experience relapses or deterioration. As those studying the problem have found, “[c]ommon barriers to good health include food and income insecurity, lack of health insurance, inappropriate education or utilities access, poor housing conditions, and a lack of personal stability and safety.”² From a hospital's perspective, the existence of such barriers often means that the patient is forced to return for emergency treatment, perhaps chronically. These repeated visits impose additional expenses on hospitals and on any third-party payer that might be covering the patient's care.

Much has been made in policy circles of these “readmissions,” as they are known. Hospitals will soon be penalized financially if a patient returns to the hospital within a certain period of time following discharge, without regard for the reason for the patient's return. GNYHA and its members have long argued that an overwhelming contributor to the problem of readmissions is

¹ Kaiser Family Foundation State Health Facts, statehealthfacts.org, accessed September 20, 2010.

² Ellen Cohen, MD, Danya Fortess Fullerton, Randye Retkin, JD, Dana Weintraub, MD, Pamela Tames, JD, Julie Brandfield, JD, and Megan Sandel, MD, MPH, *Medical-Legal Partnership: Collaborating with Lawyers to Identify and Address Health Disparities*, *Journal of General Internal Medicine* 25 (Suppl 2), 2010, 136-9.

just the issue we are discussing here today: a lack of social and community support for a patient who needs ongoing care and advocacy. If the larger social services problems, including legal problems, can be addressed, the patient will be better able to focus on his or her health and reduce future Emergency Room and clinic visits.

A brief discussion of basic readmissions statistics suggests this is true. GNYHA recently used New York State data to calculate a 4.9% readmissions rate for Medicaid patients across the state, when certain complex cases – most notably those involving mental illness – are excluded from the analysis. In other words, for more straightforward medical cases, 4.9% of discharged patients return to the hospital within a certain time period.

Yet when the more complex cases are included into the calculation, the readmission rate for Medicaid patients statewide jumps to 12%. Though part of that effect is admittedly due to the inclusion of a longer window for readmissions in the second calculation, we argue that the more salient factor is the inclusion of more complex cases more likely to require community and social services. Cases involving mental illness, substance abuse, chronic and debilitating diseases like cancer – all of which were excluded from the first statistic – are the cases more likely to necessitate a comprehensive set of services, including legal support services. When those services are not available, we fear a patient is less likely to maintain his/her physical or emotional health and more likely to return to a hospital. We argue that such returns could be averted if proper community-based services were more readily available and if policy discussions were to include a more comprehensive view of the problem of readmissions.

More anecdotally, the following story of a cleaning woman in the Bronx illuminates the issue. This account comes from the General Counsel of a hospital serving a large Medicaid and uninsured population.

“We recently saw a case involving a cleaning woman with asthma who had to be readmitted to the hospital regularly for frequent asthma attacks. She had to breathe in fumes from cleaning materials and carry heavy baskets up stairs every day, and her health was plainly deteriorating. In addition to her medical needs, she needed legal assistance to pursue Social Security Insurance [SSI], disability payments, or at least reasonable accommodations in her workplace. Solving her problems from a legal perspective not only helped her physically and emotionally, it decreased the financial burden placed on the hospital and New York State in terms of her readmissions and ongoing needs. There’s a huge financial impact involved.”

The argument, of course, extends far beyond one individual case, as a hospital counsel observed.

“Ironically, helping patients get Medicaid or insurance coverage is the least of our legal concerns. Our patients need support for immigration, housing, and special education legal battles on an ongoing basis. If there’s no safe home or if they’re in the wrong educational setting, you can guarantee they’ll be back in the Emergency Room again soon. This is a huge need, and it’s biggest among the urban poor.”

Immigration status

A patient's immigration status can further complicate his or her case and is another area requiring advocacy. A patient's ongoing fight to remain in the country or to gain citizenship is yet another social/ emotional barrier to attention to good physical health. A patient who is afraid to seek health care services due to his immigration status is that much more likely to deteriorate until emergency care is finally needed. Even if a patient does seek medical attention, concerns over immigration status may prevent him from seeking coverage for which he is eligible. This creates an unnecessary burden for the patient, and it creates an expense for the hospital providing the patient's care. To be clear, these fears are not limited to those who are in the country without documentation.

The General Counsel of a hospital treating a diverse population shared the following story, which illustrates how someone newly arrived to this country can be frightened out of seeking appropriate coverage for necessary financial services, despite being in the country legally. In this case, unfortunately, a questionable employer used the patient's fears against him as a cost-saving measure.

"I got a call last Wednesday from the E[mergency] D[epartment]. A day laborer doing construction work, who was in the country legally, was extremely upset and needed legal help. The man had been injured on the job, and his employer dropped him off at the hospital's front door and ordered him to lie about his name to the hospital staff. Why? Because the employer didn't have Worker's Compensation coverage for its employees, most likely because most of the

employees were all immigrants and unlikely to know their rights. If the employee gave his real name, the employer could have been found out.

The employer evidently told the man that if he used his real name, he would be fired and deported. The man was frightened out of his wits and believed the employer, even though he had spent years jumping through all the right hoops to come to this country legally.

So here we have this poor man, who has just had an accident and needs medical attention, but he's so scared that he doesn't know what to do and is trying to leave the hospital. We calmed him down and provided the medical treatment, but the hospital will never get payment through the Worker's Comp[ensation] system. We also referred him to a community-based legal services provider for help with both employment and immigration issues. It's just not a case I can handle on my own."

Guardianship

Several hospitals also pointed to the laborious and expensive legal work necessary to assist patients with guardianship and competency proceedings. This often applies to with elderly patients, who are unable to make decisions independently but may not have anyone to serve as a legal representative to help make financial decisions and commitments. The process is necessary to qualify the patient for Medicaid or ensure appropriate discharge planning when the patient is ready to leave the hospital.

Several of the front-line hospital staff members we spoke with highlighted guardianship and surrogacy processes as perhaps the most time-consuming and expensive for their offices. One

long term hospital attorney emphasized the hospital's burden and the value of legal services providers for such cases.

“We spend an enormous amount of money and energy obtaining legal guardianships for our patients. We have a full-time employee to handle guardianships and treatment plans alone. This is an expense incurred by the hospital to help the patients get the assistance they need. It's the right thing to do, but it is quite costly and impedes other legal work the hospital needs to have done.”

II. Evidence of the Need for Legal Services

Statistically, the numbers bear out the growing need for enhanced legal assistance for hospital patients. LegalHealth, a division of the New York Legal Assistance Group currently working in New York City health care settings, reports that it handled over 4,500 matters for 2,936 unique clients in eighteen facilities between October 2009 and September 2010.³ The most prevalent matters were benefits (801) and immigration (778) cases, followed by housing (666) and insurance (660) cases. Family law, advance directives, consumer law, employment, and education were among the other topics covered in that time period. Not surprisingly, LegalHealth has also captured data showing that the need for its legal services have grown over the last several years, from 2,923 referrals in 2007 to 3,542 in 2009 and a 4,662 projected for 2010. These numbers underscore the anecdotal information we hear every day.

³ LegalHealth Butler Report, September 2010.

GNYHA's HITE program

GNYHA itself has long worked to help patients and community members locate legal and other support services that they may need. Our GNYHA Foundation, in collaboration with three coalitions of community-based health and social service organizations, developed the Health Information Tool for Empowerment (HITE), a Web-based tool designed specifically to link low-income uninsured and underinsured New Yorkers with a range of free and low-cost health and support services, including legal services. We are proud that HITE has entered into a developing partnership with New York City's 311 system.

Our most recent statistics also show an increase in demand for legal services over the last two years. Throughout 2009, consumer searches on HITE for legal services did not exceed 270 per month. This need has evidently increased over the year: there were 338 searches in March, 437 in June, and 360 searches in August 2010.

Hospitals as employers

In addition to patients' legal needs, hospital employees could potentially benefit from enhanced civil legal support services. In 2008, hospitals in New York State employed 377,537 FTEs. A recent study by the Association of American Medical Colleges (AAMC) shows that medical schools and teaching hospitals directly contributed \$28 billion and 250,000 jobs to the New York economy. This totals \$66 billion and 450,000 jobs after figuring the multiplier effect of that investment and creating a tax benefit of \$3.2 billion to the State. In simple terms, hospitals are significant employers and contributors to our local and State economies.

These contributions, however, will slow if our employees are forced to miss or curtail work in the event of legal or other social challenges. Our technicians, transporters, and housekeepers

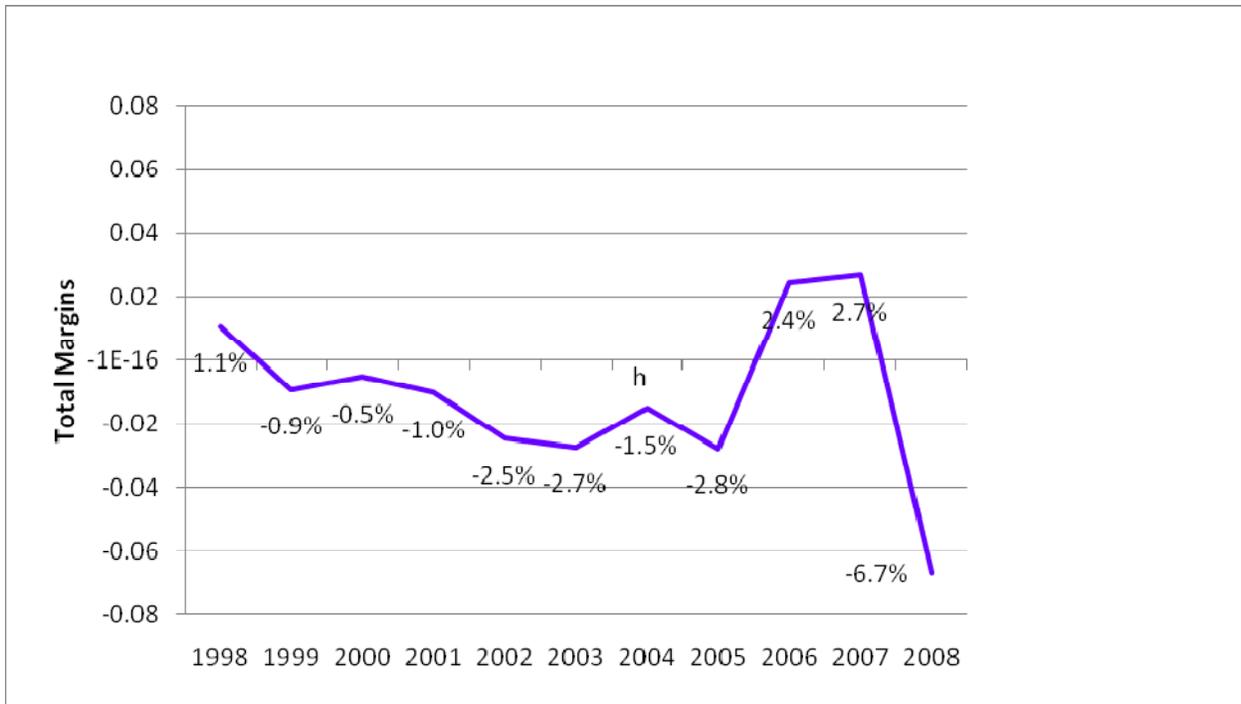
cannot meet their work obligations if they too are facing housing, educational, domestic, or other personal legal needs. Like many of the patients we serve, our employees may need legal assistance and advocacy to keep our hospitals stable, harmonious, and of service to our communities.

III. Meeting the Need for Legal Services

Hospitals are thus striving to help their patients and employees receive the legal assistance they need. As noted above, hospitals themselves sometimes serve as the necessary advocate particularly in matters relating to guardianship, competency, and discharge planning. However, hospital attorneys cannot appropriately represent outside parties in matters involving the hospital itself. Moreover, hospitals simply do not have the staff and resources to meet all of their patients' legal needs in-house.

The financial environment for hospitals

As noted previously, hospitals are in a precarious financial position. Since 2007 alone, our hospitals, nursing homes, and home care agencies have weathered eight rounds of Medicaid cuts for a total recurring reduction in payments of \$2.6 billion per year. The chart below reflects the trend in hospital margins for the hospitals in the highest quartile of Medicaid volume and graphically portrays the dire financial environment.



Hospitals are thus forced to make difficult decisions about the utilization of resources, and direct patient care must remain our priority. Our members cannot afford to pay for all necessary legal services. It is financially impossible.

GNYHA members, therefore, refer their patients to a range of civil legal service providers, including community centers and program, more normative legal aid providers, and health care-specific legal partners. Yet even with truly excellent legal providers serving New York State, there are still patient needs that go unmet simply as a matter of resources.

Developments in hospital-based legal services

New York is not alone in this predicament. Nationwide, there is a growing recognition of the need for dedicated legal services in health care settings and of the utility of solving legal problems as a means of promoting overall health in a cost-effective way. One response to that need is the development of medical-legal partnerships (MLPs), collaboration between at least

one legal partner institution and one health care partner institution to target legal needs on both individual and systemic levels. MLPs integrate lawyers into health care settings to address legal problems that create and perpetuate poor health, and they educate residents, health care providers, and medical students on the impact of social conditions on health.⁴ Ideally, these partnerships allow for screening for legal issues in the clinical setting so that health care providers can refer families to an attorney before a legal issue becomes a legal and potentially medical emergency. There are currently MLPs in an estimated 200 hospitals and health centers in 37 states nationwide, and proponents of MLPs have advocated for integrating them into Federal health care programs.^{5,6}

Limited research on such programs suggests that adding an attorney to a medical team increases awareness of and access to social and legal services.⁷ Those studying the model argue that an MLP has the “ability to transform health care from reacting to the effects of poverty on children to ensuring children and their families have adequate food, shelter, and social services and therefore experience fewer health problems.”⁸ Moreover, there is a suggestion that MLPs are beneficial to hospital finances: one local study has indicated that for every dollar spent by a

⁴ Ellen Cohen, MD, Danya Fortess Fullerton, Randye Retkin, JD, Dana Weintraub, MD, Pamela Tames, JD, Julie Brandfield, JD, and Megan Sandel, MD, MPH, *Medical-Legal Partnership: Collaborating with Lawyers to Identify and Address Health Disparities*, *Journal of General Internal Medicine* 25 (Suppl 2), 2010, 136-9.

⁵ National Center for Medical-Legal Partnership, *What is MLP?*, www.medical-legalpartnership.org/about-us/what-is/mlp. Accessed September 20, 2010.

⁶ Megan Sandel, Mark Hansen, Robert Kahn, Ellen Lawton, Edward Paul, Victoria Parker, Samantha Morton, and Barry Zuckerman, *Medical-Legal Partnerships: Transforming Primary Care By Addressing the Legal Needs of Vulnerable Populations*, *Health Affairs*, September 2010, page 1697.

⁷ Dana Weintraub, MD, Melissa A. Rodgers, JD, Luba Botcheva, PhD, Anna Loeb, BA, Rachael Knight, JD, Karina Orteta, MA, Brooke Heymach, JD, MSW, Megan Sandel, MD, MPH, Lynne Huffman, MD, *Pilot Study of Medical-Legal Partnerships to Address Social and Legal Needs of Patients*, *Journal of Health Care for the Poor and Underserved* 21 (2010), 157-168.

⁸ *Id.*

hospital in support of such legal services, the hospital received \$16.00 in revenue generated from successful legal intervention by the legal services provider.⁹

Some New York City area hospitals have begun to work in MLP-type relationships, and others have partnered with other legal service providers or *pro bono* law firms to provide more traditional forms of legal assistance to patients. Notably, some law firms work with legal services organizations to “adopt” a hospital, most often a children’s hospital, to meet patient’s legal needs. In these scenarios, hospital social workers or perhaps discharge planners refer patients and families to outside legal providers or *pro bono* partners. Regardless of the format, the purpose remains the same: help patients solve existing legal problems that may impact their physical and emotional health.

IV. An Ongoing Need and Priority

Obviously, each facility must identify a model and a partner that meets its needs and most importantly, the needs of its patients. Regardless of how this is accomplished, we are convinced that there is an unmet and perhaps growing demand for civil legal services for hospital patients and employees. GNYHA appreciates the opportunity to discuss this issue and is committed to working with the Chief Judge to help develop solutions to benefit patients, hospitals, and the community at large.

⁹ LegalHealth, *Financial Impact Study of LegalHealth Services to New York City Hospitals*, November 2007 , revised October 2009.

Melanea Richardson

Client of Legal Services NYC

Melanea Richardson

Melanea Richardson was born in the Dominican Republic and moved to the United States in 1991. She has mostly lived in Queens since she moved here, but at present is temporarily living with her sister in Manhattan until her housing situation is fixed. She is separated from her husband and is seeking a divorce; she left him because of domestic violence. Freed from this situation, Ms. Richardson is trying to turn her life around and be self-sufficient, which is why getting her Section 8 voucher is so important to her – it will allow her to live in her own apartment. Ms. Richardson works part-time as a housekeeper for an office, and has three children.

Testimony of Melanea Richardson

Legal Services NYC Client

The Chief Judge's Hearings on Civil Legal Services

First Department
September 28, 2010
New York, New York

Good morning. My name is Melanea Richardson and I thank you for inviting me to speak today. I am 55-years-old and I am a low-income, working mother of three.

In 2005, I was a victim of domestic violence and for this reason I was able to apply for a Section 8 Housing Choice Voucher ("Section 8 voucher") through the New York City Housing Authority ("NYCHA"). In 2009, NYCHA finally approved my application for a Section 8 voucher. On April 15, 2009, NYCHA issued me a voucher, which was set to expire on October 15, 2009. Pursuant to NYCHA's policy, I was required to find an apartment and submit my rental application to NYCHA by October 15, 2009. Otherwise, NYCHA could cancel my voucher.

In late August, 2009, I found an apartment through a broker. The broker told me that the owner of the apartment agreed to accept my Section 8 voucher. I immediately asked the owner to prepare some documents, including the signed lease, proof of ownership, and his affidavit that he would not charge any additional rent in excess of the NYCHA approved rent.

Around October 9th, 2009, I submitted my rental package, which included the owner's documents, to NYCHA. NYCHA accepted my rental package as complete, and scheduled an inspection of the apartment. The apartment passed the inspection on November 13, 2009. In December, I called my NYCHA Housing Assistant, Ms. Nelson, to tell her that I had never received a letter notifying me of the result of the inspection. Ms. Nelson advised me that the apartment had passed the inspection, and NYCHA would soon send me a notice stating so.

However, I did not receive any letter from NYCHA and I called Ms. Nelson again in early January, 2010. Ms. Nelson told me that because of the recent budget cut, I have to wait and it is not certain when I would be able to move into the Apartment.

In late January, 2010, I finally received a notice from NYCHA, which stated that NYCHA canceled my voucher because my voucher expired without rental on October 15, 2009. Shortly after I received this notice, I contacted Queens Legal Services' housing unit for help and spoke with an advocate about my situation. I saw many people waiting to speak to legal services in the reception area. I noticed that legal services were overwhelmed and that they had to turn some people away.

To my relief, Queens Legal Services accepted my case. They represented me by commencing a lawsuit against NYCHA. In Court, NYCHA claimed that they cancelled my Section 8 voucher due to the fact that when I submitted my rental package, I submitted an unrecorded deed, which

retroactively rendered my package incomplete as of October 15, 2010. However, my advocate showed proof that the deed was recorded even four months before I submitted my package to NYCHA. After an 8-month long battle, the Supreme Court judge issued a decision, which directed NYCHA to reinstate me to the Section 8 Housing Choice Program. Queens Legal Services worked so hard on my behalf and I am very grateful to them for helping me save my Section 8 voucher.

I know that a lot of people are in similar situation, but do not know what to do because they do not have attorneys. Legal Services needs more funding so they can hire more advocates to help people. I would have lost my Section 8 voucher if I hadn't found Queens Legal Services.

Thank you again for inviting me to speak today.

Benito Romano

Chairperson of the Board of the IOLA Fund
of the State of New York

The Task Force to Expand Access to Civil Legal Services in New York

September 28, 2009

TESTIMONY OF BENITO ROMANO

CHAIR, BOARD OF TRUSTEES

THE INTEREST ON LAWYER ACCOUNT FUND OF THE STATE OF NEW YORK

Good afternoon, my name is Benito Romano and I am the Board Chair for the Interest on Lawyer Account Fund of the State of New York.

I would like to first thank Chief Judge Lippman for conducting these Hearings and making access to justice through the expansion of civil legal services to low-income New Yorkers one of the signature issues of his term as Chief Judge. IOLA is particularly grateful for the Chief Judge's inclusion of \$15 million in emergency funding for IOLA in OCA's budget. At a time of increased need during the Economic Crisis these funds were a crucial lifeline for IOLA's grantees. It allowed them to provide vital services to at-risk

New Yorkers, while at the same time bringing in hundreds of millions of dollars in direct benefits into New York's economy for all New Yorkers.

IOLA is one of the leading funders for organizations that provide civil legal services in New York. IOLA also collects data from all of its grantees regarding the types of legal assistance they provide, the outcomes and benefits won for their clients, as well as a host of other data such as their other sources of funding. In my testimony I want to provide the panel with a brief overview of the current sources of funding in New York, and place that funding in a broader context of the funding provided in other states and the current funding crisis facing IOLA. I will also address the current service levels of civil legal assistance for low-income New Yorkers and the unmet need in terms of those services, and how even the substantial pro-bono effort by many members of the Bar are not sufficient to bridge the gap. And lastly and perhaps most importantly I will describe the significant economic benefits realized as a result of civil legal services in New York State.

Data gathered by the IOLA fund demonstrates conclusively that the net economic impact of civil legal services for low-income New Yorkers is overwhelmingly a positive one, which in 2009 alone resulted in \$361 million dollars of federal funds entering the state. Adding the federal dollars brought into the State along with direct savings to New York taxpayers from homelessness prevention adds an additional \$100 million dollar benefit. In all, the direct economic impact on New York State from civil legal services provided by IOLA grantees was over \$600 million dollars. This amount grows even larger when it

is coupled with the “Economic Stimulus Effect” of the federal funds brought into the New York. New Yorkers realized an additional \$535 million in direct economic activity when low-income families used their benefits to purchase necessities like food, rent and medicines, providing an estimated 5,600 jobs for local businesses, on top of the jobs provided by the legal service organizations themselves.

Taken all together the economic impact of providing civil legal services to low-income New Yorkers totaled over a billion dollars, reflecting a return on investment for the funding of these organizations of nearly 5 to 1. In short the data demonstrates that providing legal services for at-risk New Yorkers provides countless direct benefits such as keeping families in their home, or helping to prevent domestic violence, and makes economic sense by actually bringing federal funds into the State.

Funding for civil legal service programs in New York State comes from IOLA and a number of different sources including the Legal Services Corporation, private foundations, state and local bar associations and State and local funding.

There are two major related difficulties in funding that have become acute in the current Economic Crisis.

First, on a per capita basis, New York’s dedicated funding for civil legal services -- that is money from State General Funds or court-related fees -- is significantly below that provided by other states in the region. In 2009, average per capita funding in New

Jersey, Connecticut, Massachusetts, and Vermont was \$23.51. New York's per capita funding in 2009 was \$3.68 or 80% less than in neighboring states.

Second, is the crisis in IOLA funding. After 26 years providing general support, which allows grantees the flexibility to apply these funds in the manner most needed – over \$285 million dollars, in total – IOLA has become a vital source of support for organizations providing civil legal assistance in New York

To generate this revenue IOLA relies on the interest rate provided by the banks holding IOLA accounts and interest rates often are very volatile. Compounding this problem, a decrease in the interest rate is often associated with a downturn in the economy, and thus during periods when both the need for civil legal services, and the actual number of indigent New Yorkers increases, IOLA's ability to fund those services decreases.

This scenario is exactly what has happened to IOLA during the economic downturn. As a result of the Economic Crisis and the seizure of the credit markets that became apparent in the Fall of 2008 interest rates dropped precipitously. In 2007, the largest financial institutions holding IOLA accounts were providing an average interest rate of 2.25%. By 2008 the rate had been cut in half to just over 1%, in October of 2009 the rate dropped even further to .31% or 31 basis points, and as of August 2010 the rate was down to .25 basis points, representing an overall decline of 88% over three years.

The impact on the funds available for IOLA's grant making has been devastating. During IOLA's Fiscal Year 2008 (April 1, 2007-March 31, 2008), IOLA accounts generated \$32,334,211 dollars. For Fiscal Year 2009, that figure decreased to under \$23 million dollars, and in Fiscal Year 2010 the revenue generated by IOLA accounts plunged more than 75% to \$ 7,330,887 dollars. For Fiscal Year 2011 the projected income is under \$7 million dollars, representing a decline of 80% from Fiscal Year 2008. And this is not the first time that IOLA has experienced this type of rapid decline in its income. Previously IOLA experienced a year-to-year drop of over 40% in revenue, and a 66% decline over two years.

Unfortunately this drop in IOLA income and grant making has come at a time of increased need for civil legal services for low-income New Yorkers. Since 2007 the total number of cases closed by IOLA grantees has risen 20% from 220,000, to 264,000, but as you would expect the growth in cases closed has been most explosive in areas where people have been hardest hit by the economic downturn, income maintenance and housing. From 2007 to 2009 the percentage change in cases closed to obtain, preserve or increase food stamps rose 115%, the number for unemployment insurance was 127%, for cases involving foreclosure the increase was 153%.

Even prior to the economic downturn resources for civil legal services were inadequate. In 2005, the Legal Services Corporation completed a study on the Justice Gap in America that established for every eligible applicant who came to LSC offices seeking legal

assistance, another eligible client was turned away for lack of resources. In 2009, LSC updated the study and reached similar conclusions.

But even this “turn-away data” doesn’t begin to capture the total deficit in terms of legal services available to low-income New Yorkers, because the turn-away data only captures that portion of the low-income population that actually makes it to a legal services provider. In a landmark 1994 study, the American Bar Association conducted a nationwide survey that showed 80% of the legal needs of low-income Americans were not being met. These findings have subsequently been verified by a number of states that have conducted similar surveys. As part of the Chief Judge’s Task Force’s efforts, a survey of the legal needs of low-income New Yorkers was conducted for the first time in 22 years. The results will be part of the Task Force’s final report, but the preliminary findings are in line with other states’ surveys and indicate a very large percentage of low-income New Yorker’s civil legal needs are going unmet.

The implications of this survey and the turn-away data gathered are painful and profound. Under current funding sources, half of all the eligible recipients who make it to a civil legal service provider are turned away because of lack of resources, and that number itself only captures a small fraction of actual need.

One proposed solution has been the use of pro bono efforts to increase access to justice. This is a call to service that New York attorneys have already enthusiastically answered. In 2009, over 11,000 attorneys in New York volunteered their time through IOLA

grantees, donating 450,000 hours of service. Valuing these hours at a conservative figure of \$150 dollars per hour, the total value of the donated service was over \$67 million dollars, and the total number of cases closed by volunteer attorneys was nearly 18,000. Even with these stellar efforts, pro bono attorneys closed only 7% of all cases closed, signifying that even with substantially greater pro-bono support, the gap is much too large to be successfully addressed in this manner.

As bleak as this picture may appear, I do not want to focus only on areas where civil legal service providers' efforts have fallen short due to lack of resources, because the results that these providers have obtained with limited resources are also remarkable. IOLA collects data on outcomes from all of its grantees. In 2009, IOLA grantees closed over 264,000 cases benefiting over 520,000 people, in areas such as housing, family law, and income maintenance cases like Social Security eligibility and Medicare and Medicaid cases. Looking at these results and using conservatively derived figures, the net economic impact in New York of federal funds, other direct benefits and taxpayer savings, was over \$600 million dollars. When the "economic multiplier" effect of the federal funds brought into New York State is added in, the figure rises to over \$1 billion dollars annually, as against a cost of just over \$200 million dollars, a return on money provided for funding of over 5 to 1.

Exhibit 1

The federal funds brought into the state were calculated by looking at back awards and monthly benefits won by clients in 2009, as well as benefits received in previous years

that would be continued on an ongoing basis. To give one example, SSI/SSD back awards and monthly benefits totaled \$57 million in 2009. However, the average duration of SSI/SSD benefits is 9.7 years. Using the data collected from IOLA grantees from 2005-2008 regarding ongoing monthly SSI/SSD benefits from those years, the total of those benefits received in 2009, \$96 million, could be calculated. Combining all of the federal benefits brought into New York along with the federal funding for civil legal service programs provides the total figure of \$361 million dollars.

Exhibit 2 (?)

The federal funds brought into New York allow for the calculation of the economic stimulus effect of those dollars.

The U.S. Department of Commerce estimates that every dollar brought in generates a multiplier effect of 1.48 as the low income families receiving the money purchase necessities like food, rent and medicines, which support local businesses. Using this multiplier it is estimated that the federal funds brought into New York State generated an additional \$535 million dollars and created over 5,600 jobs.

Exhibit 3

There are also substantial savings realized by state and local governments as a result of civil legal services. For example, the savings in emergency shelter costs. Every year thousands of New Yorkers face the threat of losing their home. The impact on the families involved can be monumental, resulting in lost jobs, disruption of education for

children and threatening the stability of the family involved. There are also costs for all of society in terms of lost productivity and other ancillary damages. There are also more directly captured costs, such as the cost to local governments involved in providing emergency shelter costs. By looking at the total number of cases in 2009 in which eviction was avoided, the total number of people involved, and the average cost to taxpayers in providing emergency shelter in New York City, Suburban, and Upstate areas, it becomes possible to calculate the savings to taxpayers which totaled nearly \$100 million dollars in 2009, and \$355 million dollars for the five year period 2005-2009.

Of course, it is impossible to measure all the monetary benefits derived from civil legal assistance, in some areas the most compelling argument for the provision of legal services can be made without regard to the costs involved. The prevention of domestic abuse, which typically takes the form of violence against women, is a good example of this. Yet even in this sphere it is possible to look at the savings which occur as the result of civil legal assistance. A study in Wisconsin looked at the costs associated for the average victim of domestic violence in terms of medical care, lost wages, counseling for affected children, police resources and incarceration of abusers. The study showed that the average savings from protecting a family from domestic violence was over \$3000 dollars. Using that information in conjunction with IOLA grantees' cases in which families received protection from domestic violence it is possible to capture at least some of the savings realized, \$6 million dollars in 2009, and \$36 million dollars over the years 2005-2009.

One of the jobs of the Task Force will be to produce a report with suggestions on how to bridge the access to justice gap in New York State, and that is certainly beyond the scope of my testimony today. However, I hope my testimony has at least identified some of those gaps, and just as importantly, provided important data – some never gathered before -- which demonstrates conclusively that the net impact of spending on civil legal services for low-income New Yorkers is a positive one. This argues that even in difficult times the fiscally prudent course may be to look at spending on civil legal services as an investment which results in increased federal dollars and a positive for the State's economy, resulting not only in better outcomes for low-income New Yorkers, but positive benefits for all New Yorkers.

Margarita Rosa

Executive Director of the Grand Street
Settlement

**Margarita Rosa, Esq.
Executive Director
Grand Street Settlement**

**Testimony before the Chief Judge's Task Force on Civil Legal Services
September 28, 2010**

We welcome this opportunity to testify about what civil legal services can achieve for clients and the urgent need to expand access to civil legal assistance in the community we serve.

Grand Street Settlement's mission is to expand opportunities for low-income families and individuals by providing culturally relevant services that support community-building, advocacy, self-determination and an enriched quality of life. Since its founding in 1916, Grand Street Settlement has offered a continuum of programs ranging from early childhood and youth development to community support for adults and seniors.

The settlement house movement began in the 1880s, as waves of immigrants from Eastern and Southern Europe began arriving in America. Settling in New York City, they struggled against language barriers, housing costs, and limited access to healthcare, employment and childcare. Founded in the spirit of democracy and social justice, settlement houses sought to improve living conditions for low-income people and remove the obstacles barring their success and achievement. Today, Grand Street Settlement's programs reach more than 10,000 people of all ages annually, at 12 sites throughout Manhattan and Brooklyn. Our staff is reflective of the racial, ethnic and cultural background of the communities we serve, and many are past participants in

Grand Street Settlement programs.

Legal Services through Grand Street Settlement's Single Stop Center:

Grand Street Settlements Single Stop Center works to bridge the information gap that separates low-income families and individuals from critical benefits and resources that can enhance their quality of life. As part of this effort, our Single Stop Center offers a range of services, including social service benefits eligibility screening, financial and credit counseling, income tax return preparation, earned income tax credit eligibility screening, family and individual therapy, benefits and social service advocacy, legal consultation and city-wide referrals to social service agencies. Last year, Grand Street Settlements Single Stop Center provided assessment screenings, information, referrals, and counseling to over 1,000 households in our community.

Legal consultation is an especially important service offered at the Grand Street Settlement's Single Stop Center. Every Thursday, a lawyer from the Legal Services of New York City (LS-NYC) provides three hours of on-site legal counseling to Single Stop clients. The lawyer sees low income individuals/families who reside in Manhattan. The majority of issues are resolved expeditiously and on the average, clients wait from one to two weeks for appointments. Many clients refer our services to friends and family by word of mouth.

Our Single Stop clients require various interventions, depending on the circumstances of their case. In all instances, our LS-NYC lawyer reviews clients' issues and provides them with legal advisement on how to proceed (i.e. advises them of the appropriate agency to contact, form to fill out, legal information pertaining to the particular area of

their case, precautionary steps to take, etc.). Often, clients are then able to move forward independently to resolve the case without further legal representation. Certain cases require formal legal documentation (a letter, statement or contract) which the lawyer prepares and submits for clients. Clients are also referred to appropriate LS-NYC lawyers and follow-up appointments are made to ensure the highest quality of counseling is provided. Complicated cases require full client representation, and LS-NYC lawyers appear in court on behalf of clients.

The legal issues most often raised by clients involve landlord/tenant issues or immigration-related matters. Cases are often resolved with a minimal amount of intervention by LS-NYC.

In the past year, Grand Street Settlements Single Stop Center referred approximately 150 clients for legal counseling. These cases are categorized in the following areas: Housing (36%), Family (13%), Income Maintenance (12%), Individual Rights (12%), Consumer Finance (10%), Other [including Education, Employment, Health, Miscellaneous matters.](17%).

Notwithstanding the excellent work that programs like Legal Services of NYC and Legal Aid perform, the sad fact is that many more clients in our community need legal help than we are able to refer to legal services programs whose resources are stretched beyond the breaking point. In our Single Stop program, for example, we have access to one lawyer who can help 150 clients but we could easily make use of five or more lawyers who could help at least five times as many clients. The need is that great.

As community advocates, we see, every day, the difficulty low-income people face when they confront the legal system on their own, without the aid of a trained legal advocate. Without access to the level of civil legal services assistance that our community truly needs, we are hampered in our ability to fully achieve our mission which is to expand opportunities for low-income families and individuals by providing culturally relevant services that support community-building, advocacy, self-determination and an enriched quality of life. Our comprehensive services are supported and enhanced with civil legal services. Properly funded civil legal services are essential; they strengthen the safety net that is in place to help protect those who are in greatest need.

I thank you for this opportunity to testify before you today.

Samuel W. Seymour

President of the New York City
Bar Association

NEW YORK
CITY BAR



Samuel W. Seymour, President, New York City Bar Association

Samuel W. Seymour began his two-year term as president of the New York City Bar Association in May 2010. He has been an active member of the City Bar for over 25 years, having served as both a member and Chair of the Executive Committee, Vice President of the Association and Chair of the Board of the City Bar Justice Center.

Seymour is also a partner at Sullivan & Cromwell LLP, where he concentrates on white-collar criminal defense, regulatory enforcement matters and internal investigations. He has represented individuals and institutions in a broad range of financial and industrial business sectors worldwide, and has led many high-profile investigations involving allegations of accounting fraud, securities fraud, foreign bribery, price-fixing, trade sanctions violations, money laundering and bank regulatory offenses.

In addition, Seymour has served as an Assistant U.S. Attorney and Deputy Chief Appellate Attorney in the Southern District of New York from 1988 through 1991, and has held leadership positions in many organizations serving the legal and educational communities, including Trustee of the Practising Law Institute, Director of the Fund for Modern Courts, and Director of the First Department Assigned Counsel Corporation. He is also a member of the Board of Visitors of Columbia Law School and has been a Lecturer-in-Law teaching trial practice at Columbia.

Seymour's honors and recognitions include the Robert M. Morgenthau Award, Police Athletic League, for distinguished legal career (2009); the Milton S. Gould Award for Outstanding Oral Advocacy, Office of the Appellate Defender (2008); and the John J. McCloy Award, Fund for Modern Courts (2007).

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

**NEW YORK
CITY BAR**

**The Chief Judge's Hearing on Civil Legal Services
September 28, 2010
Appellate Division, First Department
27 Madison Avenue, New York City**

**Testimony of the New York City Bar Association
By: Samuel W. Seymour, President**

Chief Judge Lippman and distinguished panelists:

Thank you for the opportunity to testify on the important topic of civil legal services in New York. My name is Sam Seymour and I am the President of the New York City Bar Association. At the outset, I want to thank you, Chief Judge Lippman, for bringing such a sharp focus to the vital need to provide adequate funding of civil legal services. I thank you, Steve Younger, and Helaine Barnett and all involved with the Task Force for the work you are doing and will do to accomplish this goal.

The City Bar is an organization of over 23,000 lawyers and judges dedicated to improving the administration of justice. In addition to having members who are active in legal services, and a committee devoted to studying ways to improve the delivery of pro bono and legal services in New York City, the Association has a public service affiliate - the City Bar Justice Center - whose mission is to leverage the resources of the City's legal community to increase access to justice for low-income individuals. The Justice Center does this by using a small staff to carefully match pro bono lawyers with clients, train them and supervise their work. We estimate that for every \$1 it spends, the Justice Center is able to deliver up to \$9 in value of legal services.

The Justice Center assists more than 20,000 clients a year. We assist immigrants who have been victims of violence or a crime, and also conduct outreach to immigrant communities regarding their rights and options. We assist homeless individuals and families seeking benefits, cancer survivors who have insurance and employment issues, elderly New Yorkers who seek wills and living wills, microentrepreneurs seeking all types of basic legal help, and veterans seeking disability benefits. We also provide assistance to persons filing for bankruptcy and those

seeking to defend against or prevent foreclosure. In addition, we operate a legal hotline that assists thousands of low-income callers on a wide range of issues every year.

Despite all of this, the need for civil legal services among those who cannot afford counsel far exceeds our ability to serve them.

The recession has had a major impact on our work, particularly for clients dealing with debt. Our bankruptcy program is busier than ever, the number of consumer debt calls to our hotline have increased 40% in the past few years, and our new foreclosure project has all the work it can handle. We, like other legal services providers, struggle with the same or reduced resources to serve a population which is particularly vulnerable to downturns in the economy.

I want to focus on one major part of the City's population who have particular difficulty receiving the legal services they desperately need the City's immigrant population. Approximately 3,000,000 New York City residents are foreign born. Most of these immigrants are involved in the City's economy, but often in jobs that do not meet even basic income needs. Some are dependent on the City's heavily-tested safety net of benefits and services. These individuals have the same legal needs as the rest of the population in areas such as housing, family law, consumer problems, education and government assistance. And like other low-income New Yorkers, there are simply not enough lawyers to provide those services.

However, immigrants face further hurdles in accessing legal services. Our laws and rules are unfamiliar to them, and they lack basic understanding of how to proceed within our legal system. Many come from cultures where seeking legal help is discouraged, or where the delay in seeking such help leads to a compounding of their problems. Many immigrants lack the language skills to understand what their legal situation is or explain what they need. All this makes them particularly vulnerable to notarios and others fraudulently claiming to provide legal services, and recently we were called upon by both the New York County District Attorney and the New York State Attorney General to assist immigrant victims of such scams.

Compounding all of this, a substantial number of the City's immigrants have immigration-related problems which they must address while raising their families, making a living and dealing with all their other concerns. The City Bar Justice Center sees women and children who are victims of domestic violence and trafficking. We see people who have escaped their home countries and are seeking asylum. And we see people who, after starting a new life and becoming part of the fabric of our communities, are detained because of a long-ago criminal conviction which could subject them to deportation, sending them far from their communities and their families. We are grateful to the volunteers who have stepped forward to help these

immigrants pursue their claim, and we see what a difference it makes in the outcome of these matters to be represented. For example, among asylum seekers who were not detained at the time of their hearing, those represented by counsel received asylum 39% of the time, but only 14% of those who were unrepresented were successful. For those asylum seekers who were detained, the comparable numbers were 18% and 3%.

We are therefore particularly sensitive to the importance of providing representation to all immigrants who cannot afford lawyers to assert their basic claims and defenses. New York State should not subject these people to navigating the legal system on their own. Yet, only a tiny percentage of immigrant tenants, consumer debtors and parties in family proceedings have a lawyer to represent them. Working together, we must all find a way for all vulnerable New Yorkers to receive the legal assistance they need. The City Bar and the City Bar Justice Center look forward to working with the Task Force and helping in that effort.

Thank you.

Michael Smith

President and CEO of the New York State
Bankers Association

Summary of Testimony
Michael P. Smith
President & CEO
New York Bankers Association

We believe that legal representation for those who could not otherwise afford to have counsel in civil litigation, not only assures a fair outcome, but also greatly decreases the amount of time needed to resolve disputes and enhance efficiencies in the court system. Such efficiencies would help courts to more speedily address their overburdened dockets, provide resolution to all litigants in a more timely manner, and ultimately, save time and resources for all. For example, as legal aid services have become overwhelmed, the length of time it takes to conclude a foreclosure procedure in New York has continued to grow. Additional legal aid services would reduce court congestion and shorten the foreclosure process to bring resolution to homeowners and lenders, and in many cases, prevent further deterioration of homes and neighborhoods.

Bankers volunteer their time and expertise for many initiatives aimed at assisting consumers in financial distress. Financial literacy programs, for example, to which bankers dedicate many hours of their time and expertise, we believe, represent the long-term solution to this problem.

We are aware that historically a significant portion of the funding for legal aid services stem from revenues accumulated in the Interest on Lawyer Account (IOLA) Fund, which, in light of the current interest rate environment is under great financial pressure. Although banks are not mandated to offer IOLA accounts and despite the significant constraints placed on such accounts – including mandated interest rates and fee limitations – approximately 200 New York banking institutions (more than 90% of the banks in New York) do offer them. Nevertheless, the financial challenges associated with the IOLA funding mechanism at this time should not result in additional burdens for the more than 90% of financial institutions in our State that offer IOLA accounts. We believe that to do so could discourage and even jeopardize the participation of banks in this critical and worthwhile cause.

The Association will join in efforts to expand our membership's activity in support of legal aid services through direct grants or volunteer and in-kind services. We believe this is the best approach in these difficult economic times.



New York Bankers Association

**STATEMENT OF MICHAEL P. SMITH
PRESIDENT & CEO
NEW YORK BANKERS ASSOCIATION
BEFORE
THE HONORABLE JONATHAN LIPPMAN
CHIEF JUDGE OF THE STATE OF NEW YORK**

September 28, 2010

Good morning, Judge Lippman, Judge Pfau, Judge Gonzalez, and Mr. Younger. My name is Michael P. Smith and I am President and CEO of the New York Bankers Association (NYBA). Our Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State, employing over 200,000 New Yorkers.

I welcome the opportunity to testify today to voice NYBA's support for expansion of access to civil legal services. We believe that legal representation for those who cannot otherwise afford to have counsel in civil litigation not only enhances a fair outcome, but also greatly decreases the amount of time needed to resolve disputes. Such efficiencies help courts more speedily address their overburdened dockets, provide resolution to all litigants in a more timely manner, and ultimately, we believe, save time and resources for all.

NYBA and its members have long worked to support financially challenged New Yorkers. For example, we supported the creation of the basic banking account, an innovative response to reach out to the unbanked. We support and participate in numerous financial education initiatives, have programs in place to protect elderly citizens against financial abuse, and over the last few years have offered New Yorkers an array of program initiatives designed to help them with mortgage-related issues and concerns.

In this regard, the basic banking account, available to all New Yorkers, is a low-cost bank account with very low maintenance and opening fees. The account also features a one-cent minimum balance requirement – a great help for low-income New Yorkers who sometimes find that high minimum balance requirements are a barrier to mainstream financial services. NYBA consistently voices its support for this program in testimony and when working with the State Legislature and the State Banking Department.

Another area in which the bank members of the New York Bankers Association work cooperatively with social services providers and law enforcement is that of “financial abuse of the elderly.” Banks and thrifts around the State of New York have trained their frontline staff to identify instances where our elderly and vulnerable neighbors might be taken advantage of by criminals, con artists, and sometimes even by their own family members or other caregivers. As our U.S. population ages, financial services professionals are strengthening their response to better serve their senior customers.

Ultimately, financial literacy is the best safeguard to mitigate the need for legal aid in the consumer area. To that end, the New York Bankers Association and its global financial literacy and empowerment partner, Operation HOPE, recruit and deploy more than 12,000 volunteer

bankers to teach students and adults the basics of credit and money management. More than 10,000 New Yorkers each year complete some form of the program. Operation HOPE also offers foreclosure and debt counseling, as well as assistance with federal small business lending programs.

Throughout this period of increased foreclosures, the New York Bankers Association has supported various programs and initiatives aimed at helping homeowners avoid foreclosure. As early as 2002 NYBA, along with U.S. Senator Schumer, began a dialogue with local community leaders and banks on the causes for many citizens choosing to enter into high-cost mortgages with non-banks, and created the HELP program. HELP was designed to bridge the communications gap between traditional banks and low- to moderate- income households and to break the grip of predatory lenders in certain neighborhoods. Additionally, NYBA has consistently worked with State and federal legislators and regulators for many years to develop meaningful high-cost and subprime lending legislation, designed to protect consumers while not limiting credit availability in the State. As a result of these efforts, mortgage legislation was enacted as far back as 2003, which we believe helped to significantly reduce the number of foreclosures in New York and enables us today to rank 40th among all 50 states in foreclosures.

In June 2008, NYBA supported a foreclosure mitigation initiative of the Office of Court Administration, spearheaded by your predecessor Chief Judge Judith Kaye, which sought to make settlement conferences more productive for all parties – the homeowners, the lenders, and the court system. Unfortunately, as you know, despite these efforts, as the number of foreclosure actions increased, lenders and the courts found themselves more and more back-logged with cases. Many settlement conferences continued to be adjourned after the first meeting, citing inadequate preparation. Volunteer lawyers in Brooklyn say that in that borough alone, half of all foreclosure cases require a *pro bono* attorney. A 2009 report of the Center for New York City Neighborhoods found that, after the first conference was adjourned, many homeowners wisely used the opportunity to seek counsel from legal aid services. The number of free legal aid providers expanded in response to this need in the community with many new volunteer initiatives springing up, resulting in more productive conferences. These services are now more often being used prior to the first settlement conference – with homeowners now less fearful of intimidating court environments and unfamiliar legal terminology. When distressed homeowners are able to find resolution in a timely manner, there is less chance of properties falling into disrepair and neighborhoods declining. The toll on a family of a long, drawn-out proceeding can also be avoided.

Legal aid services, however, have become overwhelmed by the caseload of foreclosure proceedings. In response, the Federal Reserve Bank of New York and the New York City Bar Association have launched a volunteer-effort called the Lawyers' Foreclosure Prevention Network, to supplement, on a *pro bono* basis, the number of lawyers available to homeowners in foreclosure. To facilitate this worthwhile program, financial institutions have waived, to the extent possible, conflicts of interest that arise in the representation of distressed homeowners, allowing their own counsel to work on behalf of those facing foreclosure.

As we have stated above, NYBA fully supports access to legal services for low-income New Yorkers. In fact, our member banks and our colleagues, including Citi, JPMorgan Chase and nationally renowned bank attorney Rodgin Cohen of Sullivan & Cromwell, were recently honored for their continuing commitment to legal aid services.

We are also aware that historically a significant portion of the funding for such services stem from revenues accumulated in the Interest on Lawyer Account (IOLA) Fund, which, in light of the current interest rate environment, is under great financial pressure. In fact according to testimony provided by IOLA's President Benito Romano at a hearing earlier this year, IOLA's revenues are down 75% over the last two years. While we understand that this is a significant challenge, we wish to express our strong belief that changes to the rules which set forth the standards for IOLA accounts (see Part 7000 of 21 NYCRR) not be considered as a means of addressing the IOLA

Fund's revenue shortfall. Any such rule change, we believe, could have the unintended consequence of limiting the number of banks who offer IOLA accounts to attorneys.

Section 497(6)(b) of New York's Judicial Law requires attorneys to deposit certain client funds into IOLA accounts for which participating banking institutions pay an interest rate not less than the rate paid on "similar accounts" and which do not impose charges or fees greater than those imposed on such similar accounts. As you know, IOLA earns the interest income net of any fees on these accounts and awards that money to civil legal aid organizations throughout New York State. Although banks are not mandated to offer IOLA accounts and despite the significant constraints placed on such accounts – including mandated interest rates and fee limitations – approximately 200 New York banking institutions (more than 90% of the banks in New York) do offer them. We believe this is strong evidence of the banking industry's commitment to supporting access to legal services for all.

However, in the hopes of increasing IOLA revenues, the IOLA Board has twice in the last few years amended its rules. In this regard, in 2007, the Board effectively increased the interest rates paid on IOLA accounts by broadly interpreting the statutory requirement that the interest rate payable on IOLA accounts be not less than the rate paid by the bank on "similar accounts." This interpretation resulted in banks being required to deem accounts they do not believe to be similar (such as money market accounts with or tied to check writing capability and many open-end money market funds) to inappropriately be deemed "similar" for interest-setting purposes.

Additionally, among other things, the 2007 amendments to the Board's rules added a "best customer" standard for the interest paid on such accounts, thereby requiring that the interest rate paid on an IOLA account must be at least as great as the rate the bank offers its best customers on similar accounts at that bank – a requirement for which there is no basis in the governing statute. The rule further established a requirement for attorneys that they establish IOLA accounts only in "eligible banks" although there is no such mandate in the underlying law. In fact the governing law specifically states that an attorney may establish an IOLA account "in a banking institution, of the choice of the attorney." Thus, the rule, without ostensible legal authority, limited the choices that an attorney has when selecting a financial institution for IOLA account purposes.

In 2010, the Board further revised its interest rate options to establish a 1% interest rate floor as one of the options banks may utilize when setting IOLA account interest rates – specifically, the option that ties IOLA rates to the Federal Funds Target Rate. Any further restrictions placed on IOLA accounts could, no doubt, result in limiting the number of banks offering this service, creating inconvenience and a lack of choice for attorneys required to set up IOLA accounts and ultimately undermining the success of a program in which the vast majority of banking institutions today voluntarily participate.

In summary, I wish to emphasize that the banking industry fully supports the increased availability of legal aid services to New Yorkers in need, and has a long history of meaningful support. In addition, the banking industry will continue to play a leading role in financial literacy initiatives in New York, as a way of mitigating future need for legal aid in many consumer service areas. Nevertheless, the financial challenges associated with the IOLA funding mechanism at this time should not result in additional burdens for the more than 90% of financial institutions in our State that offer IOLA accounts. We believe that to do so could discourage and even jeopardize the participation of banks in this critical and worthwhile cause. The Association pledges to expand efforts to expand our membership's activity in support of legal aid services through direct grants or volunteer and in-kind services. We believe this is the best and most effective approach in these difficult economic times.

Thank you.

Joseph Strasburg

President of the Rent Stabilization
Association

Task Force to Expand Access to Civil Legal Services in New York

Joseph Strasburg is the President of the Rent Stabilization Association, a trade association comprised of 25,000 members who own or manage approximately one million apartments throughout the City of New York. Mr. Strasburg has served as the President of RSA since 1994. Previously, Mr. Strasburg served as Chief of Staff and Legislative Counsel to the Majority Leader of the City Council and in other senior positions over a fifteen-year period at the City Council. From his appointment by Governor George Pataki in 1997 until 2007, Mr. Strasburg also served as Chairman of the State of New York Mortgage Agency (SONYMA). Mr. Strasburg holds a B.A. degree from the City College of New York and a J.D. degree from the Touro School of Law.

TASK FORCE TO EXPAND ACCESS
TO CIVIL LEGAL SERVICES
IN NEW YORK

Testimony of Joseph Strasburg, President,
Rent Stabilization Association

September 28, 2010

My name is Joseph Strasburg and I am President of the Rent Stabilization Association. On behalf of our 25,000 members who own or manage approximately one million apartments throughout the City of New York, I appreciate the opportunity to appear today before the Task Force to Expand Access to Civil Legal Services in New York.

While we have many large property owners among our membership, our typical member owns one or two small- to medium-sized buildings outside of Manhattan, works a day job, tends to his building after hours and, in all likelihood, he and his family have lived in this country for only one or two generations. Now, more than ever before, our members are laboring under an increasingly burdensome property tax system, ever-increasing water rates, a depressed rental market and a hostile regulatory environment.

In addition, our members know all too well the rigors of appearing in Housing Court. Ultimately, they bear the burden when tenants fall through the cracks of governmental assistance programs. All too often, property owners and tenants, through no fault of their own, end up as adversaries in Housing Court because government agencies have failed to properly administer their programs. From the perspective of a property owner, the inability of individuals to navigate successfully through the maze of government bureaucracies has the most important and dire consequence: the failure to receive the monthly rental payment due and owing to the owner. Especially for the smaller property owners throughout the City, each month that passes without receiving rent from even a single tenant jeopardizes their ability to pay their mortgages, real estate taxes, water bills, fuel bills and other mandatory expenses. Housing Court only exacerbates the problem, with delays compounding the consequences for both the owner and the tenant.

While advocates for tenants and property owners typically have few opportunities for common ground, we believe that one area where the commonality of interest does exist is in the area of access to civil legal services. The ability of tenants to access unemployment benefits, health care coverage, food stamps, public assistance including Section 8, SCRIE and DRIE benefits, and other forms of support is inextricably linked to the Housing Court caseload. Simply stated, the more support that is provided to individuals at the front end of this process, the fewer cases property owners need to bring in Housing Court for non-payment of rent.

In these types of cases where public benefits are at issue, the eviction of the tenant is not the owner's goal; rather, the goal is simply to obtain the funds which are due and owing, not to see a change in tenancy. Providing more access to civil legal services at the front end will ease the burden at the back end. While beyond the scope of this Task Force, we strongly believe that to further ease the burden on both property owners and low-income tenants, and the courts as well, the eligibility criteria of the SCRIE and DRIE programs should be significantly broadened so that more low-income tenants, regardless of their age or disability status, can receive the benefits from these invaluable programs and so that the most vulnerable persons at the bottom of the economic ladder can be better protected.

In closing, I would like to reiterate our support for civil legal services in New York. I do want to be clear, however, that our support for such services in order to enable individuals to navigate through the maze of government agencies and myriad programs should not be mis-interpreted as endorsing the concept of the right to counsel in Housing Court itself. That debate will be for another day.

Again, thank you for the opportunity to provide this testimony and I look forward to working with the Task Force in the future.

Kathy Wylde

President and CEO of the Partnership
for New York City

Kathryn S. Wylde
Biographical Summary

Kathryn Wylde is President & CEO of the Partnership for New York City, a nonprofit organization of the city's business leaders established by David Rockefeller in 1979. The Partnership is dedicated to working with government, labor and the not-for-profit sectors to build a stronger New York, with a focus on education, infrastructure and the economy.

Wylde has been with the Partnership since 1982. She served for fourteen years as founding President & CEO of the Housing Partnership Development Corporation. In that capacity, she was instrumental in the creation of a number of pioneering initiatives in affordable housing at the local, state and national levels. Under her leadership, more than \$2 billion in private funds were invested in public-private partnerships that produced affordable housing and commercial developments in New York's most economically distressed communities.

In 1996, she became founding President & CEO of the New York City Investment Fund, the Partnership's economic development arm. This \$120 million civic investment fund, established under the leadership of Henry R. Kravis, has helped to diversify the city's economy, create thousands of jobs and promote entrepreneurial business initiatives across the five boroughs.

Prior to joining the Partnership, Wylde was the Urban Affairs Officer at Anchor Savings Bank (1979-81) and spent 11 years (1968-79) in various positions at Lutheran Medical Center, where she helped lead the redevelopment of the federally designated poverty area of Sunset Park, Brooklyn.

An internationally known expert in housing, economic development and urban policy, Wylde is the Deputy Chair of the Board of the Federal Reserve Bank of New York and serves on a number of boards and advisory groups, including the Mayor's Sustainability Advisory Board, NYC Economic Development Corporation, NYC Leadership Academy, the Research Alliance for NYC Public Schools, the Manhattan Institute, the Lutheran Medical Center, the Sila Calderon Foundation and the Independent Judicial Election Qualification Commission for the First Judicial District. She has authored numerous articles and policy papers and has been recognized for her leadership by dozens of educational, professional and nonprofit institutions.

Wylde is a native of Madison, Wisconsin, a graduate of St. Olaf College, '68, and resides in Brooklyn, New York.



Partnership for New York City

**TESTIMONY SUBMITTED TO THE TASK FORCE TO EXPAND
ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK**

TUESDAY, SEPTEMBER 28, 2010

KATHRYN WYLDE

**PRESIDENT & CEO
PARTNERSHIP FOR NEW YORK CITY**

Thank you for the opportunity to testify today on the need for expanded access to legal representation in civil cases. Under any circumstance this is a critical discussion to have; but, for it to have emanated from the judiciary itself is quite extraordinary. We commend the Chief Judge for his foresight and his leadership.

The Partnership for New York City is an organization of international and regional business leaders who are dedicated to maintaining New York's standing as the pre-eminent center of global commerce, finance and innovation. Our members employ 1.3 million people throughout the state and contribute \$202 billion a year to the state GDP.

New York's economic vitality requires a well-functioning judicial system that works for everyone. Failure to insure access to representation for all New Yorkers undermines efforts to make this a city of economic opportunity. Increasing access to counsel in civil cases will instill greater confidence in our justice system and in the character of our city. This, in turn, will contribute to the stability needed to attract new business investment and grow our economy.

New York City and most of its business sectors are rebounding from the global recession, but the recovery has yet to reach most low-income New Yorkers. In fact, statistics released earlier this month show that New York State's poverty rate climbed to 15.8% in 2009, when more than 3 million New Yorkers were living in poverty (up from 14.2% the year earlier). This rate of poverty was 12th highest in the nation and higher than other northeastern states.

The recession and increasing conditions of poverty have resulted in an increase in the number of New Yorkers seeking free and discounted civil legal assistance, obtaining unemployment and disability benefits, fleeing domestic violence, and preventing evictions, foreclosures and homelessness. In the Bronx alone, – where 1 in 4 residents lives in poverty – the number of civil actions filed with the Clerk’s Office grew by over 21% in the first three terms of 2010, as compared with that same period in 2009. At the same time, the availability of subsidized legal services has declined.

Providing legal services to low-income New Yorkers is a good investment. As we seek solutions for the difficult fiscal problems faced by both our City and State, we should keep in mind that these legal services have the potential to save government millions of dollars a year in averting homelessness and obtaining federal benefits in place of State and City public assistance payments.

A fair and just legal system is essential to sustaining the confidence of business in our city, and to encouraging investment and growth. This is why insuring adequate representation for lower income New Yorkers dealing with our civil legal system is so important to the economic future and well-being of our city.