

STATE OF NEW YORK

COUNTY OF ALBANY

X

IN THE MATTER OF THE CHIEF JUDGE'S HEARINGS  
ON CIVIL LEGAL SERVICES, THIRD DEPARTMENT  
HEARING

X

PROCEEDINGS held in the  
Court of Appeals in the above-entitled  
matter on the 27th day of September, 2012,  
at 10:00 AM at the Court of Appeals, Eagle  
Street, Albany, New York.

BEFORE: HON. JONATHAN LIPPMAN,

Chief Justice

HON. KAREN PETERS, Presiding

Justice, Appellate Division

LAWRENCE K. MARKS, First Deputy

Chief Administration Judge

SEYMOUR W. JAMES, President of

NYS Bar Association

REPORTED BY: Cynthia A. West

P R O C E E D I N G S

1  
2  
3 CHIEF JUDGE LIPPMAN: Good  
4 morning everyone. It's a pleasure to  
5 welcome you all and for many of you this is  
6 the third year of the Civil Legal Services  
7 hearings. We have our distinguished  
8 Attorney General who is going to be the  
9 first witness. And let me just explain what  
10 the purposes of these hearings are. And  
11 first I'll have to say I'm concerned as the  
12 Chief Judge of the State that there's  
13 nothing more important to me, than civil  
14 legal services for the poor, and for the  
15 those most in need. The template we have  
16 developed in New York is a first and  
17 foremost for public funding of civil legal  
18 services and this year we were able to get  
19 40 million dollars in funding which is the  
20 most in the country, but yet is the tip of  
21 the iceberg in terms of the need.

22 These hearings are supported by  
23 the task force to expand civil legal  
24 services in our state headed by Elaine  
25 Barnett who a sitting here today, and she

1 has done a lot of work that's gone into that  
2 and basically the reason why we've started  
3 this effort is because of the reduction in  
4 funding for civil legal services at a  
5 national level, in legal services  
6 corporation that's now been devastated by  
7 cuts in Washington as has our IOLA program,  
8 that has gone from 36 million dollars in  
9 funding coming out of interests accounts to  
10 down to about to six million dollars. The  
11 judiciary and the professional entire legal  
12 community recognize, that if we don't stand  
13 up for those who need legal services in  
14 these terrible economic times known will.  
15 And so, there's two parts to what we're  
16 going to do and one is to raise funding on  
17 the public Fiss, and two to enhance pro bono  
18 services for the poor. As you know we have  
19 just announced the 50 hour requirement for  
20 law students or aspiring lawyers to do pro  
21 bono work to embrace a culture of work for  
22 others before being admitted to the Bar.  
23 For us, this is our mission, and our  
24 responsibility is our reason for being and  
25 that is for equal justice in our

1 Courthouses, we might at well close the  
2 doors. The economy effects the most  
3 vulnerable in society, now, above all other  
4 times, it is necessary to support legal  
5 services for the poor, equal justice is  
6 fundamental to our society, and something of  
7 which our country -- well differentiates our  
8 country from others and other places in the  
9 world and that is access to justice is not a  
10 luxury in good times and it's something that  
11 now more than ever, given what's going on in  
12 our state our country is so necessary.

13 Every civilized society is judged by how it  
14 treats its most vulnerable citizens and that  
15 is what this hearing is all about to ensure  
16 that in this state, equal justice prevails  
17 in every way. We have a resolution of the  
18 Legislature, that puts its imprimatur on the  
19 hearing and asks for our recommendations as  
20 to what the justice camp is in our state,  
21 and that's what is first of the four  
22 hearings and is intended today to find out  
23 so we can make a recommendation to the  
24 Legislature, for additional funding. I'm so  
25 pleased that to the open this particular

1 hearing and how appropriate the hearing is  
2 here in Albany at the Court of Appeals we  
3 have our great Attorney General Eric  
4 Schneiderman the chief law enforcement  
5 officer of our State, who has dedicated his  
6 life, in the fight for equal justice, in the  
7 state in this country, and equal justice in  
8 the so m of the good deeds that the Attorney  
9 General does every day, applies whether he  
10 is talking about the victims of gun  
11 violence, those who are most hurt by the  
12 economy and fighting for the necessities of  
13 life and their safety and the livelihood and  
14 the well-being of our people and their  
15 families, the roofs over people's heads,  
16 that what more fundamental basic issue is  
17 there for all of us, the Attorney General  
18 has lead the way in the entire United States  
19 in terms of this terrible crisis facing our  
20 state and country for foreclosures, and the  
21 robo signings and all of the things that  
22 have now become common knowledge, in the  
23 waive of foreclosures here in New York and  
24 around the country has been handled. This  
25 is all about fairness. The Attorney General

1 just announced I'm sure he'll talk about it  
2 sixty million dollar program to fund legal  
3 services, counseling efforts in housing,  
4 that we are so proud of his efforts and what  
5 he's doing for people who are just desperate  
6 and again there's nothing more fundamental,  
7 so I'm honored the attorney general comes to  
8 us today, and we will our first witness in  
9 this first hearing of the year here in the  
10 Court of Appeals where you're used to hear  
11 the attorney general and his staff argue  
12 cases, but I think he's got the best case of  
13 his life to argue today, which is, to talk  
14 about civil legal services, for the poor,  
15 so, attorney general Schneiderman, thank you  
16 so much for coming to speak to us.

17 THE WITNESS: Thank you, Chief  
18 Judge Lippman. Thank you for inviting me  
19 here. It's an honor to be here with you,  
20 and presiding Judge Peters, Deputy Chief  
21 Administrative Judge Marks, Seymour James as  
22 our great leader of our Bar Association. I  
23 do know that I'm sitting in the spot  
24 reserved for appellants that I haven't  
25 experienced that in my argument, although I

1 think it's a friendly bench.

2 THE COURT: I'm sure you prefer  
3 this counselor.

4 MR. SCHNEIDERMAN: I do  
5 appreciate the opportunity to be here to  
6 speak about something that is tremendously  
7 important to me personally as an attorney,  
8 and as a New York State Attorney General.  
9 But I have to state at the outset more  
10 important than that I appreciate Judge  
11 Lippman in focusing the attention of both  
12 our State government and the private Bar on  
13 the catastrophic lack of legal services for  
14 low and moderate income New Yorkers. I  
15 attend meetings of Attorneys General all  
16 around the country, and there is no  
17 judiciary and there's no legal division of  
18 the judiciary, in any state, that comes  
19 close. Judge Lippman is a national leader  
20 on the issue. I think it's important at the  
21 outset to provide that while we're dealing  
22 with the problem facing a very serious  
23 problem that New York has made a some major  
24 strides in improving access to legal  
25 services over the last few years in large

1 part thanks to the creative work of the our  
2 judiciary. Similarly our government have  
3 taken steps and I'm proud to say the office  
4 of the Attorney General was among them. But  
5 frankly the judiciary has stepped into areas  
6 why they are used to relying on other  
7 branches of government to deal with the  
8 problems, and stepped in has called  
9 attention of all to the problems and I'm  
10 looking forward to more action in the years  
11 ahead. I honestly believe that we have long  
12 way to go but that the path ahead is clear  
13 and we have to continue working together, to  
14 close the gap between the need for civil  
15 legal services, and the availability of  
16 those services which has appropriately been  
17 called the justice gap. We know that among  
18 the most essential founding principles of  
19 our Republic is that every American receive  
20 equal justice under law. We also know that  
21 without access to legal representation equal  
22 justice under law is just and empty slogan.  
23 In the criminal Courts we have established  
24 the right to counsel and there are many  
25 flaws in the system which we need to

1 correct. I'm very committed to that as well  
2 but no one faces of loss of their liberty  
3 without some access to an attorney. In our  
4 State today, with the complexities of day to  
5 day of life even for the people of most  
6 moderate means, you need an attorney if you  
7 want to keep from losing your home or health  
8 care or custody of your child, your right to  
9 stay in this country or access to public  
10 benefits, it allows you to put food on the  
11 table. Essentially matters like these hang  
12 in the balance in our Courts every day. And  
13 millions of New Yorkers today cannot  
14 meaningfully protect their rights because  
15 they can't afford to hire an attorney. I  
16 know that we have here more about the 2010  
17 report of the task force to expand civil  
18 legal services, and among its designated  
19 findings is the fact that two point three  
20 million mostly low income New Yorkers are  
21 unrepresented in civil proceedings in our  
22 state in Court every year, and we all  
23 understand that this is the decade of deep  
24 cuts to legal services coming through. This  
25 is not a problem that we got into in a year

1 or two years and we will not get out of it  
2 in a year or two years but we need to turn  
3 it around quickly. Funding for the legal  
4 services corporation as the judge mentioned,  
5 the primary source of federal support peaked  
6 in real terms in 1979, and funding has been  
7 cut 60% in real dollars, since then, and  
8 there's been periods of reprieve but the  
9 budget in dollars, adjusted for inflation,  
10 is now at a all time low. The issues that  
11 people in America have to deal with get more  
12 complex and the need for a lawyer grows when  
13 the federal funding for legal services again  
14 is at a all time low. And I must also add,  
15 because I am spending some time with our  
16 federal counterparts these days, I'm very  
17 concerned about the possible revision to the  
18 distribution formula that will hurt New York  
19 and it's I think we have to be clearly  
20 alert, and all our colleagues in state  
21 government about. Putting aside federal  
22 issues and the state funding for legal  
23 services in New York has been fragmented and  
24 most of the important sources comes from the  
25 interest on the IOLA account funds, the IOLA

1 account that's produced a lot less revenue  
2 in last few years because of the recession  
3 and low interest rates around 32 million in  
4 2008 to just 6.5 million in 20120 and 2011,  
5 and then into this grim picture steps our  
6 heroic chief judge and that really is where  
7 the progress is that I spoke of earlier and  
8 progress has been made. New York judiciary  
9 provided an emergency lifeline of fifteen  
10 million dollars for the last three years to  
11 the IOLA funds that prevented the IOLA  
12 funded from falling off the cliff along with  
13 interest rates. Our chief judge gave us  
14 12.5 million dollars fund for the civil  
15 legal services office out the judiciary's  
16 own budget at a time when all of our budgets  
17 are being squeezed and increased that  
18 funding in 2012 and 2013. We know how much  
19 of an impact, we know how much of an impact  
20 these funds have had, from all of our  
21 dealings in the Attorney General's office  
22 with both providers of legal services and  
23 the people they serve. Without the  
24 leadership of the judiciary and without this  
25 funding many many people who would be

1 homeless who would be without benefits to  
2 which they're entitled would not be able to  
3 enforce their right to be free from the  
4 domestic violence, you have funded the  
5 lawyers to protect New Yorkers and we have  
6 to follow that lead. I have to also note  
7 the innovative programs that have been  
8 introduced here in New York to resolve  
9 problems before litigation, expand pro bono  
10 representation and taken the visionary step  
11 that has kicked off very recently making pro  
12 bono work a mandatory requirement for  
13 admittance to the bar and this is really a  
14 matter of national leadership and there's no  
15 one in the United States close to our chief  
16 judge when it comes to innovation and  
17 commitment in providing legal services for  
18 all. So, thank you, for your amazing work  
19 and I want to state clearly that my office  
20 is a committed partner in the struggle for  
21 equal justice. There is really nothing as a  
22 lawyer that should be more important than  
23 the idea that there's one set of rules for  
24 everyone, that the American commitment to  
25 equal justice under law is s strong as it

1 was at the founding of the Republic as I  
2 travel around the State, many people have  
3 lost confidence in our government and to one  
4 set of rules for everyone and equal justice  
5 under law. My own experience confronting  
6 the justice gap almost immediately after I  
7 became Attorney General was pretty dramatic  
8 and when I was sworn in, there was a set of  
9 negotiations also underway, between the  
10 major banks that had been involved in  
11 services, mortgages, there was a crisis of  
12 foreclosures and other Attorney General and  
13 federal agencies were trying to negotiate a  
14 settlement. At that time, we had 345,000  
15 mortgages either in default, or delinquent  
16 in our state and in number of homes  
17 underwater that; home owners owed more money  
18 on a mortgage than the home was worth, was  
19 unprecedented, and in the middle of this  
20 wave of foreclosures, I learned that had  
21 half of the people who were facing  
22 foreclosures at that time were forced to do  
23 without speaking to a lawyer at any phase of  
24 the process. We heard tales of abuse and we  
25 gathered evidence of the abuse, as we

1 investigated the foreclosure crisis and  
2 working with my federal colleagues, we found  
3 overwhelming evidence all across the country  
4 mortgage services and law if I recall  
5 representing services had committed numerous  
6 violations of state and federal law. The  
7 they couldn't keep up with the volume,  
8 because of the rationale of mortgage backed  
9 security market and they were foreclosing on  
10 people using robo signed documents, often  
11 not serving people with serving services and  
12 people have the right to renegotiate their  
13 mortgages were unable to exercise those  
14 rights, ten of thousands of New Yorkers were  
15 unaware they'd those rights and the abusers  
16 of the system were only able to engage in  
17 these practices like robo signing and sewer  
18 services because they were able to safely  
19 assume, that New Yorkers or other Americans  
20 were going to have no access to an attorney  
21 and not going to have the legal advice they  
22 needed for a fair fight and for a clear  
23 disposition, and to exercise their rights.  
24 So the point at which I entered office I  
25 raised some objections to the proposal for a

1 national mortgage settlement and wanted to  
2 focus on two issues: First of all, I was  
3 adamant that we had to pursue two goals  
4 simultaneously or I wasn't going to sign on.  
5 First we had to get a down payment that  
6 would provide immediate relief to struggling  
7 home owners including legal assistance. The  
8 issues on the table had to be restricted to  
9 the abusers in the foreclosure process and  
10 we had to preserve all claims related to the  
11 actual conduct that blew up the American  
12 economy. So we did get a substantial down  
13 payment but we preserved all of our other  
14 claims to hold wrongdoers accountable which  
15 we have to do and that's the kind of  
16 meltdown that took place in 2008 and I hope  
17 it never happens again. In addition, to  
18 hold wrongdoers accountable and getting  
19 further relief to those that are hurt. Some  
20 of the objections the Banks raised were  
21 significant but they were all dealt with in  
22 the final settlement on mortgage services  
23 fraud and required the banks to put in place  
24 unprecedented new mortgage loan standards to  
25 commit 25 million dollars to resolve

1 violations of state and federal law, and we  
2 were able to preserve all the claims related  
3 to pre-crash conduct that we were concerned  
4 about. There's New Yorkers eligible for  
5 reductions in mortgage rates and to me most  
6 importantly, as the state's chief law  
7 enforcement officer, we are providing  
8 immediate significant funds for legal  
9 services. We know in New York we have an  
10 innovative and creative and talented  
11 judiciary, and we know we have actually  
12 pretty good laws to protect people from  
13 wrongful foreclosure, if you have a lawyer  
14 so you can get the information about those  
15 laws that you need. At the beginning of  
16 this hearing we were able to I'm proud to  
17 say address the crisis because all the state  
18 money for foreclosure prevention work was  
19 set to dry up on April first. There was no  
20 money allocated in this years budget for  
21 such service and in March my office was able  
22 to, announced that we can dedicate fifteen  
23 million dollars from the national mortgage  
24 settlement to save foreclosure prevention  
25 services this year. And its as the chief

1 judge noted, we are dedicating an additional  
2 sixty million dollars all coming from this  
3 first settlement regarding foreclosure  
4 abuses, and over the next few years to a  
5 home owners protection program, which will  
6 funds provides housing counseling and the  
7 legal services, to help struggling families  
8 stay in their homes. Just 3 days ago, we  
9 announced the first round of grants of  
10 twenty million dollars for the first year  
11 going to organizations across the state, to  
12 protect home owners rights. And in keeping  
13 with the theme the Chief Judge mentioned  
14 earlier which home owners are represented by  
15 counsel it not only benefits the home owner  
16 it makes our Courts more efficient for  
17 everyone and it saves the State money. The  
18 task force to the extent it accesses the  
19 civil legal services found that judges --  
20 and this found that pro se litigants a all  
21 this the only experience in pro se litigants  
22 not only fail to present relevant evidence  
23 or question witnesses effectively, that they  
24 have, they often clog up the Courts with  
25 procedural complications created by a lack

1 of knowledge on how the system operates and  
2 they make our judicial system less effective  
3 and that prevents settlements of matters  
4 that could be settled and delay trials.

5 This that this is a matter of cost savings  
6 as well as a matter of ensuring that their  
7 rights are protected. With counsel on the  
8 case, issues are sharpened, resolutions  
9 strengthened and frankly we heard from bank  
10 lawyers and they are very excited about the  
11 prospect of having counsel to deal with as  
12 they seek to implement a settlement and it  
13 wasn't their idea to pay out 25 bill they  
14 will rather have a lawyer to deal with, and  
15 we know that this saves money, we know that  
16 this makes our judiciary more effective.

17 So, my commitment to you, is, as I pursue  
18 the cases related to mortgage fraud and  
19 mortgage securities fraud if I have anything  
20 to do with it, no New Yorker will ever been  
21 wrongfully foreclosed on because of a lack  
22 of legal representation. That's the least  
23 those of who brought this on our economy can  
24 provide for those who have suffered and I  
25 want to close by coming back to the

1 procedure problem and to the fact that in a  
2 way in my mind it's very clear in New York,  
3 in a lot of the country, over the last few  
4 decades in the last five years they're  
5 emphasis in many circles and giving people  
6 procedural rights, but not nearly as much  
7 emphasis as providing the resources, that  
8 enable those people to effectively and  
9 easily exercise foreclosure rights and this  
10 an issue, that I speak of with my colleagues  
11 in the Legislature frequently and as New  
12 York State lawyer I'm proud of the fact as I  
13 travel through this State and I often speak  
14 to the right to counsel. As the right  
15 that's enabled us to protect all of our  
16 other rights. For the home owner, the  
17 immigrant and the elderly victims of  
18 domestic violence and the risk from the lack  
19 of representation are profound. The need is  
20 vast and our commitment to meeting that need  
21 must be unwavering. We need every level of  
22 government at the state local and federal as  
23 well at the private bar to attack the  
24 justice gap with the same urgency and  
25 creativity that our judiciary has and we

1 need to take all legal services out of the  
2 annual budget battle in Albany and I'm  
3 committed to work with you to identify a  
4 dedicated stream of revenue to do just that.  
5 As the state's chief law enforcement  
6 officer, both in defending the State and  
7 prosecuting and enforcement of the state  
8 law, I can attest, that eliminating the  
9 justice gap is not only a matter of  
10 fundamental fairness, it will improve the  
11 efficiency and effectiveness of our judicial  
12 system and improve the quality of the  
13 outcome and will save the state money.  
14 Everyone in every part of our government on  
15 both sides of the aisle should be in favor  
16 of an independent stream of funding so that  
17 no New Yorker is denied legal services that  
18 they need. That's path forward working  
19 together and I know, that we can and we must  
20 fulfill the quintessential American ideal of  
21 equal justice under law for all the people  
22 of our state. Thank you very much.

23 CHIEF JUDGE LIPPMAN: Thank you  
24 attorney general Schneiderman and we could  
25 not have a better partner for the fight for

1 equal justice just to eliminate the justice  
2 gap that so obviously exists in our state  
3 and our nation between the dire need for  
4 resources available and I just want to ask a  
5 few questions and I'll ask my colleagues if  
6 they have any. You've done such a terrific  
7 job coming up with sixty million dollars  
8 that will go such a long way in the battle  
9 for fairness in the foreclosure process, and  
10 how do you determine those monies going to  
11 do the most good? What where is it going  
12 and what for process can you tell us a  
13 little bit about that?

14 MR. SCHNEIDERMAN: Sure we have  
15 identified two anchor partners the Empire  
16 Justice Center and the Center for New York  
17 City Neighborhoods to help us monitor and to  
18 delivery of legal services and there was  
19 there's a lot of data about where people  
20 have larger numbers of underwater homes and  
21 where the foreclosure problem is worse, and  
22 one of the great sources of information for  
23 that in fact are that housing counsel, and  
24 legal services providers, they were  
25 providing funding to. We have as a part of

1 the national mortgage foreclosure  
2 settlement, a federal monitor in place and  
3 the banks have to report to us regularly so  
4 we get feedback on the status of their loans  
5 all over the country. Our partners in the  
6 federal department of housing and urban  
7 development are working closely with us to  
8 make sure that he we've identified where the  
9 problems are worse and make sure that the  
10 funds get to those problems. We are just  
11 beginning the process but I'm very confident  
12 that this is the most sophisticated approach  
13 to the problem that I have ever seen and we  
14 are urging everyone in the state, and it's  
15 sort of an odd situation because we're  
16 urging everyone to come forward and the bank  
17 contacts to say we have to renegotiated your  
18 mortgage and a lot of people are hesitant to  
19 contact the bank and we're using the folks  
20 in housing counsel and legal services to try  
21 to educate people and they now do have the  
22 right to renegotiated and they will have  
23 lawyers there to help that in that.

24 CHIEF JUDGE LIPPMAN: That makes  
25 such a difference as the banks want to see a

1 lawyer there and it's such unequal playing  
2 field that it now it works to everyone's  
3 disadvantage. Staying on the federal level  
4 for a second I think you're the co-chair of  
5 President Obama's working group that's  
6 dealing with the crisis and the after  
7 effects of where do we go from here on which  
8 this whole process that came out of the  
9 mortgage backed security, where is that now?

10 MR. SCHNEIDERMAN: The working  
11 group was set up, beginning in February and  
12 announced in the President's State of the  
13 Union address, and it took a few months to  
14 staff up, but there are quite a few  
15 investigations under way and I think you can  
16 look for action, in the very near future.  
17 The beginning of acts because it's a long  
18 way to go. And I would like to, underline  
19 the fact that the working group, is focused  
20 on, pre crash conduct. The working group is  
21 focused on the packaging rules and the  
22 marketing of the mortgage backed securities  
23 that are particularly responsible for  
24 inflating the housing market and that lead  
25 to the crash. In addition to that, they're

1 are still more banks that we will welcome on  
2 board with the foreclosure settlement and  
3 provide more money, for relief for home  
4 owners. Under the time that we're  
5 providing, all right because of the first  
6 five banks, that signed up the first  
7 foreclosure settlement only includes the  
8 five largest banks and there are more banks  
9 that will be getting on board and things  
10 that we are seeing and further -- and I'm  
11 confident and we see further action from the  
12 mortgage banks securing group in the weeks  
13 ahead.

14 CHIEF JUDGE LIPPMAN: You talked  
15 about thank you. You talked about on the  
16 criminal side we have this Constitutional  
17 guarantee while not perfect and we all know  
18 there are issues around the state and  
19 country as to criminal representation but  
20 you have that guarantee, what did you see on  
21 the future in terms of civil legal services  
22 will we ever get to the point with a  
23 similarly recognized right in quotes, or  
24 where people have as a very basic part of  
25 their lives, if they can't afford a lawyer,

1           they can get one in a civil case that's  
2           something what been referred to as a civil  
3           remedy is that on the horizon? What do you  
4           say?

5                       MR. SCHNEIDERMAN: I'm not sure  
6           we will get it from, the current Supreme  
7           Court, but I think that there is, that the  
8           idea is something that is becoming  
9           increasingly clear to people like me, in all  
10          parts of the politic spectrum and it's  
11          something very appealing to state  
12          government, because, the areas in which  
13          people are not represented commonly are with  
14          credit problems, tenants in housing  
15          problems, unrepresented, unrepresented  
16          victims of domestic violence, people with  
17          problems with receiving funding or services  
18          or entitled to which they're supposed to  
19          have access, all of their costs in our state  
20          government and this money all of this  
21          results in a reduction of benefits to the  
22          people in our state, and it's in our own  
23          interests and in the interest of our own  
24          government to ensure they're provided  
25          counsel. Funding for health care increases

1           when you have more lawyers representing  
2           people so then their right to health care  
3           funding for education, for housing similarly  
4           increases when people know what their rights  
5           are and I believe we will get there not by a  
6           Supreme Court ruling but as a matter of  
7           public policy as it is against everyone's  
8           self interests, to have the justice gap that  
9           we have today.

10                   CHIEF JUDGE LIPPMAN:    Thank you  
11           Attorney General.   Justice Peters?

12                   PRESIDING JUSTICE PETERS:    I  
13           just have one question you know you're  
14           correct that when one creates a legal right,  
15           it's a hollow act unless one has the  
16           opportunity to exercise that right.   And you  
17           mentioned the national mortgage settlement  
18           proceeds that you used to fund several legal  
19           services I'm just wondering when those will  
20           expire, and if there any thoughts on a  
21           long-term funding stream?

22                   MR. SCHNEIDERMAN:   Well we have a  
23           three year commitment, so that's -- I know  
24           you're filling in a lot of the gaps, filling  
25           in the housing, and the legal services for

1 housing issues, and we can take care of that  
2 for three years out of this settlement, and  
3 I do believe that there will be more money  
4 forthcoming, from other banks in the first  
5 settlement and also from the work we're  
6 doing, in the cases that I anticipate  
7 working on.

8 PRESIDING JUSTICE PETERS: I was  
9 hoping you would say that.

10 MR. SCHNEIDERMAN: But its also  
11 the case and I enjoy getting good results  
12 for the people of the State of New York,  
13 that we shouldn't be dependant on the  
14 recovery on a specific case for the  
15 judiciary taking a part of their own thinly  
16 stretched budget for this -- this is the  
17 situation where we really do need to have a  
18 dedicated stream of funding in the state.  
19 I'm committed to working toward that and I  
20 am to happy to work with our colleagues in  
21 the Legislature and executive branch and any  
22 sort of a creative approach, but we can --  
23 but this will make this a much better and  
24 more just frankly -- a richer state if we  
25 can.

1 CHIEF JUDGE LIPPMAN: Justice  
2 Marks.

3 DEPT. CHIEF ADMINISTRATIVE JUDGE  
4 MARKS: One question you talked about in  
5 the context of foreclosure cases, there  
6 being an ineffectiveness and inefficiency  
7 which is apparent in self-represented  
8 litigants. That your office handles a  
9 tremendous amount of litigation in the State  
10 Courts so do you find that those problems  
11 carry over to the whole range of litigation  
12 that your office is involved with and to the  
13 lawyers in your office, that they prefer to  
14 have a lawyer representing a party, rather  
15 than an unrepresented litigant?

16 MR. SCHNEIDERMAN: I think yes,  
17 there's a very clear distinction that you  
18 can make with the lawyers in our office,  
19 they would always rather be dealing with  
20 opposing counsel because -- and that's not  
21 inconsistent with our view or as to our  
22 ethical obligations that we have to make  
23 sure that our people know what's going on  
24 and its up to the judge and opposing counsel  
25 to make sure thing are done properly.

1           There's a big distinction between cases,  
2           with respect to the a robo signing, for the  
3           fraud that takes place, where no one knows  
4           up in Court at all they're default  
5           judgements which, some these abusers of the  
6           process actually like it in cases where you  
7           have a pro se litigant. No one -- no  
8           lawyers likes to be dealing with pro se  
9           litigants and that takes a lot more time to  
10          get a simple result. I think that it's,  
11          been proven to be true to say and judge so  
12          yes we favor having counsel for everyone in  
13          every case. And it's something that I  
14          realize that it's tough to get across to  
15          other people in the government, that they  
16          say well, we really don't have enough money  
17          for health care and not enough money for  
18          housing, having legal representation for all  
19          New Yorkers and will get us more funding for  
20          health care and housing and keep more people  
21          in their homes and avoid the collateral  
22          damage of homelessness and eviction and what  
23          happens to children, pulled out of school  
24          because their parents have lost their home  
25          and there's so many benefits, and there's no

1 bigger bang for the buck than providing  
2 people with legal services.

3 CHIEF JUDGE LIPPMAN: You know  
4 it's so true that you say that, you know the  
5 task force has concluded for every dollar  
6 spent on civil legal services five dollars,  
7 are returned to the state. And I think it  
8 speaks the truth, and to say it's  
9 counterproductive, that the -- to let people  
10 fall off the cliff because of a lack of  
11 representation. The results work to  
12 everybody's detriment and it seems so  
13 obvious.

14 MR. SCHNEIDERMAN: Well we have  
15 to continue our efforts to make it clear to  
16 even those who HAVE trouble seeing it today.

17 CHIEF JUDGE LIPPMAN: President  
18 James, anything?

19 MR. JAMES: You indicated  
20 attorney general you believe there ought to  
21 be a permanent dedicated funding stream and  
22 that this is something that you envision  
23 being automatically renewed annually?

24 MR. SCHNEIDERMAN: I think so,  
25 and there have been various efforts to come

1 up with strategies for this in the past and  
2 we do have dedicated funding streams for  
3 some programs, in the way they structure the  
4 tax code and budget and it just seems to me  
5 that that is, first of all, the numbers are  
6 a lot smaller than for a lot of other areas  
7 of the state budget and the cost benefits to  
8 the state as the Chief Judge just noted are  
9 really tremendous. I think that ultimately  
10 that this is something that requires just  
11 raising the visibility of the issue and  
12 raising the consciousness of the public  
13 about it, and getting, the bar actively  
14 engaged, and establishing an atmosphere that  
15 is obvious to everyone, that there are  
16 benefits and obviously that we're not  
17 complying with our moral obligations to  
18 provide equal justice under the law if we  
19 fail to do this the dedicated source of  
20 funding is absolutely essential and we have  
21 to continue our campaign and following our  
22 chief judge's example to make sure that  
23 everyone understands that the benefits and  
24 everyone understands the need for  
25 fundamental justice.

1 CHIEF JUDGE LIPPMAN: Thank you.  
2 Thank you for your time and your honesty and  
3 for your presence, thank you so much.

4 MR. SCHNEIDERMAN: Not at all.

5 CHIEF JUDGE LIPPMAN: Okay. The  
6 next witness will be Michael Keegan, the  
7 REgional President of the Albany Hudson  
8 Valley North division, senior Vice President  
9 of M&T Bank. Mr. Keegan, nice to see you,  
10 and with me I'm sure you've figured out by  
11 now is Chief Justice Peters, first  
12 department chief administrative judge  
13 Lawrence Marks and Seymour James president  
14 of the State Bar Association. And we're  
15 glad to have you here, and we welcome you to  
16 begin your testimony. I note in the  
17 audience that there are a lot of the members  
18 of the task force, to expand civil legal  
19 services and in addition to Elaine Barnett,  
20 and so, you have an audience ready willing  
21 and able to hear your testimony. Thank you  
22 so mush.

23 MR. KEEGAN: Thank you, Your  
24 Honor and good morning everyone. I did  
25 provide some written testimony and I'll try

1 to be brief.

2 CHIEF JUDGE LIPPMAN: We have it.

3 MR. KEEGAN: And I'm certainly  
4 open to any questions you may have. The  
5 approach that I really took in terms of  
6 preparing for this was from the banks  
7 charitable foundation perspective and M&T  
8 has a charitable foundation that distributes  
9 millions of dollars every year to its  
10 several communities. And what we have found  
11 along the way, is we're so involved with the  
12 different organizations, and that there is a  
13 dire need for these services. So, the work  
14 that you have done Chief Judge, is honorable  
15 and its gone a long way, but in each case  
16 when we meet with the Empire Justice Center,  
17 the Legal Project, and Legal Aid Society, is  
18 that there's a shortage of funds and they're  
19 grappling to fill those gaps. So what we  
20 see is that, we hear the demands  
21 consistently. We also see it in the world  
22 of houses and what we look at it is the  
23 basic needs that are citizens our people in  
24 our community need, from housing, food and  
25 shelter and those organizations are also

1 struggling so this boils down to the what  
2 the Attorney General just suggested and that  
3 the fact that people who are just struggling  
4 to get by don't have access to legal  
5 services so they don't know where to go and  
6 how to resolve a matter. And what you  
7 appropriately and accurately said is that in  
8 all of our organizations including banks,  
9 legal representation is a benefit to all.  
10 It's a benefit to the bank in terms of  
11 resolving matters, and it's a benefit to  
12 individuals, who need those services, and  
13 it's a benefit to our community. Lastly I  
14 would suggest, is that in what we're talking  
15 about today, doesn't just extend to housing,  
16 and things of that nature. It's also  
17 domestic violence, families that are  
18 profoundly effected by abusive relationships  
19 and their need to seek counsel and I to have  
20 a network of -- a support system a safe  
21 network if you will. To try to provide them  
22 with a way out of a challenging problems.  
23 And the reason I raise that with you is  
24 because when I was a young child my parents  
25 were both psychotherapists and we which all

1 had a lot of fund with that reality.

2 CHIEF JUDGE LIPPMAN: You seem  
3 none the worse for wear.

4 MR. KEEGAN: So far, thank you.  
5 But toward the end of the Vietnam war we  
6 heard stories from my mother, with clients  
7 who were victims of domestic violence and  
8 their inability, to access the legal system,  
9 in a way where we could we matter  
10 appropriately. And one community in  
11 particular, they took on that cause, it's a  
12 city of Quincy Massachusetts, where the  
13 court system and judges made an example  
14 based on restraining orders and working with  
15 law enforcement, to make sure that the  
16 people who were abused were not continuously  
17 harassed by those people abusing them. So I  
18 have a history of really trying to  
19 understand why banks are relevant in a  
20 community that we serve. Why the bank that  
21 I work for, is, I'm particularly proud of  
22 the fact that the organization, from housing  
23 and legal services, that we get involved  
24 with not getting their share and -- and  
25 there's certainly a need for a money stream

1 of funding that can be provided to do that  
2 on a consistent basis and that would  
3 certainly be a benefit to everyone.

4 CHIEF JUDGE LIPPMAN: Thank you  
5 so much. It's really effecting and I would  
6 ask I would like to ask you, let me  
7 acknowledge right now before I do anything  
8 else, the presence of my colleague Victoria  
9 Graffeo who is here today, so I'm pleased se  
10 was able to stop by and Judge Graffeo just  
11 headed or advisory committee on the 50 hour  
12 pro bono requirement and thank you Vicky for  
13 being here and it's a pleasure to have you  
14 here. Let me ask you Mr. Keegan, on a very  
15 parochial level why is it that important to  
16 M & T Bank or to any bank or area of  
17 expertise that that is your bottom line  
18 impacted by whether people in the community  
19 that you serve, get legal services from  
20 funded providers and in all these different  
21 issues that they deal with in their lives,  
22 whether that be housing or physical safety  
23 or their entitlements or other well-being of  
24 the families or credit cards, consumer  
25 credit cards, why does it matter or does it

1 help your bottom line, when people receive  
2 civil legal services in a community that you  
3 serve?

4 MR. KEEGAN: So, let me start  
5 with the basic foundation of --

6 CHIEF JUDGE LIPPMAN: Putting  
7 aside your ethical high standards which we  
8 so much appreciate.

9 MR. KEEGAN: Well thank you. I  
10 think if you start with the notion that we  
11 all have an obligation to the informed, we  
12 all have the right to legal representation.  
13 But one of the challenges that we've found  
14 as an organization individually is we get  
15 involved in organizations like Habitat for  
16 Humanity and some of the housing groups  
17 they're many of them that do wonderful work.  
18 And the financial literacy is inconsistent  
19 and on an across the board basis is lacking  
20 in our state. There is no mechanism for the  
21 in grade school or college or even with  
22 young adults people can go and become more  
23 financially aware, of what their rights are,  
24 what are their responsibilities are, and how  
25 they should manage themselves and it's a

1 huge challenge. And so we're on that bubble  
2 out into where we start to play, that we're  
3 supporting organizations that are entering  
4 the fray and trying to help people out when  
5 they don't understand the interest rates on  
6 a credit card or don't understand if you  
7 rent from one ever these rental places that  
8 that couch may cost you several thousand  
9 dollars when it could be only a couple do  
10 dollars a week. So, that we're entering  
11 this process late in the game. So legal  
12 representation to kind of really cut that  
13 problem off, is very very important and I  
14 don't know if its just that we don't have  
15 enough people that are doing pro bono work  
16 so that the notion of mandating certain  
17 amounts of hours in order to be admitted to  
18 the Bar and stay, I think is a wonderful  
19 idea. I think there needs to be from my  
20 perspective with all due respect, a sense of  
21 urgency around what the business community  
22 needs to be more actively involved in this  
23 problem. And hopefully we can get more  
24 people to engage in a process of services.

25 CHIEF JUDGE LIPPMAN: Did it

1 hurt you when people loose their jobs or  
2 have to go on welfare or families  
3 disintegrate and does it hurt your industry  
4 banks and the banking business, it is  
5 harmful to you?

6 MR. KEEGAN: It hurts everybody,  
7 a broken family, a lost job, a sense of  
8 insecurity, domestic violence, that destroys  
9 the fabric of our community and there's  
10 nothing worse than to have this  
11 disintegration among us and if you look at  
12 the financial crisis I think that if you  
13 look at what the financial crisis did for  
14 all Americans is that it raised a profile on  
15 the issues that are very relevant to how we  
16 should live our lives and the fact that,  
17 there were abuses that did occur and the  
18 attorney general appropriately points that  
19 out and there's also an opportunity for us  
20 to look at this crisis and provide a better  
21 remedy for how we move forward, financially  
22 and literacy is currently one, equal access  
23 to legal representation is certainly one,  
24 and the list goes on and on.

25 CHIEF JUDGE LIPPMAN: Thank you.

1 Any other questions from the bench?

2 PRESIDING JUSTICE PETERS:

3 Mr. Keegan, we met before and I actually am  
4 a Hudson Valley resident and a client in  
5 fact. Previously so I have to disclose  
6 that.

7 CHIEF JUDGE LIPPMAN: I think  
8 the bank is very good shape if you're a  
9 client.

10 PRESIDING JUSTICE PETERS: I  
11 just want to thank you for the incredible  
12 efforts of your bank that it's made in our  
13 community and in the Hudson Valley. I know  
14 fully the extent to which you do fund  
15 raisers and get involved in community  
16 organizations, the YMCA the YWCA, the  
17 woman's shelter in both Ulster County and  
18 Albany and I want to thank you so much for  
19 encouraging your employees to do pro bono  
20 work. It's really wonderful.

21 CHIEF JUDGE LIPPMAN: Anything  
22 else? Thank you so much. Its so important  
23 that I think our business community and the  
24 banking industry speak out about these kinds  
25 of issues because I think its as you

1 indicated, that this effects everybody, and  
2 yet it's not a good sense this is not just  
3 gee, people with their hands out saying we  
4 need public money to fund this. It's impact  
5 is overwhelming on not only those  
6 individuals, but on the whole economic  
7 well-being of our state including you know  
8 the bang and the bust around the state and  
9 the fabric holding them together so we have  
10 prosperous and a vibrant community too for  
11 whether it's M&T Bank or a local business or  
12 any of the different things that make our  
13 economy the envy of the world, but we cannot  
14 afford to let people bleed with the beliefs  
15 transforming a crisis without legal effort.  
16 So, thanks you.

17 MR. KEEGAN: Thank you for your  
18 leadership on this.

19 CHIEF JUDGE LIPPMAN: Thank you.  
20 It was a delight having you. Thank you.  
21 Next Judge Coccoma Deputy chief  
22 Administrative Judge for Courts outside the  
23 city, he couldn't be with us today, but he  
24 sent a terrific emissary, in justice Vito  
25 Caruso administrative judge for the 4th

1           judicial district, judge Caruso do want to  
2           come up to the table? Judge Caruso is used  
3           to not testifying, but presiding but today  
4           he's going to testify.

5                   JUDGE CARUSO: Its unusual to be  
6           on this side.

7                   CHIEF JUDGE LIPPMAN: Yes you  
8           were at one time.

9                   THE WITNESS: At one time,  
10          correct.

11                   CHIEF JUDGE LIPPMAN: Go ahead  
12          Judge Caruso.

13                   JUDGE CARUSO: It's great to be  
14          here, I appreciate the opportunity given to  
15          me by our Deputy Chief judge to speak in  
16          this very important area and to convey his  
17          remarks. I certainly will do that and I  
18          will actually read his remarks exactly as he  
19          presented them so you can get the full  
20          context. I can tell you that this is an  
21          area that I personally have been very  
22          supportive and strongly in favor of and  
23          would be happy to answer any questions as  
24          pertains. We interact in these areas and I  
25          also would like to add my own voice to that

1 of many others in our judicial legal  
2 community, in praising or Chief Judge  
3 Jonathan Lippman for championing this cause  
4 and it's not a popular thing and it's not  
5 necessarily popular even with judges in term  
6 of the money that is necessary, but it's an  
7 important thing, and it takes a big man to  
8 stand up in this state, and champion this  
9 issue in our state and also nationally and  
10 no one stands up to you chief judge in this  
11 regard.

12 CHIEF JUDGE LIPPMAN: Thank you  
13 judge I appreciate it, and appreciate your  
14 being here and if you could give your  
15 testimony, and we may break in a little bit,  
16 during it, so I want to ask you  
17 particularly, and one to start giving your  
18 testimony about the local situation in your  
19 area, what you see in terms of the need for  
20 legal representation, because, it's really  
21 the ground level that this is issue is so  
22 apparent that you can have all the  
23 pontificating about it but you see it at a  
24 very direct level so I don't want to  
25 interrupt so you bring your testimony and

1           thank you for your kind words.

2                   JUDGE CARUSO: You're welcome and  
3 I'd like to read this as he wrote it, and it  
4 starts with, good morning and introduces  
5 himself as Michael V. Coccoma, and he's the  
6 Deputy Chief Administrative Judge for Courts  
7 outside of New York City. Also an elected  
8 Supreme Court justice, in Cooperstown. I  
9 have been asked to address the panel about  
10 the impact of this years funding awarded to  
11 56 civil legal service providers in New York  
12 State. I will confine my remarks to  
13 addressing the providers in the Third and  
14 Fourth Department, as my colleagues the  
15 Honorable Fern Fisher and Deputy Chief  
16 Administrative Judge for Courts within the  
17 City of New York will be addressing the  
18 panel regarding providers of the First and  
19 Second Department. Let me again with he  
20 quote from the late Franklin Delano  
21 Roosevelt, the test of our progress is not  
22 whether we add more to the abundance of  
23 those who have much, its whether we provide  
24 enough, for those who have little. The  
25 quote certainly sums up what we're trying to

1 do with civil legal services. Those  
2 involved in civil legal services are trying  
3 to provide fundamental legal services  
4 necessary to assist them in the essentials  
5 of life. In just this short period of time,  
6 that civil legal service funding has been  
7 made available to the judiciary, that has  
8 begun to make a profound difference in the  
9 lives of those who cannot afford legal  
10 representation. In upstate New York, 27  
11 providers have begun utilizing their  
12 funding, to provide direct client services,  
13 as well as initial activities which assist  
14 those who have a need of obtaining and  
15 maintaining the essentials of life.  
16 Housing, health care, better opportunity at  
17 employment and my remarks are not just about  
18 the programs and the stats, I would like to  
19 focus on some of the up close and personal  
20 stories of direct client contact which has  
21 made a difference and certainly justifies  
22 continued efforts to fund these programs.  
23 The funding providing was awarded to a cross  
24 section of providers, in order to cover a  
25 broad structure of needs across New York

1 State. Awards were granted to providers in  
2 urban locations, as well as our rural areas.  
3 You will see the differing needs of these  
4 desperate populations and how the awarding  
5 of funds to go best meet the needs of  
6 clients. Their needs range from those  
7 involved in litigation, health care benefit  
8 issues, domestic violence matters,  
9 unemployment benefits, and discrimination  
10 claims. The individuals receiving  
11 assistance through civil legal services have  
12 all but one thing in common, without this  
13 funding, they would have no way to pay for  
14 this badly needed legal advice, not only  
15 have no way to pay for it, they have no  
16 where else to turn. Outside the City of New  
17 York, in the Third and Fourth Departments,  
18 civil legal services provides and has  
19 assisted clients in a variety of ways. Some  
20 provided direct legal assistance such as  
21 representation in our Court proceedings,  
22 other providers use the funds to assist  
23 clients using a more broad based  
24 methodology. Free education programs,  
25 distribution of information and materials,

1 helping them by having help lines hot lines  
2 for referral services. Let me first take  
3 the example of rural law center of New York  
4 in St. Lawrence County, this program has  
5 assisted with the most serious matter of  
6 child neglect abuse, termination of parental  
7 rights in our Family Court. By diverting the  
8 most appropriate cases away from the Courts,  
9 into a voluntary need agency. The rural law  
10 street has used civil legal services funds  
11 to go promote mediation coverage between  
12 parties and local departments of Social  
13 Services, in an effort to find mutually  
14 agreeable solutions to these often painful  
15 and difficult problems. The rural law  
16 center is also part of an innovative program  
17 which partnered with the New York State Bar  
18 Association, in subcommittees with Courts on  
19 Appellate jurisdiction. The partnership  
20 with the rural law center created a practice  
21 that assists low income clients with  
22 appellant representation in the areas of  
23 child custody, child support, shelter and  
24 housing, and subsistence income and benefits  
25 as well as health and education matters.

1 This partnership is also developing an  
2 appeals guidance for unrepresented in  
3 central New York. The legal aid society mid  
4 New York used its funds to support its  
5 central New York legal help line, which has  
6 provided advice and brief services to over  
7 13 hundred low income people in central New  
8 York. This help line also provided almost  
9 3,000 brochures and referrals to legal and  
10 non legal resources. The Frank H. Hiscock  
11 Legal Aid Society in Central New York used  
12 its funding to award funding awards to  
13 retain attorneys in paralegal positions that  
14 were due to be lost, as a result of cuts in  
15 funds from other sources. As a result, the  
16 Hiscock Legal Aid Society was able to  
17 provide representation that benefited 824  
18 persons and these cases involved domestic  
19 violence, evictions and foreclosures and  
20 unemployed benefit cases, and helping  
21 clients maintain income and security for  
22 their families by helping families overcome  
23 obstacles, the long term benefits will be  
24 seen for generations to come. The numbers  
25 are impressive, but numbers aren't the only

1 part of the equation. What do the numbers  
2 represent? Here are some examples of what  
3 funding to the legal services providers  
4 really mean. In Buffalo, New York the city  
5 brought a foreclosure action against a  
6 single mother who owed less than \$500. The  
7 volunteer lawyer project attorney and a pro  
8 bono attorney co-counseled to represent her  
9 and negotiate a repayment agreement, that  
10 kept the woman and her children in the home  
11 and prevented them from being homeless.  
12 Also in Erie County, a pro bono attorney  
13 assisted a maintenance man being bullied by  
14 public employees. As a result this man lost  
15 his job, and the pro bono attorney assisted  
16 him in obtaining much need unemployment  
17 benefits, even successfully representing him  
18 through an appeal by the employer.

19 CHIEF JUDGE LIPPMAN: Judge let  
20 me stop you there, I know they're are  
21 particularly good things that these moneys  
22 go for, and we're going delve a little later  
23 in the program with the client panel, but  
24 tell us when they first can experience, tell  
25 us from your firsthand experience what did

1           you see out in the 4th Judicial district and  
2           explain, what your geographic of your  
3           jurisdiction and what you see out there,  
4           what's the need you know.

5                   JUDGE CARUSO:  As you know --

6                   CHIEF JUDGE LIPPMAN:  At ground  
7           level.

8                   JUDGE CARUSO:  Thank you.  I'm  
9           the administrative judge for the 4th  
10          Judicial District in which Judge Peters is  
11          the PJ, Judge Peters Department, and we are  
12          the largest geographic district in the State  
13          of New York.  And by being the largest  
14          geographic district, we have some disparity  
15          between our urban, rural and suburban areas  
16          and some --

17                   CHIEF JUDGE LIPPMAN:  People  
18          think some people think that all of the  
19          poverty in our state is down state, in the  
20          New York City area, do you see it in a big  
21          district that is your up state.

22                   JUDGE CARUSO:  One of our largest  
23          we go up to the Canadian border.  We have 11  
24          counties and one of our largest counties is  
25          this district is Hamilton County.  Hamilton

1 County probably has and not counting the  
2 Summer time when he people go up to enjoy  
3 the beautiful lakes.

4 PRESIDING JUSTICE PETERS: Or  
5 cows or anything else.

6 CHIEF JUDGE LIPPMAN: Not many  
7 lawyers, right judge?

8 PRESIDING JUSTICE PETERS: That's  
9 one of the problems.

10 JUDGE CARUSO: Probably 5,000  
11 permanent residents in the County and it's a  
12 huge county. And probably five lawyers in  
13 the County.

14 CHIEF JUDGE LIPPMAN: How do you  
15 deal with I assume that there is a good  
16 share of poverty.

17 JUDGE CARUSO: What we have  
18 found --

19 CHIEF JUDGE LIPPMAN: People of  
20 both modest means?

21 JUDGE CARUSO: Our district we  
22 also have urban areas where there's poverty  
23 and people of dire needs and modest people  
24 and terrible things happen. You wouldn't  
25 expect it, perhaps in rural areas but there

1 in Hamilton County, our least populated  
2 County it has one of the highest rates of  
3 spousal abuse in the our district. It has a  
4 tremendous group of people who pray on those  
5 few people who live there, and take them  
6 through various aspects of not being able to  
7 afford what they're providing for them,  
8 sharp practitioners in a sense in the  
9 business sense, and these folks are really  
10 without the ability to hire attorneys and  
11 without attorneys that are available. We  
12 have seen an increase in our rural law  
13 center in sending pro bono attorneys into  
14 the areas to assist in these day-to-day,  
15 living situations. Yes there are major  
16 events in these folks lives that need legal  
17 representation.

18 CHIEF JUDGE LIPPMAN: They come  
19 judge to get an -- they come from -- so we  
20 bring in the lawyers from outside the  
21 county?

22 JUDGE CARUSO: They will.

23 CHIEF JUDGE LIPPMAN: And  
24 provide a lot of assistance and they get is  
25 especially pro bono lawyers.

1                   That's why I used that as an  
2                   example. There you have a, you have  
3                   somebody you have just a few lawyers there  
4                   and you have a judge, who does all of the  
5                   courts one judge, you have a District  
6                   Attorney, Public Defender and County  
7                   Attorney, and pretty much that takes up all  
8                   of the attorneys. So, you have to bring in,  
9                   you have to bring in attorneys who want to  
10                  go to this very rural area, or who volunteer  
11                  to go to this very rural area and provide  
12                  pro bono legal services. In a civil sense  
13                  as well as a criminal sense.

14                 CHIEF JUDGE LIPPMAN: Do you  
15                 think it's a mix that you need both the  
16                 public funding the Keyser programs, that  
17                 were in Judge Coccoma's testimony where we  
18                 give grants to a particular area, do you  
19                 also have, in that mix, lawyers --that you  
20                 just volunteer to do pro bono work and  
21                 private sector lawyers?

22                 JUDGE CARUSO: Absolutely,  
23                 absolutely, I think that I think our numbers  
24                 are under reported in the pro bono sense and  
25                 that's my personal feeling. I think that

1           our lawyers do take this to heart. And many  
2           times don't report their efforts at pro bono  
3           but as judges we see them, we see them in  
4           the courtroom and they may not report it or  
5           work through a network, but they were there  
6           doing that as well.

7                   PRESIDING JUSTICE PETERS:    You  
8           mentioned in your testimony the New York  
9           State Bar Association Committee the Court of  
10          Appeals jurisdiction which I used to sit on  
11          before I became presiding judge, and they  
12          have a wonderful program that you described  
13          in brief in which members of the State Bar  
14          Association take on appeals pro bono for  
15          several clients who just don't meet the  
16          minimal standard but can't afford an  
17          attorney, and I mean I have -- for one thing  
18          that's -- I'm very grateful that private  
19          attorneys are willing to do that for country  
20          litigants.

21                   JUDGE CARUSO:    They're -- it's a  
22          specialized field, appellate practice is a  
23          specialized field and to have attorneys who  
24          step up to take on the people who cannot  
25          afford that representation but need it, it's

1 a great things.

2 PRESIDING JUSTICE PETERS:

3 There's a large group of people and it takes  
4 a lot of time. It's not just a couple  
5 hours.

6 JUDGE CARUSO: I think also judge  
7 that's correct and I think also it's true  
8 that this funding that we have, has done in  
9 areas other than providing attorneys,  
10 providing information, is sometimes as  
11 critical and vital as particularly in rural  
12 areas. Its critical to have brochures  
13 available and help yourself information  
14 available how to contact attorneys, how to  
15 get involved with pro bono representation,  
16 and that is done with this money as well and  
17 that's another aspect of how this money is  
18 being spent by our various legal service  
19 providers, is they're providing information.

20 CHIEF JUDGE LIPPMAN: So all the  
21 money we get it's really to spread all  
22 around the state and it's not what we're  
23 making or saying geez, its terrific look at  
24 what we accomplished, and it's not a hell of  
25 a lot of money but what I want people to

1 understand is you're dealing with really  
2 human beings lives and they're not all, down  
3 state in the big -- counties of New York  
4 City, but that this need for funding is so  
5 obvious in almost all rural areas, and  
6 consistent with this need for pro bono  
7 assistance, so --

8 JUDGE CARUSO: Absolutely and the  
9 money as you said, its so, its at lot in  
10 terms of the big picture but it's more than  
11 we had, but it's so inadequate and in so  
12 many ways that we need to have a permanent  
13 funding stream for this vital thing because  
14 people, truly need it in all areas of our  
15 state. Not just the rural not just the  
16 urban all areas of our state. The other  
17 thing is that the money goes for such  
18 different thinks. Training of young  
19 attorneys and old attorneys, training to  
20 represent people in these niche areas of  
21 civil legal representation, education law to  
22 help a family with a handicapped child get  
23 through the individual education program the  
24 IEP process, and it's sometimes you have to  
25 have an attorney to get the benefits that

1                   you're entitled to.

2                   CHIEF JUDGE LIPPMAN:    It's  
3                   people dealing with the necessities of life  
4                   the education or housing or family disputes  
5                   or some of these things are so critical I  
6                   think that the most fundamental message that  
7                   anyone could bring so we have Judge  
8                   Coccoma's testimony, and we will give it  
9                   some weighty thought and it's most important  
10                  to let people see as you see it every day in  
11                  the field.

12                  JUDGE CARUSO:    I think that's why  
13                  he asked me to come and present my example  
14                  and hopefully that we would be able to  
15                  expand on the remarks.

16                  CHIEF JUDGE LIPPMAN:    It's a  
17                  huge district that covers so much of New  
18                  York State.  Any other questions from the  
19                  panel?  Judge Caruso, thank you so much for  
20                  coming down we appreciate it, and please  
21                  tell Judge Coccoma how pleased we were that  
22                  he selected such a great emissary to come  
23                  down.  Thank you and we appreciate it.  We  
24                  are trying to stay on schedule so, I would  
25                  ask each of the panel left the next two are

1 Hugh Humphry and Nancy Sunukjian, who are  
2 going are judges on the panel. Hugh  
3 Humphreys is a retired County Court Judge in  
4 Madison County and adjunct professor at  
5 Syracuse University and Nancy is a Waterford  
6 Town Justice, Saratoga County and acting  
7 director of the office of Justice Courts and  
8 special counsel to the deputy chief  
9 administrative judge of courts outside of  
10 New York City. And what we would like you  
11 to do is, tell us what you have to say and  
12 let's leave a little time for a dialogue  
13 back and forth and hopefully to hear  
14 firsthand what your view is, we have  
15 submitted written testimony we have but  
16 don't feel constrained to read it to us,  
17 tell us in your own words. Who wants to go  
18 first?

19 JUDGE HUMPHREYS: I think judge  
20 would you like to go first?

21 JUDGE SUNUKJIAN: I'll go first  
22 as we're sitting at the table I was told not  
23 to be nervous and so of course that's the  
24 first thing that you do.

25 CHIEF JUDGE LIPPMAN: Tell us, I

1 think that's the point, let's hear from you,  
2 what is from a judge's perspective, what is  
3 this all about?

4 JUDGE SUNUKJIAN: First of all I  
5 would like to tank you for inviting me. I'm  
6 very honored to be here in this beautiful  
7 room before you all. As was mentioned I am  
8 acting director of the Office of Justice  
9 Courts Support and Special counsel to Judge  
10 Coccoma as well as the Waterford Town  
11 Justice so in presenting my remarks which  
12 you are already have, I presented them from  
13 those two different perspectives if you  
14 would as director of the office and with the  
15 Courts and then secondly as the judge in the  
16 Town of Waterford. What the office does, is  
17 we support we provide the we're helping the  
18 law clerks and the county, village judges  
19 the throughout New York State among other  
20 things and we do -- we provide and aid and  
21 assist in training, for all the town and  
22 village judges throughout New York State.  
23 Which there are many as you know many that  
24 are not attorneys and I think about 45% or  
25 35% of the judges, on the town or villages

1           are attorneys, and the rest are not. What I  
2           have found through my twenty years working  
3           for the office Court of Court Administration  
4           and attorneys, and non attorneys, is they  
5           are very consciousness, hard working,  
6           dedicated men and woman who I have been  
7           incredibly proud to serve over the last many  
8           years.

9                       PRESIDING JUSTICE PETERS:    Would  
10           you agree that, town and village judges see  
11           more pro se litigants than any other Court  
12           in the state?

13                      JUDGE SUNUKJIAN:    Undoubtedly  
14           judge, the town and village judges are  
15           dealing with pro se litigants and I would  
16           suggest more than any other person that you  
17           here from today, that's submitted  
18           information to you.

19                      CHIEF JUDGE LIPPMAN:    And how  
20           that impacts on the judge's job.

21                      JUDGE SUNUKJIAN:    The impact upon  
22           the judge is tremendous. As you already  
23           heard, we would also prefer that the parties  
24           be represented by attorneys. It makes the  
25           system itself, I believe, work better to

1           fulfill a mission it needs to fulfill. When  
2           a judge is confronted with unrepresented  
3           litigants, it creates a myriad of issues for  
4           the judge not only ethical but certainly  
5           more difficult for the judge him or herself  
6           to get through the proceedings. Obviously  
7           we're you know, one of the main proceedings  
8           I would like to discuss would be the summary  
9           proceedings and revision in the town village  
10          Court when individuals actual roof over  
11          there head is at stake.

12                    CHIEF JUDGE LIPPMAN:    Can they  
13                    get justice without an attorney?

14                    JUDGE SUNUKJIAN:    I believe they  
15                    get justice it's just -- some of the  
16                    information is -- that's on line, is the  
17                    availability to these individuals on line  
18                    and has been helpful. They can get justice  
19                    in the local courts, if you've got a judge  
20                    who is willing to do their job to the best  
21                    of their ability which is to make sure that  
22                    the litigant is heard, and has access to the  
23                    justice they need to have.

24                    CHIEF JUDGE LIPPMAN:    Is it  
25                    difficult though to do your job when you are

1           also not that your actually doing it, but in  
2           some ways, you feel like you need to  
3           represent the person who appears before you  
4           as much as a judge and there is that  
5           inherent conflict with that.

6                         JUDGE SUNUKJIAN: It's incredibly  
7           ly difficult, there is an inherent conflict,  
8           and a potential ethical conflict that the  
9           judge has to be cautious of all time whether  
10          there's an attorney judge or non-attorney  
11          judge. We have had this argument or this  
12          conversation around for years now and  
13          doesn't matter, I think there is it a  
14          ethical conflict that the judge needs to be  
15          concerned with, whether an attorney or not.  
16          It's crossing ing over the line of giving  
17          legal advice and not giving legal advice and  
18          which we have to be careful to do. The  
19          judge needs to remain unbiased. The judge  
20          needs to remain neutral but when you have an  
21          unrepresented litigant before us, we're the  
22          Courts and we're the closest to the people  
23          we want to help the people. They're  
24          standing before us without an attorney and I  
25          want to be able to help somebody. And while

1           our role does help as we are the judge we  
2           have to be sure we don't cross over that  
3           invisible line, being an advocate for the  
4           unrepresented litigant. And I think it's a  
5           very difficult line for the judge. Judges  
6           call our office, and the first question is  
7           is the individual represented and when we  
8           find they're not, the conversation takes on  
9           a different turn, because they're asking for  
10          help, from these judges, not simply when  
11          they're standing before the judge but  
12          because if they even get to court they're  
13          contacting the court.

14                   CHIEF JUDGE LIPPMAN:    And I  
15          don't mean to lead you, legally, but I'll  
16          ask you a leading question, doesn't that  
17          skew the whole process when you really had  
18          to do either job, correctly, being a judge,  
19          which is a fairly you know, looking at the  
20          different sides, you can't as you say really  
21          represent litigants, the whole judicial  
22          process is distorted with that?

23                   JUDGE SUNUKJIAN:    Judge I would  
24          agree, it does become skewed, all we're  
25          asking for is that everyone has a level

1 playing field that they're entitled to. And  
2 whether the litigant is unrepresented  
3 there's an inherent conflict that exists for  
4 the judge the judges to act in his capacity  
5 or her capacity as the judicial arbiter or  
6 then to assist, when the requirement is that  
7 you need to advise litigants of the  
8 procedural requirements before this.

9 CHIEF JUDGE LIPPMAN: And that's  
10 the reason why we wanted to have the two of  
11 you here, is to make the point, that a lack  
12 of legal representation not only effects the  
13 individual litigant it effects the entire  
14 system and particularly with the heavy  
15 volume that you have in town and village  
16 courts or down state, big city, you know,  
17 metropolitan courts, the time that is spent  
18 dealing with these kind of cross currents  
19 that you are trying to figure out how to  
20 handle a situation and the impact on the  
21 whole judicial process efficiency and its  
22 quickness, its fairness the ethics of a very  
23 basic judicial procedure which would, are  
24 not as simple as just okay call the case you  
25 come up, and we'll hear both sides, and you

1 know, make a air resolution. So I think --

2 JUDGE SUNUKJIAN: I will agree  
3 judge, and I apologize to you judge, I would  
4 absolutely agree in the smallest of the town  
5 and village courts, the issues they're  
6 facing with the unrepresented litigant is  
7 far reaching throughout the state and all  
8 courts are dealing with this. I would hope  
9 there could be resolution and when I took  
10 the bench several years ago and I have been  
11 doing this job for years and I very feel  
12 competent in the law and what I quickly  
13 learned as the unrepresented litigants come  
14 before me it simply is not. And to the time  
15 that it takes to get through those  
16 procedures with the unrepresented litigant,  
17 it has an effect on the entire court system.

18 CHIEF JUDGE LIPPMAN: Let's.

19 DEPT. CHIEF ADMINISTRATIVE JUDGE  
20 MARKS: Quickly and this is an important  
21 point, in the town and village courts where  
22 you as you said, as many as two thirds of  
23 the judge are not lawyers, and where you  
24 have many or a disproportionate number of  
25 litigants who appear without lawyers,

1 doesn't that compound the problem, that most  
2 of the judges are not lawyers? A party  
3 doesn't have a lawyer and the judge him or  
4 herself is not a lawyer? Doesn't that make  
5 it worse?

6 JUDGE SUNUKJIAN: I believe it  
7 does but I believe that you can gain  
8 perspective to a certain extent and  
9 certainly the judge can ask or reach out to  
10 our office for legal guidance and we do our  
11 best to educate the Judges and help them  
12 conduct the proceeding and if they have  
13 questions, but when you have a non-attorney  
14 judge and you have an unrepresented  
15 litigant, the issue of a potential unethical  
16 or conflict that exists is paramount. At a  
17 trial the judge wants to help so maybe  
18 certainly advising an unrepresented litigant  
19 and to be quite blunt, it may be inaccurate.  
20 The unrepresented litigant before the judge,  
21 the other litigant may be represented by an  
22 attorney and the represented litigant  
23 certainly could object to the judge going  
24 too far over that line and that creates a  
25 problem and the entire proceeding itself so

1 to have an unrepresented litigant facing, a  
2 non attorney judge --

3 CHIEF JUDGE LIPPMAN: It  
4 complicates.

5 JUDGE SUNUKJIAN: It makes it  
6 more difficult as I said I think the  
7 non-attorney Judge in the town and village  
8 courts are incredibly conscientious.

9 CHIEF JUDGE LIPPMAN: They do a  
10 god job.

11 JUDGE SUNUKJIAN: In our office  
12 we get a lot more phone calls from non  
13 attorneys than we do from the attorney  
14 judges and under the circumstances it's a  
15 simple fact that --

16 CHIEF JUDGE LIPPMAN: Let's hear  
17 from Judge Humphreys and see if the panel  
18 has any further questions. Judge, what's  
19 been your experience over the years with  
20 non-represented litigants and how that  
21 effects your -- how did that effect your  
22 tenure on the bench?

23 JUDGE HUMPHREYS: Well, it wasn't  
24 as bad as being in the justice court, I mean  
25 I have been doing this business for over 50

1                   years now.

2                   CHIEF JUDGE LIPPMAN: You look so  
3                   young.

4                   JUDGE HUMPHREYS: I know I did,  
5                   and I feel young, but there are times when I  
6                   get disappointed. I have been with the  
7                   legal aid society in Utica for the last  
8                   twelve years this week and I was in three  
9                   cases this week, two larcenies --

10                  CHIEF JUDGE LIPPMAN: You've  
11                  seen it from both sides.

12                  JUDE HUMPHREYS: I've seen it as  
13                  a private lawyer before the town and village  
14                  justice, and frankly, I can think of many  
15                  instances where I would prefer to appear  
16                  before some of the local judges that are not  
17                  attorneys, than that are attorneys. As the  
18                  judge said there are some sterling non  
19                  lawyer judges in those cases. But what I am  
20                  finding now, is that this help line that  
21                  Judge Coccoma referred to, that I referred  
22                  to previously, is running out of our office  
23                  really, and Utica we're reaching about 13  
24                  counties except for Syracuse and Utica,  
25                  Binghamton, and to some degree Cortland and

1           Norwich and the rest is rural. I live in  
2           Madison County and that is where I served.  
3           You have no idea what they're doing with  
4           that help line. We have last year, over  
5           4,000 direct legal advice is given to  
6           clients and a lot of clients that are coming  
7           into the judges courts for evictions is  
8           tremendous advice. We tell them what to do,  
9           we tell them what their rights are and they  
10          tell them like you have to get out of the  
11          Sheriff will try to you get you some more  
12          dates or the thing is wrong, but we're able  
13          to do what the local judges can't do and on  
14          the telephone. We can't get down to Green,  
15          New York, we can't put a lawyer over in  
16          Delhi, but we can sure tell them what's  
17          happening.

18                   CHIEF JUDGE LIPPMAN:   How's that  
19                   funded judge?

20                   JUDE HUMPHREYS:   Well it's  
21                   funded, it's funded out of our general  
22                   funding as far as I know and I can't answer  
23                   that question when I try to do that a lawyer  
24                   answers.

25                   CHIEF JUDGE LIPPMAN:   You can

1 use more bodies to manage this?

2 JUDE HUMPHREYS: Oh, man, excuse  
3 me, oh, Your Honor we could use, far more  
4 bodies, we have people that are working  
5 there for \$38,000 a year, lawyers, who are  
6 getting a 7 percent cut and we can't hire  
7 lawyers to fill the slots we have.

8 CHIEF JUDGE LIPPMAN: Lawyers  
9 are part of the working poor in the state.

10 JUDE HUMPHREYS: When they come  
11 to our office they are, but judge,  
12 paralegals and everything in our whole  
13 office, if we could have a stream of funding  
14 as the officer from the M&T Bank said, and  
15 Mr. Schneiderman said the same thing that  
16 would be a vast help, because what happens  
17 is the faucet gets turned off and one of the  
18 providers says we can't come up with any  
19 more money, and so we have to -- we wonder  
20 how are we going to -- what will the fall  
21 out be when the grant expires and it was  
22 renewed.

23 CHIEF JUDGE LIPPMAN: Violence  
24 against woman.

25 JUDE HUMPHREYS: When these

1 questions come up for example on the  
2 immediate stuff like evictions we get in  
3 there. Yesterday or the day before  
4 yesterday, we were involved in one and there  
5 were lawyers in that office one who had been  
6 there twenty years, myself and it was called  
7 in because there was a question, and I won't  
8 get into the legal side of it, but we were  
9 able to resolve it, and get an eviction set  
10 aside really, because we got the lawyer in  
11 there, the judge had already made a ruling,  
12 but we went back, and we were able to open  
13 it up.

14 PRESIDING JUSTICE PETERS:

15 Judge, I read your testimony, and thank you  
16 so much for coming and as I said I read it  
17 and you talked not only about the challenges  
18 that sitting judges fails with pro se  
19 litigant you also talk in your testimony  
20 about the challenges even the Court clerks  
21 face, and would address the problem in  
22 addressing the problem of pro se litigants  
23 wanting to file cases or petitions?

24 JUDE HUMPHREYS: Exactly.

25 PRESIDING JUSTICE PETERS: Do

1           you have any subject on a method of dealing  
2           with that problem?

3                   JUDE HUMPHREYS: Well, it's like  
4           the Town Justice, you get a good lay person  
5           whose committed to help, and you put that  
6           person outside out front, like we did in  
7           Madison County, we know you're going to get  
8           the right results and if you get a person  
9           who is going to go down and look at 14 (a),  
10          and (b) subsection (7), forget about it.  
11          Because a lot of these people, need to know,  
12          all they, they're smart, they don't know the  
13          legal process, they're nervous as cats, and  
14          they the clerk can be aiding him. Look, put  
15          your data birth here all you have to fill in  
16          these five questions and we'll get this to  
17          the judge. And there's an emergency  
18          application for an Order of Protection, so  
19          they can be a tremendous help and they are  
20          part of a system, which is why I put it in  
21          here.

22                   PRESIDING JUSTICE PETERS:

23          Correct.

24                   JUDE HUMPHREYS: And not just the  
25          judges that's the office of Court

1 Administration and the training they're  
2 giving. That I find I don't think I could  
3 have done it in Madison County, when I would  
4 sit as the Family Court judge I would be  
5 sitting on a criminal case with a jury and I  
6 will look at the back door of the room and  
7 in pops the Department of Social Services  
8 attorney with a couple o case workers and I  
9 know they're there and they want to pull a  
10 child, and I'm going to have stretch the  
11 noon hour on that. Now, that's fine, when  
12 they have the attorney coming in, but what  
13 about the person coming in downstairs, who  
14 has been beaten or has been harassed.

15 PRESIDING JUSTICE PETERS: So in  
16 essence it's critically important that the  
17 clerks be receptive to pro se litigants?

18 JUDE HUMPHREYS: They have to  
19 look like we're here to help you. We're not  
20 here to be a road block on some of the  
21 people in our court system as in our life,  
22 are that way.

23 CHIEF JUDGE LIPPMAN: You know  
24 the problem with it too is as we all know  
25 the clerk is also walking a tight rope, as

1 indicated, the judge indicated before, that  
2 the clerk can't give legal advice and yet he  
3 or she has someone in front of them, who  
4 desperately needs help and the question you  
5 raised about it may be usually a non-lawyer  
6 clerk trying to be helpful, and it's just  
7 very difficult. I mean the bottom line is  
8 that, there's two strands of this, for more  
9 public funding, for legal service providers  
10 and to have more volunteer lawyers, willing  
11 to perform pro bono work is so essential to  
12 this overwhelming need. You know, it  
13 differs in all parts of the state but to  
14 give an example, Steve Banks was sitting  
15 here from New York City, in New York City  
16 the legal aid society, turns away 8 of 9  
17 people, who come to them seeking assistance.  
18 And it's not that, it may manifest in a way  
19 in a different way in a rural area and  
20 there's no lawyer to be sent or no help line  
21 sufficient to -- sufficient to provide  
22 assistance needed but, regardless of how it  
23 exactly comes to the floor, the need is so  
24 much greater than the resources that are  
25 available and that's why, we're seeking as

1 the Attorney General framed it before a  
2 systemic permanent funding stream that's for  
3 civil legal services that's what I'm trying  
4 to do with this hearing, hearing the two of  
5 you really I think graphically I know you  
6 will separates the problem from a different  
7 side of it, but it really does, we thank you  
8 for being here and coming up, and thanks so  
9 much and it was great to see both of you.

10 JUDE HUMPHREYS: Thank you.

11 Can I make a suggestion.

12 CHIEF JUDGE LIPPMAN: You can.

13 JUDE HUMPHREYS: In response to  
14 Judge Peters question, when somebody is in  
15 there, and that clerk knows they really need  
16 help, but the clerk knows they can't give  
17 legal advise I think there should be an open  
18 line, between the clerk and the judge. I  
19 know some judges don't want to get involved  
20 in that; I didn't mind it. That's within  
21 the court system.

22 CHIEF JUDGE LIPPMAN: That's  
23 something that you don't have a problem  
24 with.

25 JUDE HUMPHREYS: It's not a real

1           probable but something that would help.

2                   CHIEF JUDGE LIPPMAN:    Great.

3           Thank you both.   Okay.   Our next panel is  
4           the statewide partners panel, and we have  
5           Steve Acquario, Executive Director New York  
6           State Association of Counties, Karla  
7           Digirolamo, Chief Executive Officer, New  
8           York State Community Action Association and  
9           Joseph T. Farrell, Director of Training New  
10          York State Coalition Against Sexual Assault.  
11          All I think partners in this effort, and  
12          recognize and see so many of the problems  
13          that confront us.   So, who is going to  
14          start?   Karla you want to sit in the middle?  
15          Do you want to start?   As we indicated feel  
16          free, we have your testimony, most of you  
17          submitted written testimony, tell us what's  
18          on your mind so we can maybe engage you with  
19          some back and forth of what the real problem  
20          is.

21                   MS. DIGIROLAMO:   Thank you very  
22          much.   Thank you very much to chief Judge  
23          Lippman, Judge Peters, Judge Marks and  
24          Mr. Seymour, I really appreciate the  
25          opportunity to testify before you, to talk a

1 little bit about the forms of civil legal  
2 services in New York and particularly, in  
3 the impact on the community that we serve at  
4 the Community Action Association. I am  
5 Director of the Community Action Association  
6 which is a statewide association  
7 representing the network of community action  
8 agencies. The community action agency in  
9 New York as around the country are federally  
10 designated anti-poverty agencies in each  
11 County. They have been in existence for  
12 over 45 years in New York State. In 2011,  
13 as I noted in my testimony we received over  
14 60 million dollars in community services,  
15 block grants money which came into the  
16 community to provide a foundation for  
17 services to low income people. As I know  
18 you're well aware and we've heard throughout  
19 the day, the problems facing poor people in  
20 New York State throughout the country, are  
21 growing worse every moment. Despite good  
22 work done by other networks of community  
23 action agencies in New York and around the  
24 country, poverty remains abundantly high and  
25 devastating to communities in New York

1 State. Over 46 million Americans live in  
2 poverty. And in New York State over 14% of  
3 our residents live in poverty. Of  
4 particular concern is the rate of poverty  
5 among children that children are  
6 particularly hard hit with over 25% of our  
7 children in the state living in poverty and  
8 more than 30% living at 150% of federal  
9 poverty line. Those poverty rates are even  
10 higher in the upstate communities. People  
11 living in poverty presents a daunting array  
12 of challenges, from the need for legal  
13 services to assist to maintain their  
14 housing, to access their legal rights and  
15 entitlements, and to encounter and overcome  
16 the barriers that poverty creates for them  
17 in every day living. Each percent rise of  
18 poverty directly leads to a heightened need  
19 for legal services. People living in  
20 poverty, face foreclosure, evictions they  
21 face credit and bankruptcy needs, they face  
22 homelessness and the rapid need for  
23 rehousing needs and community support, debt  
24 collection, unemployment.

25 CHIEF JUDGE LIPPMAN: Hold on,

1           and I correct and do I understand that,  
2           people in poverty or people of modest means  
3           these -- see these types of issues much more  
4           than the rest of the population?

5                   MS. DIGIROLAMO: Absolutely they  
6           do. I think that the fact of being in  
7           poverty also contributes to this that if you  
8           can't pay your rent you face eviction, when  
9           you can't pay your bills you face debt  
10          collectors, when you can't negotiate your  
11          legal rights, when you don't understand your  
12          -- that you have actually have a right to  
13          housing, that you have a right to receive  
14          assistance it creates this growing mountain  
15          of legal challenges, that then you're even  
16          more overwhelmed in trying to address and  
17          trying to find affordable legal services.  
18          So yes I think that the problem that we see  
19          in the poverty that we have, are the same  
20          legal issues that many of us might face in  
21          difficult time plus a whole mountain of  
22          additional problems is created by the facts  
23          of living in poverty.

24                   PRESIDING JUSTICE PETERS: You  
25          talk about the more forward, is it -- are

1           you describe is those individuals who  
2           previously had full time employment, and  
3           consistent income who are now struggling to  
4           just stay in the home?

5                       MS. DIGIROLAMO:  Yes, I think  
6           what we're seeing now at least in the  
7           community action, and I believe throughout  
8           the state and country is that the -- that  
9           you have those folks who traditionally  
10          thought of poor people, and now you have a  
11          new population of people who have lost their  
12          jobs, who have seen their wages stagnate or  
13          who are facing foreclosure, and financial  
14          challenges, who are now swelling the ranks  
15          of our poor and working poor and creating an  
16          even further challenge to our system  
17          which --

18                      CHIEF JUDGE LIPPMAN:  So what  
19          we're seeing is, that these people who never  
20          did come into Court before, because as we  
21          talked about, the poor are the ones who face  
22          or know -- but it's the ones who face or  
23          mostly new indigents and are frightened and  
24          come to the Court house not really knowing  
25          what you're facing or being able to deal

1 with.

2 MS. DIGIROLAMO: Exactly ad one  
3 of the things that we've learned in doing  
4 poverty work, is that people who have  
5 experience living if you will -- living in  
6 poverty, have experience in the navigating  
7 those systems. Frankly sometimes we in the  
8 system, get frustrated at how good they are  
9 at navigating the system, they have learned  
10 to survive. Those who are the new poor as  
11 the judges have noted have no experience.  
12 They don't understand, how to navigate  
13 through that.

14 CHIEF JUDGE LIPPMAN: How do you  
15 interject with the legal service providers?  
16 How does that work for an entity like yours?  
17 You're around the state is there a very  
18 close relationship with legal service  
19 providers, this work?

20 MS. DIGIROLAMO: We have a very  
21 close and long held relationship with the  
22 legal services entities, such as Legal  
23 Project in the Capital Region and legal aid  
24 societies throughout the state. And many of  
25 our programs have longstanding partnerships

1 with the legal aid providers. And clearly,  
2 as you know better than we do, those legal  
3 aid providers are increasingly unable to met  
4 the needs of the poor.

5 CHIEF JUDGE LIPPMAN: Can you do  
6 your job when they're unable to do theirs?

7 MS. DIGIROLAMO: No, if the  
8 fundamental issue, and we've seen this  
9 happen, someone is facing a foreclosure,  
10 eviction, a garnishee of the wages, any  
11 range of things, they may actually be  
12 legally entitled to remain in their home.  
13 They may have a legal entitlement to defend  
14 against those things, but we can't access  
15 those services without the legal support to  
16 do that. And as you discussed here, we  
17 don't have an attorney at our program. We  
18 have lay people who try to learn everything  
19 they can about what legal services people  
20 are entitled to, about what general services  
21 people are entitled to, but without the  
22 ability to even consult with an attorney  
23 that's what we're hearing in many of our  
24 communities, not only do people not have an  
25 opportunity to have an attorney represent

1           them this Court proceeding, they don't even  
2           have an opportunity to talk to an attorney,  
3           so you have people who are going to defend  
4           an eviction proceeding, who may have a solid  
5           legal defense, but without some legal aid.

6                    CHIEF JUDGE LIPPMAN:     And no  
7           ability to get to it.

8                    MS. DIGIROLAMO:    Even minimal  
9           advice that says you're right, you have a  
10          right to be there, these people are losing  
11          their homes, their livelihood and sometimes  
12          there's children, and again, our program  
13          serve beyond those kinds of victims of  
14          domestic violence, you know, a wide range of  
15          people and the impact of that.

16                   CHIEF JUDGE LIPPMAN:    Thank you.  
17          Let's hear from your colleague here on the  
18          impact -- Steve how does it impact on the  
19          counties and the association of counties  
20          have to do with all of these people falling  
21          off the cliff, and as with Karla's different  
22          groups and you can't help them because they  
23          can't provide legal services.  What do the  
24          counties and what's the impact Steve?

25                   MR. ACQUARIO:    As the

1 representative of the 57 counties and the  
2 City of New York, part of our organization,  
3 we would prefer that as an enforcement  
4 agent, and that's what we do is enforce the  
5 law, that's foreclosures, serve notice the  
6 Sheriff, District Attorney on te side, the  
7 County Attorney on the civil side is often  
8 in Family Court proceeding and we would  
9 prefer to have adequate civil legal defense.

10 CHIEF JUDGE LIPPMAN: Why?

11 MR. ACQUARIO: Because it is  
12 better for the government to make sure  
13 someone gets due process and justice is  
14 given to those that don't understand these  
15 complex systems, whether it's foreclosure,  
16 whether the needs of bankruptcy or needs of  
17 housing, their home and then only to find  
18 out there was something that could have been  
19 done to save that home, and that the  
20 government went through five years of tax  
21 payer funded initiatives, to get a tax  
22 collected to go through all these measures  
23 and all this staff time, it helps the system  
24 work. It helps the law make sure that the  
25 purpose for which they work drafted, and

1           enacted into law serves their purpose to  
2           make sure they're being followed and that's  
3           that kind of process where --

4                    CHIEF JUDGE LIPPMAN:    The  
5           process were you go lieu the time and the  
6           effort and the money.  People are hurt in  
7           the end who may well be able to survive if  
8           they he had representation and all that  
9           doesn't do much good for the economic health  
10          of our counties or state, does it?

11                   MR. ACQUARIO:  No.  And I appear  
12          here today on behalf the counties and  
13          government, they are doing their part and we  
14          have a role and we have responsibilities,  
15          and we are in the middle of an entire  
16          criminal justice system as we are in the  
17          civil justice system as well.  And as human  
18          services providers, Medicaid, human services  
19          the safety net, the backbone of help of  
20          public assistance that what we do, food  
21          stamps, and if individuals are entitled to  
22          these benefits, are entitled to the  
23          benefits, they may not know that they're  
24          entitled to the benefits or they don't know  
25          now to access the system and it's good to

1 make sure they get their benefits whether  
2 we're paying for that or the federal  
3 government or state government is paying for  
4 that. Why? It helps a human being number  
5 one but number (2) it helps the local  
6 economy and state economy which is an  
7 economic return on investment in civil legal  
8 services. It's not just -- just whether  
9 it's paramount but also its economic and it  
10 helps our economy to homes, to families.  
11 And so that's why I chose to come here  
12 today. I was asked by two board members  
13 from the southern tier, Steuben County and  
14 Westchester County, William Ryan a  
15 legislator asked me to appear here today  
16 which is out of character for what we would  
17 normally do in County government.

18 CHIEF JUDGE LIPPMAN: I think  
19 Steve it's important, people don't  
20 understand that this is not just about doing  
21 the right thing, but this the about an  
22 investment that serves our entire state and  
23 the economic health of our state, that again  
24 we I think I mentioned it before that every  
25 dollar invested get \$5 back to our state,

1           it's allowing people lives to fall by the  
2           wayside and be dependant on government for,  
3           their subsistence, and that isn't helping in  
4           this case or their families is, and isn't  
5           helping the kind of robust and vibrant  
6           communities that we would like to see. So I  
7           think it's so very important that, in some  
8           ways as you say it's counterintuitive when  
9           the counties or the banks or the you know  
10          whatever it might be or the housing  
11          authority or the no one benefits when people  
12          are left without legal recourse and without  
13          legal representation. So that's really and  
14          that provides a whole different vantage  
15          point, and Mr. Farrell, where do you fit  
16          into this coalition with sexual assault?  
17          Where does this fit into the whole puzzle?

18                   MR. FARRELL: Good morning and  
19                   first of all I'd like to thank you Judge  
20                   Lippman, Judge Marks and Judge Peters and  
21                   Mr. James for the opportunity to speak to  
22                   you this morning. You have my testimony,  
23                   and the facts and figures there, with regard  
24                   to the cost of a sexual violence across the  
25                   country and what the sexual violence does

1 cost us as a community, and thus as a state  
2 relative to individuals not being able to  
3 access services and the long term effect of  
4 not being able to access services.

5 Approximately 60 percent of sexual assaults  
6 are reported. But if you take a look at the  
7 numbers that I have in the testimony, in a  
8 point in time, rape crisis programs serve  
9 over 27,000 new individuals as opposed to,  
10 excuse me, 19,000 new as opposed to 27  
11 hundred reported, to law agencies. That  
12 being said, victims still seek some form of  
13 justice, and accountability or reparation  
14 and they do so through civil legal systems,  
15 that they access sometimes long after the  
16 Statute of Limitations has expired from the  
17 criminal standpoint even though there are,  
18 that the Statute of Limitations on certain  
19 sex offenses within New York state that's  
20 been changed, and that been very positive.  
21 By an individual who looks to access the  
22 services are most often, disenfranchised and  
23 marginalized and not served in the  
24 communities and that are -- victimized  
25 because of their stature, within the

1 community. They can't access these services  
2 because they don't have the resources to  
3 look to programs such the legal project that  
4 we talked about earlier and the civil legal  
5 aid society that was referred to earlier, we  
6 partnered with the legal project in the  
7 capital district in early 2000 on a project  
8 that afforded civil legal representation and  
9 access to systems that they might not have  
10 been able to access prior to engaging the  
11 Legal Project and we would act as a referral  
12 for the 76 or 77 rape crisis programs across  
13 New York State.

14 CHIEF JUDGE LIPPMAN: The Legal  
15 Project which I'm very familiar with, does a  
16 terrific job. So what about when you don't  
17 have a Legal Aid Society or whatever that  
18 group might be that fills this gap, what  
19 happens to the people? What's the impact on  
20 our society?

21 MR. FARRELL: Someone that could  
22 not access the program, rape crisis and may  
23 not decide to come forward until two or  
24 three after an assault, maybe longer,  
25 seeking some form of accountability

1 sometimes some form of justice, the rape  
2 crisis program may not have the ability to  
3 refer to a local level, to a legal project  
4 or a legal aid society, and if they do,  
5 geographic concerns come into play with  
6 regard to the rural areas so they call us,  
7 at the coalition, what can this individual  
8 do, how can we help this person? Have you  
9 talked to you know the Legal Aid Society  
10 have you talked to any resources in the area  
11 and exhausted and they're still unable to  
12 come up with a solution for that individual  
13 . So will turn to the Legal Project, and  
14 without funding --

15 CHIEF JUDGE LIPPMAN: What  
16 happens to the individual if you don't?

17 MR. FARRELL: They now fall into  
18 a situation where they aren't or can't  
19 become whole they are seeking justice or  
20 getting justice and there's no  
21 accountability for what happened to them so  
22 through now unable to work, unemployment  
23 rolls go up, you get into the loss of income  
24 you get into the separation of families  
25 because in a lot of instances it's the

1 partner who has committed the crime.

2 CHIEF JUDGE LIPPMAN: Those  
3 problems fester and lead to tragic  
4 consequences.

5 MR. FARRELL: Also become as we a  
6 burden on the county, a burden on the state  
7 and a burden on the community that the  
8 people are in, and it further emphasizes the  
9 need for legal services civil legal services  
10 not in just a major metropolitan areas where  
11 the problems do they but rurally as was  
12 referred to earlier by the Judge were there  
13 is none.

14 CHIEF JUDGE LIPPMAN: Well, any  
15 questions?

16 MR. JAMES: Mr. Farrell, you  
17 both work in collaboration in the legal  
18 services provider referring to, and are you  
19 finding that a great percentage of those  
20 individuals are not able to be serviced by  
21 the legal services provider.

22 MR. FARRELL: Yes.

23 MS. DIGIROLAMO: And in my  
24 experience yes not because they're not  
25 willing to do it, but in a majority of the

1 people who seek help and are not able to get  
2 help. There's simply not the resources  
3 available. And throughout the state,  
4 whether it's legal aid, the State or  
5 attorneys that we call, for advice and  
6 assistance, they're very concerned --  
7 they're very, you know, wish they could help  
8 but in reality there's no resource.

9 CHIEF JUDGE LIPPMAN: And this  
10 has gotten worse because of the economic  
11 crisis. Did you see a difference?

12 MR. FARRELL: Yes we do.

13 MR. ACQUARIO: Yes, yes.

14 CHIEF JUDGE LIPPMAN: Okay.  
15 Thank you so much.

16 MR. FARRELL: We appreciate the  
17 opportunity.

18 CHIEF JUDGE LIPPMAN: Coming  
19 from three different points of view, but  
20 arriving at the same point. We appreciate  
21 all of you coming in.

22 Our next panel a client panel is  
23 really kind of on the front lines. I would  
24 ask Sherry DeShane, accompanied by Victoria  
25 Esposito, Shari Chireno, accompanied by

1 Sarah Maida, Heisily Rojas, client of the  
2 Legal -- the Legal Project, accompanied by  
3 Natalie Birch-Higgins and Holly Ovitt,  
4 clients of the Legal Aid Society of New York  
5 accompanied by William Niebel. Are there  
6 chairs for everyone? Okay. What I'd ask  
7 you first is don't be nervous, all I want  
8 you to do is just tell us your story, and  
9 you can read from your statement or tell us,  
10 what happened, and we may, don't be insulted  
11 if -- we may cut in and ask you questions  
12 because we know, that you have got serious  
13 legal problems and we want to get a sense of  
14 how it was dealt with, and how it impacted  
15 on your life. Let me ask, Sherry, first, do  
16 you want to tell us what your story is? You  
17 have Ms. Esposito with you.

18 MS. DESHANE: Yes.

19 My name is -- first of all good  
20 afternoon, good morning Judge Lippman, its  
21 still morning, and members of the panel, my  
22 name is Sherry DeShane, and I live in  
23 Massena, New York and I live alone. I was  
24 originally referred to Legal Aid, by either  
25 the renewal house or mental health, for my

1 divorce, and -- in 2004 and 2005. I had  
2 worked off and on as a health care aid when  
3 my husband allowed me to, and I liked it. I  
4 would have kept working if I had been able  
5 to but because of my anxiety and depression  
6 and PTSD I had to stop being able to work at  
7 about that same time. I started getting  
8 SSI. After the divorce, I got half of my  
9 ex-husband's 401K, I reported that money to  
10 the Social Security, right away as I knew I  
11 had to. Since my husband had been very  
12 controlling, and had not allowed me to work  
13 much, I had no savings, and no prospects of  
14 a pension. I had hoped to keep my money for  
15 the future. I heard nothing from Social  
16 Security for years and then my payments  
17 stopped because of the money I had received  
18 from my divorce. I had to go on public  
19 assistance. I felt terrible having to ask  
20 for that and I felt like I had hit the  
21 bottom. I was told that once I show I had  
22 spent all the money from my divorce, I would  
23 start getting my SSI again. I had nothing  
24 and I spent the money that I had thought  
25 would be my savings, on a vehicle, a bed,

1 furniture and basics for my home. After I  
2 spent the money, I went back to Social  
3 Security to get my payments back, they told  
4 me that I would have reapply and start the  
5 process all over again. I filed a new  
6 application, and I thought all I had to do  
7 was file the application, and I would get my  
8 SSI back. Instead my application was denied  
9 because they said I wasn't disabled and they  
10 never asked my doctor what he thought and my  
11 depression got worse after that. I couldn't  
12 stand being torn down again and it felt as  
13 though my dignity had been taken away. I  
14 couldn't leave my house or talk to anyone.  
15 I talked to my counselor about getting legal  
16 aid help again -- legal aid for help. Just  
17 knowing that I had someone who would listen  
18 to me was a help. Once I had a lawyer  
19 Victoria Esposito I felt more at ease with  
20 my case and Legal Aid made he feel like they  
21 would take care of my case. I was more  
22 secure knowing I didn't need to worry about  
23 my case by myself. I will always have my  
24 depression and anxiety, but knowing that I  
25 have someone helping me made me feel better

1           that I could live in the house and I could  
2           get out of bed. We appealed the decision  
3           and went through the hearing. Victoria  
4           explained what we were here to do.

5                       Even though it was two so hard  
6           for me to sit in the room and have to  
7           explain to someone what my problems were. I  
8           was really nervous and shaky, I didn't want  
9           to talk about my problems, but when I had no  
10          choice -- I even had a panic attack at the  
11          hearing and had to step out of the room. It  
12          still gives me chills thinking about it now.  
13          I got my SSI back after the hearing, because  
14          I -- I am disabled. Unfortunately, Social  
15          Security said I have been over paid, and  
16          when I had my ex-husband's 401K, and they  
17          threatened to take the money from the  
18          retroactive award that I was entitled to  
19          because of the long delay and re-qualify for  
20          SSI, I can believe they wanted the money  
21          back. Now I felt they owed me for the year  
22          I had lost my SSI. I had no lawyer, I was  
23          very upset and Victoria took all of my  
24          receipts and added them up and we filed an  
25          affidavit, and I explained that I had

1 reported the money, and then spent it on the  
2 necessities that I had bought, and the  
3 receipts and done everything they have told  
4 me to do and after a little while I was told  
5 that I did not have to pay the money back  
6 and that the overpayment was waived. With  
7 my back payments I was able to replace my  
8 car, which had been totaled and without it I  
9 had to pay for a taxi to get to the doctor  
10 appointments and to get to the store and to  
11 shop. If I had not had a legal aid lawyer,  
12 I would still be on public assistance. I  
13 would not have a car and I would have  
14 nothing. I have things now that are mine.  
15 I can go into my apartment, and feel the  
16 comfort and security of a home. I can pay  
17 my bills, my food and medicine and gas for  
18 my car and I have a little bit of money left  
19 over and I am more independent than I was on  
20 public assistance. I would not have been  
21 able to go through the hearing process or to  
22 get a waiver for the help. People in my  
23 position don't know anything about Social  
24 Security, or SSI, and we need legal aid to  
25 see us through otherwise I would be

1 clueless.

2 CHIEF JUDGE LIPPMAN: Sherry so  
3 what you say, having a legal aid lawyer,  
4 dramatically effected your life?

5 MS. DESHANE: Yes.

6 CHIEF JUDGE LIPPMAN: It must be  
7 -- it's good to be able to turn to with a  
8 legal problem?

9 MS. DESHANE: Yes, definitely.

10 CHIEF JUDGE LIPPMAN: And  
11 without it you would have no idea how to  
12 deal with Social Security.

13 MS. DESHANE: Absolutely and when  
14 you're not --

15 CHIEF JUDGE LIPPMAN: It's very  
16 gratifying to hear you talk about your  
17 disability and how a lawyer enhances so much  
18 in your life. Thank you so much.

19 MS. DESHANE: You're welcome.

20 PRESIDING JUSTICE PETERS: It  
21 seems to me, that from your testimony, that  
22 not only did you get back the funds that you  
23 deserved but you feel empowered and  
24 apparently you are sitting here very calm,  
25 with us giving testimony where it would seem

1 historically you would not have an ability  
2 to be so calm, and secure, and to appear  
3 before people like us; have I got that  
4 right?

5 MS. DESHANE: Yes.

6 PRESIDING JUSTICE PETERS:

7 Congratulations.

8 MS. DESHANE: Thank you.

9 THE COURT: Shari, do you want to  
10 tell us about your story.

11 MS. CHIRENO: Good afternoon. My  
12 name is Shari Chireno, and I'm a former  
13 client of the Legal Aid Services of the  
14 Hudson Valley. The story that I'm about to  
15 tell you began with my family and that we  
16 had the misfortune of renting a home in a  
17 neighborhood that was devastated by the  
18 floods from the Hurricane Irene. Our home  
19 was flooded and we lost all of our  
20 belongings, when the flooding consumed  
21 several feet of our basement and many of our  
22 belongings were there and when we contacted  
23 our landlord to see what we -- how we --  
24 what we can expect with all the water damage  
25 and for it to be repaired. We got no

1 response. We were watching efforts taking  
2 place at other homes on our street and we  
3 had the added misfortune of coping with my  
4 brain tumor that had metastasized because of  
5 my breast cancer. We knew that the mold  
6 would be particularly dangerous to me,  
7 because of my surgery went through my nose,  
8 and the exposure to all the environmental  
9 hazards that I would breathe were through my  
10 nose. At this time, I didn't know the legal  
11 services of Hudson Valley and I didn't know  
12 that I could to educate myself, with my  
13 rights as a tenant. We waited for the  
14 landlord to do what he is supposed to do, to  
15 make our home safe for me, my husband and  
16 our two children, when I ultimately learned  
17 from internet research that we have the  
18 right to withhold rent to live until the  
19 necessary repairs are made. When my doctor  
20 told me the mold in the apartment was  
21 potentially dangerous to anyone exposed to  
22 it, obviously I was concerned for not only  
23 the safety of my children, but the risk to  
24 me was particularly acute at this time. We  
25 made the decision to withdraw our presence,

1           and because we did not know what else to do  
2           my husband, who is the only one employed,  
3           and who was already having his wage  
4           garnished because of medical bills. We also  
5           lived with the knowledge that my headaches  
6           would continue --

7                        CHIEF JUDGE LIPPMAN:    Take your  
8           time Shari.

9                        MS. CHIRENO:    And that we would  
10          face other judgements because of the --  
11          resulting from the continued need for my  
12          medical care.

13                      A short time after contacting our  
14          landlord, we are received eviction papers.  
15          We had to appear in a Ellenville Justice  
16          Court as a result of our decision to  
17          withhold our rent. Still unaware of the  
18          services that could be provided by the Legal  
19          Services of Hudson Valley, we proceeded  
20          to -- we prepared to go to Court, without  
21          representation. Well I felt confident that  
22          I knew my rights, I knew nothing of the  
23          Court procedures, and how to effectively  
24          advocate for myself and my family. I went  
25          to Court on the date listed and on the front

1 of the petition and despite my best efforts  
2 my landlord got a warrant of eviction, with  
3 no stay, meaning the Sheriff's office could  
4 ask us to leave any time, with the three  
5 days notice. Also we had a money judgment  
6 awarded against us for the rent, from the  
7 months we had withheld. I was shocked and  
8 saddened by the result of our day in Court  
9 and tried to get more information, about  
10 what recourse we may have and the reality of  
11 our situation is we could have been homeless  
12 in three days. My daughter was a week from  
13 graduation and my children endured so much,  
14 that not only from my health, but being told  
15 that we had to leave our home. I contacted  
16 the two attorneys immediately from legal  
17 services and they immediately started  
18 working to help us. They began to file  
19 emergency applications, called an Order to  
20 Show Cause, when the Judge in Ellenville was  
21 unavailable to read the papers we took the  
22 papers to Ulster County Court and the Judge  
23 signed the Order which is called a Stay, and  
24 we were temporarily prevented -- the  
25 landlord from having us thrown out of our

1 home and it gave us a Court date and to  
2 appear in Ellenville to be heard regarding  
3 the assertions contained in the Order to  
4 Show Cause. Legal Services, Sarah, appeared  
5 in Court with me and she was successful in  
6 getting the Court to vacate the warrant and  
7 a money judgment, that had been entered  
8 against us and the judgment was even  
9 dismissed on the landlord's petition. While  
10 this was a temporary reprieve we new that  
11 the landlord would re file if we remained in  
12 the apartment so but we had time to find a  
13 safe place to live and the money judgment  
14 against us would be vacated. It also meant  
15 that if we went back to Court the attorneys  
16 from Legal Services of the Hudson Valley  
17 would be there to advocate for repairs to  
18 make the apartment habitable. Thankfully we  
19 were able to find a new home and our  
20 situation is better than it was and I'm  
21 grateful, so very grateful for the Legal  
22 Services of the Hudson Valley, they provided  
23 to me, and my family. I'm grateful to the  
24 Office of the Court Administration for  
25 providing the funds to make it possible.

1           And I just want to say, too, my husband goes  
2           to work every day, my husband is a federal  
3           employee and we were in a position then, we  
4           don't meet the qualification of the poor,  
5           yet without the services, I couldn't afford  
6           an attorney.

7                    CHIEF JUDGE LIPPMAN:     So what  
8           you're saying, what you're saying is that  
9           this isn't necessarily people who have no  
10          resources whatsoever, this is average people  
11          trying to go about life and yet when you're  
12          confronted with a life transforming legal  
13          crisis you need help and you can't -- you  
14          don't have the resources.

15                   MS. CHIRENO:     Not just resources,  
16          you have to already figure the situation  
17          that you're in, and you're already robbing  
18          Peter to pay Paul.    So, at that time, I'm as  
19          I said I have a doctor and the doctor said I  
20          just can't work at this time.

21                   CHIEF JUDGE LIPPMAN:     It's so  
22          instructive to see that people, you know,  
23          that the people get legal services, don't  
24          necessarily have this -- are in a position  
25          and are people -- people with jobs, they are

1           assisted, that not all the cases --

2                   MS. CHIRENO:  No and I think  
3           there's the category that's not on the poor  
4           put people in the middle class -- people who  
5           go to work every day and do the right thing,  
6           and they just get one paycheck behind and in  
7           my situation, all it took was a storm and we  
8           had to evacuate from our home and you come  
9           back and you've lost everything.  And how do  
10          you recoup?

11                   CHIEF JUDGE LIPPMAN:  And  
12          dealing without.

13                   MS. CHIRENO:  I couldn't have  
14          done it and we had -- I had used all of my  
15          husband's retirement money for medical  
16          needs.  So, without them, I would have been  
17          ready to take our children and go to a  
18          homeless shelter.

19                   CHIEF JUDGE LIPPMAN:  Thank you  
20          for telling us your story and it really  
21          graphically illustrates the good done for  
22          human beings which find themselves by  
23          circumstances in a difficult situation.

24                   MS. CHIRENO:  Not only that but,  
25          they have give, a -- a feeling that there's

1           somebody that really wants to help you for  
2           the right reason. And they give you that  
3           dignity back. Especially when you go to  
4           Court, without an attorney, and they  
5           basically belittle you that, you just didn't  
6           want to do something, and what are you going  
7           to do to about that. It moral principle,  
8           and without somebody giving you the respect  
9           as a human being, and it makes a difference,  
10          and I when we talk to Sarah the first time  
11          she was going to be out of the office, but  
12          she said come over within an hour, we are  
13          leaving there with a piece of paper that  
14          said I was not hot going to have to move  
15          overnight.

16                   CHIEF JUDGE LIPPMAN: Thank you  
17                   for telling us your story and we appreciate  
18                   your coming in.

19                   MS. CHIRENO: I appreciate your  
20                   hearing me.

21                   I appreciate so much, that the  
22                   stuff that's out there is available to  
23                   people like me, and I hope that you continue  
24                   funding it because being the way the economy  
25                   is going and you see people working winding

1 up in the same situation. I've never been a  
2 court of law in my life and I could only  
3 imagine the terror of somebody else who  
4 didn't have someone and what were you going  
5 to do.

6 CHIEF JUDGE LIPPMAN: We'll keep  
7 trying, that I can tell you.

8 MS. CHIRENO: Thank you.

9 THE COURT: Heisily Rojas?

10 MS. BIRCH-HIGGINS: (INTERPRETER)  
11 First I'd like to say hello and thank you.

12 THE COURT: Why don't you move to  
13 mic closer to the two of you if you can?

14 MS. BIRCH-HIGGINS: I want to  
15 tell you a little bit about what happened to  
16 me in my life. And the life of my children.  
17 I came to this country from Costa Rica. We  
18 came here and my husband was already here so  
19 he had an attorney for immigration, and all  
20 the paperwork for that. We came here  
21 legally and my ex-husband said that he had  
22 an attorney to do all of her paperwork for  
23 immigration. So he said that he needed  
24 money to help pay for the attorney, for all  
25 of the legal papers so I started to work to

1 to be able to help him financially. So some  
2 time passed and before we realized it that  
3 he received his documents and his work  
4 permit but just for himself. Not for anyone  
5 else. So we believe we can continue to live  
6 together, but then after some time he wanted  
7 to send me back to Costa Rica with my  
8 children. My children came here when they  
9 were very small. My children didn't want to  
10 go home and they said this is my country and  
11 I love this place. We continued living  
12 together but the arguments and the abuse in  
13 the household continued.

14 It's very difficult to explain  
15 the story because there are so many things.  
16 He tried to abuse my daughters, sexually.  
17 An example daughter and my little girl. So,  
18 the day that I came home from work and I saw  
19 with my own eyes, what he was doing to my  
20 little girl only two years and 7 months old.  
21 And that's the moment that I began to get  
22 strength you can say that, from something  
23 terrible that's when I was able to get the  
24 strength to move forward and for me and my  
25 children. So, we called the police, that

1 was the first thing and the they came and  
2 took my husband from the home. And thank  
3 God that since that moment he's never come  
4 back to my home. I tried to move forward  
5 with my children the best I could. But it  
6 was very difficult because I was not married  
7 legally. I couldn't ask for help from DSS  
8 or Medicaid or any place. It was very  
9 difficult for me to continue. So one of  
10 these days my ex-husband wanted to ask for  
11 the legal papers for just my older son,  
12 because I have three daughters and one son.  
13 He only wanted to ask for his son. So, I  
14 accepted for the good of my son, and we met  
15 with an immigration attorney. That's where  
16 I met the immigration attorney Steven  
17 Lawrence. We had our first meeting. And  
18 after that first meeting, the attorney  
19 Lawrence, Steve, contacted me saying he  
20 wanted a meeting alone with me. So I said  
21 yes and we had our first meeting with Steven  
22 Lawrence. And so, when I met with him and  
23 luckily he spoke Spanish so he could tell me  
24 and I can tell him my story in Spanish and a  
25 when he found out what he wanted he wanted

1 to send me to the Empire Justice Center.  
2 That's when I came in contact with the  
3 attorney. He's an immigration attorney who  
4 I have a lot of -- I really care for him.  
5 And I thank him. Thanks to him and his  
6 program as we start to move forward, me and  
7 my children. And thanks to him and his good  
8 job they do for me and my children to stay  
9 legal -- legally in the country. And when I  
10 was with -- when I wanted to get a divorce.  
11 My answer was yes and he sent me to the  
12 Legal Project. And that's how I heard of  
13 the Legal Project and Natalie and Karla, and  
14 other friends. I'm very thankful for the  
15 help and the programs that offer help in  
16 this country. It's admirable having come  
17 from another country me and my children are  
18 and we have -- we can get the help from so  
19 many people and so many friends. The Legal  
20 Project helped me with my divorce and that I  
21 have at the moment. I am divorced now. But  
22 there's something more -- more than to me  
23 that I would like to point out at this  
24 moment. And that's because of my youngest  
25 daughter. And I would like to point out

1           that with the divorce documents, that it's  
2           so important to me that I have custody full  
3           custody of my youngest daughter. I'm  
4           thankful to the Legal Project and I feel  
5           that my youngest daughter, being she is so  
6           young she's safe now. You know that the  
7           hearing the schools require documents, so  
8           that certain people cannot pick-up this  
9           children from school, especially fathers.  
10          And parents. The document that I have  
11          that's signed by the Schenectady Court, says  
12          that he cannot pick my daughter up from  
13          school that is something very valuable to  
14          me. He can't come close to her. This a  
15          something that the Legal Project has done  
16          for me and my family and I'm very grateful.  
17          The divorce was very important, but it was  
18          also very important that my daughter is  
19          safe. These programs like Legal Project  
20          that are accessible to those of us that  
21          don't have the means to pay for them for  
22          legal services. I know that you know how  
23          important these programs are. But I want to  
24          come here and talk about the things that  
25          have happened in my life and how important

1           these programs are. Now today, we live  
2           better. My children are very good, they're  
3           excellent children. They continue to study  
4           they will get their careers. And even  
5           though what we've lived through this and it  
6           will effect our lives forever, we keep  
7           fighting to be better every day. Without  
8           forgetting then and being thankful with our  
9           hearts to everyone that's helped us, we're  
10          thankful and to God and to everyone who is  
11          in that -- that higher position, to help us,  
12          that God bless them and so they can continue  
13          to help us.

14                   CHIEF JUDGE LIPPMAN: Thank you.  
15          Thank you for that beautiful statement and  
16          we can see that -- that your life has been  
17          touched by being able to have help from the  
18          Legal Project, and from the other legal  
19          services that you received, and this is  
20          exactly the story that we want everyone to  
21          understand. As to how legal services, for  
22          those who can afford it, can't afford it  
23          really effect their lives and gives them a  
24          new life. And thank you so much for coming  
25          in. Okay. Holly Ovitt, accompanied by

1 William Niebel. Thank you very much for  
2 coming here today, for such an important  
3 cause.

4 MS. OVITT: And it's very quite  
5 an honor for me. My name is Holly Ovitt and  
6 I am a single mom, I have two boys, they're  
7 8 and 11 years old Dylan and Payne. I work  
8 as a rehabilitation specialist at the  
9 Washington County ARC. I assist mentally  
10 and physically disabled individuals to more  
11 enrich their lives. And I help with their  
12 daily tasks. Earlier this year I had a  
13 legal issue arise in my life that required  
14 professional help. I couldn't afford a  
15 lawyer, so I called Legal Aid Society of New  
16 York and I was referred to them by friends,  
17 I have a unique situation, and I wasn't  
18 exactly sure what my rights were. I needed  
19 expert advice. On my first call I spoke to  
20 a couple of different people, and they  
21 graciously listened to my predicament and  
22 referred me to the most appropriate lawyer  
23 which was William. I was being evicted  
24 along with my two boys from our home of ten  
25 years, and I have never been in that

1 situation before. And Mr. Neibel guided me  
2 through the whole legal process. He  
3 explained to me the problems with my  
4 landlord's case, my legal defenses, my  
5 rights, and the process that my landlord  
6 needed to go through in order to -- to  
7 proceed with the eviction. He told me what  
8 the landlord was -- what he was trying to  
9 do, when he was evicting me for nonpayment  
10 of a new rental amount, that I had not  
11 agreed to. I was originally paying \$400 a  
12 month and he upped it to \$750, and I thought  
13 that was an unreasonable increase. Instead  
14 since I didn't agree to pay, the landlord  
15 give me one month notice to terminate at  
16 that time. When I was finally served with  
17 Court papers for eviction, I was given a  
18 very short time, about two weeks to leave  
19 the premises. I lived there for ten years.  
20 It's not a lot of time. My lawyer used my  
21 defense to fight so that I would be able to  
22 remain in the home, for the remainder of the  
23 school year. Which was very important to  
24 me, had he not done that my kids would have  
25 been uprooted and probably would have had to

1 change schools with just a couple of months  
2 left to the school year. My older son has  
3 autism and this would have been especially  
4 devastating to him. I also attend classes  
5 as ACC and am working toward an accounting  
6 degree. I'm a single mother so of course  
7 money was another important issue, and he  
8 helped me negotiate a reasonable rental  
9 payment that was far below the landlord's  
10 requested amount for the months that we  
11 continued to live there, which saved me  
12 hundreds of dollars, and the Legal Aid  
13 Society, helped me with that money and I was  
14 able to turn around and use that as a  
15 deposit on a new apartment. There's also a  
16 huge relief to have a third party,  
17 communicate with my landlord since he was my  
18 ex-fiancee and the father of my two  
19 children. Mr. Niebel spoke on my behalf and  
20 shielded me from unwanted intimidation. It  
21 was uncomfortable to say the least. When I  
22 was served legal documents it was very scary  
23 and I -- I didn't have the knowledge of the  
24 legal system to comfort and to handle my  
25 case or fully understand exactly what steps

1 I should take and again what my rights were,  
2 because of the Legal Aid Society's help, the  
3 helped me and my children and I had a very  
4 favorable outcome to the case. I was able  
5 to save money and they were able to stay to  
6 finish out the school year. I didn't have  
7 to be in direct contact with my landlord.  
8 Legal Aid Society was hugely beneficial to  
9 me and I really hope it continues to be  
10 funded as a resource for individuals faced  
11 with difficult legal situations, such as  
12 mine.

13 CHIEF JUDGE LIPPMAN: Well thank  
14 you. That's another example of why legal  
15 services is really a lifesaver in so many  
16 ways.

17 MS. OVITT: Yes.

18 CHIEF JUDGE LIPPMAN: I assume  
19 without their help, you just wouldn't have  
20 been able to deal with that?

21 MS. OVITT: Well my situation  
22 was unique, but I was part of the process in  
23 purchasing the house, we did it together,  
24 and then throughout the course of our  
25 relationship we split up, I remained in the

1 house, so I felt like entitled to it and  
2 when I really had no legal -- right to it,  
3 essentially.

4 CHIEF JUDGE LIPPMAN: And it's  
5 so much the case with intimate partners, and  
6 it gets very complicated and --

7 MS. OVITT: There was a lot of  
8 emotion involved and he was able to steer me  
9 toward the legal aspect and what I could and  
10 could not do, and he made everything good.

11 CHIEF JUDGE LIPPMAN: Well thank  
12 you for all your stories as I think they all  
13 graphically illustrate what this is all  
14 about and what we are trying to do and I  
15 think that your stories really cap off our  
16 day in that we heard from the Chief law  
17 enforcement officer of the State and the  
18 banking industry, and the judicial  
19 community, and some of the different  
20 entities that try and help people who have  
21 limited resources, and in part in other  
22 words to try and deal with the issues and no  
23 one tells the story better than you and  
24 we're going to -- and the purpose of the  
25 hearing will be to go back and figure out

1           when the Attorney General talks about the  
2           justice gap and the need that you and so  
3           many others have in our state and yet, the  
4           limited amount of financial resources that  
5           we have, and what we will try and do with  
6           the task force members, and some of them are  
7           here today, Barbara Finkelstein, Fern  
8           Fisher, Lillian Loy of local fame, and Mary  
9           Moan the counsel to the task force, have all  
10          done a terrific job of setting up the  
11          hearings for all of us here so we can figure  
12          out, what moneys we need to ask for, to  
13          provide the resources that you need in the  
14          situations like all of you are in. The help  
15          that you're entitled to, and we want to make  
16          sure you get it. I want to thank everyone  
17          for being here, Justice Peters and Seymour  
18          James the President of the State Bar and  
19          Judge Marks, and we will take all of your  
20          testimony, and we have three more hearings  
21          to go and take a good look and talk with the  
22          task force and see what we can do to  
23          continue this fight. And this really is a  
24          fight to make our partners in government,  
25          and the public understand, the dire need,

1           for assistance and what it means to real  
2           human beings with real problems, and do  
3           everything within our power to ensure that  
4           the resources and there -- that this issue  
5           is a priority in our State. It's as  
6           important as housing and education and  
7           medical care, that legal services is so  
8           important, and such a vital part of human  
9           being lives. So, we thank everyone for  
10          coming and everyone who testified and thanks  
11          especially this last panel you all are  
12          really are terrific and so appreciate your  
13          laying out your personal issues, which we  
14          know are not so easy to tell in public, but  
15          it does graphically illustrate the problem.

16                   PRESIDING JUSTICE PETERS: Thank  
17           you to the lawyers for your dedication and  
18           we know that you don't make a great deal of  
19           money for doing that job and we are so very  
20           grateful.

1 CHIEF JUDGE LIPPMAN: Without  
2 question. So this hearing is adjourned.  
3 Thank you all.

4  
5 (Whereupon, the proceedings  
6 concluded in the above-entitled matter).

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

I, CYNTHIA A. WEST, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby CERTIFY that the foregoing record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of the same, to the best of my ability and belief.

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Cynthia A. West

Dated: September 28, 2012