

**Written Statements Submitted at the
Third Department Hearing on October 3, 2011**

Statements of Testifying Witnesses

James J. Barba (President and CEO, Albany Medical Center)

Hon. J. Timothy Breen (Warren County Family Court)

Hon. Christine M. Clark (Schenectady County Family Court)

Hon. Michael V. Coccoma (Deputy Chief Administrative Judge for Courts Outside New York City)

Prof. Joseph M. Connors (Director, Albany Law School Clinic and Justice Center)

Julie A. Davies (North Country Mediation/Rural Law Center)

Arthur Demar, Jr. (Client of Legal Aid Society of Northeastern New York, accompanied by Robert Vanderbles)

Buckmaster de Wolf (General Counsel, GE Global Research)

Michael Hertz (Chief Marketing and Business Development Officer, White & Case)

Rasaan Kellam (Client of Legal Aid Society of Northern New York, accompanied by Robert Vanderbles)

Martin J. Mack (Executive Deputy Attorney General for Regional Affairs, on behalf of Eric Schneiderman, Attorney General of the State of New York)

Dana P. (Client of The Legal Project, accompanied by Lorraine Silverman)

Debra L. Schimpf (Executive Director, Schenectady Community Action Program)

Hon. Leslie E. Stein (Appellate Division, Third Department)

Debra Sullivan (Former Pro Bono Director and Member, Capital District Paralegal Association)

F. Michael Tucker (President and CEO, Center for Economic Growth)

James J. Barba

President and CEO, Albany Medical Center

James J. Barba
President & CEO
Albany Medical Center
43 New Scotland Avenue, MC 114
Albany, New York 12208
(518) 262-3830; barbaj@mail.amc.edu

James J. Barba is president and chief executive officer of Albany Medical Center, the only academic health sciences center in northeastern New York.

He oversees the largest hospital in 25 counties; one of the nation's oldest medical colleges, where 40 percent of the doctors and health care professionals from our region are trained; a research operation where scientific and medical researchers are working on projects totaling \$30 million in funding; a workforce of more than 7,000, making Albany Med the region's largest private employer; a Physician Practice Group of 325, doctors who practice what they teach; and, to support it all, one of the region's most active fund-raising organizations.

Mr. Barba is currently overseeing the most ambitious expansion in the Center's 172-year history, and the largest such project in the history of the region. This \$360 million, eight-year project is transforming the New Scotland-Park South neighborhood where the Center stands.

A native Albanian and attorney by education, Mr. Barba was named chairman of the Center's board of directors in 1994, a position he held until 2006. He was named president and CEO in 1995, and is widely credited with putting the Medical Center back on firm financial footing. He was formerly senior counsel to the Albany law firm of Hiscock & Barclay and is a graduate of the University of Notre Dame Law School and Siena College, from which he holds an honorary doctorate.

He has served on numerous special commissions and councils by gubernatorial appointment and at the request of his peers, as well as boards of community organizations – particularly those related to regional economic development. As a result, he received numerous accolades over the years: "Executive of the Year" from the *Capital District Business Review*; the "Career Achievement Award" from Siena College; and the "Distinguished Citizen" award from the Twin Rivers Council Inc., Boy Scouts of America. He has been cited for his leadership in health care by the American Heart Association, the Juvenile Diabetes Association, and the National Multiple Sclerosis Society. He is a frequent lecturer and author on health care topics and health care policy.

9-19-11

**SHORT SUMMARY OF ORAL TESTIMONY
OF JAMES J. BARBA, J.D.
PRESIDENT & CEO
ALBANY MEDICAL CENTER
ALBANY, NEW YORK**

**AT A PUBLIC HEARING
OF THE CHIEF JUDGE’S TASK FORCE
TO EXPAND ACCESS TO LEGAL SERVICES IN NEW YORK**

**October 3, 2011
Court of Appeals Hall
26 Eagle Street, Albany, New York**

Without Legal Aid for the thousands of poor and under-served, there is no justice.

Those of us in health care recognize that these times are like no others in memory due, in great part, to the economy. And for the poor, life’s complexities, already legion, are aggravated -- and often debilitating, leaving many in despair and without hope.

The health care delivery system in America is changing rapidly. Federal and state spending will diminish hospitals’ resources. At the same time, health care reform will increase opportunities for those currently without insurance to secure coverage. But still there will be hurdles, and I envision the need for legal help will increase.

Statistics have a face and remind me of words I wrote and delivered in 1969 at the centennial celebration of my alma mater, the University of Notre Dame Law School: “Law becomes justice only when it is made available to all on equal terms.”

And now there is a corollary: “Delivering health care encompasses more than delivering health care services. It absolutely mandates sharing knowledge that leads to justice.”

At Albany Medical Center, we see a growing need for civil legal services to the poor and under-served – in our Children’s Hospital, HIV Center, in our Emergency Department, in our kidney practice. We depend on the services of the Legal Aid Society of Northeastern New York because we recognize that underlying many of our patients’ sicknesses are issues that exacerbate illness and complicate healing.

We have several partnerships with the Society, including the Medical-Legal Partnership for Children and Families. The Legal Aid Society continues to be a required part of our College's residency "community health rotation."

An Albany Medical College alumnus and an associate professor at the College today, who operates a clinic in one of Albany's poorest neighborhoods, observed: "People's inability to access justice will lead them from frustration to hopelessness and finally to despair.... One of the biggest battles that I face... is to help our patients overcome the overwhelming temptation to just give up. A legal advocate can literally change their world by injecting hope in the situation, and hope is our greatest weapon as we battle despair.... "

-- **James. J. Barba**

President & CEO

Albany Medical Center

43 New Scotland Avenue, MC 114

Albany, New York 12208

(518) 262-3830; barbaj@mail.amc.edu

9-19-11

**TESTIMONY OF
JAMES J. BARBA, J.D.
PRESIDENT & CEO
ALBANY MEDICAL CENTER
ALBANY, NEW YORK**

**AT THE CHIEF JUDGE'S HEARING
ON CIVIL LEGAL SERVICES**

**October 3, 2011
Court of Appeals
26 Eagle Street, Albany, New York**

Chief Judge Lippman, Presiding Justice Cardona , Chief Administrative Judge Pfau and New York State Bar Association President Doyle, my name is James J. Barba. I have been president and CEO of Albany Medical Center since 1995.

Thank you for the opportunity to testify today on the importance of – and growing need for – civil legal services to the poor and under-served.

Those of us in health care now recognize that these times are like no others in memory due, in great part, to the economy. And for the poor, life's complexities, already legion, are aggravated -- and often debilitating, leaving many in despair and without hope.

At Albany Medical Center we see far more of the poor than the region's other health-care facilities. And, we depend on the services of the Legal Aid Society of Northeastern New York because we recognize that underlying many of our patients' sicknesses are issues that exacerbate illness and complicate healing.

Let me begin, if I may, by placing Albany Medical Center in context.

Our mission – as the only academic medical center in Northeastern New York – distinguishes us in the 25 counties – and among the 3 million people – we serve. We are the region's leading health care provider with more than half-a-million outpatient visits and 32,500 inpatient stays last year.

We are the number-one Medicaid provider in the 23 New York State counties in our service area. In the last 10 years, our Medicaid discharges from those counties have increased by an astounding 50 percent. We also have a generous charity care policy, budgeting more than \$40 million annually to provide medical services for which we will not be reimbursed.

So we see hundreds and hundreds of patients who are the poor, the under-served and the working poor.

These stunning statistics have a face and remind me of words I wrote and delivered in 1969 at the centennial celebration of my alma mater, the University of Notre Dame Law School.

I said: "Law becomes justice only when it is made available to all on equal terms."

And now there is a corollary to my thinking: "Delivering health care encompasses more than delivering health care services. It absolutely mandates sharing knowledge that leads to justice."

As an academic health center, we are productively involved in the community and understand increasingly how health care and the social determinants of health intertwine.

An Albany Medical College alumnus and an associate professor at the College today, who operates a clinic in one of Albany's poorest neighborhoods, observed: "People's inability to access justice will lead them from frustration to hopelessness and finally to despair.... One of the biggest battles that I face... is to help our patients overcome the overwhelming temptation to just give up. A legal advocate can literally change their world by injecting hope in the situation, and hope is our greatest weapon as we battle despair.... It is hard to think of a patient who has not had significant dealings with the system which has not negatively impacted their well-being."

He also notes that among those he serves, health care is at the bottom of a list of priorities --after (1) housing; (2) jobs; (3) food; (4) education and (5) violence prevention.

Imagine how hard it is to manage your diabetes when your apartment is padlocked by code enforcement; how hard it is to pay your co-pays when you can't access your benefits due to issues with your insurer; how difficult it is to keep medical appointments when you're in Family Court fighting for child custody or orders of protection.

They may be non-medical issues, but they impact a person's overall health and well-being.

At Albany Medical Center, a day does not pass that a social worker does not see a patient who needs legal help. So our social workers, part of every patient care team, are armed with information about Legal Aid; it is distributed liberally because it MUST be.

In our Children's Hospital, there are young mothers – poor, uninsured, worried about their child – but also terrified by domestic abuse, fair housing, Social Security. They are routinely advised of the Legal Aid Society – of an advocate who can help them and empower them.

In our HIV Center, we see thousands of patients; many need legal help – job discrimination, housing discrimination. In our kidney practice, the poor find it increasingly difficult to access health benefits and preventive care. In our Emergency Department, we see 70,000 patients a year – many victims of life cycle and domestic violence, homelessness, mental illness. Legal Aid Society is indispensable in all these cases.

We have several partnerships with the Society, including the Medical-Legal Partnership for Children and Families. Legal Aid trained health care staff at our pediatric unit to identify legal issues and refer patients who can see a Legal Aid attorney right at our pediatric practice or be given a direct line to be screened for eligibility.

The Legal Aid Society continues to be a required part of our College's residency "community health rotation."

We have brought to the board of directors of Albany Med the voice of Lillian Moy, an attorney who has devoted her professional life to helping the poor and under-served. Her 30-year perspective offers an invaluable dimension to our thinking and leadership.

The health care delivery system in America is changing rapidly. Federal and state spending will diminish hospitals' resources. At the same time, health care reform will increase opportunities for those currently without insurance to secure coverage. But still there will be hurdles, and I envision the need for legal help will increase.

My words of 1969 still ring true. "Law becomes justice only when it is made available to all on equal terms." And, yes, today, "Delivering health care encompasses more than delivering health care services. It absolutely mandates sharing knowledge that leads to justice."

Without Legal Aid for the thousands of poor and under-served, there is no justice.

Thank you.

-- James. J. Barba, J.D.
President & CEO
Albany Medical Center
43 New Scotland Avenue, MC 114
Albany, New York 12208
(518) 262-3830; barbaj@mail.amc.edu

Hon. J. Timothy Breen

Warren County Family Court

TESTIMONY OF

Honorable J. Timothy Breen

Warren County Family Court Judge and

Acting Supreme Court Judge Warren County Supreme Court

On The Extent and Nature of Unmet Need for Civil Legal Services

in New York State

Submitted To:

Honorable Chief Judge Jonathan Lippman's Hearings on

Civil Legal Services

October 3, 2011

New York State Court of Appeals, Albany, New York

Testimony of Hon. J. Timothy Breen
October 3, 2011

Biography:

1985 Appointed as the first New York State (Hearing Examiner/Support Magistrate)

1999 Appointed to Warren County Family Court Bench by Gov. George Pataki

1999 First Elected term to Warren County Family Court Bench

2002 Acting Supreme Court Justice

2003 - Present, Warren County Treatment Court Presiding Judge

2009-Present, Back Up Integrated Domestic Violence Judge

2009 Second Elected term to Warren County Family Court Bench

Summary of Testimony

-Access to counsel should be further expanded in Family Court

-Access to counsel should be further expanded in matrimonial actions in Supreme Court to issues of grounds, child support, maintenance, domestic violence requiring an order of protection and equitable distribution issues

-Family Court Cases are more complex

-Court operations are negatively affected by pro se litigants:time spent explaining court procedures, proper paperwork, avoiding giving legal advice

-Judiciary is negatively affected by pro se litigants: delay in calendars because more time is spent during court appearances

explaining what is happening delaying court calendars, adjournment requests to obtain counsel resulting in more court appearances, lack of public confidence in the integrity of the judicial system if Judges must step out of judicial role and “assist” pro se litigants

-Pro Se litigants are negatively affected by self representation: poor outcomes in their cases, lack of understanding of the proceedings, inability to introduce evidence or testimony or to raise defenses, missed days at work, numerous court appearances, counsel for other parties are reluctant to work on resolutions with them

-Children are negatively affected by Pro Se parent/litigants in family court and matrimonial matters: lengthy unresolved court proceedings are never in the best interest of children as they affect the parent-child relationship, the child's education and possible negative impact on their overall well being

-Civil Gideon will require more funding in order to hire more counsel who are trained in the areas of matrimonial and family law which is required due to the increasing caseloads and to allow for adequate representation of the parties

Testimony:

Good Morning Honorable members of the Hearing Panel. (Presiding Justice Anthony V. Cardona, Chief Administrative Judge Ann Pfau and President Vincent E. Doyle, III, Esq. NYS Bar Association). My name is J. Timothy Breen. I am the presiding Family Court Judge in Warren County Family Court and an Acting Supreme Court Justice. I want to thank Chief Judge Lippman, Chief Administrative Judge Ann Pfau and Chairperson of the Task Force Helaine M. Barnett for giving me the opportunity to testify today on this very important topic.

There is a continuing unmet need for civil legal services in New York State. The time for the Legislature to provide stable funding for them is now.

The Judiciary has spoken and it unequivocally continues to maintain that civil legal assistance is required for the most vulnerable low income New Yorkers who are facing the loss of their families, their shelter, their personal safety and/or their economic resources.

The purpose of my testimony today is not to repeat the same testimony that you heard last year from Judges in support of the four findings that were stated in the Report of the Task Force in 2010. However, one cannot dispute that the our current status quo is not acceptable.

The number of Americans that are currently living in poverty is increasing annually. That means more business for the Court system. Without equal justice for all, litigants will be more frustrated with and distrustful of the Judiciary. Why? Pro Se litigants do not understand what is going on during the court

proceedings or why they are not being given a chance to tell their side of the story. Court calendars will continue to be clogged, outcomes will continue to be poor and the economic and emotional health of families and children will continue to suffer. This has the potential overall devastating effect on families and children, with many families becoming further dependent upon public monies.

On September 13, 2011, the New York Times reported that the most recent US Census indicates that 15.1 percent of Americans are living below the poverty line of \$22,113 for a family of four and that 45.3 percent of Americans, between the ages of 25 and 34 years old, are living below the poverty line, if you do not take their parents' income into account. This is the population that we serve in our Family Courts. The article went on to quote Timothy Smeeding, the director of the Institute for Research and Poverty at the University of Wisconsin, Madison who said that "We're risking a new underclass. Young, less educated adults, mainly men, can't support their children and form stable families because they are jobless."

Typical family court cases have become much more complex and do not involve just a mother and a father anymore. For example, we can have a mother who has four children in her care who has recently separated from her husband. The mother files a paternity petition naming two to three men as the putative father of her newborn child in a paternity action. She must also name her husband as a respondent in the paternity petition. She also files custody, child support and family offense petitions against her husband as a result of domestic violence in the home. The husband/father also files custody, child support and family offense petitions against the mother. The domestic violence allegations require intervention/investigation by Child Protective Services and the

Department of Social Services files neglect petitions against the mother and father concerning all four children. The putative fathers of the newborn child are also given notice of the proceeding as interested parties. All four children are removed from the care of their parents and placed into foster care giving the foster care parents the right to notice of the proceedings in the neglect cases and in all future permanency hearings. When the maternal and paternal grandparents learn of the neglect petitions and the removal of the children they file intervenor custody petitions that will be heard at the dispositional phase of the neglect proceeding. The father then commences a divorce proceeding in Supreme Court.

At the arraignment on the neglect petitions, how many people will be in the courtroom and who should have attorneys?

There will be 21 people in the courtroom (11 parties present and 10 attorneys for the parties) The 4 children are also parties but will not be present. The mother and her attorney, the husband/father and his attorney, two putative fathers and their attorneys, the four grandparents and their two attorneys, one attorney for the three children and one attorney for the newborn child, two foster parents and their attorney and counsel for the Department of Social Services and their caseworker client.

If there are any other contract caseworkers, domestic violence advocates or family members that come to the court appearance, we can approach as many as 25 people in the courtroom, not counting any witnesses or court personnel.

The reality is that my Family Court only has three tables and three microphones and that the respondents, the putative fathers, the maternal and paternal grandparents and the foster parents will

probably not all have counsel, even if they are qualified to have counsel assigned.

What are some of the common misunderstandings of pro se litigants in Family Court:

1-They do not understand that when they file a petition in Family Court, they are commencing a lawsuit and are suing the respondents that are named in the petition.

2- They think that after they file a petition in Family Court they have an “appointment” in Court.

3-When they appear in Family Court they think that they are going to tell their side of the story at the first court appearance.

4-Ex parte communication with the Judge is often attempted.

5- When indigent persons are arraigned on their right to assigned counsel at the first court appearance, they do not appreciate that they should immediately apply for counsel. They often wait until they are at a pretrial conference, weeks before the trial is scheduled to be held, before they apply.

6- They do not know that there are rules of evidence, burdens of proof or that testimony and/or evidence are required during a hearing.

7-They do not know that the Judge, as the impartial fact finder, is prohibited from “helping” them prove their case.

8-When Pro Se litigants miss Family Court appearances they do not

appreciate the consequences that can occur in their absence. Dismissal of petitions, vacatur of orders of protection, transfer of custody, commitment orders, etc.

Some might say that the Family Court Act affords certain indigent parties the assistance of counsel in matters that involve abuse and neglect, domestic violence, custody and parenting time, foster care and permanency planning proceedings, contempt proceedings, adoptions and paternity. So what is the problem?

The problem is that all sides should be represented by counsel. For example, in a paternity proceeding, only an indigent father is entitled to assigned counsel. If the mother cannot prove her case, the subject child will not be entitled to support as there is no adjudication of paternity. In a contempt proceeding, only an indigent respondent is entitled to counsel. Most often contempt proceedings involve violations of child support orders. It is rare that the petitioner is ever represented by counsel in these proceedings. In an adoption proceeding, only the parent of the child who opposes the adoption is entitled to counsel. If the adoption is opposed a hearing must be held. Finally, in a child support proceeding, no indigent parties are entitled to assigned counsel.

Some might say that indigent parties are entitled to assigned counsel for issues involving custody and parenting time in matrimonial actions so what is the problem?

The problem is that the parties are still representing themselves on often complicated issues that involve the grounds to get divorced, child support, maintenance, domestic violence and equitable distribution. These parties are also generally ill equipped to complete the compulsory financial disclosure documents as well.

Some might say that there are new statutes that address counsel fees and maintenance issues in matrimonial actions that should address the inequity of the parties so what is the problem?

The problem is that pro se plaintiffs and/or defendants may not be aware of how to move for such relief or that it even exists.

Some might say that judges can use the catch all paragraphs of the Family Court Act 262 or the CPLR 1102 and assign an attorney to any party, at their discretion so what is the problem?

The problem is that Judges utilize these tools to assign counsel to indigent parties, on a case by case basis, is done so sparingly because the resources in the legal community, the public defender's office, our 18-b panel and our Legal Aid office, could never absorb the volume of cases and the number of clients that would be assigned to them if the Judges truly assigned counsel from the bench in an effort to bridge the justice gap.

In closing, the failure of the New York State Legislature to face this problem in the past has had the chilling effect of denying indigent parties meaningful access to our court system which is simply unacceptable. More funding is needed so that specifically trained counsel in their respective subject areas of law can be made available to indigent parties to assist them with the navigation of the court system and in achieving more favorable outcomes.

Hon. Christine M. Clark

Schenectady County Family Court

Testimony of Honorable Christine M. Clark
Schenectady County Family Court Judge
620 State Street
Schenectady, NY 12305

Schenectady City Court Judge, January 1, 2005 - December 31, 2010

Schenectady County Family Court Judge, January 1, 2011 - present

Submitted to the Chief Judge's Hearings on Civil Legal Services

October 3, 2011

NYS Court of Appeals, Albany, NY

I am Christine Clark and I am here to express my support for increased funding and stability for civil legal services. I appreciate the opportunity to participate in this hearing, and I want to thank Judge Lippman and the Task Force for making this issue a priority in New York.

It is crucial that we increase access to civil legal services for the rising number of people coming to our courts. This not only supports the idea of equal justice but also makes a tremendous difference in the ability of the court system to function effectively. I have seen many unrepresented individuals over the past 6 years in my role as both a city and family court judge. Self-represented litigants are at a severe disadvantage when appearing against a represented party. The self-represented litigant does not know the law and does not understand the burdens of proof or the rules of evidence. As a Judge, I find it difficult when I have an unrepresented or self-represented party appearing in front of me. I have to be careful to ensure that the unrepresented party's rights are not being violated by the represented party while making sure that I remain neutral. This is a difficult balancing act for any judge.

As a Schenectady City Court Judge, I handled criminal and civil matters. In the civil part of the court, I heard landlord/tenant matters, City code violations and small claims matters. As part of the landlord/tenant cases, we had monthly municipal housing cases where the tenants lacked counsel. Most of the landlord/tenant matters were eviction proceedings. In the majority of those eviction proceedings, the tenants were without attorneys. The tenants had no idea of their rights. We were fortunate to have a worker (a non-attorney) from the Schenectady Community Action Program (SCAP) in court on certain dates to assist tenants. The SCAP worker could explain the eviction process and help the tenants in contacting the Legal Aid

Society to get representation if necessary. However, SCAP could only refer the most egregious cases because of a lack of resources. As a first year law student, I worked for a summer at the Legal Aid Society of Northeastern New York, I know first-hand that the number of people that apply for services greatly outweighs the number of attorneys available to assist in these cases.

Many cases come to mind when I think of the unrepresented individual in City Court. However, there was one particular case in which a local attorney agreed to step in and provide pro bono services to assist a tenant who was low-functioning and had special needs. When he appeared in Schenectady City Court, I was concerned because he did not seem to understand the eviction process or what it meant if he was evicted. I wondered if he needed a guardian appointed for him. At my request the court staff contacted this particular attorney who I was familiar with to see if she would be willing to help this young man. Fortunately, she was willing to assist and able to come to a resolution with the landlord who may not have followed the appropriate procedures in filing an eviction. If he had not been represented, this special needs young man would have ended up homeless.

As a Family Court Judge, I can assign counsel in many proceedings and I do. However, the guidelines for assignment of counsel are at the poverty level. On a daily basis, I see individuals who work but cannot afford an attorney. They are living hand to mouth and have no disposable income or even available credit to retain a private attorney. Schenectady is like many other upstate cities facing trying economic times.

I have seen many instances where I wish that I could assign counsel but the parties are over the allowed income level. One particular case was a young woman who filed a family

offense petition. I had never seen someone so genuinely afraid of their alleged perpetrator. She worked and was living in a home that the perpetrator owned. She requested an order of protection because he had allegedly brutally assaulted her on two occasions and broke her nose. She told me that she could not afford an attorney so I suggested that she contact The Legal Project, a pro bono legal services program which is located in the Capital Region. I made this suggestion because she told me that she was employed full-time. I knew that she would not qualify for assigned counsel based upon what she told me about her income. The Legal Project has flexible income eligibility guidelines to allow representation of the working poor, and they specialize in domestic violence. Fortunately, The Legal Project was able to take her case and they provided a well-trained and experienced pro bono attorney to represent her. At the court appearances, this young woman had a domestic violence advocate with her who worked hand in hand with The Legal Project attorney. This support was extremely important in terms of this young woman's emotional needs during a difficult and overwhelming time. Thankfully, the case did not go to trial. If it had gone to trial, there was no way this young woman would have been able to represent herself. She was visibly afraid of the alleged perpetrator whenever he appeared in court. She could not have pursued the case without the representation of an attorney and the support of the domestic violence advocate.

There are consequences that I see as a result of individuals not having access to legal services. The unrepresented individual ends up with a negative view of the system. Often times, it is because of the frustration of going forward without counsel. Also, there can be an

appearance of impropriety or unfairness. The unrepresented litigant believes that the attorney is getting better treatment and the attorney believes that the court is too lenient on the unrepresented individual. In addition, unrepresented litigants tend to repeatedly return to court asking for the same relief. In Family Court, we have no filing fees so litigants can continuously file petitions. If individuals are not getting legal advice, they do not understand when they can or should re-file a petition.

In our Family Court, I am lucky to have a professionally trained custody mediator who helps facilitate parenting agreements. I can refer cases to her if the parties agree to participate in mediation. This program obviates the need for attorneys. Approximately 85% of parties involved in mediation are unrepresented. The parties are on a level playing field attempting to work out the custody matter with the mediator in a low-key non-confrontational manner. If the parties reach an agreement, attorneys do not have to be involved and no trial is held. It is a large cost savings measure as there are no litigation or attorney expenses. Our custody mediator averages a 75 - 80% agreement rate.

In conclusion, some of the ways in which I think we could better our system would be:

Increase the income level for the court to assign counsel;

Continue and increase financing to agencies such as SCAP and agencies that

provide domestic violence advocates;

Increase the number of professionally trained mediators to assist the court in resolving matters prior to trial;

Increase the participation of private attorneys through pro-bono or funding agencies such as the Legal Project and the Legal Aid Society of Northeastern New York.

Thank you for allowing me to speak on this important matter today.

Hon. Michael V. Coccoma

Deputy Chief Administrative Judge for Courts
Outside New York City

HON. MICHAEL V. COCCOMA

Michael V. Coccoma is a Justice of the New York State Supreme Court. He was appointed as Deputy Chief Administrative Judge for Courts Outside New York City in May 2009 by Chief Administrative Judge Ann Pfau. In his new position, Judge Coccoma is responsible for managing the courts in the 57 counties outside of New York City.

Judge Coccoma is a graduate of The Citadel and earned his J.D. at Albany Law School. He began his career in private practice and served as Otsego County Attorney and Assistant District Attorney before being elected as District Attorney in 1991. He was elected to his first term as a multi-bench judge of County Court, Family Court and Surrogate's Court in Otsego County in 1994. Five years later, Judge Coccoma was appointed Presiding Judge of the then newly-created Otsego County Drug Treatment Court. In 2004, he ran unopposed for his reelection to County Court. Judge Coccoma was appointed an Acting Supreme Court Justice in 2000 and elected to the Supreme Court in 2008. From July of 2008 until May of 2009 he served as Administrative Judge for the Sixth Judicial District.

In addition to this experience, Judge Coccoma has served on important state-wide committees including the New York State Matrimonial Commission and the Family Court Advisory and Rules Committee, and as a member of the Law Guardian Advisory and Rules Committee for the Third Department. He also participated in the Otsego County Children's Center Committee, which created a safe haven for young family members awaiting hearings. He serves currently as a member of the New York Family Court Judicial Leadership Team.



STATE OF NEW YORK
UNIFIED COURT SYSTEM
EMPIRE STATE PLAZA
ESP, SUITE 200
ALBANY, NEW YORK 12223-1450
(518) 474-3828

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

MICHAEL V. COCCOMA

CHIEF ADMINISTRATIVE JUDGE DEPUTY
COURTS OUTSIDE NEW YORK CITY

**TESTIMONY TO THE COMMISSION ON FUNDING FOR CIVIL LEGAL
SERVICES TO THE POOR
October 3, 2011 at The Court of Appeals, Albany, NY**

**Hon. Chief Judge Lippman, Judge Pfau, Judge Cardona, and honored
members of this Commission.**

Good morning. I wish to begin my remarks with a quote.

“There can be no equal justice where the kind of trial a man gets depends on the money he has.” (Hon. Hugo Black, United States Supreme Court Justice, *circa* 1964)

I am Supreme Court Justice Michael Coccoma, with additional responsibilities as Deputy Chief Administrative Judge for the Courts Outside the City of New York. I wish to thank Chair, Helaine M. Barnett, for her invitation to appear here today and offer these remarks on the important topic of funding for civil legal services in New York.

Having been a judge for nearly 17 years, including 13 years as a Multi-Bench County Judge, I have had contact with many unrepresented litigants appearing before my Court. My remarks are based upon my personal experiences from the bench, as well as an administrator of the trial courts in 57 counties outside the City of New York.

Hopefully, these statewide hearings will bring to the attention of our state government the need for innovative solutions to enhance civil legal services in New York to unrepresented individuals who enter our civil courts. New York could be a national leader on this issue.

I have divided my remarks into two parts. First, my personal observations from the bench, and second, a summary and comment upon the efforts so far to meet the demands for civil legal services to the poor.

The seriousness of the problem this committee seeks to address cannot be underestimated. The courts which I supervise are in rural, suburban, as well as urban counties. They consist of County, Family, and Surrogate Courts, as well as Supreme. I also am involved in the supervision and education of town and village justices. Although the character of the communities that these courts are located in may differ, the challenges to the litigants who appear in these courts, unrepresented, remain the same. Often, their entry into the civil court system is fraught with confusion, frustration, and in many cases, fear.

We all know that we are in unprecedented times in our state and in this nation, with unemployment at its highest levels, evictions and foreclosures rampant, and social problems related to the economic downturn being at an all-time high. It is no surprise that more and more people turn to the courts for access to justice to protect their basic human rights, such as adequate housing, safety for their children, and redress for personal grievances. The courts in New York are no exception. However, due to the current fiscal crisis in the State of New York, funding for civil legal services, assistance which was previously available to the unrepresented, has been cut back or eliminated. While federal, state, county and local government leaders struggle to maintain critical services to meet the immediate needs of their constituents, this leaves little funding available for civil legal services to the poor. However, I urge that these legal services to the poor are just as critical as matters which relate directly to housing, employment, and public safety.

The number of people who cannot afford attorneys is increasing, while the number of cases in courts continues to rise. Currently, the New York State Unified Court System has over 73,000 foreclosure proceedings, and about 60% of the homeowner litigants are unrepresented in the mandated settlement conferences during which someone's right to continue to reside in their home is the main focus. There are pro bono projects started by many of the Bar Associations around the state whereby attorneys agree to accept and appear with individuals and families at these settlement conferences. And without them, we would be unable to manage these cases, and these people would have little voice in the outcome of a proceeding which impacts a fundamental human right - that of adequate housing.

To put the issue of lack of representation in perspective, over two million litigants appear without attorneys in our New York courts annually. You will hear, during the course of your public hearings across the state, from litigants who have been put in this position. You will hear of their feelings of helplessness and distress, confusion and frustration when facing court proceedings on their own. From my own perspective - and I believe I speak for judges throughout the state - a case that comes before me involving a party who is unrepresented presents an added challenge.

Unfamiliarity with court procedure, with court processes, and most importantly, a lack of understanding of the substantive law itself, creates an impediment to these unrepresented individuals which is impossible to overcome. It is simply not a level playing field.

My first comment in court to unrepresented individuals is to advise them of their

right to be represented by counsel and their right to a reasonable adjournment so that they can speak with and reappear with an attorney. However, these words carry little comfort if there are no attorneys available, either through a pro bono program or a civil legal services program. In most cases, and especially in matters of consumer debt collection and foreclosures, a litigant comes back to court after having received that reasonable adjournment, to seek counsel, only to inform the court that they were unable to secure the services of an attorney. And so, they must then proceed without counsel.

Just like most judges throughout the state, I must then take the time to explain court procedure, how to subpoena witnesses, how to ask a proper question on both direct and cross-examination of witnesses, and how to serve papers.

This extra time, taken by the judge to try to be fair to the unrepresented party, delays case processing times and the cases back up. With increasing caseloads, eventually this will reach critical mass in our courts, in fact, it already has in some courts. As a result of reduction in force of staffing in our courts, further delays in processing cases only create a greater bottleneck. Of grave concern to me is the impact on our family courts throughout New York State that are struggling with maximum caseloads, lack of judges, and inadequate staff to adequately manage these cases. Although 18-B assignments and Attorneys for the Children assignments do provide services to a number of unrepresented individuals, in many cases, there are not a sufficient number of attorneys participating in these programs. We need additional funding to train and recruit these attorneys.

Unrepresented litigants present an ethical dilemma for judges as well. While the judge must take time to explain the law and its applicability in the case, there is a fine line that a judge must walk to try to be fair and neutral to both sides, and not give the appearance of favoring the unrepresented litigant. In addition, given the time and ethical constraints on the judges, the explanation of the procedural and substantive law that the unrepresented receive is cursory at best. The judge cannot wear two hats.

So the unrepresented struggle to understand the intricacies of the legal proceeding that may result in loss of a home, custody of a child, or a sum of money. Imagine if a patient arrived at a hospital in this state and was told upon arrival that they must supervise and administer their own medical procedure that day because the hospital did not have sufficient medical staff to carry out that role. Such a situation would not occur and it should be no different in our courts. We all know the story of Clarence Gideon as documented in Anthony Lewis' book "Gideon's Trumpet." We all know the reality of what happened - the final scenario of his criminal prosecution in which, in his retrial before the same judge, by the same prosecutor, involving the same evidence, in the same courtroom where he was previously convicted, on retrial, with the assistance of counsel and the ability to put forth a viable defense, he was found not guilty of the burglary for which he was charged. And while his triumph resulted in the Sixth Amendment Right to Counsel being guaranteed through state- paid assigned counsel in criminal cases, that right has never shifted over to the civil arena. Yet, given the seriousness of the issues that are in the courts these days, primarily due to the economic downturn, the situation is no different than that faced by Clarence Gideon in 1963.

At every level, from the local village court to the Supreme Court, the face of the litigant may differ, but the issues are the same. Persons who are in need of an Order of Protection or face an eviction need legal representation by attorneys in order to effectively participate in court proceedings that may have a profound impact on their lives.

Let me turn briefly to some efforts to confront this problem. The New York State Unified Court System, and in particular, the Access to Justice Program overseen by my colleague, Deputy Chief Administrative Judge Fern Fisher, has been trying to address these issues in many ways. She and her staff are to be commended for their efforts. I believe we need to do much more.

One issue that the unrepresented litigant faces is the complexity of our court forms. Intended for attorneys, these forms can be daunting. Some of the courts have simplified common forms used in the Family, City and Housing Courts, including custody and child support forms. Experience has shown that these simplified forms have made it easier for the person who is unrepresented to get their case in front of a judge.

The problem is that these changes, although authorized, are not yet statewide, and certainly not consistent throughout the state. Thus, resources are needed to continue the revision of forms to a plain language format and the simplification of procedures. Making these forms and procedures uniform throughout the state would benefit all who use our courts.

There are a number of help centers which have been created in courthouses or in public libraries throughout the state. But the workforce reduction resulting from cuts to the judiciary budget have made it necessary to close some of these centers. Those that remain are staffed by either court employees or volunteers and provide legal and procedural information, including instructional packets, court forms, and public access computers.

The Do It Yourself Program is another step in the right direction, providing a free and easy guided step-by-step computer program that allows a user to answer a series of guided questions and produce a petition that can be filed in the correct court. Currently there are limited filing types available, but we hope they can be expanded in the future.

There have been collaborative efforts between courts and local bar associations, with pro bono attorneys and "Lawyers for a Day" programs. These efforts, again, are laudable and have been successful, but they are not sufficient to meet the ever-increasing demands. In reality though, these programs lend themselves to simple cases and are limited in nature.

All of these efforts, such as DIY, help centers and pro bono attorneys, deserve our praise and support and have certainly helped thousands of people, but, unfortunately, are not enough to avert the crisis which is upon us. I urge you to recommend new ideas to stem the tide of the overwhelming need for civil legal representation for our most needy citizens.

For example, when I hear that an increasing number of recent law school graduates are unable to find jobs, I ask myself why can we not develop funding streams and

programs which would provide an opportunity for these attorneys who are eager to put their skills to work in a public service program providing legal services to the poor. Perhaps, in exchange for a two or three-year commitment in such a program, they would receive a reduction in their student loans, similar to the Americorps programs that we see many college students entering, or public health service programs that provide participants with assistance with their medical school tuition. This is an idea which I believe you should consider recommending to the legislature to appropriate funding for.

As my time draws to a conclusion, I again thank you for the opportunity to highlight some of my concerns and to give you a small piece of the puzzle that you must put together into a clearer vision for the future. Only we, as trained judges and lawyers, can truly understand and appreciate how important it is that a court system truly provides a level playing field for all who enter through the courthouse doors.

So let me close with and emphasize the words of former U.S. Supreme Court Justice Lewis Powell, Jr., when he served as President of the American Bar Association.

“Equal justice under the law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists. It is fundamental that justice should be the same, in substance and availability, without regard to economic status.”

Thank you, and I would be happy to entertain any questions you might have.

Prof. Joseph M. Connors

Director, Albany Law School Clinic and Justice Center

To: Helaine M. Barnett, Chair
From: Joseph M. Connors
Re: October 3, 2011 Testimony
Date: September 19, 2011

Pursuant to your request, this is a brief summary of my background and planned testimony at the October 3, 2011 access to justice hearing. I will submit a complete summary of my remarks by September 26, 2011.

Background

Joseph M. Connors is a graduate of Albany Law School and has been admitted to practice in New York since 1989. He began his legal career at Monroe County Legal Assistance Corporation, where he was a staff attorney representing impoverished individuals with disabilities and senior citizens in a broad variety of issues, ranging from access to education and disability benefits to compliance with federal Medicaid due process regulations. Since 1993, Professor Connors has taught at Albany Law School, continuing to represent low income individuals through Albany Law School's clinical education program, initially as a staff attorney, then as a clinical instructor in the school's AIDS Law Clinic. For the past several years, he has continued to teach law students how to represent individuals with HIV/AIDS as well as those affected by cancer gain access to necessary insurance coverage for treatment, set up emergency health care plans for themselves and future care plans for their children, secure disability benefits, and challenge discriminatory treatment. Since 2009, he has been the Director of Albany Law School's Clinic & Justice Center, which serves about 600 individuals each year through the efforts of law student interns who represent clients under faculty supervision.

Summary of Testimony

Professor Connors will summarize local collaborative efforts between Albany Law School and area legal services providers to address their communities' unmet legal needs. With appropriate support and guidance, law students can make valuable contributions to strategic justice partnerships. Experiential learning is essential to the professional development of students and ensuring that future attorneys meet their responsibility to addressing the needs of their communities through pro bono and other leadership initiatives. While certainly unable to significantly close the access gap alone, law schools play an important role in the movement to expand access to civil legal services.

TESTIMONY FOR OCTOBER 3, 2011 HEARING ON ACCESS TO CIVIL LEGAL
JUSTICE

Professor Joseph M. Connors
Albany Law School

May it please the Hearing Panel. Thank you for this opportunity to participate in today's hearing. As a former Legal Services Attorney in the late 1980's and early 1990's and as a professor at Albany Law School and the current Director of Albany Law School's Clinic & Justice Center, I hope that my perspective is helpful to the panel's deliberations.

There is no doubt that law schools play an important leadership role in helping to close the justice gap that exists for the most neediest members of our community.

My remarks will first focus on the role that the movement to reform legal education can play in increasing access to justice. I will then outline some of the model initiatives that Albany Law School has pursued, in collaboration with our community partners, to increase access to justice. I will conclude by tempering my remarks with the point that greater involvement by law schools, in and of itself, will not serve as "the solution" to the crisis. Rather, increased funding for community legal assistance offices is crucial to ensuring access to fundamental needs, including housing, access to public benefits, protection of the integrity of the family, and equal protection of the law.

I. The Climate of Legal Education Reform

A sea change is occurring in legal education. The February 2011 NYSBA Association Report of the Task Force on The Future of Legal Education outlines some of these changes. Albany Law School's Professor Mary Lynch made significant contributions to this report as the Chair of the Education and Training Sub-Committee. The report was also informed by other important reports from 2007: Professor Roy Stuckey and other's *Best Practices for Legal Education* from and the Carnegie Foundation's *Educating Lawyers: Preparation for The Practice of Law*.

These reports stress, in part, the profession's need for practice ready law graduates who have received a meaningful education structured around measurable core competencies. The reports recognize the value of different learning methodologies, but call for students' law school experience to include training in applying theory to solving real problems and training in acquiring professional judgment through live client clinical opportunities. The NYSBA specifically recommends reconsideration of Court of Appeals rules which have the effect of limiting the number of clinical credits students can take as part of their law school education. The NYSBA report also calls for a reexamination of bar admission procedures, with possibilities including requiring a period of supervised public interest work before admission.

The trend to change legal education to include more practice based training comes at a time when the numbers of those without legal representation is increasing. A ripe

opportunity exists to increase clinical legal education opportunities to both help address this need and provide students with transferable skills that they can use regardless of their area of practice. Training in professional judgment necessarily includes an understanding of the lawyer's role as community leader, familiar with his or her community, and dedicated to pro bono participation to help close the justice gap.

II. Albany Law School's Model Initiatives

Time does not permit me to list all of Albany Law School's initiatives today and I respectfully refer the committee to a list of programs previously submitted by our current Acting Dean and President Connie Mayer. Dean Mayer has encouraged and supported widespread access to justice initiatives at the school. I will focus on a few of these initiatives today in my remarks today.

A. Clinical Programs

Albany Law School's in-house clinical program serves about 600 individuals each year that otherwise would not have legal representation. Our clinics provide holistic representation in the areas of civil rights and disability law; health law; unemployment benefits law; housing law; low income tax law; securities arbitration; and civil and criminal justice for victims of domestic violence. Our field placement programs places close to 200 students each year in other offices committed to ensuring access to justice, from judges' chambers, to state and private agencies, including those that serve victims of domestic violence, homelessness, the mentally ill, and abused and neglected children.

Professors Burke, Louis, Kearns, Johnsen, Rogerson, Lynch, and Maurer do an amazing job in supervising students in these programs.

B. Pro Bono Programs

Albany Law School also has a robust Pro Bono Program, led by Professor Susan Feathers. Under the supervision of attorneys, students provide community education trainings, conduct research for public interest organizations, participate in consultation services, and staff “Help Desks” at local Family Courts.

It is important to note that Albany Law School’s efforts in these areas are often implemented through collaborative efforts with other legal services providers. We coordinate our efforts and avoid competing for limited funding. For example, legal services provided by our Health Law Clinic are supported by the New York state Department of Health and coordinated with Legal Aid of Northeastern New York and the Legal Project through our HIV/AIDS Law Consortium. A Health Law Clinic trained fellow, Alejandro Taylor, now serves as a staff attorney at Legal Aid. Our Domestic Violence Programs are supported by the New York State Office for Prevention of Domestic Violence and implemented in collaboration with statewide task forces, including those led by the Empire Justice Center, as well as the Legal Aid Society and the Legal Project. A recent pilot program to attempt to serve tenants affected by mortgage foreclosures was planned within input from Legal Aid, the Empire Justice Center, and area housing organizations. Our Civil Rights and Disabilities Law Clinic shares a grant and collaborates with Disability Advocates. This type of cooperation and collaboration is essential to the effective delivery of legal services.

C. Loan Repayment Assistant Program

Albany Law School has been a leader in LRAP programs since 2006. Eligible students receive loan forgiveness of \$10,000/year for three years while pursuing a public interest career.

D. Summer Stipends for Public Interest Work

Albany Law School supports summer interns at several public interest offices through the generous gifts of alums and others, including former District Court Judge Cholakis and Judge Levine. This support creates opportunities for students and often opens doors to future public interest careers.

E. Pro Bono Activities By Faculty

Albany Law School faculty are actively involved in pro bono service in the community. They provide direct free legal representation, continuing education seminars for other attorneys, and supervise students who work on appellate work. With apologies to those omitted through my oversight, special recognition to Professors Ira Bloom, Mike Hutter, Pat Connors, Alecia Ouelette, Melissa Breger, Christine Chung, and all of the clinical faculty previously mentioned.

III. Law School Activities Are Insufficient In and Of Themselves

While we are proud of our activities to close the justice gap and applaud similar efforts at other law schools, Albany Law School recognizes that our efforts only make a small impact in the grand scheme. We wholeheartedly support and call for increased legislative funding for community legal services offices who are best suited to provide the specialize

representation that clients need at administrative hearings, in housing courts, in Family Court and integrated domestic violence courts, at hearings and meetings concerning the educational services disabled children will receive, and in other forums where today individuals are suffering because they don't have a lawyer to advance and protect their interests.

Thank you for your time and consideration.

Julie A. Davies

North Country Mediation/Rural Law Center

Julie A. Davies

Program Director, North Country Conflict Resolution Services
Rural Law Center of New York, Inc.

Bio and Summary of Testimony for the Civil Legal Services Task Force's Third Department Hearing,
October 3, 2011, Albany

BIO: Julie Davies is the Director of the Rural Law Center's five county mediation program, North Country Conflict Resolution Services (NCCRS). NCCRS is a part of the NYS Unified Court System's Community Dispute Resolution Centers Program. Julie has worked in the mediation field in New York State for over 17 years. She is responsible for the administration of 5 county centers that conduct outreach and coordinate services with Courts, community agencies, schools and private attorneys. She also coordinates mediation certification trainings for volunteer mediators, and accredited trainings for town and village court judges. She is a native of the Adirondacks and her undergraduate and graduate degrees from SUNY Plattsburgh focused on the rural, cross-border culture between New York's North Country and rural Quebec.

SUMMARY: My testimony will begin with a brief overview of our Alternative Dispute Resolution (ADR) program, including descriptions of our service area, the funding sources, the types and number of cases, the sources of our cases and our program's staffing, including the volunteer mediation panel. With this background established, I will turn my focus to the need for Civil Legal Services funding. Mediation can be an important component of a legal services delivery system, but it cannot always solve the acute client legal needs. Through our intake system we see issues, such as domestic violence, foreclosures, public benefits and disability matters, that are not appropriate cases for our mediation services. However, there are many instances where mediation is an appropriate method of resolving a dispute. Our program considers mediation an integral part of our intake triage process. In this process, we can evaluate the most client-centered, efficient and cost-effective direction for each case. Cases that are resolved through mediation in our program reach a resolution satisfactory to both parties nearly 90% of the time. Courts and agencies that use our mediation services experience a significant reduction in the costs associated with these cases. Finally, I will suggest some possible steps that might be taken to improve the existing delivery model. Although our program is fortunate to have a number of attorneys on our volunteer panels, perhaps more attorneys would participate if they received CLE and Pro Bono for their services. And, I will suggest that there would be significant benefits resulting from an initiative to encourage connections and collaborations between the state's ADR programs and Legal Services Programs.

Julie A. Davies

Program Director

Rural Law Center of New York, Inc.

Testimony

at the

Chief Judge's Hearings

on Civil Legal Services

Third Department

October 3, 2011 10:00 AM

NYS Court of Appeals,

20 Eagle Street, Albany, NY 12207

Thank you, Chief Justice Lippman, Chairperson Barnett and members of the Task Force, for the invitation to speak to you about the need to expand funding for Civil Legal Services in New York State. My name is Julie Davies, and I am the Director of North Country Conflict Resolution Services (NCCRS), which is a program of the Rural Law Center of New York. NCCRS is a part of the New York State Unified Court System's Community Dispute Resolution Centers Program.

For the past 8 years, NCCRS has been serving the "North Country" counties of Clinton, Essex, Franklin, Hamilton and Saint Lawrence. This geographic region is approximately the size of the state of Connecticut. We have offices in each county, including an office on the Akwasasne Mohawk Reserve. The Rural Law Center is unique in its inclusion of an Alternative Dispute Resolution program as a part of our legal services delivery model for low-income, rural New Yorkers. These methods of resolving client legal matters, when properly utilized, provide a significant savings in court costs, as well as a less stressful environment for an already disadvantaged client.

The primary funding for this program comes from the NYS Unified Court System's Office of ADR Programs and from the USDA, as well as from local Social Services agencies. Our program is available, free of charge, as an alternative to formal court proceedings for suitable cases. In our five counties, we provide services in approximately 1300 cases each year, covering a wide range of civil matters. Many common types of disputes are appropriate for mediation, including permanency planning, custody/visitation, grandparent custody issues, employment, Special Education, pre-divorce mediation, elder issues, gay and lesbian partnerships, landlord-tenant matters and income-related cases involving debt collection and small claims. We also facilitate community disputes involving local communities and their residents, and workplace staff and management issues. Additionally, we conduct the Attorney General's Lemon Law Arbitrations for the North Country. The full range of dispute resolution processes offers creative ways to solve the diversity of issues facing low-income clients in our rural regions. From intake to completion, a case is resolved in an average of 15 days. If

multiple sessions are required, the average time to resolution is 60 days. In cases where NCCRS dispute resolution services were provided in the past year, 88% reach agreement or final decision.

Each of our North Country counties has a county ADR Coordinator who works closely with judges, court staff, agencies, and the private bar. Our panel of professionally-trained and certified mediators reflects the diversity of their communities and includes judges, attorneys and the entire Rural Law Center staff. Our program currently provides regular service to 54 city, town and village courts across our service area. Additionally, we work directly with the Family Courts and the Akwesasne Tribal Court. Our panel of trained, experienced volunteers is supervised by NCCRS County Coordinators. Our volunteers are chosen from people who have completed our OCA approved 30-hour Basic Mediation Training. While many of our volunteers are non-lawyers, we also have offered training to members of the justice community. For example, last fall we provided training to 40 people from across the North Country and 17 of those were lawyers or town justices. From the many trained volunteers, our coordinators choose only volunteers who have the most potential to effectively work as mediators.

I have been involved in mediation programs for about 18 years. First as a volunteer, then as a County Coordinator, and, for the past 8 years, as the administrator of our NCCRS program. I have also been on staff at the Rural Law Center for nearly 12 years. Working in both ADR and Legal Services programs, I have a vantage point that gives me a perspective on the need for a comprehensive/collaborative legal delivery system. Such a system would offer services that work efficiently and effectively for the benefit of the clients, the courts, the private bar, and the legal programs that serve clients.

Mediation is one component in that constellation of services, but it cannot replace the acute need for trained legal services attorneys and staff who can advocate on behalf of those most vulnerable New Yorkers facing “essentials of life” issues. In fact, as cost effective as Mediation may be, it is only appropriate when:

- Both parties agree to participate in the process

- There can be a balance of power between the parties
- There are no issues of Domestic Violence
- The parties understand that they have a right to pursue the matter in court or through an agency hearing, and they have access to counsel representation.
- They have the right and opportunity to have agreements reviewed by an attorney, prior to those agreements coming into effect.

With those critical screening factors in place, we can offer mediation as a means for resolving disputes in many types of issues. Some examples of those are:

- Mediations between family members and local Departments of Social Services that result in children at risk of foster care, instead being placed with grandparents or other suitable relatives.
- Mediations between creditors and debtors, in cases that would most probably result in a judgment against the debtor, but that through mediation, can result in a jointly agreed to affordable payment arrangement. (These cases effectively stop wage garnishments, seizure of bank accounts and other assets, and help preserve the debtor's credit rating.)
- Mediations between parents with special-needs children and local school districts to develop an appropriate Individualized Education Program.
- Mediations between gay and lesbian partners, dissolving a relationship, to resolve property issues without court intervention.
- Pre-divorce mediations that allow divorcing couples to proceed through the divorce process without costly litigation. (Many of these cases are referred to us through the local matrimonial bar or come to us from a party who has picked up the Pro Se Divorce Packet, and found it daunting.)
- Landlord/tenant mediations with resolutions that do not need formal eviction proceedings, and often result in extended tenancies.
- Parent and DSS caseworker mediations that involve both parents, their attorneys, and the attorney for the child, to attempt to resolve permanency issues and avoid a lengthy and costly Termination of Parental Rights hearings.

Cases that come to our program from the Family Courts offer an alternative to costly, time-consuming and often contentious matters. Where there are children involved, it is critical that the parties have a reasonable way of dealing with each other long after the court process is complete. A successful mediation agreement in a custody case can avoid litigation, but also can prevent long term damage to a relationship between the parents. In child permanency matters leading to the termination of parental rights, a court case means that the state must prove that the parent is not fit to have the child. These cases are long, difficult and costly to the courts and the county. Additionally, the emotional cost to the parent as a result of this court process, can be enormous. When the Family Court refers these cases to mediation, all of the players that would be in court (parent, parent's attorney, parent advocate, Attorney for the Child, caseworkers, DSS attorney) participate. The difference is that the parties are gathered to craft an agreement that spares the damage. Additionally, it is possible for the parties to agree on outcomes (such as possible continued contact between parent and child) not possible from a formal court process. This is a summary of a typical Family Court case referred for our mediation services:

When a very young mother and her boyfriend were not able to care for their infant daughter, they informally placed her with her maternal grandparents. From the time she was just a few weeks old, the child was in this nurturing and stable environment. Just before her 3rd birthday, the child developed a medical condition and her natural parents were not a ready resource to arrange for necessary treatment. However, without legal custody of their granddaughter, these grandparents were unable to make necessary decisions regarding the girl's health and welfare. We were able to work with both the grandparents and the biological parents to craft a custodial agreement satisfactory to all parties. With this agreement, it was then possible for the grandparents to petition for formal custody to their Family Court.

A substantial number of our cases involve the preservation of family farms. The Rural Law Center has long recognized that the most remote rural regions of our state are typically disadvantaged, both economically and in the provision of all basic human services. This holds true in the case of small farms trying to survive in the face of growing debt and the competition from large agri-businesses. Since the Rural Law Center works to provide non-traditional and creative service alternatives to existing legal services models, the provision of Alternative Dispute Resolution services and our

Agricultural Mediation Program are both natural alignments to our overall mission. Funded by the USDA, this program was designed to work directly with farm families on small claims matters, credit, loans, farm succession plans and appeals of adverse USDA loan decisions. We provide mediation services in over 200 agricultural cases each year. A typical example follows here:

When Judy's husband died unexpectedly, she was left with her teenage son and the family's 100 year-old dairy farm. Although she worked hard to keep everything together, a significant drop in milk prices was a real setback financially. In three years she owed the feed store over \$12,000. Even though the store had a reasonable interest rate of 8.2%, she was having trouble making the payments each month. She contacted the mediation center. At mediation, the feed store owner was clear that she didn't want Judy's farm to fail, but continuing to provide her with feed for the animals was putting the store in a precarious financial position. They were able to reach a settlement that restructured the past-due amount over a longer period with a smaller monthly payment.

We routinely ask for mediation participants' evaluations of their experience. Here is the follow-up comment by the feed-store owner in the case above:

" I considered [the farmer] to be a friend, as well as a long-time customer. It was very difficult to try to collect on a big debt for feed and supplies. I didn't want to feel responsible for the farm failing, but I couldn't forgive the debt and jeopardize my business. Mediation was a godsend because it gave us a place to work out a payment plan without embarrassment."

Despite the range of mediations that can be offered, people who are facing serious "essentials of life" matters should never feel that mediation is the only tool available to them. Through effective intake and referral, Legal Services Programs and Mediation programs can work together for a better delivery system.

When a case is referred to our program, there is a thorough screening process to ensure that the matter is appropriate for dispute resolution services. Currently our cases come from many referral sources. About 60% are referred by the courts, 20% from human service agencies and the balance from schools, faith-based organizations and the private bar. Another source of referrals is the Rural Law Center's own intake system, as well as those that are referred to us by the local Legal Services office staff.

While these formal and informal referral networks work well for our clients, there are ways we can improve and bolster the delivery model. Some of those efforts might include:

- Sharing information about program services and written materials.
- Developing a collaborative program that would include Legal Services attorney brief services to review agreements prior to them coming into effect.
- Encouraging Legal Services attorneys to participate in mediations with a low income client. (Our program recently conducted a series of court-referred mediations where a Legal Services attorney attended with several clients. These clients were flood victims and were being charged by the landlord for rent owed and damage deposits, even though the flooded apartments were uninhabitable. As a result of the mediations, the landlord agreed to stop his collection efforts if his “generosity” was not made public. The mediator in these cases was quick to praise the efforts of the skilled LASNNY attorney whose participation balanced the power between the landlord and tenants.)
- Encouraging Legal Services attorneys to participate in OCA sponsored Mediation Certification training, and offer mediation services through the local ADR centers.

Working closely with local Legal Services offices provides clients with choices, saves the court system money, by processing cases to satisfactory closure, without the expensive use of court staff and time and provides Legal Services’ offices with a place to refer cases so that their legal staff can concentrate on matters that need urgent attorney attention.

In closing, it is clear to me that Mediation and ADR services can be an important component of a Legal Services Delivery System. However, it cannot replace the pressing need for Civil Legal Services programs. Through my work at the Rural Law Center, I am acutely aware of a low-income client’s need to have an attorney who is trained in those ‘essentials of life’ areas of public benefits, housing, education, health, income preservation and domestic violence. However, I am also aware of the fact that in current economic conditions, it becomes even more difficult for traditional legal services to meet client legal needs. Mediation and other forms of alternative dispute resolution can be a valuable tool in the legal services delivery continuum. Working together, all of us in the

justice community can create a collaborative service delivery model that understands the importance of stable Civil Legal Services funding.

Thank you again for the opportunity to speak with you today.

Arthur Demar, Jr.

Client of Legal Aid Society of Northeastern New York,
accompanied by Robert Vanderbles

BIOGRAPHY OF ARTHUR DEMAR, JR

Art Demar. Jr is 58 years old and resides in Peaseleeville, New York.

Testimony of Arthur Demar, Jr.

My name is Art Demar, Jr., I am 58 years old, and I live in Peaseleeveville, New York.

I am here today to talk about the services I received from the Legal Aid Society of Northeastern New York during the spring flooding in Plattsburgh this year.

Before the flooding I lived in a second floor apartment at Lakeside Apartments. I had lived in Lakeside for 2 and ½ years before the flooding.

When the flooding started, I was in the hospital for cancer treatment. Everyone was evacuated from Lakeside on May 7 and when I was released from the hospital on May 9, I wasn't allowed to return to my apartment because the first floor of the building was flooded. The Clinton County Department of Social Services put me up in a Plattsburgh motel rather than the emergency shelter because of my medical condition.

The Department of Social Services and other Lakeside residents told me that there was a person from Legal Aid at the emergency shelter to help people who lost their homes due to flooding. I went to the emergency shelter and met with Becky, the Legal Aid paralegal. I told her that I needed my security deposit and the rest of my May rent back so I could use it to find another place to live. Becky told me Legal Aid would send a letter to the Lakeside landlord demanding my prorated rent and my security deposit back.

Legal Aid sent a letter to my landlord demanding \$1,064.52, which was my \$600 security deposit and the rent from May 8 until May 31. As a result of the letter, the Lakeside landlord returned \$832.26 to me. The landlord said I had to pay rent from May 8 until May 20 because I didn't get my belongings out of my apartment until May 21. I didn't think this was right because I was not allowed by the police to return to Lakeside and get my belongings until May 21.

I then talked to Dan, a lawyer at Legal Aid, who filed a small claims case against the landlord for the \$232.26 in rent that the landlord refused to return to me. Dan and I went to Court together and at Court the landlord agreed to refund the rest of the money.

I used the money that the landlord returned to me to get new permanent housing in Peaseleeveville.

Because of the services from the Legal Aid Society, the Department of Social Services did not have to spend money to help me relocate.

Buckmaster de Wolf

General Counsel, GE Global Research

Buckmaster de Wolf

Buckmaster (Buck) de Wolf is General Counsel of GE Global Research based in Niskayuna, New York. Prior to this role, Buck was Senior Counsel Litigation & Legal Policy for GE with responsibility for overseeing Intellectual Property Litigation for the company.

Prior to joining GE, Buck was a partner in the San Francisco Office of Howrey. Buck earned his JD from Boston College Law School, magna cum laude - Order of the Coif, his B.A. in Economics from Middlebury College, cum laude, and attended The London School of Economics and Political Science.

Summary of Testimony

I will discuss the important role of corporate pro bono programs and GE's approach to pro bono.

On behalf of GE, I want to thank Chief Judge Lippman and the Task Force to Expand Access to Civil Legal Services for inviting us to share the company's thoughts on the importance of pro bono legal services. This is a wonderful effort in partnership with many of New York's pro bono service providers to bring us together to discuss this critical issue.

We are all public interest lawyers in some fashion; some of us are full-time public interest advocates, while others strive to maintain a balance between more commercial pursuits and our pro bono commitment. We are part of one pro bono community, and we can and should learn from each other.

For me, my commitment to pro bono service and my work as a general counsel at a corporation are not at odds; rather, they inform and enrich each other. These days, there is a great deal of cynicism about big business. I believe that that attitude ignores both the socially useful benefits of business and, in turn, the value that socially responsible activities like pro bono can bring to the business side. At GE, we consciously work, on our own and with other major companies, to find practical ways of applying the aspirations of the Universal Declaration of Human Rights (the "UDHR") in the business context and urging other businesses to do the same. In essence, the UDHR demands that we respect the dignity of every individual and contains several provisions which address the issue of equality and access to Justice. We strive to live by these principles because of our commitment to the values embedded in the Declaration, and also because we believe that a fair, just, and stable society – one anchored in the rule of law - is, frankly, better for business.

In the same vein, one of the most important aspects of my position is addressing compliance issues. Ensuring compliance with legal and ethical requirements these days is an area of growing complexity and concern for all in-house general counsel. Compliance, however, is more than simply not doing the wrong thing. It is also very much about affirmatively doing the right thing – taking ethical actions beyond mere compliance not only helps to resolve problems of individuals and communities, it also increases the company’s long-term value. Pro bono and other forms of volunteerism, along with transparency, diversity, and sustainability should be a core value of all responsible and thoughtful institutions, and it aligns well with both societal value and business value.

I have found the several pro bono matters in which I have been involved – including fair housing, disability rights, juvenile issues, immigration issues, criminal rights and intellectual property – to be some of the most interesting and professionally enriching experiences in my legal career. I hope all lawyers, young and old, are able to enjoy and learn from those pro bono opportunities in the same way I have.

Finally, pro bono and volunteerism cannot be the only source of support for these low-income communities. Unfortunately, the need is too large. Millions of low-income New Yorkers are facing legal problems which they are ill-equipped to address. At the same time, civil legal aid providers are experiencing budget cuts and staff reductions due to the economic downturn. This is forcing legal aid programs across the state to turn away more eligible clients just when the need is at its highest level in years. Efforts like the Task Force to Expand Access to Civil Legal

Services is critical to shine a light on the funding needs of these organizations at this critical time.

GE's Pro Bono Effort

GE promotes responsible corporate citizenship and supports numerous volunteer efforts to this end. In keeping with this tradition, GE lawyers provide pro bono legal services in their communities, including New York. Moreover, GE lawyers, like all attorneys, bear a special responsibility to provide legal assistance. Rule 6.1 of the American Bar Association Model Rules of Professional Conduct provides that each lawyer “should aspire to render at least (50) hours of pro bono legal services per year.”

Given the need for pro bono legal assistance, the ethical responsibility of all attorneys to perform pro bono service, and in keeping with GE's commitment to add to the well-being of the communities in which we operate, every GE attorney is encouraged to participate in pro bono service. In support of the company's pro bono efforts, GE has taken a leadership position in the Corporate Pro Bono Challenge, a project developed by the Pro Bono Institute and the American Corporate Counsel to enhance participation of in-house attorneys in pro bono service. We pledge to encourage at least 50% of our legal staff to undertake pro bono services per year. We are also working to develop pro bono opportunities outside the U.S. and expect to develop a more extensive non-U.S. platform in the near future.

The willingness to volunteer legal services to the community demonstrates a level of professionalism valued by GE. Participation in the pro bono program increases awareness of the diversity in the community, improves professional skills, and is consistent with GE's tradition of contributing to communities.

At GE, we emphasize that there are many ways to participate in the pro bono effort. While pro bono matters often call upon legal training, they do not all involve the practice of law per se. The Model Rule mentioned above provides that pro bono services may include "charitable, religious, civic, community, governmental and educational organizations in matters designed primarily to address the needs of persons of limited means . . ." The Comment to that Rule "recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession[,] including service on bar association committees, pro bono boards, legal services programs, or as a continuing legal education instructor. So, GE in-house counsel have many opportunities to contribute their legal skills in ways that will benefit the community.

We also understand that pro bono matters are very important and should be accorded the necessary time and attention. At GE, pro bono work may be undertaken during the workweek, so long as that work does not interfere with other assigned responsibilities. And we insist that pro bono matters be handled with the same level of competence that applies to regularly assigned duties. At GE, no attorney is adversely affected by a decision to participate in pro bono, or penalized for not participating. On the other hand, pro bono work is viewed as a plus and each year our General Counsel honors one or more lawyers for his/her outstanding pro bono contributions. On an annual basis, GE tracks the total number of pro bono lawyers in

each business to assure that we exceed the 50% participation standard. Our business general counsels view their respective participation rates as a health form of competition to raise the overall level of projects or matters undertaken by company lawyers and legal support staff.

Currently, many GE employees volunteer for a wide range of community-based programs.

Particularly notable are programs that address needs in the areas of public education, children's health, asylum applications, domestic violence, homelessness and hunger, which parallel the company's extensive charitable giving efforts. GE works with many New York based pro bono service providers, including the Pro Bono Partnership, Bronx Defenders, Lawyers Alliance for New York, Kids in Need of Defense (KIND), the Legal Aid Societies of New York City and Northeastern New York, Medical-Legal Partnerships, and the Public Interest Law Institute.

To coordinate the Company's support for pro bono service, GE established a company-wide Pro Bono Coordinating Committee. The Coordinating Committee is chaired by a senior GE Corporate legal counsel and includes representatives appointed from each of the operating businesses and representatives from the geographic poles. The Committee confers periodically to deal with operational or policy issues, to review and revise the source list of pro bono service agencies, and to assess the progress of the pro bono program in general and within each business. We have recently instituted a self-insurance program to cover lawyers working on qualifying projects for legal malpractice where such coverage is not otherwise available.

Many of the law firms we regularly retain have developed their own pro bono programs. The larger firms are familiar with the various pro bono sources in their communities, employ lawyers who have developed in-depth expertise in many substantive pro bono areas, sponsor

pro bono training and orientation programs, and administer legal clinics and other pro bono projects. GE lawyers are encouraged to partner with law firms with which the company works, so that we can take full advantage of their staffing size, expertise, and infrastructure to make our pro bono efforts as effective and efficient as possible.

Conclusion

The problems in this nation – especially after the recent sharp economic downturn and the concerns of the post-9/11 era – are profound, and, as lawyers and legal staff, we must help to rebuild our nation’s fiscal safety net for the poor and protect the integrity of everyone’s individual and constitutional rights.

At GE, we are working hard to do our part by involving our lawyers throughout the world in pro bono and corporate citizenship efforts.

Thank you.

Buck de Wolf
General Counsel
GE Global Research
One Research Circle, K1 3A56
Niskayuna, NY 12309
buckmaster.dewolf@ge.com
*Registered In-House Counsel In NY

Michael Hertz

Chief Marketing and Business Development Officer,
White & Case

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

Summary of Testimony by Michael Hertz

Background

I graduated from Columbia University, School of Law in 1988 and started my career in New York as an associate and then a litigation partner at Latham & Watkins. In 1998 on a leave of absence from my practice, I co-founded and then ran a new non-profit organization called Pro Bono Net which uses innovative technology and collaborations to increase access to justice. Pro Bono Net is now used by tens of thousands of lawyers across the United States – including almost 20,000 pro bono and legal aid lawyers here in New York State. Since 1998, Pro Bono Net has worked with almost every civil legal services organization in the state on projects like LawHelp New York and other innovative projects, including the online Do-It-Yourself (DIY) forms initiative of the New York State Courts Access to Justice Program. I still serve as a board member of Pro Bono Net.

In 2005, I moved to London to join Freshfields Bruckhaus Deringer, a London headquartered global law firm and served as the firm's Global Chief Knowledge Officer. The mission of the knowledge management function at a firm like Freshfields is to ensure that the firm's lawyers across a global network could work together efficiently and effectively and included significant work with technology that could support collaboration and knowledge sharing.

I recently returned to New York City with White & Case and am responsible for all client-related initiatives and programs across the global firm including client-facing technology.

Summary of Testimony

Drawing on my background in both the private law firm and non-profit legal sectors, I will discuss the importance of technology for expanding access to civil legal services. Over the course of the last 20 years, technology has transformed the ways that lawyers work and how they collaborate across organizations and geography. Technology – if implemented well – can also create new ways to deliver service and reach people who might otherwise go unserved.

I will briefly review the advance of technology since I began practicing in 1988. I will also provide some comparisons between the investments being made in the private sector as well as those being made in the legal aid sector.

I will then talk about three, inter-related ways that technology has expanded and can continue to expand access to civil legal services. The first area is efficiency. Doing more with less or the same resources is the main driver behind investments in technology in the legal sector. I will discuss some of the key systems and investments that support efficient working. The second is quality or effectiveness. Technology underpins quality delivery. Access to the best online research, e-discovery, collaboration and knowledge management systems (to name just a few systems) is critical to providing quality services. Third, I will discuss ways that technology is leading to new and exciting innovations in the way that services are delivered and allowing civil legal aid groups and courts to assist many more people with the limited resources that they have.

Finally, I will say a few words about funding and more particularly funding innovation. I will draw on the experience of the Legal Services Corporation's Technology Initiatives Grant (TIG) program over the past ten years to illustrate how significant innovation and broad adoption of best practices could be generated with relatively modest amounts of grants.

Thank you, Chief Justice Lippman and members of the panel, for the opportunity to speak today on the topic of technology and its important role in expanding access to justice.

My Background

My name is Michael Hertz, and in 1988 I graduated from Columbia University, School of Law and started my career in New York as an associate and then a litigation partner at Latham & Watkins. In 1998 on a leave of absence from my practice, I co-founded and then ran a new non-profit organization called Pro Bono Net which uses innovative technology and collaborations to increase access to justice. In 2005, I moved to London to join Freshfields Bruckhaus Deringer, a London headquartered global law firm and served as the firm's global Chief Knowledge Officer. The mission of the knowledge management function at a firm like Freshfields is to ensure that the firm's lawyers across a global network could work together efficiently and effectively and included significant work with technology that could support collaboration and knowledge sharing. I recently returned to New York City with White & Case and am responsible for all client-related initiatives and programs across the firm including client-facing technology.

How Technology Can Expand Access to Justice

In my experience in the private law firm and non-profit legal sectors, I have seen the immediate and direct impact that technology has had on the practice of law. When I started practice in 1988, there were no personal computers on the lawyers' desks. I was given a Dictaphone. Then came voicemail, email, listservs (a type of group email that were and still are used extensively by lawyers) and in the mid-1990s the advent of the worldwide web which supported new ways of collaborating and sharing knowledge. Today we are witnessing a second wave of web-based tools -- frequently referred to as social media and Web 2.0. These new tools -- which continue to lower the barriers for sharing information -- include blogs, wikis, Facebook, Twitter and YouTube among others. In addition, mobile technology is having an enormous impact with lawyers now able to access significant resources with a phone or tablet like the iPad.

These technologies have significantly changed the way law is practiced, how services are delivered and how lawyers work together. It has changed how lawyers conduct research. It has changed how lawyers access training and leverage the power of their law firm's network or a larger network of advocates in the case of Pro Bono Net and the many active listservs within the legal services community. It has changed how lawyers work together as teams. And in the case of legal aid and access to the courts, technology now allows us to reach hundreds of thousands of people with information that can help them find a lawyer, create a form for the court and educate themselves about their rights and the process for protecting these rights.

Because of the importance of technology to the practice, significant investments are now made every year in building new tools and updating the existing tools. Technology is now seen as an essential building block of the modern law office. For example, according to industry experts like Hildebrandt-Baker Robbins, Information Technology (IT) spending as a percent of gross revenues for large law firms during 2007-2009 ranged from 3.0% to 5.7%. IT spending per lawyer for firms ranged from \$16,000 to \$40,000 in this same time period. According to the Legal Services Corporation (LSC), federally funded legal services programs are spending significantly less per lawyer, approximately \$7,000 per lawyer. The difference raises serious questions about whether the legal aid groups can dedicate enough investment in technology under current circumstances. The level of legal aid spending on technology is worthy of further investigation, as are ways to maximize the budgets that are available.

Despite having far more limited resources than the private law firms, the legal aid sector in New York has distinguished itself in regard to the use of technology to increase access to justice and the creation of innovative collaborations among programs to build new tools that can be used to reach far more people. Below are examples of technology tools and programs that have been developed in order to increase efficiency, to ensure quality and effectiveness and to reach many more people than is possible without technology innovation and investment.

1. EFFICIENCY

There is a range of technologies that allow attorneys to do much more in much less time. These range from hardware such as personal computers and cell phones, to software such as Outlook and other office technologies, donor databases and financial software, document and case management systems, intranets and internets, broadband, phone systems, etc. These are the fundamental building blocks for a modern, well-run organization and it requires an ongoing investment in new systems and software. Legal aid groups obviously struggle to support these ongoing investments in core technologies that allow their lawyers to work as efficiently as possible.

Limited resources, however, have not stopped the legal aid community from developing applications to drive efficiencies and suit the particular needs of providing civil legal services to the poor. For example, case management and practice management software have become essential components of well run legal practices and deliver significant efficiency gains. This software helps keep track of thousands of cases from intake through resolution. Unfortunately standard commercial applications did not meet the specific needs of legal aid organizations. In response, in 1993 the Western New York Law Center (WNYLC) created and released the WNYLC TIME software, a case-management system created specifically to meet the needs of legal services organizations and the demands of its funders for specific reporting requirements. The TIME system created an integrated and

comprehensive workflow from intake to matter resolution that captured client information that was essential for eligibility determination, case assessment, deadline management, and case closing information required by major funders including the Legal Services Corporation and the IOLA Fund. The TIME system is used by legal services organizations throughout the state, and has been adapted for use in other states as well.

The creation of the TIME system, which is continuously updated to meet changing needs and demands, has allowed New York's many legal services programs to access a case management system that meets their needs without each program investing in separate research, development and implementation of such a system. Today, organizations continue to explore the ways technology can enhance efficiency. Legal Assistance of Western New York is currently piloting efforts to implement an online intake system that will further expedite information gathering and eligibility assessment, while allowing low-income New Yorkers to initiate the intake process at any time. In addition, LawHelpNY and Pro Bono Net continue to explore using online document assembly technology to expedite the process of preparing legal forms and pleadings, allowing legal aid attorneys and other non-legal advocates to serve more clients in less time.

2. EFFECTIVENESS AND QUALITY

Internet technology has created unprecedented access to information and has created new channels of communication that enable collaboration among lawyers and other advocates. A range of technologies now exist that allow lawyers to access the collective knowledge of hundreds of advocates and essential training and best practice. These technologies are critical to maintaining the effectiveness and quality of the services delivered by legal aid staff and pro bono lawyers.

In 1999, Pro Bono Net launched websites that provide the pro bono and legal aid community with online libraries of training materials, sample documents, and practice tools created by leading experts from the civil legal services community. In 2010 Pro Bono Net New York had nearly 50,000 unique visitors, and had over 4 million page views, or an average of nearly 11,000 per day. And in 2000, the Greater Upstate Law Project (now the Empire Justice Center) created a website that provided access to in-depth research and resources for legal services staff. In 2010-11 the Empire Justice website (www.empirejustice.org) had 56,200 unique visitors and over 4.1 million "hits" on its information or an average of 11,300 per day. Annual visits to the website now top 3.6 million or an average of 9,900 per day.

The impact of these technologies on the quality of the service that is delivered is difficult to measure but it must be significant judging by the investments that private firms make in similar technology platforms. Likewise, video recording and online video streaming have allowed the creation of online repositories of recorded expertise, training and knowledge that are accessible by advocates day or night, from anywhere.

The Western New York Law Center, as the technology backup center for New York's legal services program, currently hosts a number of substantive law "listservs" as a way of facilitating peer-to-peer networking between and among legal services staff. These well-used electronic communication systems allow new advocates to post case related questions, give experienced advocates a way of easily collaborating on more complicated cases, and offer the community as a whole a way of connecting and learning from each other in their day-to-day work.

As a way of expanding the resources available to front-line legal services staff, WNYLC and the Empire Justice Center have also created a number of on-line resources for the community, including the Fair Hearing Bank which currently makes over 2,900 searchable decisions and related information available to its 3,400 registered users. The Public Benefits database current has decisions, pleadings, briefs and related materials in over 700 cases available to 937 registered users. Given the unique nature of poverty law, these are resources needed by the legal services community that are simply not available in and created by the private market.

The Online Resource Center had 1.1 million page views in 2010-11 calendar year and 431,000 visits, an increase of 10,000 visits from the prior year. This data is separate from and in addition to the statistics for the use of the Empire Justice Center general website. Again, this is an area where targeted investments in the creation of communitywide resources have been an effective and powerful use of limited resources.

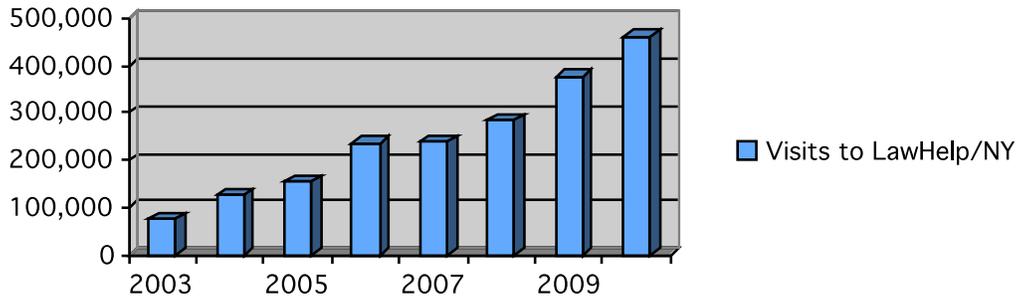
All of these tools are critical to ensure that legal aid advocates are properly trained and supported so that they can practice at the highest level possible. Likewise, providing volunteer lawyers easy access to training, experts and online libraries of practice materials and templates go a long way to lowering the hurdles to participation by private attorneys – thereby increasing volunteer contributions -- and ensure that these efforts are effective in helping low income clients.

3. INNOVATIONS TO EXPAND THE REACH OF LEGAL AID

The gaps in the unmet needs for civil legal services are enormous and require innovative solutions. One approach which has gained traction is to develop programs that use technology to extend significantly the reach of existing legal aid groups and advocates. These programs change the way services are delivered and accessed.

So whether it is bridging the hundreds of miles between a client in a rural area and a legal advocate in a city or providing access to information for non-English speakers or low literacy individuals, new programs are now coming into place that greatly expand access for these populations.

The best example of this today is LawHelp New York --www.lawhelp.org/ny -- an online resource that helps low-income New Yorkers find free legal aid programs in their communities, answers to questions about their legal rights, court information, links to social service agencies and more. Coordinated by a consortium of dedicated advocates from legal services organizations across the state, the visits to LawHelp New York are now approaching a half million every year. See the chart below.



Moreover, the LawHelp New York Consortium has worked hard to expand access for non-English speakers. For example, the site now has resources in 37 languages. In addition, the participating programs have developed a feature called “LiveHelp” -- a text-based chat service that integrates with LawHelp New York and allows volunteer “operators” to guide visitors around the website. LiveHelp seeks to support people who visit the LawHelp website, are eligible for legal aid, but suffer literacy and language challenges. The program also makes innovative use of non-legal volunteers -- law students and lay volunteers – who serve as LiveHelp “operators.”

Online document assembly technology also plays an important role in increasing access to the courts. The New York Courts' Access to Justice Program has created numerous Do-It-Yourself online court forms hosted on the court's website that have allowed unrepresented low-income New Yorkers to use a guided, interactive interview to learn about the legal process and generate appropriate court forms for family law, trusts and estates, consumer debt, and housing cases. In the 2nd quarter of 2011, nearly half of the total recorded petitions to vacate a default judgment in a consumer debt case filed in the New York City Civil Courts were generated using the Court's Do-it-Yourself forms. The New York Courts also has a new initiative to make the process of petitioning for an order of protection much simpler by implementing electronic filing for these petitions in Family Court.

Technology can also be used to increase the ability of legal services and pro bono programs to deliver assistance to rural communities, by effectively bringing rural clients and attorneys based in urban centers together. One program that is being developed in partnership with the courts in California will use document assembly technology to allow advocates to assist domestic violence survivors in rural areas to prepare petitions, which will then be transmitted to and reviewed by city-based

legal services or pro bono attorneys prior to filing. Another initiative in California's Central Valley will enable law student volunteers in urban settings, supervised by a legal services attorney, to staff rural virtual law clinics using video chat.

RECOMMENDATIONS FOR FURTHER INNOVATION

The programs and tools mentioned above have been developed with funding from many different sources and through collaboration among the various parts of the access to justice network in New York State. Their reach – while significant – only scratches the surface and the potential to substantially increase access to critical information and services continue to be enormous; however, additional and reliable investments are required.

Here are a number of suggestions:

- Conducting research into the IT investments made by legal aid groups and private law firms, the technologies that the legal aid groups need to fulfill their mission and the potential creation of standards and best practice.
- Continued development of resources in efforts to improve internal efficiencies within legal services programs and to expand the external reach of programs and services to those in need. This could include expansion of efforts to bridge language gaps, continued innovations to reach hard-to-serve populations, including those in rural areas, and expanded use of technology to assist legal services staff in their work, including access to emerging technologies.
- The state courts and legal aid groups – taken together – have significant purchasing power when it comes to hardware and software. With leadership from the state courts and legal aid groups, and standards in place, courts and legal aid groups could maximize the return on their investments in the core technology and tools that each organization needs.
- Finally, in order to insure that innovation continues, the state should explore establishing a New York State version of the Technology Initiatives Grant (“TIG”) program that has been in place for a number of years through LSC. The TIG program has made grants of approximately \$3.5 million a year for each of the last 12 years. Through relatively small investments, LSC has been able to provide the seed capital for an enormous amount of innovation. This program should be reviewed to see whether a similar model should be established in New York State.

Thank you again for inviting me to provide input to the Task Force.

Michael Hertz

Rasaan Kellam

Client of Legal Aid Society of Northern New York,
accompanied by Robert Vanderbles

Summary of Testimony and Biography of Rasaan Kellam

Mr. Kellam is 58 years old and lives in the City of Schenectady. He works as a sales representative with a local company. Mr. Kellam will testify regarding his experience with the Legal Aid Society of Northeastern New York and the eviction for nonpayment of rent they worked together to prevent.

Testimony at the Chief Judge's Hearings on Civil Legal Services

My name is Rasaan Kellam and I speak today as a former client of the Legal Aid Society of Northeastern New York. For the past six years I have been stably housed, employed, and sober. I was able to achieve this despite forty two years of abusing cocaine, multiple instances of homelessness, and a short time in jail. After four different stays in city missions I hope to never be homeless again. Through the assistance of a variety of community agencies I have been given the opportunity to put my life on the right track. Narcotics Anonymous helped me surrender to and own my addiction. The halfway house assisted me with obtaining employment. Mohawk Opportunities has provided me with a rental supplement and case management services, as they do for a number of individuals with disabilities. I owe my thanks to many people for these successes, and I thank the Legal Aid Society for helping me to protect these gains that have transformed my life.

Recently, my landlord tried to evict me for nonpayment of rent. I admit that I owed one month of rent, and with my next paycheck I planned to pay my landlord what was due. I had asked my landlord to give me until the day after court, when I would receive my paycheck, to pay him. My landlord would not agree to give me the one day I needed. I was afraid I would become homeless again.

I did not know how the system worked. I contacted the Legal Aid Society of Northeastern New York and met with Rob Vanderbles the next day. Mr. Vanderbles saw that my landlord had not given me a ten day notice to cure, followed by a thirty day termination notice, even though

he had agreed to do so in the lease we signed. Mr. Vanderbles represented me in court and moved to dismiss the case because my landlord had not followed the termination procedure we had agreed to in the lease. Mr. Vanderbles also moved to strike the demand for \$150.00 of late fees because there was no lease term allowing late fees.

All I wanted was one day to pay my landlord with my next paycheck, and with the defenses raised by Mr. Vanderbles my landlord agreed. I used my next paycheck to pay my landlord and we were able to stop my eviction. The Legal Aid Society enabled me to help myself and preserve the stable lifestyle I have worked hard to obtain. From the beginning the Legal Aid Society guided me through the process and gave me peace of mind in a highly professional manner. My best interest was their only priority.

If I had been evicted I would have lost my housing, my rental supplement, my job, and perhaps my sobriety. Returning to homelessness would be a lifestyle change that I could not cope with. Beyond representing me in court, Rob Vanderbles took the time to discuss strategies and guidelines for avoiding this situation again. I now budget my income to ensure that I pay rent on time every month so that I will not be at risk of homelessness again.

I am grateful to Legal Aid and hope that you will do all you can to ensure that agencies like Legal Aid have the staff and resources to help people like me maintain their housing, their jobs and keep their lives stable and on track.

Martin J. Mack

Executive Deputy Attorney General for Regional Affairs, on behalf of
Eric Schneiderman, Attorney General of the State of New York

**TESTIMONY BY MARTIN J. MACK,
EXECUTIVE DEPUTY ATTORNEY GENERAL
TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES
TO BE DELIVERED OCTOBER 3, 2011**

AS PREPARED FOR DELIVERY

GOOD MORNING, AND THANK YOU FOR INVITING ATTORNEY GENERAL SCHNEIDERMAN TO ADDRESS TODAY'S HEARING ON ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK STATE. UNFORTUNATELY, HE WAS UNABLE TO ATTEND, BUT I AM HONORED TO SPEAK ON THIS CRITICAL ISSUE ON BEHALF OF OUR OFFICE.

ATTORNEY GENERAL SCHNEIDERMAN WOULD LIKE TO THANK JUDGES PFAU AND CARDONA, AND OUR NEW YORK STATE BAR ASSOCIATION PRESIDENT VINCENT DOYLE, FOR THEIR LEADERSHIP. AND HE'D ESPECIALLY LIKE TO THANK CHIEF JUDGE LIPPMAN FOR PROVIDING THE IMPETUS FOR THESE HEARINGS. JUDGE LIPPMAN'S EFFORTS ON THESE ISSUES HAVE BEEN NOTHING SHORT OF EXTRAORDINARY.

THE HISTORY OF THE LEGAL SERVICES MOVEMENT IN OUR COUNTRY BEGAN AS A REFLECTION OF THE WIDESPREAD RECOGNITION BY THE LEGAL PROFESSION THAT WE HAD A SPECIAL OBLIGATION TO ENSURE ACCESS TO JUSTICE WAS AVAILABLE TO ALL, REGARDLESS OF ECONOMIC STATUS.

FOR DECADES, LEGAL SERVICES LAWYERS HAVE HELPED TO ACHIEVE MAJOR VICTORIES IN EVERY ASPECT OF THE FIGHT TO PROTECT THE RIGHTS OF THE DISADVANTAGED. THEY BROUGHT AND WON CASES AFFIRMING THE CONSTITUTIONAL RIGHTS OF THE POOR AND HELPED THEM ENFORCE THEIR RIGHTS TO GOVERNMENT BENEFITS, THE HONEST TREATMENT OF CONSUMERS AND ACCESS TO HEALTH CARE. AND THEY ADVOCATED FOR LEGISLATIVE CHANGES WHEN THE COURTS COULDN'T HELP.

THIS ALL BEGAN TO CHANGE IN THE 1980'S WHEN THE LEGAL SERVICE CORPORATION SAW ITS FUNDING SLASHED AND ITS MANDATE ATTACKED. THE BUDGET FOR LSC HAS BEEN CUT, AT THE SAME TIME THE NEED FOR ITS SERVICES HAS GROWN. TODAY, THE RECESSION HAS CAUSED THE RANKS OF THE WORKING POOR AND THESE NEEDS TO GROW EVEN FASTER. WHEN THE LOSS OF A JOB, FORECLOSURE ON ONE'S HOME, OR CUSTODY OF ONE'S CHILD IS AT STAKE, JUSTICE DEMANDS NOTHING LESS THAN ADEQUATE REPRESENTATION. AS THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES SO CLEARLY AND ABLY ILLUSTRATED IN ITS REPORT TO CHIEF JUDGE LIPPMAN LAST YEAR, WE ARE FALLING SHORT OF THIS IDEAL IN NEW YORK STATE.

NATIONWIDE, THE LSC ESTIMATES THAT FOR EVERY CLIENT SERVED BY AN LSC-FUNDED PROGRAM, ANOTHER PERSON WHO SEEKS HELP IS TURNED DOWN BECAUSE OF INSUFFICIENT RESOURCES. HERE IN NEW YORK, THE OFFICE OF COURT ADMINISTRATION ESTIMATES THAT MORE THAN 2.3 MILLION NEW YORKERS ARE UNREPRESENTED AS THEY ATTEMPT TO NAVIGATE OUR CIVIL JUSTICE SYSTEM. THE FUND FOR MODERN COURTS REPORTS THAT IN 2009, ALMOST 3 MILLION LOW-INCOME NEW YORKERS FACED AT LEAST ONE LEGAL PROBLEM WITHOUT REPRESENTATION, AND 1.2 MILLION FACED THREE OR MORE MATTERS WITHOUT ACCESS TO COUNSEL.

LET ME FOCUS FOR A MOMENT ON ONE ISSUE THAT OUR OFFICE IS WORKING ON RESOLVING - THE MORTGAGE CRISIS THAT HAS LED TO TENS OF THOUSANDS OF NEW YORKERS BATTLING TO KEEP THEIR HOMES. EVERY FORECLOSURE REPRESENTS A THREAT TO SOMEONE'S FUTURE.

NEW YORKERS THREATENED WITH FORECLOSURE HAVE ONLY THE PROMISE OF A FAIR LEGAL SYSTEM TO PROTECT THEM FROM BEING RENDERED HOMELESS AND HAVING THEIR AMERICAN DREAM DIE AN UNJUST, AND UNTIMELY DEATH. AND YET WE KNOW THAT ALL TOO OFTEN THE SYSTEM IS

NOT FAIR.

TOO MANY HOMEOWNERS HAVE TO “GO IT ALONE” WHEN FACING A FORECLOSURE ACTION BECAUSE OF THE LACK OF LEGAL COUNSEL. EVEN WITH SPECIAL STATE LEGISLATIVE FUNDING FOR FORECLOSURE PREVENTION SERVICES AND THE SURGE OF *PRO BONO* ASSISTANCE, ACROSS THE STATE, 44 PERCENT OF NEW YORKERS FACING FORECLOSURE LACK LEGAL REPRESENTATION.

THE LACK OF INDIVIDUAL REPRESENTATION IN FORECLOSURE ACTIONS IS ONE REASON WE HAVE SEEN SYSTEMIC ABUSES OF THE LEGAL SYSTEM BY LENDERS AND DEBT COLLECTORS.

WE’VE ALL HEARD HARROWING TALES OF ABUSES--INCLUDING FORECLOSURE ACTIONS BROUGHT AGAINST HOMEOWNERS WHO ARE ACTUALLY UP-TO-DATE ON THEIR MORTGAGE PAYMENTS. A RECENT REVIEW OF BANKRUPTCY FILINGS IN THE FEDERAL DISTRICT COURTS FOR THE SOUTHERN AND EASTERN DISTRICTS OF NEW YORK BY THE *NEW YORK POST* FOUND THAT 92% OF CREDITORS ASSERTING THE RIGHT TO FORECLOSE AGAINST BANKRUPT FAMILIES LACKED THE PROPER CHAIN OF TITLE FOR THE PROPERTY THEY WERE SEIZING.

FOR EVERY ABUSIVE CASE UNCOVERED, THERE ARE DOZENS UPON DOZENS OF HOMEOWNERS AND, SAD TO SAY, FORMER HOMEOWNERS, WHO HAVE BEEN STEAMROLLED BECAUSE THEY DID NOT HAVE ADEQUATE REPRESENTATION. ABUSES SUCH AS ROBO-SIGNING, SEWER SERVICE, AND IMPROPER LEGAL DOCUMENTATION ONLY HAPPEN BECAUSE LENDERS AND DEBT COLLECTORS ARE ABLE TO ASSUME THAT THE OVERWHELMING MAJORITY OF HOMEOWNERS WON’T HAVE ATTORNEYS TO FIGHT BACK.

THE RECENT REFORMS ENACTED BY JUDGE LIPPMAN AND JUDGE PFAU -REQUIRING LAWYERS FOR LENDERS TO AFFIRM THAT THEY HAVE TAKEN

REASONABLE STEPS TO VERIFY THE ACCURACY OF THEIR PAPERS IN RESIDENTIAL FORECLOSURES - WERE NEEDED IN LARGE PART BECAUSE OF THE LACK OF PRIVATE COUNSEL IN INDIVIDUAL CASES TO IDENTIFY AND OBJECT TO FALSE FILINGS. AND TO THE SURPRISE OF NO ONE, THE NEWLY ENACTED REFORMS DRAMATICALLY REDUCED FORECLOSURE FILINGS IN NEW YORK. OUR OFFICE LOOKS FORWARD TO BEING INVOLVED IN THE DEFENSE OF THIS RULE.

BUT WE MUST DO MUCH MORE. THE THREAT OF FORECLOSURES REMAINS ALL TOO REAL FOR MANY HOMEOWNERS. THE FEDERAL RESERVE BANK OF NEW YORK REPORTS THAT, AS OF MARCH OF THIS YEAR, ROUGHLY 10% OF RESIDENTIAL MORTGAGES IN NEW YORK CITY, THE NINE COUNTIES OF THE HUDSON VALLEY, AND LONG ISLAND ARE EITHER IN FORECLOSURE OR MORE THAN 90 DAYS DELINQUENT. AND THE PAIN IS ACUTELY CONCENTRATED IN SOME OF THE POOREST AREAS OF OUR STATE, WHERE THE NEED TO PROVIDE CIVIL LEGAL ASSISTANCE IS GREATEST.

ONE OF OUR OFFICE'S TOP PRIORITIES IS TO RESTORE NEW YORKERS' FAITH IN THEIR PUBLIC SECTOR INSTITUTIONS.

WE BELIEVE FIRMLY THAT ONE OF THE BEST WAYS TO RESTORE FAITH IN OUR STATE GOVERNMENT IS TO ENSURE THAT TAXPAYER DOLLARS ARE WELL-SPENT AND THAT WE ROOT OUT WASTE WHEREVER IT EXISTS. EVERY PUBLIC DOLLAR WASTED IS A DOLLAR LOST FOR CRITICAL SERVICES LIKE HEALTH CARE AND HOUSING. THAT IS WHY ATTORNEY GENERAL SCHNEIDERMAN ESTABLISHED A NEW "TAXPAYER PROTECTION BUREAU" IN THE OFFICE OF THE ATTORNEY GENERAL TO TARGET CORRUPT CONTRACTORS, PENSION CON-ARTISTS, AND LARGE-SCALE TAX CHEATS WHO RIP-OFF NEW YORK STATE GOVERNMENT AND ITS TAXPAYERS.

LEGAL SERVICE ATTORNEYS ARE VITAL PARTNERS IN THE EFFORT TO SAVE TAXPAYER DOLLARS. SUPPORTING THEM IS A WISE, LONG-TERM INVESTMENT

FOR NEW YORK, AS THEY HELP TO MAKE OUR JUDICIAL SYSTEM MORE EFFICIENT AND TO ACHIEVE BETTER RESULTS FOR ALL PARTIES. WITH THE AID OF COUNSEL, CASES ARE RESOLVED EARLIER, UNNECESSARY ADJOURNMENTS ARE AVOIDED, AND COSTLY TRIALS CAN BE AVERTED. JUDGES AND COURT PERSONNEL SPEND LESS TIME EXPLAINING PROCEDURAL MATTERS TO PARTIES WITH COUNSEL THAN TO THOSE WHO REPRESENT THEMSELVES *PRO SE*.

EFFECTIVE CIVIL COUNSEL FOR THE INDIGENT AND THE WORKING POOR ALSO HAS DIRECT AND TANGIBLE BENEFITS FOR STATE AND LOCAL GOVERNMENTS. PREVENTING EVICTIONS AND FORECLOSURES HELPS TO AVERT HOMELESSNESS; KEEPING FAMILIES TOGETHER AVOIDS COSTLY FOSTER CARE PLACEMENTS; AND OBTAINING FEDERAL DISABILITY BENEFITS AND UNEMPLOYMENT INSURANCE CAN REDUCE OR SUPPLEMENT STATE AND LOCAL PUBLIC ASSISTANCE BENEFITS.

NEW YORK STATE IS QUITE LITERALLY LEAVING HUNDREDS OF MILLIONS OF DOLLARS "ON THE TABLE" EVERY YEAR IN UNCLAIMED FEDERAL BENEFITS TO WHICH OUR CITIZENS ARE RIGHTFULLY ENTITLED. OUR STATE LOSES OVER \$400 MILLION ANNUALLY BECAUSE UNREPRESENTED NEW YORKERS LOSE THEIR RIGHT TO ACCESS FEDERAL PROGRAMS LIKE VETERANS BENEFITS AND DISABILITY PAYMENTS.

FINALLY, IT IS OUR OFFICE'S DUTY TO DEFEND THE STATE AND ITS AGENCIES IN A WIDE ARRAY OF ACTIONS AND PROCEEDINGS. OFTEN, OUR OFFICE FINDS ITSELF IN AN ADVERSARIAL POSTURE WITH LEGAL SERVICES LAWYERS. WHILE WE MAY NOT ALWAYS AGREE ON THE MERITS OF A GIVEN DISPUTE, THEY ARE ABLE AND WORTHY OPPONENTS. AND THEIR INVOLVEMENT IN THE PROCESS RESULTS IN BETTER OUTCOMES FOR ALL PARTIES. OUR OFFICE HAS WORKED OPPOSITE LEGAL SERVICES LAWYERS TO ACHIEVE POSITIVE SETTLEMENTS – AND POSITIVE POLICY SOLUTIONS – FOR THE STATE AND ITS

CITIZENS IN AREAS SUCH AS JUVENILE JUSTICE, MENTAL HEALTH, AND PRISON REFORM.

AND LEGAL SERVICES LAWYERS ARE NOT ONLY OUR ADVERSARIES; THEY ARE ALSO OUR PARTNERS. LAWYERS WORKING ON THE GROUND IN COMMUNITIES SERVE AS THE "EYES AND EARS" OF OUR STATE GOVERNMENT, INCLUDING THE OFFICE OF THE ATTORNEY GENERAL. THEY HELP TO IDENTIFY SYSTEMIC PROBLEMS IN COMMUNITIES THROUGHOUT THE STATE, AND THEY PROVIDE AN "EARLY WARNING SYSTEM" FOR EMERGING PROBLEMS.

LAWYERS IN OUR OFFICE ROUTINELY WORK WITH LEGAL SERVICES ATTORNEYS IN DEVELOPING AFFIRMATIVE CASES. OUR OFFICE'S LABOR BUREAU RECEIVES COMPLAINTS FROM LAWYERS ABOUT VIOLATIONS OF WORKERS RIGHTS AND DISCRIMINATION IN THE WORK PLACE. ATTORNEYS IN OUR CIVIL RIGHTS BUREAU WORK WITH LEGAL AID LAWYERS TO IDENTIFY UNLAWFUL DISCRIMINATION IN THE WORKPLACE, HOUSING, AND SCHOOLS. AND OUR HEALTHCARE BUREAU RECEIVES TIPS AND LEADS THAT HELP IT TO ADDRESS SYSTEMIC PROBLEMS IN HEALTHCARE DELIVERY. OFTEN, IT IS INFORMATION FROM LEGAL SERVICES LAWYERS THAT ENABLES US TO IDENTIFY AND ADDRESS PATTERNS OF WRONGDOING BEFORE THE PROBLEMS BECOME WIDESPREAD.

THANK YOU FOR GIVING US THE OPPORTUNITY TO TESTIFY TODAY. WE MUST ENSURE THAT ALL NEW YORKERS IN CASES INVOLVING THE FUNDAMENTAL STRUGGLES OF SOCIETY CAN GAIN MEANINGFUL ACCESS TO THE LEGAL SYSTEM. ON BEHALF OF ATTORNEY GENERAL SCHNEIDERMAN, WE LOOK FORWARD TO WORKING WITH THE TASK FORCE TO EXPAND ACCESS TO LEGAL SERVICES, WITH OUR OUTSTANDING COLLEAGUE CHIEF JUDGE LIPPMAN, AND WITH OUR PARTNERS IN BOTH THE LEGAL PROFESSION AND THE LEGISLATURE TO ACHIEVE THIS NOBLE GOAL.

Dana P.

Client of The Legal Project, accompanied by
Lorraine Silverman

Bio For Dana P., Client of The Legal Project

Appearing with her attorney, Lorraine Silverman, Esq., Staff Attorney, The Legal Project

Dana P., has been a special education teacher for 20 years. She is the single mother of 2 children who endured severe abuse by her former husband for a number of years before he was finally incarcerated in Marcy Prison for stalking, menacing and threatening to kill her. He was diagnosed as mentally ill and was not been deterred by numerous arrests and orders of protection, even damaging two GPS ankle units intended to keep his whereabouts known to protect her and her children. He also threatened to “blow up the probation building and kill everyone in it”, and threatened the police, court officers and anyone who was helping her. She desperately needed to legally divorce him, and she first engaged a private attorney because, on paper, she had an income that precluded her from obtaining most civil legal services assistance, even though her marriage to this man left her in financial ruin. She spent \$3000 that she could not afford on that attorney but before she could successfully divorce her husband, the attorney quit her case because her husband repeatedly threatened him, too. She found out about The Legal Project, and thankfully, they were able to step in and complete the divorce. Her attorney at The Legal Project understood what she was going through, was aware of the special dynamics of domestic violence and was able to help her finally get free of her horribly abusive and frightening husband. If not for the services of The Legal Project, she would still be legally married to a man who made her life a living Hell.

Debra L. Schimpf

Executive Director, Schenectady Community Action Program

Biographical sketch of
Debra L. Schimpf
Executive Director
Schenectady Community Action Program, Inc.

Debra L. Schimpf is the Executive Director of Schenectady Community Action Program (SCAP), one of Schenectady's largest nonprofit providers of services to low income people. Her involvement with SCAP began in 1988 when she was hired as the Finance Director. SCAP has been providing services since 1964 in response to President Lyndon B. Johnson's War on Poverty and the signing of the Economic Opportunity Act which sought out integrated solutions to eradicate the causes of poverty and create solutions that would help low income people move out of poverty. People in poverty worked alongside community leaders including those who were representative of business, religion and government to create improved systems and services to achieve this goal. Since inception, SCAP has partnered with the community to provide services, advocate for policies leading to greater access to jobs, housing and education for low income people and, when gaps exist, to increase the community's resources and improve its ability to meet the needs of its most vulnerable.

Deb Schimpf is a community leader advocating for improved partnerships and integrated community solutions. She is a member of Schenectady Rotary and on the Boards of the New York State Community Action Association and the Visiting Nurses Services of Schenectady and Saratoga. She is the Chairperson of the Community Crisis Network and Co-Chair of the Homeless Services Planning Board. Ms. Schimpf is a member of the Commissioners Advisory Group for Schenectady County Department of Social Services, the Ellis Medical Home Advisory Group and the Schenectady Foundation's Strengthening Families Advisory Board.

Testimony of
Debra L. Schimpf, Executive Director
Schenectady Community Action Program
913 Albany Street, Schenectady, New York 12307
518-374-9181, dschimpf@scapny.org

To Chief Judge Lippman and Distinguished Members of the Panel: Thank you for the opportunity to testify on the important topic of civil legal services in upstate New York. My name is Debra Schimpf. I am the Executive Director of the Schenectady Community Action Program (SCAP) which serves Schenectady County.

SCAP's mission is to eliminate the symptoms and eradicate the causes of poverty. We serve the low income population of Schenectady County, and in particular, the City of Schenectady. We face a daunting poverty rate of 20.7% in the City of Schenectady, one of the highest in northeastern New York. In addition, our total poverty population of 15,826 is consistently at risk of losing the essentials of life: income, housing, safety, health care and education. We have always been and continue to be an anti-poverty agency. We share that mission with our colleagues at the Legal Aid Society of Northeastern New York.

SCAP offers an array of services including Head Start, transitional and permanent housing for homeless families, crisis intervention for individuals and families not able to meet their basic needs, case management for low income people that includes budgeting and income tax assistance and employment services. We lead a number of community collaborations with many local human services agencies. We are particularly proud to partner with the Legal Aid Society of Northeastern New York in trying to maintain our clients' "essentials of life", in particular, housing.

For more than 15 years, we have engaged in a variety of formal and informal partnerships with the Legal Aid Society. These have included basic referral relationships as well as formal,

funded partnerships that ensure that Schenectady County residents at risk of homelessness receive rental and financial assistance as well as legal services.

Most recently, we have worked closely with the Legal Aid Society in a local Homelessness Prevention and Rapid Rehousing Project (HPRP). This partnership includes Bethesda House, SCAP, Legal Aid Society and the City of Schenectady. This partnership places two Legal Aid Society attorneys, available for intake, at our offices on Thursdays and Fridays of each week. In addition, our long-term housing coordinator, Donna Gonzales, is stationed at the Schenectady City Court every day. Ms. Gonzales regularly screens and serves many people at risk of homelessness, providing information and referrals to tenants. Ms. Gonzales can link tenants to financial assistance from SCAP. At the same time, Ms. Gonzales refers low income people who have received a threat of eviction or court papers to Legal Aid Society attorneys. Typical landlord-tenant issues referred to Legal Aid include those tenants who are being evicted illegally, who have never received or been served court papers, who have serious code violations, especially vacate orders or who are trying to protect their extremely valuable public housing or Section 8 tenancies.

Through this partnership, we have been able to maximize the HPRP resources available to Schenectady County clients. SCAP administers HPRP rental and utility subsidies and provides information to clients with relatively simple evictions as well as public assistance advocacy and case management. Clients who need an attorney in order to prosecute procedural and substantive defenses are referred to Legal Aid Society attorneys.

SCAP and LASNNY jointly address common issues with our local Department of Social Services. These can include clients with emergencies who are turned away because they arrived “too late”, clients who have a written threat of eviction who are turned away because “they can

still stay in the apartment”, or told to come back “when the sheriff locks you out”, or who are told to come back “when you receive court papers”. In Schenectady County, regrettably, non-English speakers are sometimes turned away by DSS because they did not bring their own interpreter, or DSS has no interpreter available. We also are addressing untimely processing of emergencies and ongoing applications. Legal Aid lawyers provide invaluable legal assistance on all these issues.

The partnership with the Legal Aid Society is powerful for our community. In addition to resolving housing cases, Legal Aid can also represent our clients in a variety of other legal issues that preserve the “essentials of life”. These include unemployment insurance appeals, Social Security Disability appeals, divorce, adoption, custody, child support, wills, immigration, foreclosure, real property, bankruptcy and debt collection. We know that the Legal Aid Society has similar partnerships throughout northeastern New York.

Funding for civil legal services is necessary to allow low income people to maintain the essentials of life. The Society is committed to partnering with community agencies like SCAP. Trained non-attorney resources can provide information, case management and financial assistance, and attorney resources can be preserved for clients with the most pressing legal problems. Legal Aid Society attorneys have also trained SCAP and other agency staff so that they can recognize appropriate legal issues for referral to Legal Aid.

I hope that the Chief Judge’s Task Force will again recognize all that legal services agencies like the Legal Aid Society of Northeastern New York have done to partner with non-legal providers to meet the needs of low income people efficiently and effectively. If I can provide you with any additional information, please do not hesitate to contact me.

Hon. Leslie E. Stein

Appellate Division, Third Department

HON. LESLIE E. STEIN
JUSTICE OF THE SUPREME COURT
APPELLATE DIVISION, THIRD DEPARTMENT

Justice Stein is a graduate of Macalester College and Albany Law School. Justice Stein began her legal career as the law clerk to the Schenectady County Family Court Judges. She then became associated with the Albany law firm of McNamee, Lochner, Titus & Williams, P.C., where she practiced matrimonial and family law, and became a partner in the firm. While a practicing attorney, Justice Stein was elected a Fellow of the American Academy of Matrimonial Lawyers. Before her election to the New York State Supreme Court for the Third Judicial District commencing January 2002, she was an Albany City Court Judge and an Acting Albany County Family Court Judge. She served as the Administrative Judge of the Rensselaer County Integrated Domestic Violence Part from January 2006 - February 2008. On February 11, 2008, she was appointed a Justice of the New York State Appellate Division, Third Department.

Justice Stein is co-chair of the NYS Unified Court System Family Violence Task Force and a member of the New York State Bar Association Committee on Diversity. She also serves on the Executive Committee of the Association of Justices of the Supreme Court of the State of New York. Justice Stein was previously the Secretary-Treasurer of the New York State Association of City Court Judges, served on the Board of the New York Association of Women Judges, and was a founding member of the New York State Judicial Institute on Professionalism in the Law. In addition, she chaired the Third Judicial District Gender Fairness Committee from 2001 - 2005. Justice Stein has lectured and developed curricula for continuing legal education of attorneys and judges on a variety of topics. She has a long history of involvement in bar associations, including the New York State Bar Association, the Women's Bar Association of the State of New York, the Capital District Women's Bar Association and the Albany County Bar Association. She has also been active in a number of other professional and civic organizations.

Justice Stein will testify regarding the need for civil legal representation based upon her experiences with self-represented litigants in private practice, as a City Court Judge, as a Supreme Court Justice on the trial bench, including an Integrated Domestic Violence Part, and as an Appellate Division Judge. She will also describe some of the existing programs and resources in the Third Judicial District as well as in the Appellate Division, Third Department, for providing such representation.

Testimony of Hon. Leslie E. Stein

My name is Leslie Stein. I currently serve as a Supreme Court Justice sitting in the Appellate Division for the Third Department. I want to thank Chief Judge Lippman, Chief Administrative Judge Pfau, Presiding Justice Mercure and President Doyle for the opportunity to present testimony at this hearing on this very important topic.

After serving as a law clerk to the Schenectady County Family Court Judges, I practiced matrimonial and family law in the Capital Region for more than a decade before I was appointed to the bench. I have served as a judge since 1997, when I was appointed to the Albany City Court. In 2002, I became a Justice of the Supreme Court and, in 2008, I was appointed to the Appellate Division. I applaud the Chief Judge and the members of the Task Force for their ground breaking work in investigating the need for civil legal services in New York and recommending a means to increase resources for such services. As you might imagine, I have witnessed this need from a variety of perspectives throughout my legal career.

As a practitioner, I found that when the adverse party was unrepresented, there would often be delays in the proceedings, negotiations, settlements and trials. This type of delay made representation of my own client more time consuming, difficult and costly.

As a City Court Judge for 5 years, primarily in the civil part, I presided over civil, commercial and small claims matters, as well as evictions and code violations. The Albany City Court is a very busy court where a substantial number of litigants appear pro se, particularly in debtor/creditor, small claims and eviction matters. In eviction cases, for example, many private landlords had attorney representation and the Albany Housing Authority filed hundreds of summary proceedings each year through its attorney. Tenants, on the other hand, were most often unrepresented. The small number of tenants who were represented were primarily

represented by attorneys from the Legal Aid Society of Northeastern New York. Sometimes, they were assisted by non-attorney tenant advocates and, whenever possible, I utilized volunteer mediators who were present in court. Over time, I saw that represented litigants were more likely to achieve a superior outcome. I was often placed in the position where it would be necessary for me or my staff to explain the Court's procedures and give direction to a self-represented litigant. Additionally, I regularly saw cases that were appropriate for settlement go unresolved because self-represented tenants or other litigants were not able to fully articulate their positions, accurately analyze the strengths and weaknesses of their cases or appreciate the benefits of settlement. When settlement efforts failed, I frequently observed that self-represented tenants could not adequately present evidence or effectively argue defenses that they appeared to have. Eviction cases implicate one of the most basic "essentials of life" - a place to live. I was often faced with tension between the duty to remain neutral and the necessity of ascertaining key facts in order to make a just determination in such an important matter. In all such matters, competent legal representation for all litigants would allow judges to more efficiently handle busy court calendars and to fairly administer justice.

While sitting as a trial judge in the Supreme Court, I presided over many mortgage foreclosures, other debt collection matters and matrimonial cases, among other things, particularly in the rural areas of Columbia and Greene Counties. Again, I witnessed how the lack of effective legal representation could delay proceedings and render it more difficult for judges to obtain the information necessary to arrive at a just result.

As the presiding judge of the Integrated Domestic Violence Part of the Supreme Court in Rensselaer County for over 3 years, I also saw the impact of local legal services providers, particularly The Legal Project and the Legal Aid Society of Northeastern New York, which

provide skilled representation to victims of domestic violence. Imagine a domestic violence victim sitting alone in the courtroom, without representation, with the abuser – often with an attorney – only a few feet away. In matrimonial proceedings, in particular, it is critical that there be a balancing of the power of a domestic violence victim against that of the abuser. The Legal Project and the Legal Aid Society do excellent work, but neither program has the staff or resources required to provide representation to every client who needs it. We are also fortunate to have a matrimonial pro bono program administered through the Supreme Court Clerk's Offices in Albany and Rensselaer Counties. However, many gaps remain and we must increase the civil representation resources available in this community in order to ensure a just resolution for every victim of domestic violence and other low income litigant.

In the more than 3 years in which I have been sitting on the Appellate Division – a forum in which there are many technical and procedural requirements – I have seen that the resources available for pursuing legitimate appeals are even more scarce. Matters in which litigants may find themselves without legal representation include a full array of issues, including some Family Court matters, estate matters, contracts, administrative proceedings such as workers' compensation and unemployment insurance, as well as land disputes and Article 78 proceedings, not to mention a substantial number of inmate claims, among others.

Recently, The Legal Project, New York State Bar Association and the Rural Law Center have joined together to administer a family law appeals project in the Third Department called the Civil Appeals Pro Bono Pilot Program. During its pilot period, this project has screened approximately 36 applications and has provided appellate representation to 6 litigants in family law matters. While the Legal Aid Society also occasionally provides pro bono representation in appeals, overall resources are scarce for low income appellate litigants.

In these times of a difficult economy and increased unemployment, the need for legal representation in civil matters at all levels of our court system is more acute than ever. I hope that we will be able to find a way to provide the necessary funding to programs such as those that currently exist to enable low income litigants to obtain adequate and effective representation.

Thank you.

Debra Sullivan

Former Pro Bono Director and Member, Capital District
Paralegal Association

Biography of Debra Sullivan

Representing the Capital District Paralegal Association

Ms. Sullivan is a 1997 graduate from Schenectady Community College with an AAS in Paralegal Studies. She is in her final year at Sage Evening Division working towards a Bachelor Degree in Legal Studies. Ms. Sullivan became a member of the Paralegal Association in 1996 which was then known as the Albany Legal Assistants Association. The association changed to Capital District Paralegal Association (CDPA). She served as Treasurer of CDPA for two years and was on the Board as the Pro Bono Director for the 2008/09 and 2009/10 year(s).

Ms. Sullivan volunteers once a month for The Legal Project as the legal clinic coordinator at the Mechanicville location and in the regularly offered Pro Se Divorce Clinics, held by The Legal Project. She also participates in association volunteer events such as Senior Law Day (Albany Law School) and the Law Run for Domestic Violence (Albany County). Ms. Sullivan is currently employed as a Legal Assistant II with the Office of State Comptroller in the Hearing Administration and Matrimonial Bureau.

**TESTIMONY SUBMITTED TO THE TASK FORCE TO EXPAND
ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK
MONDAY, OCTOBER 3, 2011
DEBRA SULLIVAN, PARALEGAL
CAPITAL DISTRICT PARALEGAL ASSOCIATION**

My name is Debbie Sullivan and I am a Paralegal and former President of the Capital District Paralegal Association (CDPA). My testimony at the Chief Judge's Hearings on Civil Legal Services is on behalf of the Capital District Paralegal Association (CDPA) and is in accordance with the Association's commitment to Pro Bono activities within the community.

The pro bono committee works on contacting various not-for-profit agencies to determine a need for our membership to participate in pro bono activities. The committee works closely with the various organizations and making necessary arrangements to involve our membership.

CDPA prides itself on its involvement with pro bono activities and encourages all members to be involved to assist those members of the community who cannot otherwise afford to pay for legal services. Our goal is to use our knowledge and provide our services to assist those people who need it the most. We have proven that when it comes to assisting the public, CDPA is a very strong alliance of members and will continue to be.

Members of the association have volunteered for pro bono activities conducted by the Albany County Bar Association such as the Run for Domestic Violence and Law Day Clinics. We have an excellent working relationship with The Legal Project and are ready to assist with their various projects. We also volunteer our time at Senior Law Day through Albany Law School.

The Association has increased its involvement significantly with The Legal Project for various projects including the Divorce Clinics. Our members attend the training at Albany Law School and assist the public. Through my involvement with the Legal Project, I became the Legal Clinic Coordinator for The Legal Project at the Mechanicville location.

The legal clinic is an excellent program and is held once per month. There are clinics held at different locations throughout the area. The Mechanicville clinic consists of two attorneys, at times there may be three depending on the need. Community members in need contact The Legal Project to make an appointment, and they appear on the scheduled day to meet with the Attorney. People can call for an appointment to discuss virtually any civil legal topic, such as employment, credit, bankruptcy, health, landlord-tenant, personal injury or family law.

The attorneys meet with the individuals in private consultations and provide advice to those that would not otherwise be able to afford an attorney. This is a valuable service to the entire community.

Through my experience with the clinic and speaking with the people who come to meet with attorneys for private consultations, they are very appreciative of the clinic and what it stands for. To some it may be a simple matter, but to them – they are seeking guidance, and they cannot afford legal assistance. Time and again I've been told from those attending that the clinic is such a great program and they are so happy with the services they offer. One person recently wrote on their evaluation, "The appointment with the lawyer was so helpful! I now know what my next step is and I feel like I can now do something about my situation. Thanks for the peace of mind!" We hear comments like this all of the time, and the sense of relief that I see in the faces of those that we help is tangible.

The most valuable thing about the Legal Clinics is the fact that they can provide early legal intervention in these people's lives. Information is truly power, and letting people know what options they have and if in fact, additional legal services are necessary can make a tremendous difference in avoiding major crises in their lives. It is also critical that these clinics are open to the community. The Legal Project does not do a full intake when people call for this assistance because they are meeting with pro bono attorneys, which avoids the problem of legal conflicts. This way people can feel comfortable in coming to ask their legal question, no matter what their situation. Anonymous evaluations are provided post-consultation at the clinic and income level is asked at that time. At least 90% of those that attend the clinics are under 200% of poverty and could not

dream of going to a private bar for help. These clinics help level the playing field for people who otherwise would have little or no access to legal information and guidance. This is so incredibly important, especially in this economic period where people are literally living on the edge.

The Pro Se Divorce Program is a wonderful way that we can connect our paralegal volunteers with low income individuals in the community who need an uncontested divorce. We hear all of the time from judges that so many people come to court with incomplete or incorrect paperwork when they are seeking a divorce and they get turned away from the courts, wasting everyone's valuable time and frustrating those that are seeking to use what was intended to be a process friendly to the lay person. Unfortunately, so many people are confused by the paperwork and struggle to get through it all, only to be stymied by the process. With this program, we can use non-attorney paralegals along with students from Albany Law School, who are trained to understand the paperwork and guided by two or more attorneys from The Legal Project on site, to literally sit with the individual and help them as they complete their paperwork. What an amazing difference this makes. People leave feeling calmer and more in control of their situation and more aware of the process that lies ahead. The courts are very happy with the results, finding more people coming prepared with their paperwork and ready to move ahead. This saves an enormous amount of angst, time and money for both the individual and the court. We at the CDPA are so pleased to be a part of this excellent program.

You have been hearing from countless people today about the need to find ways to support civil legal services programs and find creative ways to serve more people with less. I add my voice and the voices of the members of the CDPA in this important message to those in decision making positions in state government. As a state, if we do not find the resources to support civil legal services, we end up wasting opportunities to head off much more expensive litigation and other life crises. There are few program areas that have a better track record in being creative, cost-conscious and collaborative than civil legal services. We need to value that and ensure that as a state, we invest in those services going forward. The stability that these programs help people find in their lives is invaluable—let us ensure that we find ways to keep these programs stable as well.

In closing, I appreciate the opportunity to provide testimony and take part in these proceedings on behalf of the Capital District Paralegal Association and programs such as The Legal Project. Thank you for all of the work of the Task Force and your efforts to help support equal justice in New York State.

F. Michael Tucker

President and CEO, Center for Economic Growth



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F. Michael Tucker
President and CEO

F. Michael Tucker was appointed President of the Center for Economic Growth (CEG) in March 2007. CEG is the premier economic development organization in New York's Tech Valley and serves as the Capital Region's designated Regional Technology Development Center. A private, non-profit, membership-based organization, CEG creates economic impact by working with partners in business, government, and education on strategic initiatives to grow local companies, attract new industry and investment, and prepare communities for future growth.

Prior to joining CEG, Mr. Tucker served as President of the Harriman Research and Technology Development Corporation where he was responsible for initiating and overseeing the redevelopment of the 300-acre W.A. Harriman State Office Campus into a world class Research and Technology Park.

For more than 25 years Mr. Tucker was a principal with Mercer Companies, Inc., an Albany based real estate and energy development firm. Mr. Tucker oversaw the development, financing and operation of Mercer's commercial office, senior housing and hydroelectric projects throughout New York State. In addition, he was responsible for Mercer's property management and real estate brokerage services. Mr. Tucker has extensive experience in business, economic development and energy related issues.

Mr. Tucker graduated from Villanova University and the Villanova School of Law. He is an attorney and a licensed real estate broker. He is active in legal, real estate and economic development organizations at the local, state and national levels. He currently serves as a Director of the New York State Economic Development Council and is on the boards of numerous not-for-profit organizations throughout Tech Valley. He served as the Chairman of the Town of Bethlehem Industrial Development Agency, is a Trustee of Ulster Savings Bank, and is a member of the MedTech Board of Directors' Advisory Council. He is also a member of Governor Cuomo's Capital Region Economic Development Council.



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SUMMARY OF TESTIMONY
THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

F. MICHAEL TUCKER,

PRESIDENT AND CEO OF THE CENTER FOR ECONOMIC GROWTH

Stability, efficiency, and quality of judicial systems and their fairness, equity, and accessibility are important considerations for businesses when they are considering investing, expanding, or locating in any community. Tech Valley and the Capital Region are becoming a globally recognized hub of technology clusters, and the region's reputation and character are more crucial now than ever to business development and attraction. Confidence in our legal system should be one of our global strengths.

Access to justice at all socio-economic levels is fundamental to a vibrant economy. It affects our community, its quality of life, and our ability to attract business to the area and encourage existing businesses to expand.

Unmet need for legal services burdens the economy as a whole, for example, in health care and welfare costs, which are passed on to businesses, many of which are already struggling given these difficult economic times. Individuals and businesses alike will suffer from the consequences that lack of legal services access will create because legal services are an essential part of a functional social services network.

Lack of legal services is no longer an issue just for the abject poor. There are now newly poor and temporarily poor individuals. Offering access to legal services is a sure path to help jump start the economy and making these individuals and families productive again. These are people who are potentially highly employable in the region, and we need that human capital to fill our workforce pipeline gap.

Access to legal services is crucial to community stability. Community stability is crucial to business attraction and the expansion of and access to a productive workforce pipeline.

Governor Cuomo has made it clear that he wants New York Open for Business. Our state cannot be positioned to do this without proper access to the legal system because that system is just as important as assets like infrastructure and human capital. Therefore, access is inextricably linked to our economy's success.



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

MONDAY, OCTOBER 3, 2011

F. MICHAEL TUCKER,
PRESIDENT AND CEO OF THE CENTER FOR ECONOMIC GROWTH

Thank you for the opportunity to submit testimony with respect to the importance to the business community of expanded access to civil legal services in New York State. I commend the Chief Judge and the Task Force on their leadership in addressing this critical issue.

Grow, Attract, and Prepare have been the guiding principles of the Center for Economic Growth (CEG) since its inception. For more than two decades, CEG has been at the forefront of economic development initiatives and public policy discussions affecting the 1.1 million residents of New York's Capital Region and Tech Valley. As a not-for-profit membership-based organization with over 300 member companies, we collaborate with our partners to both shape the future of our region and provide the pathways necessary to make those goals become reality. By advancing visionary policies and advocating for transformational change we strive to build upon the qualities that make the area a great place to live, work and play.

Stability, efficiency, and quality of judicial systems and their fairness, equity, and accessibility are important considerations for businesses when they are considering investing, expanding, or locating in any community. Tech Valley and the Capital Region are becoming a globally recognized hub of technology clusters, and the region's reputation and character are more crucial now than ever to business development and attraction.

Governor Cuomo is aggressively trying to change the perception of New York State and make the state more business friendly. To undermine our legal system and access to it undermines the Governor's mission. Access to justice means the difference between keeping or losing custody of a child, between living in a safe and secure home and living on the streets, or in constant fear of violence. These issues affect our community and its quality of life and directly affect our ability to attract business to the area and encourage existing businesses to expand.

That low and moderate income people are well represented is important to the national and global perception of New York State and the Capital Region. It is important because we are already behind the eight ball with respect to the perceived competitiveness for business attraction. A fully functional justice system is just as important as our infrastructure, educational opportunities, and availability of human capital in giving businesses the confidence in the functionality of our region's economic ecosystem. Access to justice at all socio-economic levels is fundamental to a vibrant economy. If low income individuals are not adequately represented, New York will not be seen as a place for economic opportunity and people and businesses will not come here.

While we have a strong web of educational institutions and growing and anchor businesses such as IBM, GE, and GlobalFoundries, we are already facing a major challenge in providing a workforce pipeline to those companies, and lack of access to the justice system is yet another obstacle in attracting and sustaining the human capital that is critical to the attraction and expansion, if not survival, of the industries that will define the Capital Region's future. The workforce pipeline does not just encompass technology- or knowledge-based workers; it includes individuals from all socio-economic backgrounds that are needed to work at the supply chain and service companies that companies like GlobalFoundries rely on.

Confidence in our legal system should be one of our global strengths, and if the system is perceived as lacking in accessibility and equity, businesses and individuals will think twice about locating or expanding in our state and region and will choose other locations around the nation and world that offer better economic development incentives coupled with a more accessible legal system. Businesses do not necessarily see access to justice as a rich/poor issue – if the state does not make legal services available and accessible to the poor, investors and businesses will question what else the state may not provide in tough fiscal times.

Businesses understand that diminishing legal services for the poor is partially an economic decision made by the state – that does not give confidence that New York is a viable place to live and work, but rather creates concern that other services will start to diminish as well, and not just for the poor. Such diminishment in services is an indicator of the breakdown in other social and economic systems as well – if the legal system breaks down for some, it could break down for all.

It is important to remember that civil legal services not only refer to representation in court, but situations that occur before any court is involved. As the economy worsens, there are more and more unrepresented litigants and claimants in all facets of the legal system, and an increasing number of individuals are facing more than one legal problem concurrently. There are many cases that would never end up in court had unrepresented individuals had access to some form of civil legal services from the beginning. The business community has to have confidence in what happens in our justice system. Uncertainty as to who can get help, who can't, and whether it will change

at the drop of a hat creates instability and distrust, and lends support to the perception that New York State is somewhat chaotic and volatile in its dissemination of services, whether they be legal, economic, tax-related, regulatory, etc. Businesses need to know that there are services available not only for themselves if they need it, and for those who might sue them, but for their employees as well, because the more services that are available up front, the less costly it is for everyone.

When discussing civil legal services for low and moderate income individuals, we primarily are referring to issues involving the essentials of life, such as housing, family stability, personal safety, access to health care and education, and subsistence income and benefits. The breakdown of that system and the increase in the unmet need for services burdens the economy as a whole, for example, in health care and welfare costs, which are passed on to businesses, many of which are already struggling given these difficult economic times. Individuals and businesses alike will suffer from the consequences that lack of legal services access will create because legal services are an essential part of a functional social services network.

Lack of legal services is no longer an issue just for the abject poor. There are now newly poor and temporarily poor individuals. There are middle-income Americans whose needs are not being met because they are currently priced out of the legal system. The definition and perception of “low income” is changing – it is no longer associated primarily with “poor” but with many people who suffered job, business, and home losses related to the major economic crash. Individuals who only a couple years ago would be considered “middle class” are facing unemployment, mortgage delinquency, home foreclosure, eviction, etc. Recent natural disasters have created an even greater need with respect to people who may otherwise never have needed such services. Offering access to legal services is a sure path to help jump start the economy and making these individuals and families productive again. These are people who are potentially highly employable in the region, and we need that human capital to fill our workforce pipeline gap. Access to legal services will allow them to address these matters and focus on getting back on their feet.

Having legal representation and fair access to the system enhances a fair outcome, decreases the amount of time needed to resolve disputes, and may prevent a case from proceeding to formal litigation, saving businesses, taxpayers, and the judiciary money and time. While there are moral and social aspects to equal access to the justice system, from a business perspective, it’s also a bottom line issue. Individuals and families who can keep their home and children and have access to health care and education will contribute to society in other ways, like opening bank accounts, having strong work attendance, and obtaining additional training and education. Therefore, access is inextricably linked to our economy’s success.

Most things in our society are driven by the economy - access to justice and legal services cannot be one of them without corroding people’s confidence in our state and country. As Judge Lippman has said, “[A]ccess to justice can’t depend on...good times

or bad times. It's one of the fundamentals of our society that people have access to the courts."

There is no doubt that these are tight budgetary times. But it is counterintuitive that when people need more help, they are getting less. It is not only individuals and "poor" people who need access to civil legal services. More so now than ever before, for example, small business owners need access to legal services but may not be able to receive them. While the Capital Region is blessed with strong industry and educational assets and partnerships, small businesses are a critical part of our economic engine and will suffer from lack of civil legal services as they face potential foreclosure, loss of employees, and even eviction from leased premises. The Legal Project currently matches women, minority, and low income business owners with pro bono attorneys with corporate law experience for private consultations in areas such as business formation and incorporation, zoning, employment issues, and real estate to help support the efforts of microenterprises in our community. This unique program also provides education and guidance to these businesses and coordinates with local microenterprise programs to help these small business owners be aware of their options and hopefully circumvent avoidable and potentially expensive legal scenarios. Programs such as this will allow for more creative and cost-effective support for the businesses that are the core of our economy.

Stability is crucial to our community and economy. Businesses cannot handle any more unknowns in our state. Governor Cuomo has made it clear that he wants New York Open for Business. Our state cannot be positioned to do this without proper access to the legal system because that system is just as important as assets like infrastructure and human capital.

We all know that rules and regulations are key to a civil society. Education, awareness, and perception are important pieces within the umbrella of access and equity in the justice system. It is just as important for citizens to understand a system exists, are aware of its scope and limitations, and learn how to access it. Too often people, primarily those with lower incomes, do not understand the system so they don't trust it or feel that they have been treated fairly by accessing it. They look at it negatively, not as a vehicle or solution, so they ignore the system, and when they are subjected to it by default, they become further alienated and withdrawn. Our world is ever-changing and more complex and volatile than ever before, so access to education to gain a clear understanding of how to effectively use the system is a key piece of the funding puzzle as well.

For example, early access to civil legal services in the form of consultations with lawyers or representation during mediation or negotiation makes the entire process more efficient. The economy benefits because there is less stress on the court system and judges, cases for the most part are more timely resolved, and people will lose less time from work and will be less distracted. Individuals with personal issues interfere with work focus and efficiency. If an individual had access to information and an attorney to handle the matter, it would ease some of the angst and allow the employee to remain

focused on his or her job. But additional pro bono services from private attorneys are only part of the puzzle.

Early access and education clearly reduces costs to both businesses and our community as a whole. It reduces the tremendous downstream costs of problems like homelessness, domestic violence, and poverty that are ultimately absorbed by businesses. Every year our economy loses hundreds of millions of dollars because unrepresented individuals lose their right to obtain federal funds. Programs like Legally Speaking, offered by the Legal Project, and written materials like Legal Lifelines, offered by the Legal Aid Society of Northeastern New York, are an important first step in access to the legal system. Additionally, programs offered by organizations like Legal Aid that specifically address access to social benefits are instrumental in reducing costs to taxpayers and to increasing economic activity in our region. For example, the Legal Aid Society of Northeastern New York's Nutrition Outreach and Education Project helped families in Albany, Montgomery and Saratoga Counties received \$2,184,840 in food stamp benefits, with a resulting \$4,020,104 in additional economic activity in one year.

In addition, proper funding would minimize the danger of the judiciary playing the role of advocate for the unrepresented, which unfortunately is occurring more and more frequently as judges and court personnel spend thousands of hours trying to assist the unrepresented in navigating through the legal system. It places not only the judges in an awkward and potentially unethical position but creates the perception of a potentially unfair legal system.

According to the recent census, 53-56% of school age children in Albany, Troy, and Schenectady live in a household with single mothers. And across all socio-economic boundaries, children who live in households where at least one parent is unemployed have significant behavioral problems, according to a study published in the spring 2011 issue of the Journal of Policy Analysis and Management. Imagine the effect on these children if at the same time their mother is being abused, or they are being evicted and forced to move from apartment to apartment, or the family does not know that services are available to help them access health care and education.

Access to legal services is crucial to community stability. Community stability is crucial to business attraction and the expansion of and access to a productive workforce pipeline. Equitable access to civil legal services is not about giving people a sense of entitlement or a means to avoid contractual obligations to landlords or business owners – it's about integrating all individuals into the social order on an equal access basis. Frankly, when there is not justice for all, there is no sense of justice.