

1 STATE OF NEW YORK  
2 COUNTY OF ALBANY

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

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9 PROCEEDINGS held in the above-entitled  
10 matter on the 17th day of September, 2013,  
11 at 10:00 a.m. at the Court of Appeals,  
12 Eagle Street, Albany, New York.

13  
14 BEFORE: HON. JONATHAN LIPPMAN, Chief Justice  
15 of the State of New York

16  
17 HON. A. GAIL PRUDENTI  
18 Chief Administrative Judge

19 HON. KAREN K. PETERS  
20 Presiding Justice, Appellate Division,  
Third Department

21 DAVID M. SCHRAVER  
22 President, New York State Bar Association

23  
24  
25 Reported by: Colleen B. Neal

1 CHIEF JUSTICE LIPPMAN: Good morning. It's a  
2 delight to see all of you. Before we have our first  
3 witness testify let me just give you a little background.  
4 This is the 2013 Hearing on Civil Legal Services. As you  
5 know, these hearings are under the auspices of the  
6 leadership of the judiciary and the profession in this  
7 state.

8 I have with me Karen Peters, the Presiding  
9 Justice of the Third Department; Chief Administrative  
10 Judge A. Gail Prudenti, on my left; and all the way to the  
11 right is David Schraver, who is the President of the New  
12 York State Bar Association.

13 The reason why we have the leadership of our  
14 court system and the profession preside over these  
15 hearings is because they are essential to the cause of  
16 equal justice in our state. There is a crisis in this  
17 country in relation to civil legal services for the poor  
18 and these hearings are designed to quantify what that  
19 crisis is here in New York and then proceed from there a  
20 process that I will explain to you.

21 The hearings were put together in large measure  
22 by the Task Force to Expand Civil Legal Services in our  
23 state. Our chair is here, Helaine Barnette. Where are  
24 you, Helaine? Good to see you. And you've done such a  
25 terrific job. And I believe from the Task Force Steve

1 Banks is here, Camille Enders, Anne Erickson. Fern  
2 Fisher? No. Okay. Denise Kronstadt? No. And Lillian  
3 Loyd. I saw her, I know Lillian. Thank you all.

4 Really the Task Force has done wonderful work  
5 and we're so pleased that you can be with us today. I  
6 think around the country our access to justice efforts are  
7 such a large measure of the work of the Task Force.

8 Let me also say that what this is all about is  
9 not just a crisis in terms of representation for  
10 defendants who have a particular lawsuit -- let me also  
11 say that I would be very neglectful if I didn't mention  
12 Judge Victoria Graffeo, my colleague, who is all the way  
13 in the back, it's hard to find her, but I see her there.  
14 And Judge Graffeo has been the co-chair of our advisory  
15 committee on the 50-hour pro bono rule.

16 The lawyers and Judge Graffeo are also heading a  
17 group on in-house pro bono work and in so many other areas  
18 and done just a spectacular job in the cause of equal  
19 justice in our state and on behalf of promoting civil  
20 legal services.

21 Let me sort of summarize what's been going on;  
22 that people fighting for the necessities of life, whether  
23 it be a roof over their head, their physical well-being,  
24 their livelihoods, the well-being of their families,  
25 fighting for the basic essentials of life, cannot get

1 legal representation in our state and in our country. At  
2 best we are meeting 20 percent of their needs.

3 And if you look at an organization as well-known  
4 and spectacular as The Legal Aid Society in New York City,  
5 you can see Banks there, they turn away eight of nine  
6 people who come to them in search of legal representation.  
7 So this is a terrible situation, and a bad economy makes  
8 it worse.

9 And what's happening on the civil side of our  
10 courts is that -- now on the criminal side we all know we  
11 recently celebrated the victory battle of Gideon versus  
12 Wainwright, which ensures that people in criminal cases,  
13 defendants, have a Constitutional right to representation.

14 In civil cases, at least now, there is no  
15 constitutional right. That's why people around the  
16 country have been talking about a civil Gideon. And we're  
17 just not there and not close to being there. Again, more  
18 people than not, depending on where you are -- Lillian's  
19 situation is a little different, Anne's a little  
20 different, Steve's a little different, but every place is  
21 the same story, that we cannot accommodate the people who  
22 come seeking representation in matters. This is not  
23 because they tripped over a crack in the sidewalk in front  
24 of the courthouse, these are very essential. Evictions,  
25 foreclosures, domestic violence, consumer credit cases.

1 All the things that really matter.

2 And the judiciary and the profession recognize  
3 our unique role and our unique responsibility in this  
4 role. The bottom line is if we can't have equal justice  
5 in our courthouse, if everyone can't be represented and  
6 have their day in court, then we might as well close the  
7 courthouse doors. There's nothing more important. It has  
8 no meaning without a level playing field.

9 So that's why we're very proud of the template  
10 that we've developed in New York. We're due to a joint  
11 resolution of the Legislature, we hold these hearings  
12 every year. The resolution asks us to inform the  
13 Legislature as to what the needs are in terms of civil  
14 legal services, then we're holding hearings, the Task  
15 Force provides a report, and then we put in the judiciary  
16 budget a request for funds not to completely meet the  
17 need, because there isn't enough money in the world to  
18 completely meet the need, but to close the justice gap  
19 between the resources available and the desperate need.

20 We've been very fortunate over the first three  
21 years of our efforts, where the first year the Legislature  
22 gave us twenty-seven and a half million dollars, the  
23 second year forty million dollars, and last year  
24 fifty-five million dollars for civil legal services in our  
25 state, and we thank the Legislature and the Governor for

1 making that a reality. It is by far the highest amount of  
2 funding for legal services in the country and yet the tip  
3 of the iceberg.

4 So the other part of it where I mention that  
5 there just isn't enough, even in Comptroller DiNapoli's  
6 vast war chest that he has down the street over here,  
7 there just isn't the funding that we need.

8 So there's one other thing that is very  
9 important and that is the volunteer pro bono efforts of  
10 the Bar and we're so thankful to President Schraver and  
11 the State Bar and all of the local Bar Associations for  
12 contributing over two and a half million hours of pro bono  
13 work at least that we know.

14 We just started a reporting system with lawyers  
15 so we can get a sharper idea with their registration the  
16 report on how much pro bono work that they do so we will  
17 know better exactly what we're doing in pro bono and how  
18 that complements the money we're getting from the state.

19 And Judge Graffeo has been instrumental in terms  
20 of our putting together an effective system for the 50  
21 hours of pro bono that we're asking from law students, or  
22 requiring from law students. We have a wonderful program  
23 that we believe is going to be replicated shortly around  
24 the country. California is next and New Jersey we believe  
25 will happen very soon.

1                   We have a program of older lawyers also do pro  
2 bono work, Albany lawyers, Emeritus Program, the State Bar  
3 has so many programs that are so helpful in terms of pro  
4 bono work complementing the money that we get from the  
5 state.

6                   So again, all of this is about everyone gets  
7 access to the courts. That's what we're interested in,  
8 equal justice, a level playing field. And I think it's  
9 fair to say that every society is judged by how it treats  
10 its most vulnerable litigants. And for us too here in New  
11 York, we should be judged by how we treat the most  
12 vulnerable among us. What could be a greater test, a  
13 greater challenge.

14                   So what we're doing today, starting with  
15 Comptroller DiNapoli, is trying to figure out what is the  
16 need so in this year's budget that will come in December  
17 we can quantify that need, put in monies to the  
18 Legislature and hopefully get a good result. We've been  
19 so pleased with where we are so far, but there's so much  
20 more to be done.

21                   So without further ado, I welcome you all to the  
22 hearing which is going to be from 10:00 to 1:00 today. We  
23 have six different panels. The Comptroller is a panel in  
24 and of himself as opposed to the other multiple people in  
25 the panels.

1           But I do want to say that from both a  
2 professional and personal experience I know Comptroller  
3 DiNapoli is one of the most committed and dedicated people  
4 in this state to the cause of justice for everybody in our  
5 state, treating everybody with respect and dignity as a  
6 legislator, as a Comptroller and Re-Comptroller. Tom  
7 DiNapoli I think stands for everything that's good in  
8 public service in this state. It is an honor and a  
9 privilege to have him here.

10           I'm so pleased that in this first hearing this  
11 year, and there's four hearings around the state, it is  
12 appropriate that the lead witness, Comptroller DiNapoli,  
13 is such a wonderful steward of our state finances, and  
14 again someone committed to all the values that we care  
15 about in this state, particularly in the judiciary and the  
16 agenda that we have which is that everyone be treated  
17 equally. And I think that's a hallmark of what  
18 Comptroller DiNapoli stands for.

19           Tom, Mr. Comptroller, thank you so much for  
20 being here and we're delighted and honored by your  
21 presence.

22           HON. DiNAPOLI: Thank you, Chief Judge, you  
23 humble me with your kind words, I thank you for that.  
24 It's a privilege for me to be with you in this beautiful  
25 and historical courtroom where the history of New York has

1           been made and continues to be made. And I appreciate the  
2           opportunity to testify before you.

3                       We submitted written testimony, but I will read  
4           it for the record to make it official. So good morning,  
5           Chief Judge Lippman, Chief Administrative Judge Prudenti,  
6           Presiding Judge Peters, Bar Association President  
7           Schrauer, and the cast who joins us. I'm honored to be  
8           with you today at the Chief Judge's Hearings on Civil  
9           Legal Services in New York.

10                      As the Comptroller of the State of New York, I'm  
11           the Chief Fiscal Officer of the state. My office engages  
12           in continuous oversight of the state budget and is  
13           responsible for auditing the payment, as well as the  
14           results, of money spent.

15                      New York State's enacted budget for state fiscal  
16           year 2013-14 projected to total \$96.4 billion, not  
17           including federally-funded spending. This figure, known  
18           as the State Funds portion of the budget, represents all  
19           state taxes and non-tax revenues that are available for  
20           spending during the fiscal year in areas where federal  
21           funds are not available.

22                      The state continues to face budgetary  
23           challenges. We have seen real progress in recent years,  
24           both in the state's short-term financial position and in  
25           the effort to move toward long-term structural balance.

1 But projected outyear gaps remain significant, at \$1.7  
2 billion in the next fiscal year and \$2.9 billion in each  
3 of the following two years.

4 The very difficult fiscal challenges that we  
5 have confronted during and after the Great Recession have  
6 had negative impacts on virtually every state program,  
7 certainly including the one we're addressing today.  
8 Still, in the midst of the continuing challenges the  
9 current state budget includes increases for many important  
10 programs.

11 Even in tough times we find ways to provide for  
12 essential services. For example, school aid is rising by  
13 5.3 percent on a school-year basis, and Medicaid is rising  
14 by 3.3 percent this fiscal year. These are the two  
15 largest areas of the state budget, and we all agree are  
16 very important. So, too, are civil legal services. Even  
17 in difficult times we can and should find ways to support  
18 this essential program.

19 Traditionally, the primary source of funding for  
20 civil legal services has been the interest on Lawyer  
21 Account Fund. As all of you are well aware, an extended  
22 period of low interest rates, among other factors, has  
23 reduced this funding stream dramatically. Planned  
24 expenditures from the IOLA fund this year are only \$7  
25 million, compared to nearly \$32 million just a few years

1 ago.

2 Chief Judge Lippman has come to the rescue year  
3 after year, this year targeting \$40 million in the  
4 judiciary budget for appropriations for support of civil  
5 legal services and an additional \$15 million for IOLA for  
6 a total of \$55 million.

7 Why it is important to fund civil legal  
8 services? The reality is -- and Chief Judge certainly  
9 framed the discussion partly a few moments ago -- a vast  
10 number of New Yorkers cannot afford a lawyer. And without  
11 a lawyer they cannot adequately navigate legal problems  
12 involving some very fundamental needs we often take for  
13 granted, including housing, family stability and personal  
14 safety in domestic relations, access to health care or  
15 education, or subsistence income and benefits.

16 Who are the people who need lawyers? Well, they  
17 are our neighbors. They're victims of natural disasters  
18 like Superstorm Sandy and Hurricane Irene who are trying  
19 to rebuild their homes. They're veterans, many of whom  
20 are disabled, returning to us from honorable service in  
21 Iraq and Afghanistan, trying to rebuild their lives.  
22 They're workers in urban, suburban and rural communities,  
23 many of whom earn not much more than minimum wage and need  
24 lawyers to represent them in their daily struggles. And  
25 those who are unemployed need lawyers just as much as

1 anyone else.

2 New York has been at the forefront for providing  
3 low-income legal services. Civil legal assistance for the  
4 poor in the United States began in New York City in 1876  
5 with the founding of the predecessor to the Legal Aid  
6 Society of New York. And under your leadership, Judge  
7 Lippman, we remain in the forefront. Since your selection  
8 as Chief Judge you have been tireless in your efforts to  
9 shine a light on the legal needs of lower-income New  
10 Yorkers and to provide them access to quality legal  
11 assistance.

12 While my role as Comptroller does not include  
13 recommending specific levels of expenditures I have the  
14 responsibility to see that the tax payers' dollars are  
15 used cost-effectively. It is said that you often have to  
16 invest money to save money. I support Judge Lippman's  
17 efforts in this spirit, not just because they help lower  
18 income New Yorkers, but because they are in the best  
19 financial interest of the state.

20 The economic consequences to the state of the  
21 lack of civil legal services are significant. According  
22 to the Office of Court Administration the lack of  
23 representation for low and moderate income New Yorkers  
24 places a huge burden on the courts.

25 In 2010 there were 2.3 million unrepresented

1 litigants whose lack of representation slowed judicial  
2 proceedings for all litigants, including businesses that  
3 suffer economic loss every day their legal disputes are  
4 not addressed.

5 In our state Supreme Court the Office of Court  
6 Administration has established standards for timely  
7 disposition of cases, from the initial request for  
8 judicial intervention to disposition. For expedited cases  
9 the standard is 23 months; for standard and complex cases  
10 the standard period is some months longer. Some cases are  
11 resolved more quickly than the standard period, while  
12 others can take months or years longer.

13 One of the hallmarks of a positive business  
14 environment is a judicial system that resolves disputes  
15 without undue delay. To the extent that we can ensure all  
16 litigants appropriate legal representation, we enhance  
17 both the fairness and timeliness of our state court system  
18 for the benefit of all New Yorkers.

19 The lack of appropriate representation is a  
20 particular issue in certain kinds of cases. Statewide, 49  
21 percent of New Yorkers are unrepresented at statutorily  
22 required settlement conferences in foreclosure cases.

23 Representation by counsel is still unavailable  
24 for borrowers in thousands of consumer credit cases filed  
25 in New York City; for too many parents in child support

1 matters in rural, suburban and urban areas; and for the  
2 overwhelming majority of tenants in eviction cases in all  
3 four Judicial Departments.

4 Providing civil legal services can help prevent  
5 the downstream societal and financial impacts that stem  
6 from problems such as domestic violence and homelessness.  
7 For example, representation in domestic violence matters  
8 can cut down on the costs associated with lost work days,  
9 hospitalization, treatment by physicians, emergency room  
10 visits, ambulance and paramedic services, physical  
11 therapy, and mental health treatment.

12 While New York was not hit by the housing market  
13 decline and foreclosure crisis as hard as some other  
14 states were, both the state and the nation continue to  
15 suffer repercussions of that decline and the resulting  
16 foreclosures.

17 Many economists tell us that the lingering  
18 weakness in housing markets is one reason our national  
19 economy is not growing as strongly as we would like.  
20 Representation in foreclosure proceedings ensures that  
21 low-income homeowners have a fair chance at retaining  
22 their homes, thereby stabilizing a still-troubled housing  
23 market.

24 Representation of the custodial parent in child  
25 support proceedings not only allows parent and child to

1 live with food, shelter and dignity, but protects  
2 taxpayers who otherwise would have to pick up the bill.

3 The evidence of the monetary return to the state  
4 of investment in legal services is plentiful. The United  
5 States Department of Commerce estimates that every dollar  
6 brought into the New York economy generates a multiplier  
7 effect of 1.48. Civil legal services help generate  
8 badly-needed SSI and other benefits. When these dollars  
9 come into the state low-income families and individuals  
10 use the money to purchase necessities like food, rent and  
11 clothing. These expenditures in turn support local  
12 businesses at the same time they assist those in need.

13 NERA Economic Consulting analyzed 2011 data  
14 provided by the New York State Interest on Lawyer Account  
15 Fund and estimates that in terms of benefits won the total  
16 flow of funds brought into New York in 2011 alone is \$378  
17 million. Expected future benefits may raise that figure  
18 by many additional millions of dollars.

19 This figure includes federal funds brought into  
20 the state in the form of direct federal benefits for  
21 individual clients, such as SSI, Supplemental Security  
22 Income; SSD, Social Security Disability Insurance;  
23 Medicaid, unemployment compensation, earned income tax  
24 credits and veterans benefits, much of which represents a  
25 return of our fair share of the federal taxes that we pay.

1           Using the Department of Congress multiplier,  
2           NERA concluded that the benefits received in 2011 yielded  
3           an overall positive impact on the state economy of \$561  
4           million. New York is not unique in this respect. Studies  
5           performed on behalf of civil legal services providers in  
6           Massachusetts, Maryland and a number of other states  
7           conclude that such services generate substantial increases  
8           in federal revenue.

9           Since this is clearly a national phenomenon, one  
10          might reasonably ask what is the federal government doing  
11          to expand access to these services? The answer is not  
12          what we would hope for. The Legal Services Corporation is  
13          the single largest funder of civil legal aid for  
14          low-income Americans in the nation. Established in 1974,  
15          LSC operates as an independent nonprofit corporation that  
16          provides grants for high-quality civil legal assistance to  
17          low-income Americans. It distributes more than 90 percent  
18          of its total funding to 134 independent nonprofit legal  
19          aid programs with more than 800 offices. Unfortunately,  
20          LSC grants amount to less than 27 percent of New York's  
21          legal services funding. And the trend is not good.

22          In fiscal year 2011 Congress gave the  
23          Corporation \$378.6 million for basic field grants. In  
24          2012 that decreased to \$322 million. In 2013 it decreased  
25          to \$316 million. For fiscal year 2014 the U.S. Senate

1 proposes increasing the field grants to \$400 million; but  
2 the House of Representatives wants to decrease that to  
3 \$272 million.

4 And what should we do to move forward here in  
5 New York? Well, certainly first and foremost let's  
6 support the Chief Judge in his very important efforts.  
7 And second, also the Chief Judge touched on earlier, let's  
8 continue to find nonmonetary as well as monetary  
9 solutions. And this also has been a Hallmark of Judge  
10 Lippman's tenure.

11 While we cannot achieve our objective with  
12 volunteers alone, tapping into the spirit of volunteerism  
13 is a key component. It not only combines  
14 cost-effectiveness with quality, it demonstrates the  
15 dedication of the legal profession to the furtherance of  
16 justice.

17 Pro bono attorneys are indispensable in the  
18 effort to ensure access to justice for our most vulnerable  
19 and needy residents. My congratulations to the New York  
20 State Bar Association, and its members, for its robust pro  
21 bono response. The Association promotes pro bono  
22 participation through a variety of recruitment and  
23 recognition programs, like the Empire State Counsel  
24 Program, reserved for Association members who, during the  
25 calendar year, contributed 50 hours or more of free legal

1 services.

2 These services are provided directly to persons  
3 of limited financial means. They also go to organizations  
4 whose services are designed primarily to address the legal  
5 and other basic needs of persons of limited financial  
6 means, or to increasingly the availability of legal  
7 services to vulnerable and/or low-income individuals.

8 Our seniors, retired or active attorneys, are  
9 leading the way also. The Unified Court System's Attorney  
10 Emeritus Program works with the organized bar and legal  
11 services programs to place attorneys in good standing, who  
12 are at least 55 years old with a minimum of 10 years  
13 experience, with pro bono opportunities.

14 During the two-year registration period,  
15 Emeritus attorney volunteers commit to serving 60 hours of  
16 unpaid legal assistance under the auspices of a qualified  
17 legal service provider, bar association or court-sponsored  
18 volunteer lawyer program. And you need not have years of  
19 experience to become part of the solution.

20 On September 14th of last year the Court of  
21 Appeals adopted a new rule requiring applicants for  
22 admission to the New York State Bar to perform 50 hours of  
23 pro bono services. What better way could there be not  
24 only to meet the needs of our low-income residents, but  
25 also to start off thousands of legal careers with a

1 built-in sense of the spirit of volunteerism and giving  
2 back, something that may help define the entire careers of  
3 the newest members of the legal profession.

4 In conclusion, I believe we must support  
5 appropriate funding for civil legal services because doing  
6 so is fair and equitable. Our failure to do so would  
7 exacerbate the already-too-large justice gap that exists  
8 between the well-off and the poor. But that is not the  
9 only reason. There is an additional reason that is  
10 especially important from my perspective as Comptroller.  
11 The numbers show an investment in civil legal services is  
12 a smart investment. The payback and benefit, in both  
13 qualitative and quantitative measure is very clear.

14 I appreciate this opportunity to testify before  
15 you. If you have any questions, I'm pleased to respond.

16 CHIEF JUSTICE LIPPMAN: Thank you,  
17 Mr. Comptroller, we really appreciate it. Let me ask you  
18 in the central message that we've been trying to get  
19 across in the last -- certainly this is the fourth year of  
20 trying to do this, is that this really is a question of  
21 improving the financial health of the state, the bottom  
22 line of our state, but it's so hard to get that message  
23 across, in bad times particularly. There's a tendency to  
24 say well that's really a good thing, I understand people  
25 need help, but we have lots of priorities in terms of

1 people needing help and the money is just not there.

2 How do you get across that this is on top of  
3 doing the right thing; which I think everyone wants to do,  
4 particularly those in government. How do you get across  
5 that this really is a dollars-and-cents issue? What we've  
6 tried to do is do some of these studies that really put it  
7 in certainly discreet areas as to what the benefits to the  
8 state are; the classic example which I think is the better  
9 problems that come in. But it's hard. When you're trying  
10 to balance the books we know there are certain  
11 expenditures, but it's hard to quantify that the benefits  
12 to the state are so much greater.

13 HON. DiNAPOLI: You're right, it's very hard.  
14 But I do think given the tough time we continue to  
15 navigate through both from a mental and certainly in  
16 people's personal lives as well. Everyone needs to  
17 understand the need to look at all issues from the  
18 perspective of what's a dollars-and-cents impact. And I  
19 do think the studies that have been out there not only in  
20 New York but detailed studies in other states, but a very  
21 similar kind of research, you know, first of all, as you  
22 point out, in terms of leveraging benefit dollars from the  
23 federal government, the benefit is clear and you can  
24 quantify a great deal of that.

25 And I think part of the message is really the

1 points we hear about so much in New York, and we have for  
2 decades, New York sends a lot of money to Washington and  
3 we never get back our fair share. It's a circumstance  
4 that may be a forever dynamic because we're a wealthier  
5 state so we may never come out fully ahead. But there's  
6 always the concern how can we more effectively leverage  
7 where we have a foot in the door with so many federal  
8 programs.

9 So I think looking at other states and their  
10 studies, they validate the same kind of model, the various  
11 kinds of federal benefits that are out there we will  
12 leverage more dollars. So I think being more consistent  
13 in the message that we're getting something we're really  
14 not entitled to.

15 And although I touched on it, I certainly think  
16 we can spend a great deal more time documenting the  
17 numbers of our veterans that are part of this issue as  
18 well. We talk a great deal about honorable service and we  
19 know that with the recent conflicts people are coming back  
20 very injured and disabled. And everybody talks about the  
21 heros, but in very tangible terms we need to recognize  
22 that if you look at those that are homeless, facing mental  
23 health issues, posttraumatic stress disorder, substance  
24 abuse so on, is very often our veteran population. So  
25 again because the federal government is willing to provide

1 benefits in that area another sense of the priority of  
2 honoring that service and leveraging the dollars becomes a  
3 very, very important one.

4 So I think citing more of the data that's out  
5 there and again validate not only by the New York members  
6 but by other states, but I also think there's the point  
7 that I touched on in testimony is an important one as well  
8 because everybody is going to look at their self-interest,  
9 right; so, anyone who has an interest in a matter before  
10 the court certainly suffers when there's a delay and  
11 certainly from a business perspective we often get  
12 complaints because they're trying to resolve a matter and  
13 can't get a resolution.

14 If the courts are being clogged because of this  
15 unrepresented population and that's jamming up the system,  
16 for lack of a more artful way of saying it, that is a way  
17 in which everybody suffers. So we all strive to have New  
18 York have a better sense about a place to do business and  
19 a more hospitable climate. The efficiency of the courts  
20 is very, very important.

21 So I think making the connection to the ways in  
22 which we all have a say even for those who perhaps say it  
23 may be right but we can't deal with it now because of the  
24 economics. Certainly the numbers in terms of drawing down  
25 benefits are clear in terms of the impacts on the state's

1 economy and revenue of the state and the efficiency of the  
2 courts, how important and essential that is to all  
3 stakeholders in our state. And I think emphasizing those  
4 important points is a way to bring it home that there is a  
5 larger benefit, not just to the individuals and the  
6 families who will be served by these services.

7 CHIEF JUSTICE LIPPMAN: And you mentioned I  
8 think a couple of times the role in terms of the business  
9 community. We've been able to quantify and say that for  
10 every dollar invested six dollars is returned to the  
11 state. But I think what people fail to realize too, and  
12 you said it a number of times in your testimony, is that  
13 the bottom line of individual businesses are really served  
14 by providing legal representation to the poor.

15 We've had people come in sort of  
16 counterintuitive to say well why would a head of a big  
17 corporation care about legal representation to the poor?  
18 But basically they come in say, the head of the biggest  
19 banks or whatever, if you're letting people fall off the  
20 cliffs those people, apropos your testimony, are not in  
21 the communities spending money at the local stores,  
22 putting money into the bank, doing all the things that  
23 make us a thriving community. So we're trying to do both,  
24 to get across to the state this is a wise investment, but  
25 way beyond that it's multiplied through the financial

1 health of the community and all the different business  
2 entities.

3 HON. DiNAPOLI: And certainly people and  
4 families that are in crisis they don't disappear, they  
5 will show up somewhere else if their issues aren't  
6 resolved in a positive way, whether it's the health care  
7 system or social services system, they will show up, and  
8 very often with more critical issues and it will certainly  
9 be much more costly.

10 So having positive resolution on these issues,  
11 giving them positive legal representation hopefully they  
12 will come to a point, with other kinds of assistance  
13 that's out there, where they will no longer be in crisis  
14 in the long run, and that benefits our bottom line  
15 substantially.

16 CHIEF JUSTICE LIPPMAN: Thank you, Comptroller.  
17 Any other questions?

18 HON. PRUDENTI: Can I just ask you one quick  
19 question, please? And Comptroller, I have to take this  
20 opportunity to thank you and to thank other members of  
21 your staff who are just so professional and so helpful  
22 with regard to pointing out to us ways we can do business  
23 better, as well as answering any questions we have with  
24 regard to funding from the state, so I appreciate that.

25 But as I know you are well aware that we are in

1 the midst of preparing our budget going forward and of  
2 course that will be a request that I will speak with the  
3 Chief Judge about with these hearings from Civil Legal  
4 Services. So I just want one question from my view as  
5 Chief Administrative Judge in what I purchase. Can you  
6 tell me the projections for state revenue for this fiscal  
7 year, have we met those projections?

8 HON. DiNAPOLI: Certainly where we're at at this  
9 point in the budget cycle we seem to be on target and  
10 that's a good sign. One of the challenges is that we had  
11 a significant bump-up in revenue ahead of projection  
12 earlier in the year, much of that having to do with the  
13 tax activity because of change on the federal level and of  
14 course the day to pay the taxes, April 15th.

15 So whether or not all of that will hold up  
16 through the balance of this year, through March 31st, we  
17 still have been urging caution. But compared to where we  
18 are at at this point in the fiscal year a few years ago  
19 where we would be dealing with shortfalls and the need for  
20 the Legislature to come back and make their cuts or  
21 slowing down payments or putting off state aid to  
22 localities, we're certainly not in that kind of a crisis  
23 mode.

24 So much of our budget plan is very much tied to  
25 the swing of the overall economy. And as we all can

1 appreciate, more of the indicators are certainly on the  
2 positive side than they've been for a number of years.  
3 We're certainly in a recovery mode statewide, although the  
4 extent of recovery is uneven depending on which part of  
5 the state you live in. But I have to say right now all  
6 things seem to be holding together. That's good news.  
7 But as I indicate, even with the good news of the current  
8 year we still have a budget gap. So the challenge still  
9 for New York is -- and I give credit to the Governor and  
10 the Legislature, they have been successful in the past  
11 three budgets in being more responsible on the front end  
12 in terms of more of a realistic approach on revenue  
13 projections, the budgets have healed together.

14 But because of the expected rising cost in a  
15 number of areas we still see outyear gaps. Are they 10  
16 billion gaps we had recently, no, but there are still gaps  
17 there, so our hope is that we will not only end the budget  
18 year balanced, but hopefully we'll see an arch uptake in  
19 the economic activity of the state that might result in a  
20 decreased projection as far as what the outyear gaps for  
21 the next year and the couple years after that.

22 So it's fair to say so far so good. We're not  
23 out of the woods yet. We're doing our budget now too.  
24 For all of us we have to assume the kind of fiscal  
25 discipline we've all had to exercise over the past few

1 years, that's not going to end any time soon. So it does  
2 become a competition of priorities in where you choose  
3 to -- if you wanted to do an increase where you choose to  
4 make that decision. That's why I pointed out in the early  
5 part of my testimony even during tough times there have  
6 been increases in programs. Certainly when you're talking  
7 about something like education aid, over a 5 percent  
8 increase, you're talking about \$20 million plus, a big  
9 chunk of the budget.

10 So there obviously are programs that state  
11 policy makers are determining to be important enough to  
12 get increase. And obviously in terms of dollar amounts  
13 when we're talking about the civil legal services a small  
14 fraction of some of those big programs have seen some  
15 healthy increases in the context of a very, very tight  
16 budget climate.

17 So what that would suggest is understanding an  
18 overall environment is one of concern and needs to be  
19 conservative in our estimates, but even in tough times  
20 programs that have been deemed to have value have seen  
21 increases. Keep making the case. Keep fighting hard for  
22 this program.

23 HON. PRUDENTI: Thank you, Comptroller.

24 CHIEF JUSTICE LIPPMAN: Thank you, Comptroller  
25 DiNapoli, for your insightful testimony. Puts it into

1 context really of where all of this fits into the bigger  
2 picture of the state economy and the state budget. We're  
3 very happy that you have to contend with that, we have our  
4 own issues to deal with.

5 But thank you for gracing us with your presence  
6 and for your supportive statements. We do feel that this  
7 is such an important point to talk about, prioritizing and  
8 where there needs to be wise investments that on the one  
9 hand are real dollars, but on the other hand in the short  
10 and long run very much contribute to the economic health  
11 of the state. So thank you, it's been a delight to have  
12 you.

13 HON. DiNAPOLI: It's been a privilege to be with  
14 all of you and thank you for your great work.

15 CHIEF JUSTICE LIPPMAN: Thank you, Comptroller.  
16 The next panel is the Dean of Albany Law School Penelope  
17 Andrews, and Denise Gonick, the President and CEO of MVP  
18 Health Care.

19 MS. ANDREWS: Good morning to the panel and  
20 thank you for the opportunity for me to testify on the  
21 role of law schools --

22 CHIEF JUSTICE LIPPMAN: Thank you for coming in  
23 because we need our home team here, Albany Law School.

24 MS. ANDREWS: I'm pleased to be here and I  
25 applaud you and the Task Force for your attention to this

1 critical issue.

2 CHIEF JUSTICE LIPPMAN: Thank you for coming, we  
3 really appreciate it. Go ahead.

4 MS. ANDREWS: You had mentioned in your remarks  
5 that there was certainly a lack of funding. There's  
6 always a lack of funding. And I would like to think that  
7 law schools to some extent close the gap. So what I would  
8 really like to do is talk a little bit about the role of  
9 law schools and then mention some of our programs at  
10 Albany Law School.

11 So let me start just by saying that this issue  
12 is something that I feel personally very passionate about.  
13 I grew up in South Africa where access to the courts is  
14 very limited. And as a student this was something that I  
15 felt -- this was the reason for my being a lawyer.

16 I think that we all agree that law schools, as  
17 significant institutions in our society, have a  
18 responsibility to instill a sense of service and  
19 commitment to justice in our students. And this has been  
20 a tradition of law schools and Albany Law School, I'm  
21 proud to say, has followed this tradition.

22 So let me just outline quickly a few of our  
23 programs. I won't go into all the testimony, I'll just  
24 summarize some of what we're doing at Albany Law School.  
25 Let me first mention the Albany Law Clinic & Justice

1 Center. At the clinic we have a pro bono program, our  
2 faculty and research and scholarship in collaboration with  
3 the community, these are all very important. And the  
4 clinic is at the center of it.

5 As you know, clinical education is an important  
6 part of a law student's training. And every year at  
7 Albany Law School through the clinics one-third of our  
8 students assist hundreds of individuals and families who  
9 might otherwise not have legal presentation. And it is my  
10 commitment to increase the number of students to a hundred  
11 percent of students who are involved in representing  
12 individuals and families.

13 In addition to providing this vital service,  
14 Albany Law students are learning to practice law with  
15 compassion and sensitivity to the needs of their clients.  
16 In this way they are able to represent people who are  
17 often economically and socially marginalized and who  
18 typically lead vastly different lives to those of our  
19 students.

20 Let me just quickly mention the other clinics.  
21 We have the Civil Rights and Disabilities Law Clinic, we  
22 have the Family Violence Litigation Clinic & Immigration  
23 Project, we have a Tax and Transactional Law Clinic, we  
24 have a Health Law Clinic. And then of course there's the  
25 Law Field Placement Program which supplements the clinical

1 work and the clinical program.

2 Even before Chief Judge Lippman announced that  
3 all law students must perform 50 hours of pro bono service  
4 to be admitted to the New York Bar, Albany Law School had  
5 a vibrant student-run, faculty-supported, pro bono  
6 program. We at Albany Law School applaud Judge Lippman's  
7 rule and believe it will be instrumental in creating an  
8 even deeper commitment and passion for pro bono work in  
9 many students as they move through their careers.

10 In response to the rule, Albany Law School  
11 committed its resource to hire a full-time pro bono fellow  
12 who supports our student and faculty in the pro bono  
13 society. In our pro bono program students commit to  
14 completing at least 15 hours of service through a project  
15 each semester, although many students volunteer in the 50-  
16 to 100-hour service range. Last year, 200 students  
17 completed nearly 2,500 hours over the course of the year.

18 We are working collaboratively with The Legal  
19 Project to fund and hire post-graduate fellows who will  
20 work full time with their Domestic Violence Project. And  
21 this is possible as a result of funding from the Office of  
22 Court Administration which will be used to leverage  
23 additional support from law firms and businesses to fund  
24 the program in the long-term.

25 We are also very excited that with the Third

1 Department The Legal Project, Legal Aid, we are setting up  
2 a health center to work with individuals and communities  
3 who are unrepresented. So that is sort of just a snapshot  
4 of the clinics and our field placement and pro bono.

5 Let me just talk a little bit about the faculty.  
6 We have several faculty, and I won't tell you what  
7 everybody does, but let me give a few examples of our  
8 faculty's work in this area. Professor Connie Mayer  
9 serves as the Law School's representative on the Statewide  
10 Law School Access to Justice Council which is part of  
11 Judge Lippman's Task Force to Expand Access to Civil Legal  
12 Services in New York.

13 Professor Dorothy Hill integrates access to  
14 justice and access to the courts routinely in an  
15 Introduction to Lawyering classes, including a lengthy  
16 dedication about dedication to justice and the public good  
17 as an essential characteristic of an expert lawyer. In  
18 this past semester she used a case example of access to  
19 justice issues faced by many transgender individuals.

20 I could continue, but the point is that Albany  
21 Law School is deeply committed at all levels to ensuring  
22 access to the courts. Continuing this work and supporting  
23 our students who want to pursue public services takes  
24 resources. Our students are weighed down by their student  
25 loans. There are some mechanisms that alleviate the loan

1 after the student performs a certain number of years of  
2 service. We also have a limited Loan Repayment Assistance  
3 Program for students who want to pursue a career in public  
4 service and public interest. And one of my goals as the  
5 Dean is to raise more money for the program.

6 Ensuring access to justice is central to the  
7 mission of the law school. Our work -- in our clinics,  
8 through our pro bono program, and by our faculty -- has a  
9 direct impact on the community. But more importantly, it  
10 helps students identify a passion for justice, and for  
11 service, that will make a difference throughout their  
12 careers. Based on recent history and the path of our  
13 alumni, we know that Albany Law students go into public  
14 service, continue to engage in pro bono work and answer  
15 the calls to close the justice gap as a direct result of  
16 their experience at Albany Law School and we are proud of  
17 this tradition.

18 But our work at Albany Law School would not be  
19 possible without the partnerships of those organizations  
20 and institutions that provide access to the civil legal  
21 services in the great State of New York. The combined  
22 efforts in training, mentoring, advocacy and service with  
23 these organizations and institutions make our efforts at  
24 Albany Law possible and meaningful.

25 Let me conclude by saying that I have been the

1 president and Dean at Albany Law School for just over one  
2 year and there are many things that I am heartened by in  
3 this role. One is being part of the community of those  
4 who provide access to legal services to marginalized,  
5 struggling and poor New Yorkers. I am particularly  
6 heartened by the commitment of Chief Judge Lippman and  
7 this committee, and so I applaud you. And thank you for  
8 allowing me this opportunity to testify before you.

9 CHIEF JUSTICE LIPPMAN: Thank you, Dean. And  
10 thank you for your commitment and for your terrific  
11 remarks.

12 Let me ask you a question. We speak to a lot of  
13 deans and we talk to a lot of people, I do certainly,  
14 around the country in the law school community. There are  
15 deans who say quite directly that law schools are not in  
16 the access to justice business. What do you think, Dean,  
17 are law schools in the access to justice business?

18 MS. ANDREWS: Oh absolutely. If you believe in  
19 the rule of law and you believe that as a society, a  
20 democratic society, and the citizens in the democratic  
21 society should have access to the courts, then that is the  
22 business of law schools. And law schools train students  
23 to work to provide access in a variety of areas in  
24 government, in practice, in business. So I believe that  
25 that is our role and that we should be vigorously

1           graduating students who are committed to the rule of  
2           access to justice.

3                   CHIEF JUSTICE LIPPMAN: We are in total  
4           agreement with you. Let me ask you another question. I  
5           think you touched on it in your remark. There clearly is  
6           a disconnect in this country and here in New York between  
7           the kids, the students, who are coming out of law school,  
8           loads of lawyers, deeply in debt, and yet the jobs are  
9           certainly not as plentiful as they were before the economy  
10          took a nose dive. And there is on the other end this  
11          desperate need, that these hearings are all about, the  
12          civil legal services. And I've been working -- in fact,  
13          I've been working with Judge Graffeo on a couple of  
14          thoughts that we've been thinking about in terms of how to  
15          solve this clear problem that we have. I think disconnect  
16          is the right word.

17                   Do you feel that in your everyday what you're  
18          doing as a Dean of a very prominent law school, do you  
19          feel that where you're training these kids you're not only  
20          training them in the disciplines, but in the values of  
21          what it means to be a lawyer, and they come out and yet  
22          jobs are difficult to come by and burdened sometimes by  
23          tremendous debt, and yet how do we get them over to meet  
24          this need? We can instill in them the value of  
25          understanding that being a lawyer is also about service to

1 others, but how do we -- this fundamental problem that  
2 you're confronting, that we're confronting, how do we deal  
3 with it? Does it drive you every day? Is it part of what  
4 you're dealing with as the Dean of Albany Law School?

5 MS. ANDREWS: I think the quintessential  
6 challenge for law school deans and law schools in this  
7 century and in the next few decades is how to remedy the  
8 disconnect that you mention. There is clearly a great  
9 need for legal service by many members in the community  
10 and yet people talk about there being too many lawyers.  
11 So I think the challenge is to marry those two forces.  
12 And I don't think it's an easy challenge. I think law  
13 school tuition is of great concern. This is what we have  
14 right now.

15 So as a law Dean my challenge is to ensure that  
16 the values have a place to go because the point is  
17 students graduate and they want to do this work and they  
18 cannot. So that's the challenge and that's what I'm  
19 committed to, to ensure that we're able to distribute the  
20 needs in the community, and not just be idealistic but  
21 actually put that into practice.

22 CHIEF JUSTICE LIPPMAN: And you know as we all  
23 talked about when we meet with the deans and certainly in  
24 New York we talk about what we need to do with the  
25 curriculum to change it, to make it more responsive to the

1           need that's out there, but I'm sure that will happen with  
2           all of the energy that's out there in terms of law schools  
3           and what we should do with the third year, make it more  
4           valuable, and some people even say maybe we should change  
5           the whole framework.

6                     The problem is whatever we do even if we succeed  
7           is what happens afterwards and how do we channel the  
8           students who -- you know, we can indoctrinate them until  
9           we're blue in the face about what their responsibilities  
10          are as lawyers, but I think solving that goes so much to  
11          solving the problems that these hearings are all about,  
12          and also continuing our legal profession, that I know that  
13          President Schraever cares so much about, to make it a  
14          vibrant one in New York.

15                    So it's all kind of interrelated and I guess it  
16          leads me to something else that you mentioned -- which  
17          will be my last question, and if anyone has any -- you  
18          talked about the relationship with partners. And I guess  
19          that's what strikes me, in both our efforts to gain  
20          funding for legal services and our efforts to produce more  
21          pro bono work, do you believe that -- I think sometimes  
22          people feel that law schools exist in a vacuum. And I  
23          think what we're starting to realize, I'm sure at the law  
24          schools, and certainly from our perspective and the courts  
25          and in the profession, that we really are in this together

1 and that we can't succeed without each other. Do you feel  
2 that you're grappling with these issues? That's what you  
3 see?

4 MS. ANDREWS: Yes, I think that clearly a lot of  
5 the opportunities that this quote unquote crisis has  
6 generated has been seen in law schools that everything is  
7 interconnected and that our partners, really we should be  
8 working closely with our partners to ensure that they have  
9 the resources to do what they wish to do and that we can  
10 do what we should be doing.

11 I'm heartened that President Schraever has taken  
12 on board the issue of legal education. And I think the  
13 trick is I have committed my deanship to one of  
14 student-centeredness. It's all about the students, the  
15 graduates, and the future of the legal profession. So I  
16 think that this moment has provided a great opportunity  
17 for us to really look at these opportunities and not as a  
18 cliché - this crisis we cannot waste.

19 So yes, I am heartened. I think that law  
20 schools have to be involved. I'm pleased that Albany Law  
21 School, because of our location, because of our legacy,  
22 has always been involved in the community. And we are  
23 fortunate to have very, very committed alumni, like Denise  
24 Gonick here, who really care about the school and the role  
25 of the school in the community.

1 CHIEF JUSTICE LIPPMAN: Thank you, Dean. I  
2 think it's so interesting that a few years ago -- and Dave  
3 knows this -- we tried to take part, tried many years, the  
4 court system, tried many years gee let's get the academy  
5 together with the court system and the Bar, and yet there  
6 was a time that I think the academic community didn't  
7 realize the synergy, you know, we're educating the  
8 students. And I think sometimes there's always a silver  
9 lining, and I think in the crisis that we have in  
10 representation, the crisis that we have in the legal  
11 profession, has in so many ways brought us all together in  
12 recognizing that we have so much in common and that the  
13 problems, as you say, are interrelated. Thank you so  
14 much.

15 MS. ANDREWS: Thank you.

16 CHIEF JUSTICE LIPPMAN: Any other questions?  
17 Presiding Justice Peters.

18 HON. PETERS: Firstly, I want to thank you for  
19 taking the helm. You've done an extraordinary job in your  
20 short tenure here and we're pleased to have you in Albany.

21 As the Presiding Judge of the Appellate Division  
22 Third Department I sign practice orders for attorneys and  
23 law students who are in a great number of organizations  
24 from district attorney's offices to Legal Aid Societies,  
25 and I'm wondering if you can help me understand how you

1 think you can get the rest of the law students involved in  
2 clinical work? What do you think prevents them? Are they  
3 employed part-time and therefore struggling to earn a  
4 living; are they raising a family while they're in school;  
5 or have they just not adopted our philosophy which is that  
6 in order to have the joy of the practice of law you need  
7 to give back to the community that you serve?

8 MS. ANDREWS: You mentioned some factors:  
9 Raising a family, working part-time to raise money. But I  
10 think there are other factors as well. One is first year  
11 is such an incredibly anxious time for students because  
12 grades mean everything, and there's the bar passage, and  
13 so those factors impede some of that.

14 But I think really it is about right from the  
15 start as the Dean and the faculty guiding students. Judge  
16 Lippman had mentioned indoctrination. I don't think it's  
17 indoctrination, I think our students -- in this country  
18 our students come to law school with a passion for  
19 service, I think what we need to do is harness that  
20 passion, that energy. I don't think our law schools have  
21 done a good job. Some law schools have, others have done  
22 a mediocre job, but I think collectively we can do more to  
23 harness the passion and the energy that students have  
24 right from the start. I think we wait a little bit and  
25 first year takes over and so on. But I think I'm

1 optimistic that we will be able to do more and encourage  
2 students to think about servicing the communities.

3 HON. PETERS: Thank you.

4 CHIEF JUSTICE LIPPMAN: Before I go to Denise, I  
5 think that right from the start is the right approach.  
6 You're seeing it from the first year of law school and  
7 we're seeing it during law school so that when they enter  
8 the profession they have it in the fiber of their being of  
9 what it means to be a lawyer. So I think getting them  
10 from day one and getting them during those three years so  
11 it does come that they're able to be admitted to the bar  
12 they understand.

13 So thank you and thank you for being here and  
14 it's always a delight.

15 MS. ANDREWS: Thank you, Judge Lippman.

16 CHIEF JUSTICE LIPPMAN: I meant what I said  
17 about being totally on the same wavelength about what the  
18 law school is supposed to be doing and what our profession  
19 is supposed to be doing. Thank you so much. Now Denise  
20 Gonick.

21 MS. GONICK: Thank you.

22 CHIEF JUSTICE LIPPMAN: Denise, you've gone into  
23 the real world?

24 MS. GONICK: I have, yes. Thank you very much  
25 for the opportunity this morning to testify on the

1 importance to the business community.

2 CHIEF JUSTICE LIPPMAN: This is the Albany Law  
3 School panel. You understand that?

4 MS. GONICK: It is.

5 CHIEF JUSTICE LIPPMAN: That is the raison  
6 d'etre of your testifying, so go ahead.

7 MS. GONICK: Actually, I was going to share with  
8 you that there are really three perspectives that I bring  
9 to you this morning. First, as the president and CEO --  
10 the new president and CEO, I should say, of MVP Health  
11 Care, I've been in this role for eight months now, this  
12 issue is important to me. I obviously have a bottom-line  
13 responsibility to that company.

14 Many of the comments that the Comptroller was  
15 making about return on investment and being able to make  
16 those connections I'm now living every day, so I  
17 understand how important that is. Secondly, the fact that  
18 MVP is a health care company is another way that I think  
19 these two issues are interrelated. When you're running a  
20 health care company you cannot ignore the community around  
21 you. The community is a direct influence on what people  
22 experience for their health. And then finally, as an  
23 attorney that was educated here in Albany and did practice  
24 in New York State, this issue is very important to me.

25 So let me just share a little bit about MVP. We

1 are a not-for-profit health plan that serves 733,000  
2 members across New York, Vermont and New Hampshire, but  
3 most of our membership is here in New York. We have more  
4 than 1600 employees and they're all very committed toward  
5 improving the health and wellness of the people that we  
6 serve so that our communities can be amongst the  
7 healthiest in the nation. And we have laid that out as  
8 our new vision, that we will create the healthiest  
9 communities in the nation.

10 So central to that vision we believe is the  
11 desire to expand access to quality health care services  
12 for the most vulnerable. I think it's worth noting that  
13 we attempt to do this through all different means,  
14 including partnerships between public and private  
15 entities. Collaboration, in our experience, is the only  
16 way to get those things done. In MVP's case it is through  
17 the Medicaid Managed Care program, as well as the new  
18 subsidized Exchange program that will be coming live in 13  
19 days on the new exchanges. Medicare Advantage programs  
20 for our senior citizens. Through each of those we think  
21 we're committed to creating peace of mind for people that  
22 their health care needs can be met through all different  
23 stages of life. Expanding Access to Civil Legal Services  
24 similarly supports a vision of equitable and healthy  
25 communities that benefits everyone.

1           In many respects, the health care challenges  
2 parallel those of the court system and access to justice.  
3 The current economic climate has caused a lot of despair  
4 for many people within our communities. The expanding  
5 number of low-income families is at record levels and more  
6 individuals and families are temporarily poor or out of  
7 work after many years as income providers. Many are  
8 facing new health care and legal issues, amongst other  
9 challenges, because of this.

10           At MVP we focus very much on the health of our  
11 communities. We're recognizing that good health is judged  
12 and determined more than just by people's individual  
13 health behaviors and the actual clinical interventions  
14 that they might seek. So for example, the Robert Wood  
15 Johnson Foundation has been collecting and analyzing data  
16 to measure the relative health of every county in the  
17 United States over the last several years. Socioeconomic  
18 factors, such as the rates of unemployment, the percentage  
19 of children living in poverty, and inadequate social  
20 support plays as important a role in overall health as the  
21 time one actually spends seeking medical care.

22           We understand, however, that health care needs  
23 are often secondary to basic needs like food, clothing,  
24 safety and shelter. A diabetes diagnosis, for example,  
25 might be an afterthought for someone who is preoccupied

1 with mounting bills, with threat of foreclosure or an  
2 unsafe living environment.

3 By ensuring access, equal access, to civil legal  
4 service a family can, at little or no cost, attain the  
5 assistance of a trained legal professional to navigate the  
6 very difficult system. When local systems aren't prepared  
7 to recognize the signs and symptoms of a lack of basic  
8 needs small legal issues can find their way out of local  
9 courts and into more advanced problems. Victims and other  
10 individuals struggling to meet their basic needs can even  
11 be seen as victims themselves or part of the problems  
12 themselves and be denied access to help.

13 When a community is made up of individuals who  
14 have equal access to health care and civil legal services,  
15 its strength is evident through improved outcomes: Health  
16 outcomes, home ownership, safety within the community,  
17 business growth, entrepreneurship and healthy schools with  
18 strong academic outcomes. Business grows as the community  
19 grows. Strong businesses who demonstrate their ability to  
20 do well attract other businesses and growth breeds new  
21 growth.

22 In closing, businesses want to do business in a  
23 community that ensures that justice is available to all.  
24 In the Capital District the nonprofit community  
25 contributes substantially to the economic well-being of

1 the Capital Region. The local legal services providers,  
2 Albany Law Clinic & Justice Center, Legal Aid Society of  
3 Northeastern New York, The Legal Project of the Capital  
4 District Women's Bar Association, Empire Justice Center,  
5 the Albany County Bar Association, Unity House of Troy,  
6 and the Workers' Justice Center all contribute in many  
7 positive ways to the economic and social well-being of the  
8 community.

9 Equal access to justice, without regard to  
10 income, is fundamental to our system of justice and  
11 integral to our society. New York State can serve as a  
12 model in access to legal services for all its residents  
13 regardless of income. Working together with legal  
14 services providers and law school clinics will ensure that  
15 justice is delivered, thereby creating stronger  
16 communities which I believe will foster healthier  
17 individuals and families, strong businesses, and positive  
18 outcomes for all. Thank you very much for the opportunity  
19 to testify.

20 CHIEF JUSTICE LIPPMAN: Thank you for coming.  
21 Let me ask you this one basic question. How does the  
22 health care world interact with these kinds of providers?  
23 In practice what do they have -- people don't understand  
24 that there's a connection. We understand the basic idea  
25 that some people sometimes have health problems and they

1 cannot access the resources that are available. But in  
2 practice do you interface with providers?

3 MS. GONICK: Oftentimes I think institutional  
4 providers, such as hospitals, and yes we work very closely  
5 with hospitals, can be a great coordinator or facilitator  
6 for people to find their way.

7 CHIEF JUSTICE LIPPMAN: Because it's a  
8 labyrinth.

9 MS. GONICK: It is.

10 CHIEF JUSTICE LIPPMAN: You're talking about the  
11 new changes and it's a very complex system. People  
12 sometimes just can't do it themselves, isn't that the  
13 bottom line?

14 MS. GONICK: I think that's true. And I think  
15 it's confusing for people. Particularly in view of reform  
16 we've worked hard to try to provide more educational  
17 services for a wide variety of different educational  
18 levels. So we have a lot more that's available on our  
19 internet site. But also through our own expansion of our  
20 Medicaid program have people that do community outreach,  
21 go out into the community at places where you will find  
22 individuals, supermarkets, shopping centers and so forth,  
23 so that you also have that personal interaction to help  
24 people.

25 CHIEF JUSTICE LIPPMAN: Any other questions?

1 Dave.

2 MR. SHRAVER: Let me just mention that yesterday  
3 I was in New York City meeting with chairs of a number of  
4 our sections in the State Bar, including the chair of our  
5 Health Law section, and we were talking about their  
6 efforts to get up to speed and the Affordable Care Act so  
7 they can provide continuing education to the members of  
8 the Health Law section as well as lawyers who don't  
9 practice in the health law area on a regular basis.

10 Sounds to me like there may be opportunities for  
11 collaboration here between the providers, the insurers,  
12 the law schools, practicing bar so that we can all try to  
13 understand this new world of health insurance and  
14 exchanges and educate both practicing lawyers and the law  
15 students who may be in a position to respond to the need  
16 of people at really all income levels to understand and  
17 access this new system. Is that something that anyone is  
18 focused on or that you thought about in how we can work  
19 together to do that?

20 MS. GONICK: I think that the insurers right at  
21 the moment are 13 days away from the law interview  
22 exchanges, have been very focused on providing education  
23 to employer groups and making it available for  
24 individuals. And I know that the State of New York has  
25 been as well through the actual Exchange. I think that

1 would be a very good next step. I'm sure you will see a  
2 hunger for people to be able to attend some educational  
3 sessions, panel discussions.

4 The other interesting thing about health reform  
5 is that this affects people quite personally. They get  
6 educated broadly on what the law is about, but in the end  
7 it's going to be their own -- it's not unlike doing your  
8 taxes, your own set of personal circumstances are what's  
9 going to drive what would be the best decision for you.  
10 So yes, that does lend itself to individual counseling.

11 HON. PRUDENTI: Just very quickly I would like  
12 to congratulate you on your appointment. It's with great  
13 pride to see that you were educated on Long Island and  
14 that you received your degree from Albany. In your new  
15 role do you see that role as one where you will try to  
16 create a cultured service among the individuals who work  
17 for you in the health care industry?

18 MS. GONICK: Absolutely. And thank you for your  
19 comments, I appreciate them. I think it is central to  
20 MVP's vision about being an important contributing member  
21 to the communities, and I think we have a unique  
22 responsibility because we are in that health care space,  
23 it is not a generic kind of business. And I'm trying to  
24 put programs in place that enable employees to have time  
25 to be able to volunteer on things that are particularly

1 important to them, but I'm also working on initiatives  
2 that MVP will support as a corporate entity and that we  
3 can work on collectively. I think that's important.

4 CHIEF JUSTICE LIPPMAN: Let me just add to that.  
5 Judge Graffeo has been here and we are working on, and I  
6 know the State Bar supports this strongly, making it  
7 easier for in-house counsel to be performing pro bono  
8 work. So we're going to be coming out with something in  
9 the not-that-distant future in that area which I think is  
10 kind of an untapped resource in terms of pro bono type  
11 work.

12 So thank you both. Thank you for the Albany Law  
13 School panel. It was a delight to see both of you and  
14 thanks for coming. And Dean Andrews, always a delight to  
15 see you.

16 Now let me call Mark Eagan who is the business  
17 panel all by himself. I know Mark that you have to get up  
18 to Saratoga so we're not going to waste any time and get  
19 you started on your presentation.

20 MR. EAGAN: Thank you. And Denise I think did a  
21 good job starting off with those --

22 CHIEF JUSTICE LIPPMAN: Mark is the President  
23 and CEO of the Albany-Colonie Regional Chamber.

24 MR. EAGAN: Indeed I am.

25 CHIEF JUSTICE LIPPMAN: What does that mean,

1 Mark?

2 MR. EAGAN: Our organization is the primary  
3 business advocacy organization for the Capital Region. We  
4 represent 2200 organizations that employ more than 110,000  
5 residents of the four-county area that we serve.

6 The ultimate goal of the Regional Chamber is  
7 really community prosperity. Our goal isn't simply that  
8 businesses do well, our goal is for our citizens and our  
9 communities to do well. We look to serve as a catalyst  
10 for the growth and prosperity of our region by providing  
11 leadership, advocacy and resources. And we want every  
12 citizen to have opportunities for success.

13 I'm pleased to be here today to support funding  
14 for civil legal services for low and moderate income New  
15 Yorkers. The proper functioning of a free society and an  
16 efficient economy require availability of a fair and  
17 balanced legal system to adjudicate legal disputes and to  
18 preserve individual rights. This mechanism for resolving  
19 disputes must be available to everyone. Access to legal  
20 services at all socioeconomic levels is critical to  
21 community stability.

22 Legal assistance can be critically important for  
23 individuals involved, as issues related to marriage,  
24 divorce, immigration, child custody --

25 CHIEF JUSTICE LIPPMAN: Mark, let me stop you.

1 And don't feel, anybody presenting, that you have to give  
2 your whole testimony. We'll fill up your time, don't  
3 worry about that. You can read it if you want.

4 MR. EAGAN: That sounds good to me.

5 CHIEF JUSTICE LIPPMAN: I want you to explain,  
6 because I think it's hard to really understand, and yet we  
7 have consistently over the years when you have business  
8 people like yourselves who come in, how is it people don't  
9 get it? How is it that a person gets legal assistance and  
10 that helps his local business?

11 In other words, people in the communities have  
12 all kinds of problems; they're going to be foreclosed on,  
13 they're going to be evicted, they have a matrimonial case,  
14 they have a consumer credit case, they have something in  
15 family court. How is it that those people getting legal  
16 assistance, what's the connection that brings you to want  
17 to testify here today? What does one have to do with the  
18 other?

19 MR. EAGAN: It's a great question. But really  
20 there is a direct correlation. You know, many of the  
21 folks who have access to these services are people who are  
22 employed. So they come to work every day and they have  
23 that burden or if they miss days of work because of the  
24 stress of not being represented it directly impacts that  
25 company's bottom line.

1           But in addition to that, you have to realize  
2           that we also have many of our smaller businesses who fall  
3           into this category. And we know we've been through many  
4           years of a recessionary economy, so many of those small  
5           businesses directly have relied on those services. Or  
6           even if businesses are going to be involved in a case,  
7           they want to make sure those on the other side are able to  
8           have representation.

9           And then I think, Judge, it goes to my earlier  
10          comments. Really the goal of our organization, even  
11          though we're a membership base, our base is a business  
12          community, our goal isn't just for businesses to do well,  
13          our goal is really for our region to do well, our people  
14          to do well.

15          CHIEF JUSTICE LIPPMAN: Because it's really  
16          two-folded, kind of what I said, I don't know if you were  
17          here for the beginning piece, but we were talking about  
18          that we want to do the right thing. And I think  
19          forward-looking businesses, business organizations, want  
20          to do the right thing, want the community to be healthy  
21          and all of those things, and that's clearly our aim in  
22          promoting Civil Legal Services. Poor people, people of  
23          limited income need help.

24          MR. EAGAN: They do.

25          CHIEF JUSTICE LIPPMAN: But the other thing is

1           it's harder for people to understand that the bottom line,  
2           as you call it, is really affected if those people don't  
3           get that help.

4                       MR. EAGAN:  It is.  And I think we know that  
5           it's all aspects of our community who have to be lifted  
6           up.  And often those that are low to moderate income don't  
7           know where to turn to.  And so the services that are  
8           provided -- and Denise spoke of it -- she referred to  
9           several organizations we're blessed to have here in the  
10          Capital Region.

11                      CHIEF JUSTICE LIPPMAN:  You find you're working  
12          with the providers in various interactions?

13                      MR. EAGAN:  We most definitely do.  We most  
14          definitely do.  I think then it goes to the comments, but  
15          really all added together the goals of those people who  
16          are in the unfortunate circumstance who need the help or  
17          those on the other side, ultimately we're all in it  
18          together.

19                      CHIEF JUSTICE LIPPMAN:  The concern that the  
20          business community has had with this issue has helped us  
21          tremendously because it's not the normal, you know, we  
22          call the do-gooders.  We're all do-gooders, and that's  
23          great.  People come and say we need, we need, we need, can  
24          you help?  This person is terribly in need.  And all of  
25          that is wonderful and we all want to do good, but I want

1           you to know that by your coming in, by others through  
2           these years of our being able to get public funding, this  
3           is what is counterintuitive that the Legislature, the  
4           other branch of government, are seeing this is not just --  
5           this is not just -- not that that shouldn't be enough in  
6           and of itself to see there are people in need and to say  
7           that there are people in need, it's your support, your  
8           understanding of the interconnection that has made them  
9           stand up and take notice and say gee maybe this thing does  
10          have a broad base and it's not just another need of which  
11          there are so many, but it's something that affects the  
12          bottom line health of our state in terms of the business  
13          communities and the different multitude of entities that  
14          make the life of any community in our state.

15                   MR. EAGAN: Well said. And I appreciate the  
16                   opportunity to testify today. Our region wouldn't be  
17                   where we're positioned today and where we hope to go  
18                   tomorrow without the support of these services. So thanks  
19                   again.

20                   CHIEF JUSTICE LIPPMAN: Thank you. Any  
21                   questions?

22                   MR. SHRAVER: I just have one quick question.  
23                   We've been talking today about the importance of funding  
24                   civil legal services. Along with that goes the actual  
25                   funding of the courts generally so that the business

1 community, among others, have access to the courts to  
2 resolve their disputes and to seek to satisfy their basic  
3 needs.

4 I'm wondering whether you think that your  
5 members, the business community at large, understands  
6 these issues and understands the importance of funding the  
7 court system, funding civil legal services as a smart  
8 investment as in everybody's interest in helping to reduce  
9 the tax burden and so forth.

10 MR. EAGAN: I wish I could say the broad answer  
11 is yes. But I think really what it is is when it affects  
12 you personally. So I think with the cases of businesses  
13 if they have employees that have been impacted with legal  
14 services they're thankful that they are here and those are  
15 the folks who have probably testified in years prior to  
16 me.

17 I think that for businesses who have to use the  
18 court and they want it to be timely, they want it to be  
19 efficient, they understand the adequate funding that can  
20 occur. But until they're not there, you know, they want  
21 their tax dollars to be as low as possible. I think the  
22 folks most touched, and those that are most informed, do  
23 understand.

24 MR. SHRAVER: If there are opportunities where  
25 the State Bar Association, I'm sure the Albany Bar

1 Association as well, can help to get that message out to  
2 the business community we welcome those opportunities.

3 MR. EAGAN: Thank you.

4 CHIEF JUSTICE LIPPMAN: Judge Peters.

5 HON. PETERS: In your capacity as the head of  
6 the Chamber of Commerce do you provide information to  
7 employers who are attempting to acquire information  
8 concerning organizations that their employees might need  
9 access to?

10 MR. EAGAN: Yes.

11 HON. PETERS: Like Immigration Pledge or  
12 Disability Law Clinic?

13 MR. EAGAN: We do.

14 HON. PETERS: You do. So that you're providing  
15 that information which can begin to foster that support.

16 MR. EAGAN: We really try and -- we don't  
17 obviously directly provide it, that's why I'm here to  
18 testify in support of the others. But oftentimes when  
19 businesses don't know where to turn they start with us,  
20 and the deeper and richer our tool box is the more helpful  
21 we can be.

22 CHIEF JUSTICE LIPPMAN: I think it goes, Judge  
23 Peters, one of the themes that is coming out of this is  
24 it's all interrelated; whether the Bar Association, the  
25 Chamber, whether it's the provider, whether it's the court

1 system, it really is. And I think it's what I was saying  
2 before to the Dean, sometimes crises bring us together to  
3 understand the interconnection. I think the civil legal  
4 services issue has been such a perfect example of that  
5 where the different parts of our community get it. If one  
6 doesn't succeed the rest doesn't.

7 Anything else? Okay, on to Saratoga. Thank you  
8 so much for coming by, we appreciate it.

9 MR. EAGAN: Thank you very much.

10 CHIEF JUSTICE LIPPMAN: The next panel is the  
11 judicial panel. Carmelo M. Laquidara from Rensselaer City  
12 Court and the Honorable Margaret T. Walsh from Family  
13 Court in Albany County and also an acting Supreme Court  
14 Judge in the Third Judicial District.

15 So we're delighted to have the two of you here  
16 representing your different courts. And as unaccustomed  
17 you are as to receiving questions rather than giving them  
18 we'll try to ask you a couple of questions because I have  
19 a good sense of what you're up against and I think maybe  
20 we have to at these hearings make sure everybody else  
21 does.

22 So let's start with the Rensselaer City Court.  
23 What legal service is important to what you see every day  
24 in your court? Why is this connected to the Rensselaer  
25 City Court in your role as the judge?

1           HON. LAQUIDARA: Well I think, Judge, the two  
2 main reasons that come to mind, one it just makes the  
3 court system run more efficiently having an attorney  
4 represent a litigant in a civil matter just makes the  
5 whole process run more smoothly.

6           CHIEF JUSTICE LIPPMAN: How does your role  
7 change when you don't have an attorney?

8           HON. LAQUIDARA: Well, it's a different  
9 balancing act. That's the other reason I was going to  
10 mention why this is such an important issue is because as  
11 a judge I have to try to remain impartial and neutral and  
12 I --

13          CHIEF JUSTICE LIPPMAN: Is that possible when  
14 people in -- I know there's no black or white answer.

15          HON. LAQUIDARA: It becomes very difficult,  
16 Judge, especially when one litigant is pro se and the  
17 other is represented by an attorney.

18          CHIEF JUSTICE LIPPMAN: Exactly. You're  
19 supposed to be a level playing field.

20          HON. LAQUIDARA: Right. And the pro se litigant  
21 I think looks to the judge for some sort of assistance in  
22 levelling that playing field when the other side in fact  
23 is represented by an attorney. So it makes my job --

24          CHIEF JUSTICE LIPPMAN: So you feel conflicted  
25 when that happens?

1           HON. LAQUIDARA: Yes, absolutely. Very  
2 conflicted when that happens because part of me wants to  
3 assist because the pro se litigant just oftentimes lacks  
4 the basic understanding of the law, procedures, rules of  
5 evidence and certainly it's difficult for them.

6           And I also think that the pro se litigant,  
7 especially when they're up against a represented litigant,  
8 I think they feel that the system is somewhat skewed  
9 towards the party that's represented by an attorney. And  
10 I try to of course maintain a neutral and impartial  
11 position, but I think sometimes they feel that because the  
12 other side has an attorney that they will be treated  
13 better or that they will have a less difficult time with  
14 their case.

15           CHIEF JUSTICE LIPPMAN: Do you feel from your  
16 personal experience that what you see every day are a lot  
17 of people coming into city court unrepresented? And if  
18 so, what particular areas is it most likely to happen that  
19 they will be unrepresented?

20           HON. LAQUIDARA: I looked at the numbers in our  
21 court, Judge, and I would say 99 percent of the litigants  
22 who appear in front of me on civil cases are  
23 unrepresented.

24           CHIEF JUSTICE LIPPMAN: And that covers the  
25 gamut of what kinds of cases?

1           HON. LAQUIDARA: Landlord-tenant cases, small  
2           claims cases, commercial claims, even code violations  
3           they're oftentimes unrepresented. The majority of them  
4           are unrepresented.

5           CHIEF JUSTICE LIPPMAN: Is that mind-boggling to  
6           you --

7           HON. LAQUIDARA: It is, Judge.

8           CHIEF JUSTICE LIPPMAN: -- in those kinds of  
9           cases which are so basic to human needs?

10          HON. LAQUIDARA: Exactly. It is mind-boggling.  
11          But certainly, as we all know, in criminal cases you're  
12          entitled to representation and free representation should  
13          you qualify financially.

14          HON. PETERS: Do you do criminal work as well?

15          HON. LAQUIDARA: I do. Besides being a  
16          part-time judge I am a criminal defense attorney and I  
17          also handle civil cases.

18          HON. PETERS: If I might I just want to talk a  
19          second about a subject matter that the Chief mentioned  
20          when he began his remarks. He talked about a potential  
21          civil Gideon which I think is a great term. And since you  
22          do criminal work and civil work you therefore see a  
23          situation where everyone has an attorney and then you see  
24          a situation where no one has an attorney.

25          HON. LAQUIDARA: That's right.

1           HON. PETERS: Can you share with us whether you  
2 think it's critically important that both in civil and  
3 criminal cases people have counsel?

4           HON. LAQUIDARA: I think it's absolutely  
5 critically important. On the issue of civil cases we have  
6 a person's shelter is at stake. Whether they're going to  
7 have a roof over their head is at stake in a  
8 landlord-tenant case. And certainly that's as important  
9 as someone being represented in a criminal case.

10          CHIEF JUSTICE LIPPMAN: Could it be that -- I  
11 want to make sure that you understand what we're saying.  
12 That something could be as important as when their liberty  
13 is at stake, could a civil case be equally important in  
14 terms of the need to have representation?

15          HON. LAQUIDARA: I believe so, absolutely. The  
16 civil cases that come before civil court and superior  
17 courts of course I think are equally important. I think  
18 in the vast majority of city court or town and village  
19 court cases -- certainly people are incarcerated in  
20 criminal cases. That obviously happens. But in the  
21 majority of them probably not, there's other alternatives  
22 other than incarceration, and they're still entitled to an  
23 attorney free of charge if they meet the qualification.  
24 In civil cases they don't have that same ability.

25                   There are countless times when I wanted to

1 assign an attorney in a civil case and I obviously had no  
2 authority to do so. I certainly have had some cases  
3 where, especially in summary proceedings, the pro se  
4 litigant was able to obtain the services of an attorney  
5 through Legal Aid or The Legal Project, and just the  
6 quality of the representation that they provide, the way  
7 that the case proceeded in my court was such -- it was so  
8 much more efficient. And clearly a better outcome was  
9 reached when the pro se litigant had an attorney through  
10 those organizations.

11 CHIEF JUSTICE LIPPMAN: Let's get Margaret  
12 involved. Judge Walsh, what about family court; how does  
13 the lack of legal representation affect you in your role  
14 in family court?

15 HON. WALSH: Well, people are in family court  
16 talking about the custody of their children. And I can't  
17 always assign counsel in those cases.

18 CHIEF JUSTICE LIPPMAN: How does it affect your  
19 role?

20 HON. WALSH: Well, my role is to make sure that  
21 everybody is treated fairly. If one side has an attorney  
22 and the other side doesn't, I have to be sure not only  
23 that the pro se litigant is aware of and understands  
24 what's going on and what's expected and what is going to  
25 happen. But also, if you're asking the difficulty, might

1 as well start with the represented person looking I think  
2 at the judge and wondering why is the judge helping the  
3 other side? I have a lawyer, why is the judge -- is the  
4 judge now on that person's side? Of course not. Of  
5 course not. So we have to be very, very careful.

6 CHIEF JUSTICE LIPPMAN: And how often in family  
7 court are people unrepresented?

8 HON. WALSH: They are unrepresented quite a bit.  
9 Quite a bit. It happens very often that people do not  
10 qualify for assigned counsel and they can't afford an  
11 attorney. A family that makes maybe \$45,000 a year with  
12 three children, three or four children, they don't qualify  
13 for assigned counsel, but in no way can they afford a  
14 retainer fee or another monthly bill.

15 HON. PRUDENTI: I agree with you wholeheartedly  
16 with regards to families of modest means being in the  
17 situation where they truly cannot afford counsel when they  
18 come to the courthouse. Of course, our overriding concern  
19 is trust and confidence in the legal system. But from the  
20 operations point of view, from the Chief Administrative  
21 Judge's point of view, I would like to ask each one of you  
22 how much longer and how much more difficult do you think  
23 the cases are and how much longer do they take when you  
24 have non-represented individuals who appear before you?

25 HON. WALSH: They take longer in the courtroom

1 and they take longer in terms of weeks and months to  
2 resolve. There's a very significant difference because  
3 quite often people will attempt to get attorneys and they  
4 will come back over and over trying to save money, trying  
5 to borrow money so that they can have an attorney. And of  
6 course that drags the case out for quite a long time.

7 But just the process of explaining what's  
8 happening, we have to adjourn, adjourn, adjourn to see how  
9 things are going, as opposed to just having an attorney  
10 who could explain what the process is and then we can do  
11 things in a much more orderly fashion. So it really takes  
12 a toll on everyone when there isn't representation. And  
13 the children. That's the biggest deal. When custody  
14 matters are not resolved in a timely way it's the children  
15 who suffer.

16 CHIEF JUSTICE LIPPMAN: Would the ideal  
17 situation be apropos -- concerning Judge Peters'  
18 question, would it make a world of difference to you if  
19 everybody who came in, similar to a criminal case, that  
20 when people came in they were basically represented?  
21 Would that change your job, your world, in your two  
22 respective worlds?

23 HON. WALSH: It would. And to be clear, there  
24 are people who don't need attorneys because they've  
25 reached an agreement on their own, so they can come in and

1 tell me what they would like. And I just talk about it  
2 with them and if it makes sense to me I certainly let them  
3 do it. But that's not always the case, so I think I would  
4 like the freedom, the ability, the discretion to appoint  
5 counsel when necessary. I would know that the People in  
6 front of me are all aware of all of their options and that  
7 would make my life quite a bit better so that I understand  
8 that these people really know what they're getting into.

9 HON. LAQUIDARA: I would add, Judge, that cases  
10 where two attorneys have come in, whether it's an eviction  
11 proceeding, a small claims matter, it always seems to  
12 reach a resolution and very quickly.

13 CHIEF JUSTICE LIPPMAN: Never! You mean lawyers  
14 are of some worth?

15 HON. LAQUIDARA: Absolutely. Very much so. I'm  
16 constantly doing trials and hearings with the pro se  
17 litigants, especially when they're unrepresented on each  
18 side. It's a fraction of the amount of hearings that I do  
19 where there's two attorneys involved. It hardly ever will  
20 go to trial or a hearing. It's just a lot more efficient.

21 The other thing I would add is the staff, my  
22 clerks in court, are constantly barraged with legal  
23 questions by pro se litigants when they're filing their  
24 claims in court. And they, of course, have to walk a fine  
25 line in terms of not rendering legal advice as well.

1           The other thing I see with pro se litigants is  
2 often filing the same claim over and over when they've  
3 lost already in court, they attempt to re-file. And it  
4 certainly affects the efficiency and the amount of cases  
5 we're hearing every day in court. So I think it would cut  
6 down certainly the amount of hours that I would be there  
7 and could focus on other things.

8           CHIEF JUSTICE LIPPMAN: Either of you have any  
9 thoughts -- there's training around the country and  
10 something that we're looking at here in New York is  
11 nonlegal help for people by experts in a particular area,  
12 whether it be foreclosure or, you know, so many other  
13 different possibilities. Do you think that some cases  
14 would not be before you if you had -- a lot of people  
15 can't afford a lawyer but the problems are not so complex,  
16 and what we're looking at are there in each area where  
17 we could actually get people who aren't lawyers who could  
18 help a litigant to maybe keep some of these cases out of  
19 court and then save the real cases where lawyers can make  
20 all the difference in the world? Is that something that  
21 makes any sense to you? It's one of the areas that the  
22 Task Force made a recommendation on and they were looking  
23 at what we might do in New York.

24           HON. WALSH: We use trained mediators quite a  
25 bit and that's very, very helpful. Many of the problems

1           that come to my court are not legal problems, they are  
2           parenting issues that people have to resolve, and they can  
3           be resolved with a neutral third person. So when people  
4           go to mediation I think that is often very, very helpful,  
5           and they don't need to step in the courthouse doors really  
6           if they can get to mediation first. Often they come to  
7           the courthouse, go to mediation and the case is resolved.

8                   HON. LAQUIDARA: We don't have a mediator or an  
9           arbitrator in our court, we're a modestly busy court and  
10          we don't have the resources. But I think it would be  
11          excellent to have that in every city court or local court.  
12          My fellow judges that do have mediators or arbitrators  
13          even on summary proceedings in their court in their very  
14          busy city courts throughout the state, they've told me it  
15          makes a huge difference certainly in the amount of  
16          cases that --

17                   CHIEF JUSTICE LIPPMAN: In some parts of the  
18          state they have people who -- particularly in relation to  
19          evictions and that kind of thing.

20                   HON. LAQUIDARA: Right. And I think it would  
21          make a huge difference to have that in many courts as  
22          possible throughout the state.

23                   HON. PETERS: If I might, I just have a quick  
24          question of Judge Walsh, and definitely both of you can  
25          answer if you wish. You mentioned the family that makes

1           \$45,000 a year and have three children and are illegible  
2           for assigned counsel. The middle ground here I wonder  
3           might be allowing assigned counsel in that situation with  
4           the litigants paying back the cost of the assigned  
5           counsel. I know when I first became a family court judge  
6           many, many years ago we had a system in place in Ulster  
7           County where that was exactly what was required of  
8           individuals.

9                     Do you think that's a possibility, of having  
10           that middle ground where because, you know, they can  
11           probably afford to pay for an attorney at the rate the  
12           assigned counsel is getting paid, but they can't afford to  
13           pay an attorney in the market place?

14                    HON. WALSH: Right. I think that is absolutely  
15           the way to go. Actually, our Bar Association has been in  
16           conversation with some attorneys in the area about  
17           developing a program just like that. Whether it's through  
18           an actual assigned counsel plan or through another  
19           community --

20                    CHIEF JUSTICE LIPPMAN: Well, there are also the  
21           similar thoughts when you talk about private attorneys  
22           being helpful, there's low bono idea where you have  
23           systems by which they charge less, whatever it is.  
24           However you get there, where the cost is just less. But  
25           the question is how you organize that and how that comes

1 to be.

2 But that's also a newly emergent kind of  
3 thought, how do you provide low bono legal help or  
4 nonlegal help but at least that's affordable to people.  
5 When you talk about the family of four who earns \$44,000,  
6 that's like double the rate of poverty and don't go  
7 resolve a legal problem when you have that kind of income,  
8 and yet they're often working people earning a living, but  
9 yet they cannot afford it.

10 And that's why the providers, so many who are  
11 out in the audience, are trying to figure out, we're all  
12 trying to figure out what's the criteria, who do we give  
13 legal assistance to when you only have so many dollars.  
14 So if you're turning away eight of nine or two of four,  
15 how do you decide who gets the assistance?

16 But I think it is instructive -- and I'm so glad  
17 that you both came in today. I think it's instructive  
18 people understand how it affects all of us in this judging  
19 business what we try and do and try to understand that it  
20 clogs -- not only clogs the wheels of justice, but  
21 sometimes can make the Lady Justice uneven. And it's a  
22 terrible dilemma for a judge to face that situation.

23 So we want to thank both of you for coming in  
24 and graphically at the ground level explaining how this  
25 works and how it impacts you in your courtrooms. We are

1 proud of both of you and we are pleased that you both are  
2 here and thank you very much for coming in.

3 HON. LAQUIDARA: Thank you.

4 HON. WALSH: Thank you.

5 CHIEF JUSTICE LIPPMAN: The next panel, which is  
6 also something we glancingly talked about a little bit  
7 today, is veterans and how legal services could be of  
8 assistance to veterans. So having the Veterans' Services  
9 Organization panel and Joseph Sluszka and Courtney Slade.  
10 Joseph is the Executive Director of the Albany Housing  
11 Coalition, Inc., Veterans Housing and Services. Courtney  
12 is the Veterans Justice Outreach Coordinator at the Albany  
13 VA Medical Center.

14 Great to see both of you. Veterans have been an  
15 issue that we have had in some of the hearings around the  
16 state. We have had testimony from people who deal with  
17 the veterans' issues. When we talk about legal services  
18 it's rare that we divide it into a particular kind of  
19 person who has unique needs. Certainly there are some.

20 Joseph, why don't we start with you. Why are  
21 they different than anybody else and why are they in need  
22 of legal services from the average person in the street?  
23 We know the distinction between people who have a lot of  
24 money and people who don't, but what's this all about for  
25 veterans?

1 MR. SLUSZKA: Veterans have a unique need. Many  
2 of them, especially those who have served in combat in any  
3 war, whether it's Vietnam, whether it's World War II,  
4 Korea and now Iraq, Afghanistan, because they're bringing  
5 back home with them some issues of things that they saw,  
6 that they did while in combat.

7 CHIEF JUSTICE LIPPMAN: What kinds of issues?

8 MR. SLUSZKA: You know, the nature of the  
9 military is that you kill your enemy. And when that  
10 happens or when you experience your comrade and buddy who  
11 is killed by the enemy it can and does, and studies shows  
12 has a profound effect on your emotional well-being. In my  
13 mind it cuts to the core of who we are as people in terms  
14 of our humanity. And that's my personal view about that.

15 CHIEF JUSTICE LIPPMAN: I gather it's obviously  
16 been exacerbated by the fact that we've had our United  
17 States military involved, in certainly the last number of  
18 years, in places a great distance away where they're very  
19 much in the middle of what they call boots on the ground  
20 in Afghanistan or Iraq.

21 MR. SLUSZKA: Yes. And the other nature of the  
22 current wars in Iraq and Afghanistan dissimilar to, for  
23 instance, the Vietnam War there really is no front and  
24 rear in this conflict. Driving down the road IDVs,  
25 explosive devices, are just there. In contrast, during

1 Vietnam there was a front, you were in the jungle. But  
2 then there was a rear and when your tour for weeks at a  
3 time, whatever it was, was over you came back to the rear  
4 where there was safety. And in Iraq and Afghanistan there  
5 is no safety.

6 In our organization I have on staff three  
7 gentlemen who served in Iraq, Afghanistan, and listening  
8 to some of their stories about coming back and driving and  
9 how difficult that can be for them, they see something  
10 that doesn't make sense to them, they're immediate  
11 reaction is to step on the gas and to swerve and get out  
12 of the way.

13 So those are the kinds of things that our  
14 veterans are bringing home with them. When Courtney  
15 speaks I'm sure she will talk about some of the great  
16 services that the VA is doing and that organizations like  
17 the Veterans' Center, the Vet Center, we have one here in  
18 Albany, are doing for combat vets to deal with those  
19 emotional issues that they are bringing home with them.

20 That's one piece of it. The other issue that  
21 some of our returning veterans are having -- and I deal  
22 primarily with homeless guys, and that's a different  
23 picture that I can get into as well. But some of the  
24 folks, young men and women, who are coming back home now  
25 when they left they signed a will, a power of attorney,

1 many of them. Some of the younger folks who had  
2 girlfriends gave the power of attorney to the girlfriends  
3 and they went out and got credit cards and spent a lot of  
4 money and then when the soldier comes home the girlfriend  
5 is gone from the scene and the soldier is left with this  
6 debt.

7 CHIEF JUSTICE LIPPMAN: So how does this -- and  
8 let's switch over to you, Courtney. How does this  
9 translate to legal services? We understand, the public  
10 understands you're traumatized, you may have a mental  
11 health problem that comes you say from killing people,  
12 watching people be killed, whatever it might be being in  
13 action, how does this translate to legal services? What's  
14 that connection?

15 MS. SLADE: I can say for the veterans that we  
16 serve -- and we serve all veterans, including -- our  
17 highest demographic is actually the Vietnam era currently.  
18 But many of our veterans are facing criminal matters which  
19 I do outreach to our 18 counties that we cover, from the  
20 Canadian border down to Ulster County, in trying to link  
21 them, as Joe mentioned, with treatment options. But many  
22 of them are struggling with many civil legal matters that  
23 put them at risk --

24 CHIEF JUSTICE LIPPMAN: Maybe what, mortgage  
25 foreclosure?

1 MS. SLADE: Mortgage foreclosure, bankruptcy.

2 CHIEF JUSTICE LIPPMAN: Matrimonial.

3 MS. SLADE: Matrimonial. All of that. A lot of  
4 variety. And it puts vets at the risk of homelessness.  
5 And my program is under the goal from president and the  
6 secretary of the VA to end homelessness among veterans.  
7 So I can just say from the partnerships that we've  
8 developed just in the last two years of providing civil  
9 legal services within the VA has greatly alleviated --

10 CHIEF JUSTICE LIPPMAN: But do you provide it or  
11 do you rely on legal service organizations?

12 MS. SLADE: We rely on the partnerships with  
13 Legal Aid and The Legal Project.

14 CHIEF JUSTICE LIPPMAN: So you link them into  
15 the local legal services?

16 MS. SLADE: Well, they actually come to the  
17 hospital which is really wonderful because many of our  
18 veterans come in on our van service. They actually get  
19 the medical care and also meet with an attorney that  
20 they've established an appointment with to avoid the  
21 stress of -- maybe they don't have transportation, maybe  
22 they don't have funds to get to a clinic in the community.  
23 And from what we've received is a great deal of positive  
24 feedback that that is available to them. And that's a  
25 huge piece.

1           And then the evening clinic that we have also --  
2           again, we're not providing it, the partnerships are, the  
3           agencies that are here today, they allow for the veterans  
4           to come at various times and it's been very, very helpful.  
5           And a big piece of that is just alleviating the stress.  
6           Affording them an opportunity to get the care that they  
7           need regarding the symptoms that Joe had discussed and  
8           also get maybe these areas that are just like the social  
9           stressors.

10           HON. PETERS: Is there any federal reimbursement  
11           for the legal services provided to veterans?

12           MS. SLADE: No, I don't believe so.

13           HON. PETERS: It would be nice.

14           MS. SLADE: It would be nice. The directive,  
15           it's so new, it just allows us to provide space to meet  
16           their needs there, but it's a great opportunity I think  
17           for our veterans. And many of them are referred from our  
18           homeless program and many of them actually work probably  
19           with Albany Housing Coalition as well so there's a  
20           collaborative there.

21           CHIEF JUSTICE LIPPMAN: The link that we're  
22           looking at today is state funding for legal service  
23           providers which allows you to help them. I mean this is  
24           what you're trying to do. What we're trying to do.

25           HON. PRUDENTI: Sitting back and listening to

1           you, we've heard today about pro se litigants, people who  
2           represent themselves in court, whether it be in family  
3           court or landlord-tenant case, what you seem to be saying  
4           is these individuals aren't even capable of doing that,  
5           that they really need help and assistance from the legal  
6           community because they can't even go to court by  
7           themselves. They are, in certain circumstances, incapable  
8           of understanding the proceedings because what they're  
9           personally going through in their re-entry into society.  
10          So for them civil legal services are even more important.

11                   MS. SLADE: In mentioning that a lot of the  
12           questions I get -- for a while my name was affixed to the  
13           flyer that we were distributing and the expert -- you had  
14           mentioned previously that the experts kind of just provide  
15           consultation or flush out what needs to be filled out,  
16           things like that. We've had problems resolved in our  
17           clinics just by breaking things down. And I don't know if  
18           necessarily I can say whether it required an attorney or  
19           not, but they broke down those questions for them because  
20           they felt overwhelmed by them because it had legal affixed  
21           to it; it had, you know, go to a court appearance affixed  
22           to it. So it's been very helpful.

23                   MR. SLUSZKA: And Judge, from our experience  
24           with my organization, homeless veterans face -- and here  
25           in the Capital District there are probably, at last count,

1 around 900 homeless veterans. And again, our goal and our  
2 purpose, and we've been doing this, sir, for 22 years, but  
3 now I think there's light at the end of the tunnel  
4 actually, given what the Court had said and what we've  
5 experienced with our VA Secretary Shinseki who is  
6 challenging all of us across the country to end veterans  
7 homeless by 2015. What the VA has done is implement a  
8 series of housing programs that hopefully will accomplish  
9 that.

10 One of the barriers that we have seen over the  
11 years, and it remains today, especially for homeless  
12 veterans, is that we have a lot of mostly guys flying  
13 under the radar who don't want to get a job on the books  
14 who end up in the City Mission, who end up in our housing  
15 with our organization primarily because they're facing  
16 civil issues that they don't want to deal with or they  
17 don't feel they have the resources to deal with.

18 One of the things we've done over the years  
19 successfully is create a small group of pro bono attorneys  
20 to assist them. In the last couple of years we formalized  
21 that with the Legal Aid Society here. We've got a  
22 terrific attorney who is a veteran who is working with our  
23 guys.

24 So in order to solve the homelessness problem  
25 with veterans we need to get to one of the underlying

1 causes which are unresolved primarily civil issues. We  
2 also handle, within our organization through our Third  
3 Judicial District Vet Track Program, criminal matters,  
4 both in county courts and some of the city courts. And  
5 there we do that with other veterans who appear, and that  
6 works and works well and I want you to know that. That  
7 operation works and we are thrilled. I am thrilled.

8 But back to the civil end. It's more of a  
9 quandary. Some of the folks, because of their income, can  
10 be served by Legal Aid. Some, as I heard with the last  
11 panel, are kind of -- they're above that and they have  
12 nowhere to turn to and so it comes to us to try to plead  
13 with an attorney who is a veteran, because they're going  
14 to look more kindly toward providing the pro bono service.

15 And to Judge Peters', I think it was, remark,  
16 pro bono on kind of a graduated payment scheme I think  
17 would be very helpful for those folks. But unless the  
18 courts and those of us in the community resolve those  
19 underlying problems we will continue to have homeless  
20 veterans who are flying under the radar and who do not  
21 want the otherwise incredible housing and employment  
22 assistance that's available to them.

23 HON. PETERS: When you talk about flying under  
24 the radar, are you talking about, for example, a veteran  
25 who has a large outstanding child support bill for example

1 and doesn't want to be on the books because then a good  
2 portion of his paycheck is going to pay the funds of?

3 MR. SLUSZKA: Yes, absolutely. And one of the  
4 things we do with each of them when they are living with  
5 us is take responsibility for yourself and let's work out  
6 with an attorney a payment plan and let's get you back in  
7 court to resolve this. And this is something that's  
8 happened. They now have great jobs, they're able to pay  
9 their child support and have sufficient income to live  
10 their own lives. So absolutely.

11 CHIEF JUSTICE LIPPMAN: So legal assistance is  
12 essential to all of these folks.

13 MR. SLUSZKA: Absolutely.

14 CHIEF JUSTICE LIPPMAN: Any other questions of  
15 the panel?

16 MR. SHRAVER: To be clear, sounds to me like you  
17 were saying that to meet the legal needs or to address  
18 some portion of the legal needs of veterans in this area  
19 you rely on both lawyers who are employed by Legal Aid and  
20 pro bono private attorneys; is that right?

21 MR. SLUSZKA: That's right.

22 CHIEF JUSTICE LIPPMAN: Are there any other  
23 sources of lawyers that you or legal services that you  
24 rely on and often use?

25 MR. SLUSZKA: Some of our veterans actually hire

1 attorneys. These are homeless folks who for whatever --  
2 some of them are receiving some compensation from the VA  
3 for their war injuries as an example, and they're spending  
4 that money, which would otherwise go to housing, for  
5 private attorneys.

6 There are some veterans who when they file a  
7 compensation claim, which is done for free by an  
8 incredible group of folks from New York State Division of  
9 Veterans Affairs and in each county level, if it's turned  
10 down there is some veterans, when they go to appeal it,  
11 see the TV ads and end up hiring a very expensive attorney  
12 to file the appeal where the appeal is actually free from  
13 where they originally filed the appeal. So that's an  
14 indication.

15 MR. SHRAVER: Do you have any connection with  
16 the Albany law school clinics with respect to trying to  
17 meet some of these needs?

18 MR. SLUSZKA: Yes. In fact, I did a panel I  
19 think two or three years ago when they first kicked off  
20 their veterans initiative and we stayed connected with  
21 them, yes.

22 CHIEF JUSTICE LIPPMAN: Thank you both for  
23 really highlighting I think what is again a theme that  
24 we've had over the years which is a great need for legal  
25 assistance for veterans, and the legal service providers

1 have done a great job. The State Bar I know put some  
2 focus on this same issue and it's something vital. So  
3 again, we hope that we can provide some assistance in that  
4 area. So thank you both very much.

5 MR. SLUSZKA: Thank you.

6 CHIEF JUSTICE LIPPMAN: We're going to go to our  
7 final panel. You can all come up, and see if we can get  
8 all the names right. You're bringing up your own cause so  
9 we'll know if we get the names right. So let me see if I  
10 have it right. We have Jason Keller and you have your  
11 attorney with you, Jason?

12 MR. KELLER: Yes, I do.

13 CHIEF JUSTICE LIPPMAN: And that is your  
14 attorney --

15 MR. KELLER: Laura Dwyer.

16 CHIEF JUSTICE LIPPMAN: Laura Dwyer. And we  
17 have Laurie Schaible, is that the way you pronounce it?

18 MS. SCHAIBLE: Schaible.

19 CHIEF JUSTICE LIPPMAN: And Laurie, is your  
20 attorney with you?

21 MS. SCHAIBLE: I have a representative from  
22 Empire Justice Center.

23 CHIEF JUSTICE LIPPMAN: And is that Saima  
24 Akhtar?

25 MS. AKHTAR: Yes, sir.

1 CHIEF JUSTICE LIPPMAN: And we have Tia Sullivan  
2 Hock who is representing Michael DeBenedetti who can't be  
3 here today, right?

4 MS. SULLIVAN HOCK: Yes, he was called into  
5 work.

6 HON. PRUDENTI: That's a good thing.

7 MS. SULLIVAN HOCK: That is a good thing. So  
8 I've come on his behalf.

9 CHIEF JUSTICE LIPPMAN: And we have Michael  
10 O'Donnell?

11 MR. O'DONNELL: Yes, sir.

12 CHIEF JUSTICE LIPPMAN: And you're represented  
13 by Kristie Cinelli.

14 MS. CINELLI: Yes, your Honor.

15 CHIEF JUSTICE LIPPMAN: Let's start with you,  
16 Michael. You don't have to read anything if you don't  
17 want to. Tell us what your problem was and how you want  
18 help. Or you can read it, however you want to do it.

19 MR. O'DONNELL: Sir, I outlined it before I came  
20 here so I won't repeat myself, make a fool out of myself  
21 so I --

22 CHIEF JUSTICE LIPPMAN: Just tell us in your  
23 own --

24 MR. O'DONNELL: Two and a half years ago my son  
25 was taken away from his mother. Of course that eliminated

1 any possible visitation or anything else I could have with  
2 him because they put him in Berkshire Farms, a boys' home.  
3 I spent a half a year going back and forth to court,  
4 taking a bus into Cobleskill, spending the night at the  
5 hotel, getting up early enough to get to court on time  
6 because there was no bus system to go to Cobleskill that  
7 early in the morning. And then I would have to do the  
8 same thing in order to get back to Albany where I lived.

9 So subsequently a half a year I was going to  
10 court and I was known as the interested party. Not the  
11 father or anything else, the interested party.

12 CHIEF JUSTICE LIPPMAN: How did you feel at that  
13 point?

14 MR. O'DONNELL: What's that?

15 CHIEF JUSTICE LIPPMAN: What did you feel at  
16 that point? As a non-lawyer did you feel that --

17 MR. O'DONNELL: I felt like I was busting my  
18 head against a brick wall and --

19 CHIEF JUSTICE LIPPMAN: That's not a good  
20 feeling.

21 MR. O'DONNELL: -- there was no damage to the  
22 wall, more damage to my head.

23 CHIEF JUSTICE LIPPMAN: So what did you do? How  
24 did you connect to someone who could help you?

25 MR. O'DONNELL: I just kept doing the same thing

1           expecting different results, which I didn't get different  
2           results because every time I would go his mother wouldn't  
3           show up so they would put it off. Well, we have to  
4           adjourn this until next month. So that's another hundred  
5           some odd dollars to take a bus and stay in a hotel all  
6           over again. And I ended up doing that for six months.

7                         One day I was at the coalition -- volunteering  
8           at the vet house I mean, volunteering, which I did weekly  
9           two-, three times a day because I didn't really have a job  
10          or nothing and so it was a good way to spend my time. And  
11          one day after, you know, coming back from court and  
12          everything with no accomplishments whatsoever Mike O'Brien  
13          and a couple other people went into the room and I asked,  
14          you know, basically what was going on, you know, like I  
15          was waiting for -- was stuff coming in and they said yes  
16          they're lawyers, they come and talk to the men in this  
17          house.

18                        I talked to my counselor who was also there and  
19          he said yes and he went in and introduced me to Mike  
20          O'Brien. I told Mike O'Brien exactly what I was doing for  
21          six months and that I wasn't getting no visitation rights  
22          or -- he wouldn't even talk to me because he thought I was  
23          the reason he was sitting in Berkshire Farms. And I  
24          couldn't explain to him because I couldn't make contact  
25          with him over the phone or nothing else, I was cut off

1 completely from him.

2 Mr. O'Brien listened to what I had and  
3 everything else, of course I had all the stuff I got from  
4 the legal library and everything so when I was haggling at  
5 my own defense. So I would go in there and the judge  
6 would say, you know, I was an interested party. I wasn't  
7 his dad or I wasn't related to him or nothing else just  
8 because we have the same name, I was just an interested  
9 party. And that's as far as I was getting for six months.

10 Plus, you know, the expense it was costing me to  
11 go to court every month for his mother not to show up and  
12 then have to adjourn it or something like that. Or come  
13 back next month, we'll see what we can do. Well, who is  
14 going to pay for my expenses to get back home and  
15 everything. And, you know, I had to stay at the hotel.  
16 They only had one bus that went to Cobleskill so I would  
17 have to sit there for four or five hours waiting for the  
18 next bus to come through. And there's nothing to do in  
19 Cobleskill.

20 So subsequently Mr. O'Brien took the case right  
21 up, which really surprised me and everything. He started  
22 digging into the information I had and the papers I had  
23 and everything and he came to my house where I was living  
24 through the Coalition. Thank God they found me a place to  
25 stay and everything. I came to Albany homeless from

1           Oneonta. I came for the hospital, they replaced my left  
2           arm, from my shoulder to my elbow was artificial, and the  
3           same with my right foot. And so they took care of me and  
4           they're still taking care of me. I mean anything that I  
5           possibly need, especially from my mental aspect, they've  
6           been taking care of.

7                        CHIEF JUSTICE LIPPMAN: Your life was basically  
8           impacted greatly by the assistance you've been getting?

9                        MR. O'DONNELL: Oh yes. There's no words to  
10          really explain that. As a matter of fact, when I went to  
11          court Schoharie County labeled me, because of my  
12          posttraumatic stress, as being mentally ill. So when the  
13          judge there asked me one day if I had any questions about  
14          what was going on and I was worried about the fictitious  
15          clock on the wall that's ticking against me as I was  
16          sitting there accomplishing nothing and I told him. He  
17          said well Mike you don't have to worry about that anymore,  
18          when you submitted these papers from Mr. O'Brien that  
19          automatically stops the clock.

20                       CHIEF JUSTICE LIPPMAN: So your legal services  
21          assistance is something -- could you be in a position you  
22          are today without legal services?

23                       MR. O'DONNELL: No. No. Right now my son is  
24          living with me in our two-bedroom apartment and he's going  
25          to Albany High School. He would have been going to what

1           they call a transition program. But Mr. O'Brien stepped  
2           into that because he knows my son through doing all this  
3           work for him and said no this kid has hundreds on his  
4           report card, he doesn't need no transition, he probably  
5           could teach the teachers. I mean he cut six months out of  
6           my son, he would have had to go to Lark Street and  
7           transition program for six months for nothing.

8                    CHIEF JUSTICE LIPPMAN: Thanks, Mike, for really  
9           explaining to people what it means to have legal services.

10                   MR. O'DONNELL: I could talk about what it meant  
11           to me, only me, for four or five hours straight, because I  
12           mean it completely changed my life.

13                   CHIEF JUSTICE LIPPMAN: We've heard that same  
14           story before and it is always moving and it always shows  
15           the real life impact that providers have.

16                   MR. O'DONNELL: After spending six months  
17           beating my head against the wall and getting nowhere I had  
18           no faith in the judicial system whatsoever, they were just  
19           giving me a runaround. And his mother, which they took  
20           away for something she did wrong, supplying drugs and  
21           alcohol to a 12-year-old, they treated her like she was a  
22           queen.

23                   HON. PRUDENTI: And how do you feel today about  
24           the judicial system?

25                   MR. O'DONNELL: Well, now she called prior,

1 about an hour ago, reminding me it was her birthday.  
2 Which Derrick called her that morning wished her a happy  
3 birthday. You know, it is still his mother, I will not  
4 and cannot keep him away from having communication with  
5 his mother. I allow them to be together, go to see each  
6 other and everything else, because it's always going to be  
7 his mother.

8 HON. PRUDENTI: Do you have more confidence in  
9 the legal system now?

10 MR. O'DONNELL: Definitely. I mean this is -- I  
11 mean like I'm still paying child support, but we're not  
12 going to worry about that. But it's the idea that every  
13 morning when my son gets up, gets ready for school and  
14 everything, the first thing I think of is Mr. O'Brien. He  
15 wouldn't be here at the home or going to school this  
16 morning if it wasn't for Mr. O'Brien.

17 CHIEF JUSTICE LIPPMAN: That's really very, very  
18 helpful. Let's hear from Laurie. Laurie, tell us just  
19 briefly how legal services has helped you.

20 MS. SCHAIBLE: I actually have testimony to  
21 read. I'm more comfortable reading.

22 CHIEF JUSTICE LIPPMAN: You can do whatever  
23 makes you more comfortable.

24 MS. SCHAIBLE: First I would like to say thank  
25 you so much to the panel for this opportunity, I'm very

1 grateful. I now live in the Town of Selkirk, but up until  
2 a few years ago I lived in the Town of Coeymans.

3 In 1986 my family was impacted by a traumatic  
4 event that changed our lives. Because of this event I was  
5 left on my own to care for my three young children.  
6 Thankfully I was able to keep my home, but I left my job  
7 to stay at home and to help our family heal from this  
8 traumatic event.

9 I enrolled in welfare to receive benefits. My  
10 children were not school age at the time. I'm very  
11 grateful that these benefits were available to me when we  
12 needed them. I received assistance for close to six  
13 years, in one form or another, from HEAP to food stamps,  
14 child care, and cash assistance. For some of that time I  
15 did work, it was a graduating process.

16 Over the years I had asked for information on  
17 many occasions from Albany County regarding the services  
18 received and the related costs, but did not receive any  
19 type of information, itemized billing, whatever.

20 A few years ago, more than 20 years after I had  
21 received public assistance, I was in the process of  
22 selling the home and once again contacted DSS for  
23 information on the lien because of the benefits that I had  
24 received. This was a condition of getting the assistance  
25 at that time that I signed over my home. I let the county

1 basically put a lien on the house.

2 This time I did receive a response and this is  
3 the paper work I received from them, one single piece of  
4 paper with a piece of tape showing the total amount. No  
5 other information or explanations were attached. Luckily,  
6 I had kept most of the paper work. I did not know who to  
7 turn to or who could help me, and this was very  
8 distressing since I thought it could stop the sale of the  
9 home. I was also very sad to think that all these years I  
10 had been a part of the working class, also committed many  
11 hours of volunteer time in the local area which were not  
12 going to help in this situation, the money owed was the  
13 money owed.

14 Finally, after research, I found Empire Justice  
15 Center, contacted Susan Antos and immediately I received a  
16 response. A law student was assigned to my case, her name  
17 was Jessica, and I owe her a great deal. She spent many  
18 hours going over the paper work with me, researching  
19 history and law regarding the benefits in New York State.  
20 It turns out the county was asking me to repay three  
21 federal benefits that are not supposed to be included in  
22 the repayment: Food stamps, child care, and HEAP. There  
23 were also child support payments that were not credited  
24 correctly.

25 Susan Antos was instrumental in contacting the

1 appropriate individual at DSS to review the monetary  
2 charges and help determine what the end result would be.  
3 Suffice it to say the total I owed after selling my home  
4 was reduced by over \$20,000. If not for the assistance of  
5 Susan and Jessica I would not have received much money at  
6 all from the sale of the home. Clearly, for anyone  
7 \$20,000 is a lot of money to lose. For my family, it was  
8 critical for our ability to move on with our lives.

9 Empire Justice Center provided invaluable  
10 assistance, both legally in knowing who to contact and  
11 what charges were appropriate, and emotionally by assuring  
12 me they would help and would stand by me until resolution  
13 was achieved. I'm truly grateful for this contribution.  
14 If they were not there to help me I am sure the result  
15 would have been much different.

16 I am now working to hopefully inspire changes in  
17 the New York State welfare laws which would require all  
18 recipients to receive a yearly accounting of their  
19 benefits, and also to more clearly explain the rights  
20 citizens have in relation to welfare benefits.

21 I want to thank the Chief Judge and the panel  
22 for helping to provide these services to me and families  
23 like mine. It is very hard sometimes to keep going when  
24 you think you have nowhere to turn. And by making sure  
25 legal services are there you give us all a place to turn

1 in times of need. Thank you.

2 CHIEF JUSTICE LIPPMAN: Thank you, Laurie, I  
3 think your story again is such a direct firsthand account  
4 of what it means to get some legal help when you don't  
5 know what to do and have no ability to work things out.  
6 And sometimes things that are so complicated for you can  
7 be so simple when you have an attorney like the people at  
8 Empire Justice who come in and oh we know what to do.

9 So we thank you for coming in and telling us  
10 your story.

11 Let's hear Jason. What happened with you? You  
12 can either read it or just tell us, whatever you want.

13 MR. KELLER: My name is Jason Keller and today I  
14 speak as a client of the Saratoga Legal Aid Society of  
15 Northeastern New York.

16 I have two small children at home with my wife  
17 and one with special needs who resides with his mother. I  
18 served in the military, but I also got into some trouble  
19 when I was younger, but I got my life back on track. I  
20 work in the construction field as a painter and remodeler,  
21 but I was let go due to lack of work from my last  
22 employer. He encouraged me to apply for unemployment  
23 insurance benefits, which I did, and I was shocked that,  
24 and actually kind of scared, when I heard from  
25 unemployment insurance benefits agency that I was fired.

1           Saying I was an independent contractor for part of the  
2           time that I work there and that I was actually fired for  
3           misconduct. There was an altercation between me and  
4           another coworker and I never received a warning of any  
5           sort, verbal or written.

6                    CHIEF JUSTICE LIPPMAN: So what did you do? You  
7           got this, you were shocked, what was your first instinct  
8           as to what to do?

9                    MR. KELLER: My first instinct was to try to  
10          find a pro bono lawyer which literally nobody would help  
11          me, so I contacted Saratoga Legal Aid Society.

12                   CHIEF JUSTICE LIPPMAN: How did you know about  
13          them?

14                   MR. KELLER: Through another lawyer that my  
15          grandfather knows, Donny Boyajian. He told me to talk to  
16          Saratoga Legal Aid Society in my area. And I got a hold  
17          of Ms. Dwyer who from that point on took over the case. I  
18          had three hearings that were presided over unemployment.  
19          One was for the time limit because it took so long to  
20          fight for my unemployment. It was thirty days, took  
21          almost four months, and I didn't know what to do. I was  
22          scared.

23                   CHIEF JUSTICE LIPPMAN: But in each of these  
24          hearings they were basically legal issues that someone had  
25          to deal with and if you walked in as what we call a

1           layperson, a non-lawyer, you would be totally lost.

2                   MR. KELLER: I would be completely lost.

3           Ms. Dwyer found statutes that also my ex-employer had to  
4           prove that I was an independent contractor, which I was  
5           not.

6                   CHIEF JUSTICE LIPPMAN: And this is a technical  
7           legal issue.

8                   MR. KELLER: Correct.

9                   CHIEF JUSTICE LIPPMAN: We know, having had  
10          those kinds of issues about whether you're independent  
11          contractor or not. So what was the end result of it all?

12                  MR. KELLER: The end result was Ms. Dwyer  
13          found that he did not meet the deadline criteria. And  
14          with that being said he actually had no choice but to  
15          withdraw his other hearing against me.

16                  CHIEF JUSTICE LIPPMAN: So what did it mean to  
17          you? What happened in the end? Did you get the benefits?

18                  MR. KELLER: I got the benefits. And the little  
19          people, myself included, had a voice.

20                  CHIEF JUSTICE LIPPMAN: Could you have, in your  
21          wildest imagination, done this on your own?

22                  MR. KELLER: Never.

23                  CHIEF JUSTICE LIPPMAN: Much less get a  
24          favorable result.

25                  MR. KELLER: Actually, I would not be able to

1 take care of my kids.

2 CHIEF JUSTICE LIPPMAN: So having a legal  
3 service provider that gives someone a helping hand when  
4 they can't afford an attorney significantly changed your  
5 life.

6 MR. KELLER: Significantly.

7 CHIEF JUSTICE LIPPMAN: And again, couldn't be  
8 more evident the impact that legal services has on real  
9 people with real problems. These aren't the most unusual  
10 problems in the world, but they are problems that require  
11 the services of a lawyer.

12 And talking about a lawyer, let's get to our  
13 final client on the client's panel, but we're going to  
14 hear from the lawyer this time instead of the client; Tia  
15 Sullivan Hock. Tell us about Mr. DeBenedetti's problem  
16 and how you helped him.

17 MS. SULLIVAN HOCK: I just want to clarify, I'm  
18 actually the paralegal and legal services coordinator for  
19 our project.

20 CHIEF JUSTICE LIPPMAN: Terrific. Go ahead.

21 MS. SULLIVAN HOCK: I'm actually going to read  
22 his words because I think he grasps what kind of occurred  
23 here.

24 CHIEF JUSTICE LIPPMAN: Go ahead.

25 MS. SULLIVAN HOCK: Chief Judge Jonathan Lippman

1 and members of the panel, thank you for the opportunity to  
2 testify on the difference that receiving free civil legal  
3 services made in my life.

4 In August 2007, I, Michael DeBenedetti, stood on  
5 the yellow footprints at recruit Depot Paris Island where  
6 I had started my journey to become a United States Marine.  
7 During my time spent in the Marine Corps I was employed in  
8 2009 to 2010 to Iraq. Towards the end of deployment I  
9 sustained a permanent back injury that limits what I can  
10 do in the civilian world and I was honorably discharged  
11 from the Marine Corps.

12 Due to my injury I have missed time at work  
13 which significantly decreases my income. During this time  
14 I was still waiting for my disability rating. I could not  
15 work and had no funds in which to pay my bills. I had  
16 missed enough time at work which led to me become behind  
17 on my mortgage.

18 Wells Fargo was the loan holder and I contacted  
19 them to explain my situation. They first stated they  
20 would be willing to work with me in deferring my payments.  
21 But after giving them every piece of information that they  
22 asked for, I still was receiving no help from the loan  
23 officer that was assigned to my case, consistently leaving  
24 messages with no return call.

25 When I eventually did get a hold of someone it

1 was never the loan officer assigned to my case and all  
2 they could tell me was that they themselves could not take  
3 a payment and that I needed to speak with her. This went  
4 on for more than a month which pushed me further behind.  
5 And when I finally did get in contact with her I was two  
6 months delinquent and at that time she stated there was  
7 nothing she could do for me. She stated that it was now  
8 out of her hands and she would have to speak with her loan  
9 department to check and see if anything could be done to  
10 defer these payments to the end of my loan now that my  
11 house would be in foreclosure.

12 At this point I had become fed up with getting  
13 the runaround from Wells Fargo and was sick with worry  
14 that I would lose my home. I asked my counselor at the VA  
15 what options I had and they suggested that I get in  
16 contact with The Legal Project. I called right away, and  
17 the same day I spoke with Tia, who treated with me respect  
18 and was quick to help me with setting up an appointment to  
19 discuss my legal matter.

20 I met with The Legal Project attorney, Christy,  
21 and she looked over my documents and gave me peace of mind  
22 knowing that she could help me to keep my house. Finally,  
23 I had some help. Within a week Christy made arrangements  
24 with the bank for a reinstatement fee. Once I received  
25 the reinstatement fee I could pay this and my mortgage

1 would be current and I would no longer be in foreclosure.  
2 I was able to do this and get my house out of foreclosure.  
3 I was so relieved. Slowly, my credit started to go back  
4 up again.

5 During the two-to-three month journey Tia,  
6 Christy and the other Legal Project staff have been  
7 nothing but respectful, courteous and professional. I  
8 would definitely use their services again if I needed to,  
9 although I hope I don't need to, and I would also  
10 recommend them to anyone I know who needs legal help and  
11 can't afford it. It's so important for people like me to  
12 be able to get help from programs such as The Legal  
13 Project.

14 In my case, I'm a veteran who served our country  
15 and who was injured when deployed and still was facing a  
16 terrible crisis in almost losing my home. If not for The  
17 Legal Project, I could have lost the home I worked so hard  
18 for. Please do all that you can to make sure that these  
19 important programs have the help that they need, so they  
20 can help people like me and all of the others who find  
21 themselves in situations beyond their control. My story  
22 could have turned out very differently if not for The  
23 Legal Project. Thank you for your time.

24 CHIEF JUSTICE LIPPMAN: Thank you, Tia. And I  
25 think the story that you tell for Michael is the same as

1 Michael O'Donnell and Laurie and Jason, and demonstrates  
2 the critical importance of legal services, whether it be  
3 the Legal Aid Society of Northeastern New York, the Empire  
4 Justice Center, The Legal Project, and so many other  
5 providers around this state. And you've all been very  
6 helpful in demonstrating, again first hand, what legal  
7 services means to people in need in this state, people  
8 fighting for the necessities of life. And I think your  
9 stories really put a capstone on what we've heard all day.

10 We've heard from the Comptroller of the State of  
11 New York who told us about how the state's economy is  
12 bolstered, is made more robust by investing in Civil Legal  
13 Services. That they, in the end, serve the bottom line of  
14 our state, aside from doing something which helps people  
15 in need.

16 We've heard from the law school community that  
17 demonstrated just how important it is in conjunction with  
18 public funding for legal services that there be pro bono  
19 work; that law students understand while they're in law  
20 school from the very beginning why it's important to serve  
21 the community and do pro bono work and to help people in  
22 need.

23 We've heard from the business community which  
24 has told us how important legal services is not only to  
25 again doing the right thing and helping people, but to the

1 bottom line of businesses and communities around our  
2 state, how interested the business community is providing  
3 legal services to people in need.

4 We've heard from our judges who tell us how  
5 difficult it is to do their job when people are not  
6 represented in court, and to keep the playing field level.  
7 When a judge has to become the attorney at the same time  
8 as being a judge they cannot do their job.

9 We've heard from veterans which is just one  
10 category of clients who so desperately need legal  
11 services, particularly to meet their unique needs when  
12 they come back from action on behalf of our country.

13 And we've heard from all of you, which are just  
14 normal human beings who have a problem and need some help  
15 and sometimes just need the services of an attorney or a  
16 paralegal or basically legal advice and representation  
17 that will help them with the problems that they have.

18 So what we're going to do is take all this  
19 information and put it together in terms of the report  
20 that the Task Force is going to be making, in terms of the  
21 requests that we're going to be making to the Legislature,  
22 in terms of civil legal services. We could not do this  
23 without hearing from you, understanding what the problems  
24 are, understanding what we need to do to meet those  
25 problems. Again, the problems of human beings, their

1 basic needs regarding the essentials of life.

2 So we thank everyone for being here today at the  
3 first of our legal services hearings. There will be three  
4 more; one in Manhattan, one in Queens County, and one in  
5 Buffalo. And I think we're going to hear similar themes.  
6 But it is the cumulative effect of the testimony that we  
7 hear that allows us to try to meet the Legislature's  
8 request of us, which is really what are the needs in  
9 relation to civil legal services and what can they do to  
10 help to provide the kind of funding that results in  
11 providers having assistance they need to help citizens  
12 like this last panel and the problems you have.

13 I want to thank everybody for coming on behalf  
14 of the panel, we appreciate it. And it is our hope and  
15 expectation that we can get the Legal Services funding  
16 that we need to continue the progress we've made in New  
17 York, which I think has been a template in so many ways  
18 for other places around the country that are looking to do  
19 the same thing that we're doing; to meet the crisis in  
20 civil legal services, to see whether it's possible in this  
21 country to get to the point where maybe there will be  
22 something akin to a civil Gideon, meaning where everyone  
23 will have the right to representation in a legal issue  
24 that's involved, with the very least, the necessities of  
25 life, where people are facing the basic human needs that

1 we all have.

2 So thank you all so much, it's been a pleasure  
3 to be with you. And thanks especially to this last panel  
4 for coming in. Thank you.

5 (The proceedings in the above-entitled matter  
6 were concluded.)

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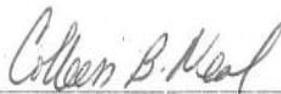
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C E R T I F I C A T E

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3  
4 I, **COLLEEN B. NEAL**, Senior Court Reporter in and for the  
5 Third Judicial District, State of New York, **DO HEREBY CERTIFY**  
6 that the foregoing is a true and correct transcript of my  
7 stenographic notes in the above-entitled matter.  
8  
9

10 DATED: September 23, 2013

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13 \_\_\_\_\_  
14 Colleen B. Neal, Senior Court Reporter  
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16 Albany, New York 12207  
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