

SUPREME COURT OF THE STATE OF NEW YORK
-- SECOND DEPARTMENT --

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THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES,

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New York State Judicial Institute
84 North Broadway
White Plains, New York 10603
October 16, 2015

BEFORE:

HONORABLE JONATHAN LIPPMAN,
Chief Judge, New York Court of Appeals

HONORABLE LAWRENCE MARKS,
Chief Administrative Judge

HONORABLE RANDALL T. ENG,
Presiding Justice, Second Department

CLAIRE GUTEKUNST,
New York State Bar President-Elect

CAMI L. LANDAU
Official Court Reporter

1 HONORABLE LIPPMAN: Good morning. Good morning.
2 We're going to get started. Everyone please find their
3 seats.

4 I want to thank you all for being here. This is
5 the fourth and final legal services hearing for this year.
6 We have had hearings in the First Department in Manhattan,
7 the Third Department in Albany, and in the Fourth Department
8 in Syracuse. And the purpose of these hearings is to insure
9 that New York is doing everything that they can to close the
10 justice gap that exists in our state and in the country
11 between the finite legal resources that are available, and
12 the desperate need for legal services for the poor in,
13 again, our state and in the country.

14 There is a justice gap. There is a crisis in
15 access to justice, and we want to make sure that we do
16 everything we can so that people don't fall off the cliff in
17 difficult economic times because of a lack of legal
18 representation. These are people who are fighting for the
19 necessities of life, the roof over their heads, their
20 physical safety, their livelihoods, and the well-being of
21 their families.

22 We recognize that equal justice is central to the
23 constitutional mission of the judiciary, and we have tried
24 to use these hearings to make a public record of the need
25 for the public funding for legal services and the need for

1 more pro bono work by the bar.

2 We're very proud that New York, we've been able to
3 obtain \$85 million this year from the Legislature and the
4 Executive to give out in grants to legal service providers,
5 but that's the tip of the iceberg in terms of the need. It
6 is, by far, the most in the country in terms of public
7 funding, but certainly the need is so great, where legal
8 service providers are still turning away more people than
9 they can help in terms of providing legal assistance. In
10 the height of the fiscal crisis, providers were turning away
11 as many as eight out of ten people who came to see them. So
12 we know that the best investment that the state can make is
13 in legal services for the poor. We had an economic report
14 just this year in the New York area that indicated that for
15 every dollar invested in legal services for the poor, \$10.00
16 is returned to the state in terms of decreased social
17 service costs, incarceration cost, and more federal dollars
18 coming to New York.

19 In New York, we've not only looked to public
20 funding, but we've looked to pro bono work, and that
21 includes lawyers of Meritus programs, that concentrates on
22 the baby boomers that are winding down their practices and
23 trying to get them to do more pro bono work, the Empire
24 State Counsel Program that the State Bar has been so
25 terrific in implementing. The new lawyers, you know that

1 they're now required to do 50 hours of pro bono work before
2 they can be admitted to the bar, with the bottom line being
3 that if an aspiring lawyer is not going to embrace the core
4 values of our profession, then they are not going to be
5 lawyers in New York. And those core values obviously are,
6 first and foremost, helping people in serving others. And
7 we also have the Pro Bono Scholars Program that lets
8 aspiring lawyers take the bar exam in February of the last
9 year, and in return, they give the last term of the legal
10 career over to pro bono work.

11 So I think there is a revolution in access to
12 justice taking place in our state and in our country. We
13 are re-prioritizing what's important in recognizing that
14 legal services for the poor is as important as schools and
15 hospitals and housing and all the other things we hold dear
16 in our society. We're working towards the point we hope
17 where in the resolution by the State Legislature this year
18 that basically says that everyone who's in need should be
19 able to get legal representation or effective legal
20 assistance, and that is now, pursuant to that resolution,
21 the public policy of our state.

22 So, we're going to get forward with the hearing.
23 The end result of the hearing is, we will make a Permanent
24 Commission on Access to Justice shared by Helaine Barnett,
25 who's sitting right over there.

1 Helaine, you want to raise your hand?

2 Helaine is the former Chair of the Legal Services
3 Corporation in Washington, and has done a wonderful job.

4 The Commission will do a report on December 1,
5 which will coordinate with the introduction of our budget,
6 and it will provide a basis upon which we will seek
7 additional funding this year for legal services for the
8 poor.

9 I want to also mention the other people from the
10 Commission who are here today, in addition to Helaine.
11 Barbara Finkelstein, who has done such great work in putting
12 together this hearing here in the Second Department, as she
13 always does. Fern Fisher, the Deputy Chief Administrative
14 Judge, who is right up there, from New York City, and the
15 Director of Access to Justice Program. Adriene Holder is
16 right over there, from the Legal Aid Society. Denise
17 Kronstadt, from The Fund for Modern Courts. Marcia Levy,
18 who is -- Marcia -- there she is. Lillian Moy, a Third
19 Department person, but we've let her come over here to the
20 Second Department. And Ron Rasmussen, who is also in the
21 legal services community, and is also on the Board.

22 So, we thank all the Board members for being here,
23 the Commission members for being here.

24 I also want to introduce to you the panel who is
25 here presiding over this hearing with me. To my right, the

1 Presiding Justice of the Second Department, the Honorable
2 Randall Eng. Randy. To my far right, the President Elect
3 of the State Bar, Claire Gutekunst. And to my immediate
4 left, our wonderful Chief Administrative Judge, Lawrence K.
5 Marks. Together, we will preside over this hearing
6 representing, in a real sense, the leadership of the
7 profession in the Judiciary here at this hearing.

8 So we're going to start today with a relatively
9 crisp schedule. The hearing starts, it started at 10:00.
10 We will end it at 12:00. We have some terrific witnesses.
11 I would ask the witnesses, they can either read their
12 testimony if they want to, or they can just, you know, that
13 testimony will go in the record, so they can either tell us
14 the testimony just informally, or they can read it; whatever
15 is better for them. We will, either during the testimony,
16 occasionally interrupt them with questions, or certainly at
17 the end of the testimony, certainly we'll have a few
18 questions.

19 We'll try and stay on schedule. We don't have the
20 red lights here, Mr. District Attorney. Don't get worried,
21 there's no red lights, although we did use the red lights in
22 Albany at our last hearing, and as Lillian will account, the
23 only ones who we didn't hold to the red lights were the
24 clergy, who answer to a higher calling than the red lights
25 that we have. So, we let them give their testimony.

1 So, again, all great folks, all our witnesses, and
2 I'm very pleased to introduce as our first witness, the
3 Honorable Thomas P. Zugibe, the District Attorney of
4 Rockland County. We're honored by your presence,
5 Mr. District Attorney, and the floor is yours.

6 MR. ZUGIBE: Thank you. Good morning, Chief Judge
7 Lippman and members of this distinguished panel.

8 Can you hear me okay?

9 HON. LIPPMAN: Yes, we can.

10 MR. ZUGIBE: I thank you for allowing me the
11 opportunity to appear this morning to speak to you about the
12 importance of civil legal services and the critical need for
13 counsel for those less fortunate than ourselves. I am the
14 District Attorney of Rockland County. Rockland has a
15 population of approximately 320,000 people and combines
16 suburban, urban and rural geography with an economically,
17 racially and ethnically diverse population of residents.

18 I understand that this is the last in a series of
19 hearings on the need for access to lawyers in civil cases.
20 I want to personally thank the Chief Judge for his efforts
21 in increasing funding for civil legal services, providing
22 keen focus and awareness of the desperate need for civil
23 legal service programs, and for addressing the need for
24 civil counsel in many cases before the courts, whether it be
25 privately retained, government provided or volunteered. I

1 know that other District Attorneys have testified during
2 prior hearings, and I echo their calls that there is more to
3 be done to increase the opportunities for counsel in civil
4 arenas in our state, and that funding civil legal services
5 is important to law enforcement and a civil society.

6 The continued need for more resources for civil
7 legal services and the need for counsel in civil cases
8 extends from the single mother who has been forcibly evicted
9 from her home, without due process of law, in a local city
10 or justice court, to the domestic violence victim who cannot
11 imagine leaving an abusive spouse, because, quote, "I can't
12 afford to leave," to the family that must sue in Supreme
13 Court to obtain the benefits that they deserve because one
14 governmental office or another has unjustifiably denied the
15 benefits. Access to competent advocates who will speak for
16 the poor to obtain the help that they deserve and
17 desperately need remains an important mandate for our state.

18 The Chief Judge has invited District Attorneys to
19 these hearings to ask what we believe is the importance of
20 civil legal services. The unfortunate reality is, as
21 District Attorneys, we cannot do much to provide counsel in
22 civil cases. Our jurisdiction limits our responses in this
23 arena. We can, however, and do, vigorously enforce the
24 criminal laws in many areas where the civil and criminal
25 lines actually intersect. Because of this intersection, we

1 understand the impact and the importance of all funding and
2 civil legal services and fostering partnerships and
3 collaborations to create programs and opportunities to
4 provide support for the needs of legal services and their
5 clients.

6 For example, soon after I took office, I was
7 approached by the Legal Aid Society and apprised of an
8 ongoing problem. While most residential landlords appeared
9 to be law abiding, some landlords were engaging in self-help
10 by forcibly and unlawfully evicting tenants without the due
11 process the law affords them. In many of these cases,
12 landlords were taking advantage of our most vulnerable
13 residents, including the elderly and domestic violence
14 victims. Now, Section 235 of the Real Property Law makes it
15 a criminal offense for a landlord to willfully withhold
16 necessary services such as utilities or to lock out a tenant
17 without a warrant of eviction, but the law was rarely
18 enforced. Through the intervention of my office, we were
19 able a protect these victims from further victimization.
20 Without the vigilance of civil legal service providers in
21 our community, the information needed to properly prosecute
22 these cases might not have ever been reported.

23 Another example concerns victims of domestic
24 violence. As every member of this panel is well aware, the
25 biggest obstacle that prevents the effective prosecution of

1 domestic violence cases is the unwillingness, or more
2 appropriately, in most cases, the inability of victims to
3 cooperate in the process. And we know that this inability
4 is not the product of unwillingness, it's the product of the
5 cycle of violence and control that defines this scourge.

6 In addition to vigorously developing evidence-based
7 cases that minimize and often eliminate the prosecution's
8 reliance on the victim's cooperation, my office has begun a
9 pilot program that amounts to a victim support network, to
10 support them through what in many cases is the most
11 difficult time in their lives. Our Special Victim Center,
12 built through the generosity of local businesses and donated
13 union and private labor, provides a safe environment for
14 these victims. Their in-home visits with victims, specially
15 trained detectives and my special victims prosecutors meet
16 with these vulnerable victims to provide the support they
17 need to follow through on their complaints. The preliminary
18 results of this pilot program are very encouraging,
19 demonstrating thus far a significant increase in the number
20 of victims who are able to follow through with their cases.

21 Yet, the problem of access to counsel persists in
22 these and other vulnerable populations. There is no doubt
23 in my mind that in the above example, an attorney's
24 presence, legal expertise and guiding hand would most
25 certainly increase successful outcomes. In fact, we are

1 working now with one of Rockland County's Family Court
2 Judges to recreate the concept of our Special Victims
3 Center, with its concomitant support structures, in the
4 Family Court setting. This will allow civil victims the
5 same access to counseling and attorneys that we currently
6 provide to criminal victims. These and other very admirable
7 pilot programs statewide demonstrate how a holistic approach
8 of the problem of access to counsel and support services
9 leads to better outcomes for many people in New York.

10 But there is more that can be done. Having read
11 portions of prior testimony before this Commission, I'm
12 aware of Chief Judge Lippman's concerns regarding potential
13 right to counsel in civil cases. And I am pleased to see
14 the Legislature, because of the Judiciary's advocacy, has
15 adopted a resolution declaring that the fair administration
16 of justice obligates the state to insure that all New York
17 residents have adequate and effective legal representation
18 for matters pertaining to the essentials of life.

19 Now, your Honor has mentioned Gideon versus
20 Wainright, a United States Supreme Court case that
21 guaranteed, for the first time, the right to counsel in
22 criminal cases. There is no such right in civil cases. In
23 fact, the Supreme Court has stated as recently as 2011 that
24 the Fourteenth Amendment's due process right to counsel only
25 is implicated in civil cases where there is a possibility of

1 incarceration as a remedy. New York has also recognized
2 that at least some civil cases require counsel. For
3 example, the Second Department has found that a person
4 facing a hearing pursuant to the Sex Offender Registration
5 Act, known as SORA, has the right to effective counsel at
6 that proceeding.

7 There is one other consideration that uniquely
8 falls within the purview of the Legislature and the courts.
9 Courts in New York have never shied away from applying more
10 broadly the protection embodied in the New York
11 Constitution. In fact, the Court has consistently ruled, in
12 both criminal and the appropriate civil cases, that the Due
13 Process Clause embodied in New York's Constitution provide
14 greater protections than its counterpart in the United
15 States Constitution. Perhaps the time has come for the
16 Courts and the Legislature to closely examine the need for
17 guaranteed counsel in areas that have not before been known
18 to require such representation. At a minimum, I would
19 advocate for such counsel in domestic violence cases that
20 have a civil component to them, such as concomitant child
21 support or divorce proceedings. This would result in
22 significantly better outcome in both the civil and criminal
23 cases, and, most importantly, lead to better outcomes for
24 the victims and the abusers alike.

25 The United States Constitution sets forth the basic

1 laws and rules that guide our society in order to, as the
2 Preamble states, "form a more perfect union." That Preamble
3 also announces to the world that the Constitution was
4 devised to "insure domestic tranquility." While these three
5 words most certainly do not allude to the scourge of
6 domestic violence in this country, they could.

7 Another founding document strongly reflects the
8 work of the Permanent Commission on Access to Justice and
9 the purpose of these hearings. The Declaration of
10 Independence states that it is self-evident that all people
11 are endowed with certain unalienable rights, that among
12 these are life, liberty and the pursuit of happiness. The
13 language and the spirit of the Declaration of Independence,
14 the Constitution and the New York State Constitution combine
15 to provide an umbrella of safety over the people who make up
16 the United States of America and live in the great State of
17 New York. The application of these great principles has
18 resulted in a country and state that embodies the freedom of
19 our country. Throughout the two-and-a-half centuries of our
20 existence, we have established and expanded the rights of
21 our residents for the better. I know that going forward we
22 will continue to advocate for our most vulnerable citizens.
23 I am proud to be part of a system in the greatest state and
24 greatest country our world has ever known. Supporting civil
25 legal services, the right to counsel, and providing poor

1 people with legal assistance is a critical part of how we
2 continue to make sure the words of the founding documents
3 remain alive and continue to apply to our present society
4 and the reality of the day to day lives of the people of our
5 State. I thank you very much.

6 HON. LIPPMAN: Thank you, District Attorney Zugibe.
7 We really appreciate your interest in legal services for the
8 poor, and your action, and I know you're being honored by
9 Legal Services in Rockland County, and it's not every day
10 that District Attorneys get honored by legal services.

11 MR. ZUGIBE: And I am proud of that, Judge.

12 HON. LIPPMAN: We're very proud of you that that's
13 the case.

14 Let me ask you just a couple of short questions.
15 You know, this idea of a civil Gideon, that Gideon versus
16 Wainright, obviously the seminal case in the United States
17 on criminal representation, and people talk of a civil
18 Gideon. Is that feasible? Is that possible? As you
19 indicate, the United States Supreme Court has very recently
20 indicated that that's not the case, but as you know, 20
21 years before Gideon versus Wainright, the United States
22 Supreme Court indicated there is no right to representation
23 in criminal cases. And during those 20 years, the dialog in
24 America changed, and the public started to get it, that when
25 someone's liberty is at stake, it's so important. Do you

1 think it's conceivable that in a civil case, there could be
2 just as much of an impact on a human being by what happens
3 in a civil case than with a criminal case, which has the
4 loss of liberty itself? Can you analogize the two?

5 MR. ZUGIBE: The right to counsel enunciated in
6 Gideon was based on the fact that this is possible
7 deprivation of your liberty. It's a very severe penalty,
8 but our experience has been, especially dealing with not
9 just criminal defendants, but victims, the far greater
10 implication to their lives happen in the civil sphere and
11 not in the criminal sphere. Oftentimes the criminal side of
12 it, where they have the right to counsel, is minimal
13 compared to the trauma that's inflicted on these individuals
14 during the civil process, where the rights are not
15 protected, and they wind up with results that affect them
16 for their entire life, as opposed to the criminal case,
17 which is oftentimes very short lived.

18 So I believe that the Constitution, it would be
19 constitutionally supported. I think most D.A.'s that I
20 speak to would be certainly in favor of that and recognize
21 that the criminal side is not always the penalty you think
22 it is. The civil side is really where the damage is done.

23 HON. LIPPMAN: Thank you, Mr. District Attorney. I
24 knew the answer, but I knew you did too.

25 MR. ZUGIBE: Glad I got it right.

1 HON. LIPPMAN: The impact of a civil case on
2 housing, the roof over your head, your family, the trauma
3 that can come, can be every bit as severe as the loss of
4 liberty, and that's why there's this ongoing movement in the
5 United States.

6 MR. ZUGIBE: But it's especially true with regard
7 to victims of crimes. We hold their hand through the
8 criminal proceeding, but then they're left high and dry on
9 the civil side of it.

10 HON. LIPPMAN: And you're exactly right. Jumping
11 off from that point, you know, you mentioned domestic
12 violence victims, and I think another area where you mix the
13 civil and the criminal, at least by impact of what's
14 happening with the criminal case, we recently had last week
15 a summit in New York on human trafficking, and there's
16 another area where I think so-called defendants, you know,
17 are really victims, and need help in terms of so many civil
18 issues dealing with their very lives themselves, you know,
19 having a helping hand to get out of a life which is of abuse
20 and victimization. Do you think human trafficking is one of
21 those areas that cuts across the lines of criminal/civil?

22 MR. ZUGIBE: It is. It took awhile for law
23 enforcement to truly understand the effect of human
24 trafficking. You have a person labeled as a defendant, when
25 in fact, in a percentage of cases, they truly are victims.

1 But how do you get there, how do you establish that? And we
2 do fortunately today have our detectives, our special
3 victims detectives are trained to be able to meet with the
4 victim. They are not their attorney representing them, but
5 they're meeting them to assess are they a victim or are they
6 an offender. Unfortunately, because of that same control
7 and combination and cycle of violence, we have these victims
8 that we are convinced that are victims, are not defendants,
9 but refuse to cooperate, go into court and immediately plead
10 guilty to avoid even any influence on them because they're
11 more concerned about the people who have imprisoned them as
12 traffickers than they are the criminal justice system. So
13 many of them will, despite the fact they're victims, refuse
14 our assistance and go in anyway.

15 So, yes, I think having available counsel for them
16 too, counsel is provided to them in most cases, but it's
17 provided by the johns, by the traffickers, and they send
18 them in with a single purpose in mind when they meet with
19 them.

20 HON. LIPPMAN: What's clear from the conference we
21 had just a short while ago is that the science tells us
22 today that prostitution is not a profession of choice, and
23 that trafficking comes whether it's around the world or
24 around the corner here in Westchester, Rockland, or, you
25 know, across the ocean. It's the same issue.

1 MR. ZUGIBE: It's far more prevalent in the
2 sleeping bedroom communities than people would ever imagine.

3 HON. LIPPMAN: Thank you.

4 Presiding Justice Eng?

5 HON. ENG: Thank you very much, Chief Lippman.

6 The Chief Judge has given me a wonderful segue into
7 something I had on my mind, and that is, Rockland probably
8 has a dearth of multifamily housing. I would think that
9 most of your residential landlords are probably owners of
10 two and three-family houses. That's probably the situation,
11 I would think. I learned of situations where you have, you
12 have landlords that have been victimized by tenants, in that
13 the landlords themselves might be elderly, they might have
14 heavy financial commitments. They're landlords nonetheless,
15 but they've had abusive tenants, and then the landlords may
16 have a lack of access to civil legal services because
17 they're the landlord in that sense, oh, you have a home
18 that's worth three, four, \$500,000.00, don't qualify. I
19 wonder if you've run into that, where you've had a situation
20 that's sort of turned on its head there. What relief can
21 these marginal landlords have in those kinds of situations?

22 MR. ZUGIBE: I happen to have seen it first hand,
23 not as a D.A., but I served for 18 years as Village Justice
24 up in Haverstraw, New York. Landlord/tenant was a big part
25 of it, and a good percentage -- I'm glad you mentioned

1 that -- a good percentage of the cases was that, where the
2 landlord was being physically or economically abused, and
3 oftentimes, the tenant would be represented and the landlord
4 not. And oftentimes, they'd be seeking, the landlord would
5 be put into a situation where the judge was imposing a stay
6 for three, six months where they -- but the landlord has a
7 mortgage to pay, was in tough financial straits, could not
8 afford his bills. Yet, courts were imposing, at the request
9 of counsel, a stay, allowing, basically, the tenant to stay
10 there rent free, further victimizing the landlord. And it
11 was a problem we saw all the time.

12 I agree with you. I think you have to look at each
13 case differently. We've had many cases with tenants where
14 landlords are just, as I mentioned, been involved with
15 self-help. They've just thrown all the property out in the
16 street, locked the doors, which is a crime, and the police
17 departments wouldn't act on it.

18 So, yes, we've seen both. I think we have to be
19 open-minded to it. If a landlord is being abused, yes, they
20 should have the right to counsel as well.

21 HON. MARKS: One question. Mr. Zugibe, given that
22 crime victims can also have civil legal problems that, in
23 fact, may arise from the fact that they've been victimized
24 by crime, clearly, you recognize that and you should be
25 commended for that. Has the statewide District Attorneys

1 Association actively supported efforts to get, in Albany and
2 elsewhere, to get more money for civil legal services?

3 MR. ZUGIBE: You know, I don't believe it's ever
4 been an issue presented to the D.A. for support. Just
5 talking to them anecdotally, I know all D.A.'s I know have
6 stepped forward and tried to provide that within their own
7 jurisdictions. It's certainly something the D.A.'s would
8 support. I'm not aware of whether or not they've actually
9 taken a public position on that.

10 HON. LIPPMAN: I think it's a great issue, and
11 maybe we'll talk to the leadership and see what we can do.

12 MR. ZUGIBE: I'm the President Elect of the
13 Association.

14 HON. LIPPMAN: We knew that.

15 That's a great idea. It's very powerful, you know,
16 and I think the law enforcement comes forth just as it is.
17 I know you're equally supportive with indigent criminal
18 defendants on the criminal side of the equation. It's very
19 powerful when D.A.'s come and say we need a level playing
20 field, and it's so important, so I think that in civil
21 issue, I think that's really a great idea. So, we will talk
22 more.

23 MR. ZUGIBE: Look forward to it. Thank you.

24 HON. LIPPMAN: Thank you, Mr. District Attorney.
25 Such a delight and pleasure --

1 MR. ZUGIBE: Thank you very much. I'm honored.

2 HON. LIPPMAN: To have you with us. Thank you.

3 Our next panel is a Corporate Leaders Panel. And
4 I'm going to ask Edward J. Sebold, Shawn A. Miles and David
5 Yawman to come down and sit at the front, and we'll have a
6 chat about legal services in the corporate community.

7 Now, I have the same suggestions for all of you.

8 Vanessa, you are going to replace Shawn?

9 MS. WATSON: Yes.

10 HON. LIPPMAN: Okay, you can read the testimonies
11 or just talk to us about the, you know, your individual
12 commitment in the context of the corporate community, and
13 don't be upset if we interrupt you and start asking
14 questions. We don't want to interrupt the District
15 Attorney. Careful not to do that.

16 So we're going to start with Edward J. Sebold,
17 Esquire, the Vice-President and Assistant General Counsel of
18 I.B.M.

19 And let me start by saying, Mr. Sebold, what's the
20 connection? It's counterintuitive. Why does the corporate
21 community care about legal services for the poor?

22 MR. SEBOLD: Absolutely, your Honor, and I'm happy
23 to answer that. I think for several different reasons, and
24 I can speak from my own experience in that regard.

25 I'm, even though I'm in-house now, I'm what I call

1 a recovering trial lawyer --

2 HON. LIPPMAN: I've heard there are a lot of those
3 people around.

4 MR. SEBOLD: Exactly. So for many, many years, I
5 represented a number of the major companies in the United
6 States in their litigation, touching on banking, health
7 care, real estate, what we would call the essentials of
8 life. And I can say that some of my toughest cases were
9 actually cases involving pro se plaintiffs. Plaintiffs who
10 are unrepresented in court. And when I say tough, I don't
11 necessarily mean on the merits; and I can assure my paying
12 clients out there that I didn't lose any to pro se
13 plaintiffs. But I think in a way we all lost in those
14 situations. Everyone in the system lost when you have a pro
15 se plaintiff. It's not good for the clients, it's not good
16 for the court system, and it's certainly not good for these
17 folks who are unrepresented in court, because they often
18 have unrealistic expectations about the legal system and
19 about the merits of their case. And so it's actually more
20 difficult to resolve those types of cases. For --

21 HON. LIPPMAN: Do you find it wastes everybody's
22 time because you're trying to do the right thing and yet
23 someone isn't trained to?

24 MR. SEBOLD: Absolutely, your Honor. Not just our
25 time, but the court system's time, because, you know, the

1 court system has to bend over backwards in many ways to make
2 sure that the pro se plaintiffs are having their day in
3 court and those types of things, so it's incredibly wasteful
4 for everyone. And as you said, from the corporate
5 perspective, it's obviously wasteful because our lawyers are
6 back and forth in the court system. You don't get a speedy
7 resolution and those type of things. So, certainly from
8 that standpoint alone, we're interested in that issue.

9 HON. LIPPMAN: And do you think that in the long
10 run, and I know you do, but that's a rhetorical question,
11 but that everyone benefits when there is legal
12 representation for those in need because, again, they get
13 their day in court, and yet, society benefits because
14 there's a level playing field? Whatever issues there are,
15 are able to be resolved by a neutral arbiter, so the Judge
16 is not acting as, really, in effect, acting as a lawyer for
17 somebody that needs a lawyer? Does it work for everybody?

18 MR. SEBOLD: I think you're absolutely right, your
19 Honor. It goes back, really, to the rule of law and the
20 respect for the rule of law, I would say. In part, that's
21 what sets the United States apart, and one of the things
22 that I've seen in my practice now, having more international
23 exposure, is the tremendous respect for the rule of law in
24 our country. And that's really a cornerstone of our
25 capitalist economy too, and that's why it's important.

1 HON. LIPPMAN: But that's a really good point. Why
2 does a place like I.B.M., one of the seminal corporations in
3 the United States, why does it place, when you talk about
4 the communities -- and look, people in the corporate world,
5 they want people to buy their product. Whatever it is, why
6 would it be important to I.B.M. that people in the community
7 are not falling off the cliff in difficult economic times?
8 How does it help I.B.M., putting aside the ethical and moral
9 commitment that so many of our big corporations have to do
10 the right thing? Why is it good from a bottom line
11 perspective of a huge enterprise like I.B.M. for people not
12 to, again, just have their life totally sidetracked and go
13 off a cliff, literally, you know, because they can't get
14 legal representation?

15 MR. SEBOLD: Absolutely. It's important for
16 several different reasons. One is this respect for the rule
17 of law situation that we were talking about. But it's also
18 particularly important for our clients as well. And that's
19 why at first I struggled a little bit, because oftentimes we
20 don't directly provide government services, obviously, for
21 banking or things like that, but our clients are certainly
22 right out there doing that. For example, our computers help
23 the bankers make their mortgages, for example. The mortgage
24 system, we talk about foreclosures and things like that.
25 The banks can't process the loans, the mortgages, the things

1 like that if you can't get through the court system, if both
2 sides aren't adequately represented, let's say, in a
3 foreclosure proceeding. So there is a situation where the
4 essentials of life are implicated, and so it's dramatically
5 important, not only for us, but for our customers to make
6 sure that there's this equal access to justice.

7 You could look at it in the healthcare arena,
8 government benefits, where we provide computer systems for
9 many of the major welfare benefit programs. But if people
10 are denied those benefits, you can have the best computer
11 system in the world, but if the benefits are denied because
12 there is not adequate representation, the system breaks
13 down. So those --

14 HON. LIPPMAN: Can people buy your product if they,
15 you know, they're on the street, and they don't have money
16 to put in the bank, and they can't go to the local store,
17 and they can't go to the local community, whatever is
18 happening? If they're not meaningful members of the
19 community, they can't be helpful to your bottom line; can
20 they?

21 MR. SEBOLD: That's certainly true. We don't
22 always sell directly to our customers. Let's say, you know,
23 our customers that provide food and essential products like
24 that. So, in turn then, our customers can't buy from us.
25 And we're getting more and more into certain areas. For

1 health care, you may have seen some of the commercials on
2 TV. That's an area where, the health care system, where we
3 want to help with cancer and those types of things, and if
4 the end users and their customers can't buy, then, you know,
5 everyone is harmed in society.

6 HON. LIPPMAN: And I want to commend all
7 corporations like yours that don't really need to do this,
8 but understand the connection between, again, the right
9 thing, what helps the economy, the bottom line. All of it
10 fits together.

11 Let's talk to the second person on the panel.

12 Vanessa, you're representing Shawn Miles?

13 MS. WATSON: Yes.

14 HON. LIPPMAN: Executive Vice-President and
15 Associate General Counsel of Global Public Policy for
16 Mastercard Worldwide.

17 And Vanessa, you're the Senior Managing Counsel of
18 Mastercard Worldwide.

19 In the same vein that I asked Mr. Sebold, what
20 possible connection does Mastercard have to civil legal
21 services? Why is this important?

22 MS. WATSON: Well, your Honor, I feel like as
23 attorneys, our responsibilities follow us regardless of
24 whether we're inhouse or at a law firm. So we have a
25 commitment corporate-wide to Mastercard to giving back, and

1 to corporate social responsibility.

2 HON. LIPPMAN: Why is it good for the corporation?

3 MS. WATSON: It's good for the corporation because
4 if we are able to help those who are in need, for the same
5 reasons that you've just stated, to provide them with
6 services that, with legal services that can help them in
7 that critical stage in their life, then they're the ones who
8 will be able to utilize all the services that are being
9 provided by the corporation. That's the bottom line. If
10 there are indigent folks and more people aren't able to meet
11 the basic needs that they need in order to function in our
12 society, we won't have corporations.

13 HON. LIPPMAN: How does Mastercard meet that
14 particular commitment to legal services for the poor?

15 MS. WATSON: Well, Mastercard is committed to
16 financial inclusion, for example, and so we educate youth
17 and others about the importance of using credit cards
18 responsibly and understanding how to get out of debt, as an
19 example, and in doing so, you know, folks are able to
20 utilize our services in more responsible ways. So it's
21 important to educate as well as to --

22 HON. LIPPMAN: What about your employees? What
23 happens when they have legal problems? How do they get it?
24 Do they utilize the services of legal services' entity?

25 MS. WATSON: I'm not sure of everyone's

1 circumstances, but there could be people who are in need of
2 services as well that could utilize those services, so it
3 goes beyond the community at large, but also employees of
4 Mastercard itself.

5 HON. LIPPMAN: Thank you.

6 We have David Yawman, Senior Vice President and
7 General Counsel of PepsiCo North America and Quaker Foods
8 North America.

9 Why does Pepsico think this is an important issue?

10 MR. YAWMAN: Well, I would tell you that Pepsico
11 admits its global scale and all the money that we make
12 around the world, we do it one transaction, one consumer,
13 day in and day out. If you look at Pepsico, if you look at
14 every man on the street and how they're doing in the
15 economy, and I think we represent or recognize that there is
16 essentially a symbiotic relationship between our corporation
17 and the broader society, and we operate very clearly under a
18 concept of performance with purpose, and performance is the
19 idea that we can do good from a business perspective with
20 purpose, which is by doing good --

21 HON. LIPPMAN: So you're also on two levels; the
22 commitment of Pepsico is, one, because obviously you want
23 people to buy your product, and if they can't defend
24 themselves in issues relating to the basics of life, it
25 doesn't help to sell soda or anything else, all the

1 different products that you sell. And then the commitment
2 of the corporate community to what you -- and how do you
3 need it?

4 MR. YAWMAN: Well, our relationship is even more
5 acute. I would take it from not just a consumer lens, but
6 also a customer lens, and also our employees, to your prior
7 question to Vanessa. From a consumer lens, exactly. If
8 people don't have the wherewithal to spend the buck to get a
9 water or a Tropicana juice, Pepsi or Gatorade or what have
10 you, it hurts our business. But ultimately, we operate at a
11 very local level. Our warehouses are in virtually every
12 community. Our trucks drive through every town. Our
13 products are on every shelf. So we need the consumer
14 population ultimately to provide us a source of employees.
15 We need a healthy access to talent in those markets that
16 speaks to a broader need for a healthy society. Once we get
17 folks that we bring into our fold, a lot of the employees
18 that we have work long, work hard, they operate the trucks,
19 they work in the warehouses. They're front-line employees.
20 A lot of them are hourly employees. Faced with a legal
21 matter, as much as they work hard and earn a living, they
22 don't have unlimited resources. And when they have a civil
23 legal matter that is complex, it's intimidating, it's
24 overwhelming. They're hourly employees; they take time off
25 from work to deal with it. That ultimately impacts how much

1 money they're bringing home to their home and families. It
2 can affect their livelihood. For us, on days they have to
3 take off, often unexpectedly, we have to find labor at cost
4 to us, so it hurts our productivity. There's a consumer
5 element to it, there's an employee element to it.

6 HON. LIPPMAN: So it all kind of plays together.

7 MR. YAWMAN: Also our customers. A lot of our
8 customers are mom and pop shops, delis, convenient stores,
9 often sole proprietorships. They have landlord-tenant
10 issues. Sometimes they're the landlord, sometimes they're
11 the tenant, but oftentimes these places live or fail based
12 on the efforts of a single individual. And if those
13 individuals are burdened by some legal matter, if they don't
14 have the means to hire an attorney, it damages their
15 business. That can shut down their business in some cases,
16 and that leaves an empty store front, one less customer for
17 Pepsico, and certainly the damaging impact on the
18 individual.

19 HON. LIPPMAN: This is a terrific panel. People
20 don't understand the significance of the corporate world in
21 this area, and I really think your support is very, very
22 helpful, because what we found in New York is that when we
23 go for an issue like legal services for the poor and just
24 have our hands out and say, you know what? It's right thing
25 and it's the moral thing, and people need help, the answer

1 we get is, well, we have a lot of competing interests in our
2 state and in our cities and in our communities. Everyone
3 needs help; get in line. When you make the argument that we
4 are committed to the right thing, but also, we want you to
5 understand that the well-being of our economy, and our
6 state, and our society is helped by doing legal services,
7 supporting legal services for the poor, we get a much more,
8 what should I say, full responsiveness, recognizing it's not
9 just -- and believe me, it should be enough that it's the
10 right thing and that's what we should be doing, but the help
11 of, particularly, the business community has been
12 instrumental to our being able to get really very generous
13 public funding. Not as much as we need, but certainly to
14 get public funding.

15 Any questions?

16 Presiding Justice Eng.

17 HON. ENG: Yes, thank you. I've noticed something
18 that I've seen in records and briefs and in my own
19 experience, and that is, a forum selection clause in
20 consumer relationships. Some contain mandatory arbitration.
21 Is that good for the consuming public? Is it better for the
22 corporation? Does that have an impact on access to justice?

23 I can't have stumped you all.

24 MR. SEBOLD: I can take that one first, I guess.

25 Again, ours are traditionally more in larger client

1 relationships, so it might not be exactly apples to apples,
2 but I think in some ways, the informality of an arbitration
3 process can actually benefit folks, because you don't need
4 as much representation. At least theoretically, it's
5 supposed to go a little quicker, and those types of things,
6 so I actually think there are some benefits along those
7 lines that you do get perhaps a quicker, maybe more informal
8 access and process and things like that.

9 HON. ENG: But is it fair? That's just it. I'm
10 just looking, from the point of view of a consumer,
11 particularly a marginal consumer, is this really a fair
12 process or not if they're mandated to participate in it?

13 MR. SEBOLD: Well, I guess, you know, as we're
14 looking at the alternatives though, if you're not getting
15 the access and it's challenging to get into the court system
16 and it's intimidating to go to the courthouse and those
17 types of things, I actually think potentially the
18 arbitration process or a more informal type of process could
19 give, could give access along those lines.

20 HON. ENG: And regarding forum selection, it always
21 seems to me to be forum non-convenience, like there's a
22 certain theme park in Florida somewhere, and you have an
23 issue with them, you have to go to, you know, the central
24 district of Florida. Have you any insights into that?

25 MR. SEBOLD: I don't on that particular --

1 HON. ENG: I'm not picking on you. The record
2 should not reflect that I'm picking on you.

3 MR. SEBOLD: No, no, I appreciate that because
4 that's usually not our situation. Usually we're selling to
5 other larger companies, so I may have to defer on that. I
6 don't know if anyone else has a view.

7 MR. YAWMAN: We also don't sell direct to consumers
8 but just as a comment, I would say that I think any team
9 would rather play home than on the road. I think, faced
10 with the decision as to, do I want to win, I think anybody
11 with resources would want to play in a venue where resources
12 matter and give you an advantage. In that context, if
13 you're fighting a pro se plaintiff and you're a corporation
14 and you're on your own turf, do I think that's fair? I
15 think there's an imbalance in who's got a right or a chance
16 to win. If you're to put some odds on those cases to
17 perhaps a prior comment about the record against pro se
18 plaintiffs, I think that's probably reflective of some
19 element of --

20 HON. LIPPMAN: It's a very interesting issue. We
21 could go for days on it.

22 There have been some commentary on some of the
23 Supreme Court decisions, U.S. Supreme Court relating to
24 these kind of arbitration agreements as they relate to
25 consumers, you know, and what the -- and I think that's what

1 the P.J. was driving at. And certainly in some of the --
2 again, this isn't necessarily the forum for it. In some of
3 the access to justice pieces that I've, you know, forums
4 I've been involved with, there's talk about how to make sure
5 everyone gets their day in court. And I think what we can
6 all agree to is that legal services for the poor in so many
7 different ways help people get their day in court. And I
8 think there are a lot of different forums, which I think is
9 what the P.J. is referring to, and we have to insure in all
10 those forums that everyone gets the level playing field that
11 they're entitled to.

12 Any other questions for the corporate panel?

13 You're all great. We congratulate you on your
14 commitment to this issue, and again, I have to say, I can't
15 tell you how important your support has been for our ability
16 to get public funding for legal services, because we have to
17 be creative in terms of the basis that we're asking for
18 that. And it can't just be, as much as it should be that,
19 gee, this is what society should do. It's very helpful when
20 you all come and tell the partners in government that, you
21 know, this helps all of us, and helps, in the end, our
22 economy and our society. So, thank you so much. Appreciate
23 it.

24 The next panel is a Veterans Services Panel, and
25 I'm going to ask Linson Bailey, Kiron Dawkins and Rogerlyn

1 Velez to come down to the main table.

2 So what we found is that there are different
3 niches, different people, different kinds of people who need
4 legal services. And one of the groups which has really
5 gotten the attention of the legal services community in the
6 last years have been veterans, because they have unique
7 problems in terms of civil legal services. They come back
8 with so many traumatic experiences in their lives,
9 afflictions that maybe don't relate to the rest of the
10 general public. So we've been trying to figure out how to
11 assist them, and this is a great panel for just that.

12 Linson Bailey, you're the Executive Director of
13 HELP USA's Supportive Services for Veterans Families.

14 What is that? What kind of work do you all do for
15 veterans?

16 MR. BAILEY: The Access V.A. Program is a V.A.
17 funded initiative to help veterans who are homeless or at
18 risk of becoming homeless. So we're charged with -- and
19 there are about, maybe 400 programs of its kind across the
20 country, and we're charged with helping veterans essentially
21 become housing stable. We've been focusing on homeless
22 veterans, and we've found that civil legal services is a
23 significant part of that, just because of the chaos and
24 dysfunction that homelessness causes, in addition to the
25 issues of, you know, military service and reintegrating back

1 into the community.

2 HON. LIPPMAN: Let's first find out what the other
3 panelists do.

4 Kiron Dawkins, Regional Director of Employment,
5 Training and Community Services, Westchester Community
6 Opportunity Program.

7 Kiron, what does your organization do?

8 MR. DAWKINS: So we've been in business for about
9 50 years. We were birthed out of the war on poverty. We're
10 a multi-service organization that ultimately serves
11 individuals from the cradle to the grave.

12 In 2011, we saw the need increasing for serving our
13 veteran families. We were already servicing about ten
14 percent of our population, which is about 30,000, and as we
15 saw the need increase, we saw the opportunity for the V.A.
16 funding, we went after it and partnered with civil legal
17 services, and to this day have served more than 2,000
18 veterans and their families in the Hudson Valley region.

19 HON. LIPPMAN: I want to introduce the third member
20 of the panel, Rogerlyn Velez, Esquire.

21 You're the Founder and Chief Executive Officer of
22 Angels for Warriors. What is Angels for Warriors?

23 MS. VELEZ: Angels for Warriors is a 501(c)(3)
24 resource in advocacy center for veterans. I founded the
25 organization three years ago after my brother was severely

1 injured in Afghanistan. As an attorney, I was able to
2 navigate through the very confusing aspects of his
3 treatment, and as a result of that, I took my experience and
4 started Angels for Warriors. Currently, we connect service
5 members with resources in the community and in the V.A., and
6 we also provide, promote our legal assistance to veterans.

7 HON. LIPPMAN: Let me ask the first question to the
8 panel, and any of you jump in, and then I'll open it up to
9 the rest of the panel here.

10 Why are veterans different? Why do we need special
11 services for veterans in terms of civil legal assistance as
12 opposed to the rest of the population?

13 MR. DAWKINS: One thing I can say, the number one
14 thing identified for our veteran community is that they have
15 difficulty navigating community services, and at this point,
16 what we've seen is that there are strong differences between
17 what they're doing inside of the military community, which
18 is very structured, where they can understand their points
19 of progression, their points of promotion. They understand
20 how everything works. And then at the point of
21 reintegration back into our civilian society, it doesn't
22 seem to go that way. We constantly hear the complaint that,
23 you know, I'm told to go here, and this system is not
24 working for me, this is not working for me, that's not
25 working for me. And civil legal services has become

1 imperative for our veteran community. And oftentimes the
2 needs that they have from psychosocial needs to even deeper
3 psychological needs are different than what's being faced by
4 the average civilian.

5 HON. LIPPMAN: A lot of times I don't think people
6 understand that when I talk about legal services for those
7 in need, it doesn't necessarily mean that you're going into
8 the courtroom. To represent somebody, it often means that
9 you're having exactly what you're saying, Kiron. You're
10 having trouble interfacing with all the different
11 bureaucracy that are out there in the community, and how you
12 do that is not the simplest thing, whether you're a vet or
13 anybody else. You know, I think it's intimidating and
14 difficult, and I think particularly when you have a group
15 who comes back with re-entry problems, you know, it's even
16 more exacerbated.

17 So, what other questions do we have?

18 MS. GUTEKUNST: Clearly, Mr. Bailey, you've
19 identified homelessness as the key issue that your group is
20 identifying and working with. For the others of you, with a
21 veteran population -- particularly, we're here in the Second
22 Department. With a veteran population here, what are the
23 principal issues that you're seeing where civil legal
24 services can, are most needed for veterans?

25 MS. VELEZ: Well, primarily, I find child support

1 issues. Also foreclosures, evictions, landlord-tenant.
2 Additionally, license restoration. A lot of our veterans
3 come home, they don't have jobs, they, some of them have
4 experienced numerous issues while overseas, most of them
5 come back with PTSD, a lot of them come back with various
6 injuries to their bodies, and it's very difficult for them
7 to reintegrate. And so what happens is, they lose their
8 lifestyles, they lose their homes, they lose their families
9 because they can't reintegrate. So, a lot of the issues
10 that I have personally seen revolve around matrimonials,
11 child support, and that sort of thing.

12 MR. DAWKINS: We also are support services for
13 veterans and their families. We're the largest provider in
14 the Hudson Valley, so we deal with homelessness primarily,
15 but prevention, which involves a lot of eviction assistance,
16 is really a primary need to make sure that individuals do
17 not become homeless.

18 We also see the child support issue. Certainly
19 debt mitigation is a major issue, and finally, I would say
20 veterans achieving their benefits and sometimes change of
21 their discharge status. There are many different
22 definitions of what a veteran is, which is something that
23 all of us had to find out on the ground in terms of what
24 type of benefits they're entitled to. And sometimes also
25 just based on the discharge, which often involves civil

1 legal services to be able to change.

2 MR. BAILEY: I just want to add that all of those
3 issues impact on homelessness, including student loans,
4 advocacy for benefits, whether it's V.A. benefits or public
5 benefits, and family law issues on custody. When someone
6 goes away to war, to the military, when they come back,
7 their lives are often different than when they left. So a
8 lot of that involves where their children are and where
9 they're just kind of, how they're going to meet their basic
10 needs of finding employment and that kind of stuff. And
11 people make bad decisions in challenging situations, and so
12 legal services is very important.

13 HON. LIPPMAN: There's also been, in relation to
14 veterans, there's been an attempt both at the local and
15 national level to have legislation that makes it easier for
16 veterans to be able to deal with some of their legal
17 problems; particularly some of the family-related problems
18 that come up.

19 Do you think that, you know, one of the things
20 that's come up when we talk about veterans is, well, gee,
21 why are veterans different from everybody else? You think
22 that veterans are entitled to special consideration even
23 beyond the average person? Is that a fair thing to say
24 really, because of the service that they've done for their
25 country?

1 MR. DAWKINS: Absolutely. Unless they were
2 defending our civil liberties, we wouldn't be here to be
3 able to have this discussion. So I think it's our patriotic
4 duty, and I think therefore some of the things that have
5 happened, certainly have been egregious in the veteran
6 community. As far as I'm concerned, the United States
7 should have considered this a state of emergency.

8 HON. LIPPMAN: And a lot of the commitment to
9 veterans by so many, all of you and other people, we've had
10 this in hearings over the years, that certainly in the last,
11 I'd say, five years or more, a whole subset of the legal
12 services assistance which is provided, is in relation to the
13 unique, again, unique problems that veterans have.

14 Other questions? Judge Marks?

15 HON. MARKS: Following up on that question, so on
16 the criminal side, in the state court system we've set up
17 specialized veterans courts which you may be familiar with,
18 which are really, I think, sort of operated on that premise
19 that veterans are different. They often have distinct
20 problems as a group that may be more prevalent for veterans
21 than other groups of people. And so in the criminal courts
22 they sort of operate more as problem-solving courts and seek
23 to address the underlying problem that may have led the
24 veterans to commit a crime, drug problem, a mental health
25 problem, and so on. I'm just wondering, and I don't know if

1 -- I'd be interested in your thoughts on this, if you've
2 thought about it at all, but should we be rethinking our
3 civil courts in the state court system and should, in terms
4 of how they deal with veterans, when veterans are litigants
5 in civil cases and come into the state courts on civil
6 cases? Should we be rethinking the way that we, as the
7 court system, approach those cases?

8 MS. VELEZ: I have personal knowledge as to Suffolk
9 County, Suffolk County Long Island Veterans Court. They're
10 an amazing court. Judge Toomey is the judge there. He is
11 also a veteran. It stems mostly from how the drug courts
12 ran. And so the veterans get tested once a week for about a
13 year or so, and if they're compliant and they see their
14 social workers, they graduate from Veterans Court, in
15 parentheses. I don't think personally that we should
16 establish a separate court for veterans, a civil court for
17 veterans, but I do think that more money needs to be funded
18 to help veterans so that they can access the services and
19 the legal representation that they are entitled to, that
20 they've served our country for.

21 HON. LIPPMAN: And often I think, to your point,
22 often, as we talked about before, it's before you get to the
23 court that you need the assistance, and you don't get to the
24 court if you have the legal services. I think so much of
25 what you all do does that. That it's sort of preemptive in

1 terms of not having to go to court.

2 MS. VELEZ: Exactly. I just want to make a point
3 that we, as a society, don't realize there are over 22
4 veterans a day, 22 veterans a day that commit suicide
5 stemming from homelessness and their lack of legal
6 assistance. That is double, double the population, the
7 general population. That is, in my opinion, despicable.
8 That should not happen in this country.

9 HON. LIPPMAN: And I think it goes to the question
10 that we asked the D.A. before about, could it be that civil
11 legal assistance in some ways is even more important than
12 the possible loss of liberty in a criminal case, because it
13 can have such a traumatic effect when you're dealing with
14 these very basics, and you can't get legal representation.

15 HON. ENG: I think I'd like to know a little bit
16 more about --

17 HON. LIPPMAN: Let me add that Judge Eng knows very
18 much about veterans and the military.

19 HON. ENG: Thanks. I'm a retired army guard --

20 MS. VELEZ: Thank you for your service.

21 MR. DAWKINS: Thank you for your service.

22 HON. ENG: -- and I've had training with legal
23 assistance and benefits and everything else, but I'm trying
24 to recall now the differences in the provisions of service
25 based on characterization of discharge. Generally, it's

1 honorable, general, dishonorable. I think the general has
2 some subsets too, regarding general under honorable, general
3 under less than honorable, but how different are they? And
4 that you're entitled to benefits based on your character of
5 discharge -- because some people who have received generals
6 really are in need of more services than anyone else because
7 they left service with greater problems.

8 MR. DAWKINS: Well, in terms of what's happening
9 with discharge status, it's discharge status and it's time.
10 So for instance, for us serving homeless veterans, we, the
11 individual has served active at least one day, you know, we
12 can approach that individual. For individuals that are
13 going to the V.A. and are seeking medical benefits and
14 service, generally they have to have served at least 24
15 months. Then here, frequently in the Hudson Valley we have
16 a lot of National Guard and others. These individuals, even
17 though they are service members, they are not considered
18 active. So unless they've been activated for a national
19 disaster or they've actually spent some time overseas, this
20 is one of the discrepancies in terms of who's considered a
21 veteran, even though there has been some military service.
22 So it's not just the discharge in terms of general other
23 than honorable, dishonorable. Generally, if it's a bad kind
24 of discharge, none of us can touch the individual, but there
25 are different reasons why that happens. So even for that,

1 civil legal services can step in and potentially get the
2 discharge changed.

3 As I close I just want to say quickly in terms of
4 the question you asked about the civil court, I think that
5 it should be a key consideration, and I think that one of
6 the things that needs to be really looked at is the
7 supportive services connected to it. The existing criminal
8 court works well because of the process and everything
9 that's working together. And what works for us now that
10 we're going into general court is that legal services and
11 supportive services are working together with the veteran to
12 go in and be able to answer some of the needs. But it's not
13 always cohesive, so if there was a process in a separate
14 court, it may very well be even more coordinated.

15 HON. LIPPMAN: Any other questions?

16 MS. GUTEKUNST: Mine is not really a question, it's
17 more of a comment, because I'm not sure you're necessarily
18 aware that I know that the New York State Bar Association
19 and I believe a number of the local bar associations have
20 veteran committees. It was one of the priorities of one of
21 the past presidents, Vincent Doyle from Buffalo, that the
22 State Bar Association had a committee. And I just want to
23 encourage you to come to us with some of the things you're
24 talking about where it isn't necessarily getting an
25 individual lawyer, where you're going to turn to our

1 phenomenal legal services in the Hudson Valley and
2 elsewhere. But where it goes to more systemic issues where
3 you think changes could be made in the law, I would just
4 encourage you to come to the bar associations because that's
5 something that we can do, we can at least try to do very
6 well, because we do have, you know, people about, lobbying,
7 and have developed legislation. So that's just something to
8 pass along to you and other organizations who are working
9 with veterans, that we would welcome your input, because
10 you're the ones on the ground who really are seeing the
11 veterans and seeing what they need. And if we can help, we
12 would love to do that.

13 HON. LIPPMAN: Okay, this is a terrific panel too,
14 and I think you see the wide diversity of this issue in
15 terms of legal services. I think today we've demonstrated
16 that. We have a criminal justice system, headed by a
17 District Attorney who testified from Rockland County, we had
18 the corporate leaders who showed the support of the
19 community that, you know, people think, gee, what's the
20 connection between the corporation and legal services for
21 the poor, and there is such a direct relationship, and then
22 we have this veterans panel. The panels, I think,
23 demonstrate that there are so many different people who have
24 specific needs that may be different than others, and we
25 have to target legal services.

1 And we're going to have our last panel for today,
2 which I think brings it all together. And that's going to
3 be a panel, a client panel that tells you the stories of
4 human beings who have been helped by legal service providers
5 and by those who provide assistance in the civil legal
6 services area in so many different regards.

7 So, thank you for your panel, and now we're going
8 to have, I'd ask George Harris, Irma Silva and De Ping Song
9 to come up. This is the final panel, and I think you'll see
10 what all of the previous witnesses were leaning towards, in
11 terms of providing direct assistance to human beings in
12 need.

13 Each of our clients is accompanied by a legal
14 service provider, or someone who assisted them. So, let's
15 start with George Harris, who's a client of Legal Services
16 of the Hudson Valley, accompanied by Rachael Halperin,
17 Esquire.

18 So, Mr. Harris, you want to tell us your experience
19 with legal service?

20 MR. HARRIS: Yes. Good morning.

21 HON. LIPPMAN: Good morning.

22 MR. HARRIS: My name is George Harris. I'm a
23 veteran of the United States Armed Forces. I thank you for
24 the opportunity to speak to you today about how important
25 access to high quality, free civil legal services is for low

1 income veterans to insure that we are able to protect the
2 basic necessities of life, including housing and benefits.

3 I served in the military for six years; the
4 national guard, army and navy. After being honorably
5 discharged and my health deteriorated, I suffer from PTSD, I
6 also have two dislocated shoulders, diabetes and diagnosed
7 with prostate cancer one year ago. In addition to health
8 problems, I have experienced housing instability for
9 decades. On three occasions I found myself homeless, having
10 to turn to the V.A. facility in Montrose for emergency
11 transitional shelter.

12 Eight years ago I was lucky enough to be awarded a
13 Veteran's Affairs Supportive Housing voucher from HUD. I
14 found a nice apartment in Peekskill, and it was such a
15 relief to have my own apartment. Despite my low income, I
16 live only on disability and food stamps, I was able to pay
17 the rent and feel stable. Having stable housing enabled me
18 to focus on and improve my health and give me a sense of
19 peace.

20 My security was threatened when my landlord served
21 a petition on me trying to evict me. This happened right at
22 the time that I was diagnosed with prostate cancer and
23 starting treatments. The petition claimed that I had
24 violated my lease by having too many guests over and making
25 too much noise. I was shocked and upset. I live alone and

1 rarely have guests in my apartment. I knew that the
2 allegation in the petition was not true. I also knew that
3 without an attorney to assist me, I could very well be
4 evicted. I had once been to housing court when I had fell
5 behind on my rent, and I didn't understand the court process
6 and was very stressed out. I didn't know my legal rights,
7 and I didn't know how to fight this petition.

8 I knew that Legal Services of the Hudson Valley had
9 an office right down the street from my apartment in
10 Peekskill. I walked into the office with my petition and
11 completed an intake. My case was taken, taken -- my case
12 was assigned to an attorney, Mihaela. She met with me and
13 went through the allegations in the petition. She also,
14 also interviewed other tenants in my building and confirmed
15 that the noise and the guests were not coming from my
16 apartment, but other tenants in the building. Additionally,
17 she got a copy of police reports that included noise
18 complaints from other units. With this information, she
19 filed an answer to the petition. The next thing I heard
20 from Mihaela was that the landlord had dismissed the
21 petition against me. I was thrilled to be able to keep my
22 apartment.

23 Having Legal Services of the Hudson Valley
24 represent me relieved me from so much stress and pressure.
25 I know I would not have been able to fight and win this case

1 without Mihaela's assistance. If I had lost my apartment
2 and VASH voucher, I know both my physical and mental health
3 would have seriously deteriorated. I am glad that I served
4 my country and that the agencies like Legal Services of the
5 Hudson Valley are available to help veterans ensure that
6 they are able to maintain basic necessities of life. I
7 continue to work with Mihaela on other issues, and I'm
8 grateful to have this wonderful organization in my
9 neighborhood. Thank you.

10 HON. LIPPMAN: Thank you, Mr. Harris. I can't tell
11 you how helpful it is to have you come in, tell your story.
12 All the other witnesses are so terrific, but nothing really
13 demonstrates what we're talking about than someone who has
14 actually been a client of a legal services organization.
15 And I think it's fair to say that your life was dramatically
16 changed by the help of legal services.

17 MR. HARRIS: I would say so. There is so much more
18 to it. So much more to it.

19 HON. LIPPMAN: Well, again, I couldn't be, we
20 couldn't be more grateful to you for coming in and
21 explaining what it means so that when we go to the places in
22 Albany where they fund legal services for the poor, we can
23 really demonstrate that human beings' lives are dramatically
24 changed through legal services, like you receive right in
25 your community, literally down the street. And fair to say

1 that you wouldn't have known where to turn without being
2 able to go to legal services?

3 MR. HARRIS: Say it again?

4 HON. LIPPMAN: That without legal services, what
5 would you have done?

6 MR. HARRIS: Committed suicide. I would have went
7 ballistic, believe me, put it that way. I wouldn't be here
8 now; I'll tell you that.

9 HON. LIPPMAN: You look terrific, and you're in
10 great shape, and we thank legal services for their
11 assistance, and thank you again for coming in. Thank you so
12 much.

13 Okay, so now we're going to go to Irma Silva, a
14 client of Pace Women's Justice Center -- and you know we're
15 right here, we're at Pace Law School -- accompanied by
16 Bertha Rodriguez, Esquire.

17 Irma.

18 MS. SILVA: Good morning. My name is Irma Silva,
19 and I live in Mahopac, New York, in Putnam County. I would
20 like to talk about how much the Pace Women's Justice Center
21 helped me and my children from the horrible situation of
22 domestic violence which we had been living with for many
23 years.

24 For years, my husband made me think that I was not
25 worthy of anything, and I would be nothing without him. So

1 I thought that if we get married, he will change. After
2 all, he was only like that when he would drink. But he
3 didn't stop. Yes, we got married and had a couple of kids,
4 but his drinking and his behavior did not change.

5 Excuse me.

6 He had terrible mood swings. He would call me bad
7 names and always want to know where I was and accuse me of
8 being with other men even when I was out with our children.
9 He would raise his hand, as if to hit me, but then hit and
10 break things around the house, and once put his fist through
11 the wall. And no, he never actually hit me, but he
12 threatened to do so and always reminded me that I had no
13 worth in his eyes.

14 The worst was the next day when he would get up,
15 did not say a word about the night before, but come and hug
16 me as if nothing had happened. I would forgive and forget,
17 but deep inside me I knew things would never change. I knew
18 I had to leave him for good when I saw him treating our son
19 in the same mean and derogatory way. But I didn't know how
20 to do it because he told me I could never leave him, and
21 that he would take the kids from me.

22 I have always wanted my children to do well in
23 school, and one day when I was at the library, I found a
24 card for the Women's Resource Center, a domestic violence
25 agency in Mahopac. After speaking to a social worker there,

1 I knew I had to take my children away from this abusive
2 relationship, but I still needed the courage to do it and
3 didn't know where to start. I also couldn't afford a
4 lawyer. My case worker told me I could get free legal help
5 from the Pace Women's Justice Center, and she helped me to
6 get an appointment with Bertha Rodriguez. When I met
7 Bertha, I could see right away that she understood what I
8 was going through and was even able to explain things in
9 Spanish and English. She clearly explained my rights and
10 the legal process for getting a divorce and keeping my
11 children. She assured me that my husband's threats to take
12 the children were just threats. She kept in touch with me
13 every step of the way and was always only a phone call away.
14 For example, when my husband was served with the divorce
15 papers, he tore them up as soon as he received them. I felt
16 panic and immediately contacted Bertha, and she told me that
17 even though he did not read the papers, he was still on
18 notice and should appear in the case and it would not
19 prevent me from getting a divorce. Even though it was so
20 uncomfortable for me to live with my husband during this
21 time, I felt stronger knowing that Bertha was helping me.

22 After Bertha submitted the divorce documents to the
23 court, she explained to me that the judge scheduled me for
24 an inquest. When the court date arrived, I was shaking. I
25 didn't know if he would show up. When I saw Bertha at the

1 courthouse, I felt immediate relief. As we waited for my
2 name to be called, I anxiously peered around the corner
3 watching the elevator doors open and close, wondering if my
4 husband would appear. My name was finally called, and we
5 proceeded into the courtroom. We started the inquest, and
6 as Bertha asked me questions, under oath, the door to the
7 courtroom opened, and my husband walked in. He was called
8 up to the bench, and the judge asked him if he had any
9 objections to being divorced from me. He responded that he
10 was sorry, and that he still loved me, and that he was
11 trying to change. He started telling lies about why I
12 wanted to get divorced, and I burst into tears and couldn't
13 stop crying. I was so confused and didn't understand what
14 was happening, and I thought I would never be able to get
15 away from him. My attorney continued to press for a divorce
16 to be granted immediately. I know if she wasn't with me
17 there, there was no way that I could have continued. The
18 judge granted my divorce.

19 My attorney helped me obtain sole legal custody of
20 my children, child support, and allow me and my children to
21 stay in our home. Most importantly, she saved us from the
22 ongoing cycle of abuse that we had been living through.

23 I am very grateful to the Pace legal team for their
24 help navigating this process. They really helped me change
25 my life. Thank you.

1 HON. LIPPMAN: Thank you. And again, your story
2 says it all in terms of a need for legal support and
3 services, and we're so thankful that you're here and that
4 you have the courage to come in to tell your story.

5 And how did you initially find out about the Pace
6 Center?

7 MS. SILVA: At the library, my local library. I
8 was paying for some printing material, and the cards were
9 right next, on the counter. I looked at it and I picked up
10 a card, and I didn't call immediately. I just kept looking
11 at it. I couldn't believe that would be a solution.

12 HON. LIPPMAN: I think it shows sometimes the legal
13 services are down the street, and sometimes you find out
14 about it at some kind of public community area like the
15 library. And again, I think fair to say that your life was
16 turned around by having legal assistance.

17 MS. SILVA: Absolutely. Absolutely.

18 HON. LIPPMAN: Thank you both. The first two
19 witnesses have certainly demonstrated what legal services
20 mean to individual human beings who have a problem that
21 needs to be resolved. And that brings us to our third
22 client, which is De Ping Song, a client of the Legal Aid
23 Society, accompanied by Karen Cacace, Esquire, and Aaron
24 Heluga (phonetic), Esquire, who will translate Mr. Song's
25 testimony.

1 MR. SONG: (Translated) Good morning. My name is
2 De Ping Song. I am here to support continued and increased
3 funding for civil legal services in New York. I am one of
4 six nail salon workers who filed a lawsuit against the
5 owners of the Babi Nail salons because they did not pay us
6 the minimum wage or overtime pay that the law required. We
7 first worked with the Chinese Staff and Workers Association,
8 who then referred us to The Legal Aid Society.

9 Legal Aid filed a lawsuit in federal court on our
10 behalf in 2009, and we were all fired. The case went to
11 court in 2012, and we were awarded a judgment of
12 \$474,000.00.

13 I had worked at nail salons for over three years
14 without being paid the wages I was entitled to. I routinely
15 worked more than 40 hours per week and was never paid any
16 overtime compensation. At some points I was not even paid
17 the minimum wage. Then after we filed the lawsuit, my
18 employers fired me. The Legal Aid Society did an excellent
19 job of representing us, and after a trial we were awarded
20 unpaid wages, damages for retaliation and liquidated
21 damages. We've collected some of the money owed, and Legal
22 Aid is continuing to try to collect the rest. Recovering
23 the money is important, but our case is also important
24 because it exposed the exploitation that is rampant in the
25 nail salon industry. What happened to us is typical of how

1 many nail salon workers are cheated out of the wages they
2 are owed. Our case has impacted the industry and has led to
3 change in the laws protecting nail salon workers.

4 I'm grateful that the Legal Aid Society agreed to
5 represent us in this case and is continuing to help us
6 collect the money. We did not have money to hire lawyers
7 and would not have been able to pursue our claims without
8 The Legal Aid Society. We are grateful for the excellent
9 representation that we have received. Our lawyers have
10 always made every effort to understand our situation, to
11 explain the laws to us, and to advocate for us.

12 I know that there are many other low-income workers
13 that also need this type of representation. It is very
14 important to fund The Legal Aid Society and other civil
15 legal services programs. This will allow workers who are
16 being exploited to challenge their employers' illegal
17 practices. Without civil legal aid, we would not have been
18 able to stand up for our rights and force our employers to
19 pay us the money owed to us for our hard work, and we would
20 not have been able to expose the wage theft that so many
21 nail salon workers are subjected to. Thank you.

22 HON. LIPPMAN: Thank you. And I think this is
23 really a story that's pulled from today's newspapers. We
24 see everyday stories about this particular industry and the
25 problems that you've had, and some of the laws have been

1 changed to address it. And I want to say that your story,
2 as with our other two clients on the client panel, have been
3 just so powerful and really tell us what all of this effort
4 is all about to help get funding for real people who have
5 real problems, and we all have it, and we're all entitled to
6 our day in court. And I thank you for coming in. You've
7 been terrific.

8 De Ping Song, Irma Silva, George Harris, again,
9 you've pulled together all the testimony that we've had
10 today, from the District Attorney, from our corporate
11 leaders, from the Veterans Services Panel. It all comes
12 down to all of you. Where you've really shown, I think, all
13 of us, why it's important that we keep fighting for legal
14 services funding, so that people like yourselves and other
15 people who need legal assistance and legal representation
16 get it, so that we have, in every sense, equal justice in
17 our state and in our country, where everyone gets justice,
18 regardless of the amount of money that they may have in
19 their pockets. That's what our country is built upon;
20 that's what these hearings are all about.

21 We're going to take the information that you've
22 given us, our other witnesses and the clients, we're going
23 to make a record from all of that, and we are going to
24 provide that record to the Legislature when we seek funding
25 this year for legal services. And you've been terrific, and

1 we are so grateful to you. And I want to thank all our
2 witnesses, the audience, and the Permanent Commission on
3 Access to Justice for all of their efforts. And we will
4 continue to move forward in terms of getting to the day when
5 everybody who needs legal representation and effective legal
6 assistance gets it.

7 So, thank you so much, and thank you all for being
8 here. Thank you.

9 (PROCEEDINGS CONCLUDED)

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14 accurate transcription of the
15 within proceedings.

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CAMI LANDAU
Senior Court Reporter

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