

STATE OF NEW YORK
FOURTH DEPARTMENT HEARING
THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

October 3, 2013

SUNY Buffalo Law School
North Campus
John Lord O'Brian Hall
Letro Courtroom
Buffalo, New York 14260

B E F O R E:

HONORABLE JONATHAN LIPPMAN,
Chief Judge of the State of New York.

HONORABLE HENRY J. SCUDDER,
Presiding Justice, Appellate Division, Fourth Department.

HONORABLE LAWRENCE K. MARKS,
First Deputy Chief Administrative Judge.

VINCENT E. DOYLE, III,
Past President, New York State Bar Association.

1 JUSTICE LIPPMAN: Good afternoon. It's great to
2 see all of you at this terrific law school. Before I make
3 an opening statement and introduce our lead witness, I do
4 want to thank the dean for hosting us at the law school in
5 this beautiful courtroom at this beautiful law school.
6 We're very appreciative of the opportunity of being here
7 in this setting, being in Buffalo, and being at this great
8 law school.

9 Let me start by saying that this is the fourth
10 year of our hearings on civil legal services. We hold
11 hearings in each of the four judicial departments each
12 year. And what this is about is the leadership of the
13 Judiciary and the profession coming together to try to
14 understand the extent of the justice gap in our state,
15 that is the gap between the finite legal resources
16 available and the tremendous need for legal services in
17 our state.

18 On the panel with me representing the State Bar
19 Association is Vincent Doyle, Jr., the former president of
20 the State Bar and someone who I've known for many, many
21 years and greatly respect and admire. Lawrence Marks, who
22 is the First Deputy Chief Administrative Judge of the
23 Unified Court System, who I have had the pleasure of
24 working with also for many -- I'm very young. I don't
25 know why all of my -- all these years with all these

1 people. But it's good to have Judge Marks with us. And
2 of course, Judge Henry Scudder, the Presiding Justice of
3 the Appellate Division, Fourth Department -- who is much
4 taller than me, but I look taller than him sitting back,
5 this is very good -- who is a delight to work with and
6 presides over this great department, and I'm so pleased to
7 be with PJ Scudder.

8 I also want to thank the Task Force to Enhance
9 Civil Legal Services in our state. The members who are
10 here today, Helaine Barnett, who is the chairman.
11 Helaine, good to see you. Steve Banks, who I know is
12 here. Bob Convissar. Bob. There he is. Fern Fisher, I
13 don't think made it. Or did she? No. Sheila Gaddis is
14 here. I see her. And the Honorable George Lowe who has
15 been such a tremendous leader in this area.

16 I want to thank the Task Force for all of their
17 work, and I want everyone here to know that these hearings
18 come out of a crisis in civil legal services in our state
19 and in our country. There are people fighting for the
20 necessities of life, the roof over their head, their
21 physical safety, the wellbeing of their families, their
22 livelihoods, and just cannot obtain the legal services
23 that they need. At best in New York State we're meeting
24 20 percent of the civil legal service needs of our people,
25 and in a bad economy the situation becomes even worse when

1 so many people are going to fall off the cliff literally
2 if they don't get legal help.

3 And on the criminal side of our justice system
4 there is the case of *Gidion versus Wainwright*, and we
5 celebrate this year the fiftieth anniversary of that case
6 which guaranteed the right to representation for criminal
7 defendants, and it is just the opposite in civil cases.
8 And with all of the issues in criminal representation,
9 there is that constitutional law that requires
10 representation. In civil cases we have nothing of the
11 sort. There certainly has been a discussion of civil
12 *Gidion*, and that day may come at some point where people
13 have a right to representation, but that is not the case
14 now, and because of that we have tried very hard to
15 provide public funding for civil legal services in our
16 state and to encourage pro bono work by the Bar, voluntary
17 pro bono work, to such a critical part in this effort.

18 We know in the judiciary profession, that if we
19 don't take the lead in this area, no one else will, and
20 that's why these hearings are taking place. This is all
21 about equal justice. If we don't have equal justice in
22 our state, we might as well close the courthouse doors.
23 There's no reason for us to exist if we do not foster
24 equal justice in our state, in Buffalo, and around the
25 country.

1 We are proud of the template that we have
2 established in New York, which is pursuant to a joint
3 resolution of the legislature we hold public hearings each
4 year and pursuant to their request report back on what we
5 think the needs are for civil legal services in our state.
6 We have been successful. We put those moneys in the
7 judiciary budget. Last year we were able to get
8 55 million dollars for public funding for civil legal
9 services, but I have to tell you it is the tip of the
10 iceberg in terms of the need. The need is so great, and
11 the resources are so limited.

12 We are proud of our Bar in New York who
13 contributes over two and a half million hours of pro bono
14 work. We are proud of our law students who are now
15 required to do fifty hours of pro bono work before they're
16 going to be admitted to the Bar so that they understand
17 the core values of our profession and embrace the idea of
18 service to others. This is what being a lawyer is about,
19 and this is what we're trying to make sure that all law
20 students understand. And we're also, on the other end of
21 the spectrum, trying to get our older lawyers, the baby
22 boomers who are now nearing retirement, to make sure that
23 they understand that they can continue the meaningful work
24 by doing pro bono work for the poor and the disadvantaged
25 and people of limited means.

1 All of this is to promote access to justice.
2 Access to justice is so critical to what we do. Everyone
3 deserves their day in court. That is what this is all
4 about, and every society is judged by how it treats its
5 most vulnerable citizens, and we should be judged by that,
6 and that is why it is so important that we all work with
7 all of our energy to close this justice gap.

8 So what's happening today is this is the fourth
9 hearing of the different departments that we have done
10 around the state. We will take the results of today's
11 hearing and the other hearings and try to figure out what
12 public funding is required for our state this year. We
13 will put those moneys in the judiciary budget, and then we
14 will advocate for those funds.

15 So I'm so pleased you are all here. I'm so
16 pleased that we have the very distinguished witnesses
17 scheduled to testify today, and the first panel includes
18 the Buffalo Law School dean, and he's going to talk about
19 the student pro bono efforts. And I would introduce first
20 my friend Dean Makau Mutua who has been such a positive
21 force in our state in terms of justice for all and equal
22 justice and has been such a great leader of this terrific
23 law school, and I am so delighted to have been able to
24 work with him on so many issues together in the cause of
25 equal justice. He has recently been appointed by the

1 governor to the Moreland Commission. He is a great asset
2 to the legal education community and to this terrific law
3 school.

4 And with him on this panel is Emily Dinsmore
5 from the SUNY Buffalo Law School. She's a candidate for
6 JD in May 2014, and Kerisha Hawthorne, who is also at the
7 law school and is a candidate for her JD in May of 2014.
8 Dean, it's a delight to have you. I'm so pleased. This
9 is the second time that the dean is testifying before this
10 panel and on these hearings. Was it last year, Dean, or
11 two years ago?

12 DEAN MAKAU: It was two years ago.

13 JUSTICE LIPPMAN: Two years ago. And we're so
14 pleased that you're here. Thank you so much for being
15 here.

16 DEAN MAKAU: Thank you so much, Judge Lippman,
17 and thank you so much to the distinguished panelists who
18 have joined you on this occasion. We are honored and
19 pleased and even humbled to appear before you to speak
20 about access to civil legal services.

21 Judge Lippman, I want to honor your service to
22 the state and to your unrivalled commitment to the poor.
23 You have become a leader in this area, and I think even
24 other states in the nation are looking to you for guidance
25 for the kinds of things that you are doing here. I also

1 want to thank you for coming again to our law school. I
2 remember it was just last May when you gave a very
3 inspiring speech at our commencement to our community, and
4 the words of wisdom that you left with us are still with
5 us today. So I want to thank you very much, and I want to
6 thank you again for asking me to appear for the second
7 time before you to offer my views on this question and
8 that the perspective, not just of myself, but the
9 perspective of a law school dean with respect to the kind
10 of education that we hope to provide to our students so
11 that they can become lawyers of conscience.

12 Judge and the panel, equal access to justice
13 underpins our democracy. I think it's clear to me and to
14 all of us that access to justice is the key for the notion
15 of equality before the law, without which there can be no
16 democracy. An important component of that really is
17 devotion to serving the poor as lawyers. And an iconic
18 American once said that injustice anywhere is a threat to
19 justice everywhere. That was the Reverend Martin Luther
20 King.

21 I am continually impressed by the commitment of
22 our students, faculty, and staff to serve our community.
23 Working closely with the legal community to serve the
24 neediest clients in this community, to help victims of
25 domestic violence, to secure health care and other basic

1 benefits for the elderly, to ensure that low income
2 families have access to affordable housing, to provide
3 mediation services to those who could not afford them, to
4 counsel unrepresented debtors regarding their rights as
5 consumers, and to help them through the legal process and
6 to act on behalf of nonprofit environmental groups to
7 protect the environment and ecological resources, and
8 these are just a few of the things we have been able to do
9 at SUNY Buffalo Law School to increase access to justice
10 in our Fourth Department.

11 I just want to say that together with your
12 efforts, Chief Judge, we established consistent and
13 reliable funding for civil legal services, and the work of
14 the Task Force to Expand Access to Civil Legal Services in
15 New York, to offer innovative, alternative resources to
16 deliver civil legal services. This state's law schools
17 and students are continuing to expand the work they have
18 done for decades in partnership with the legal community,
19 striving to bridge what is called the justice gap.

20 I believe that to ensure equal access to justice
21 to all, law schools like SUNY Buffalo Law School must
22 educate future members of the legal profession that it is
23 incumbent upon us as legal educators and to pass on to
24 future lawyers as members of the Bar that they have an
25 obligation to engage in lifelong pro bono legal service.

1 I want to commend the Task Force to Expand Access to Legal
2 Services for convening this May, the second conference in
3 two years focused on candid conversations among law school
4 deans, administrators, professors, and partners and law
5 students to proactively think about ways in which we can
6 best educate our students to instill in them the core
7 value of the legal profession, which is pro bono service
8 to the community. The long-term success of that work will
9 depend on focused efforts, not only within law schools
10 like mine but on partnerships with our colleagues, legal
11 services providers, pro bono coordinators at law firms,
12 members of the Bar, Bar examiners, Bar Association
13 leaders, and judges.

14 At this year's conference, topical work groups
15 looked at a number of issues, and I just wanted to list
16 those very quickly. One, they looked at new models of
17 post-graduate programs with law school involvement like
18 incubators and community practices that provide
19 opportunities for recent graduates to be part of practices
20 that serve low-income residents. Two, we looked at
21 curriculum reform efforts, including practical skills
22 training, clinical options, redesigned core first and
23 second-year courses that specifically address access to
24 justice. Three, implementation strategies and best
25 practices for the fifty-hour pro bono service Bar

1 admission requirement that, Chief Judge, you so wisely
2 promulgated. Four, how service providers, both legal and
3 social, and law school students and faculty clinics
4 spearheaded relief efforts to aid victims of Hurricane
5 Sandy that are now models of collaboration and how these
6 models can be fostered and sustained within our state.
7 And, lastly, how changing technology can help us close the
8 justice gap.

9 The conference report will share the exciting
10 results as part of the Task Force's annual report on these
11 hearings and help highlight the continuing pressing need
12 for increased access to civil legal services. Chief Judge
13 Lippman, you will receive recommendations on these models,
14 best practices, and proposals for new or revised rules and
15 policies that will facilitate efforts to close the justice
16 gap flowing from the work of the conference participants
17 and follow-up efforts thereto.

18 Meeting for the first time at this year's
19 conference was also the Statewide Law School Access to
20 Justice Council. This council is comprised of
21 representatives appointed by the deans from each of the
22 state's fifteen law schools. The council will work to
23 enhance communication and collaboration among law schools,
24 the legal services providers, and the Bar to maximize our
25 efforts and resources to deliver legal services to those

1 in need. Among other issues, the council is studying the
2 feasibility of an online clearinghouse that would serve as
3 a central location for law schools, providers, and Bar
4 Associations to post pro bono opportunities for students
5 to improve efficiencies and collaborations for all of us
6 and to better serve those in need of legal services.

7 It is anticipated that technological innovations
8 can reach individuals who otherwise would not have access
9 to law schools' assistance programs, legal service
10 providers, or a courthouse to obtain critically-needed
11 civil legal assistance.

12 The deleterious consequences resulting from the
13 contraction of our economy continue to impact our most
14 vulnerable citizens. In metropolitan centers, individuals
15 seeking legal assistance often have a number of legal
16 service providers, Bar Association programs, and clinics
17 and service programs at local law schools to approach, but
18 in rural communities far away from the cities there are
19 fewer options. It is likewise vital to remind ourselves
20 that the existence of local service providers is not a
21 guarantee that legal assistance will be available. In far
22 too many cases, those in need are turned away simply
23 because there are not enough hours in a week or in a day,
24 you know, for the committed and dedicated, you know,
25 professionals, students, and lawyers who will provide free

1 legal services.

2 The newly-enacted requirement for law students
3 to perform fifty hours of supervised pro bono service as a
4 prerequisite to Bar admission is certain to both help with
5 the justice gap and to imbue our young lawyers with this
6 important civic responsibility by implicitly allowing them
7 to undertake that as a core value of the profession once
8 they are admitted into the Bar. The fact that nearly
9 40 percent of lawyers who are members of the New York
10 State Bar Association report that they are also solo
11 practitioners or are members of a firm with ten lawyers or
12 less underscores the critical role of pro bono service in
13 training our students. Individuals who engage in a solo
14 practice or in a practice that is a small firm are often
15 the community's first responders for people facing acute
16 legal difficulties. Likewise, our law schools are
17 responding by expanding our clinical and experiential
18 learning opportunities and programs to both provide some
19 direct service to otherwise unserved clients and to give
20 students the skills and training they need to provide
21 effective legal representation to those in need.

22 The hands-on training at SUNY Buffalo Law School
23 we give our students in experiential learning programs
24 that we offer through clinics, externships, and practicum
25 combine the study of law with supervised practical work

1 where students deliver services to people facing legal
2 challenges that could have life-altering consequences.
3 Our service learning opportunities assist people of all
4 ages, from children to the elderly, who are in need of
5 legal counsel and cannot afford to retain an attorney.
6 Our clinics and practicum are staffed by faculty members
7 who train our young lawyers to handle the panoply of
8 issues that they preserve -- to preserve or regain their
9 rights in matters relating to family relations, health
10 care, financial issues, criminal matters, environmental
11 injustices, affordable housing, among others. In
12 addition, we have clinics that focus on environmental and
13 economic policies and issues that directly affect daily
14 life in our communities. We also have clinics that are
15 run by and staffed by our students and faculty where our
16 students are trained by local legal service providers in
17 our community. And I just want to name a few of those
18 providers, some of whom I believe are in the audience.
19 The Western New York Law Center, the Legal Services for
20 the Elderly, Disabled, or Disadvantaged of Western New
21 York, the Erie County Bar Association's Volunteer Lawyers
22 Project, the Legal Aid and Neighborhood Legal Services.
23 These groups and organizations work with clients under
24 attorney supervision. Together this work on behalf of our
25 law faculty and students fulfills a fundamental goal of

1 our profession, to serve the public.

2 While we have had a strong history of public
3 service among the majority of our students, the new pro
4 bono Bar admission requirement ensures that each and every
5 student will be inculcated with the ethic of public
6 service at the outset of their professional lives. And I
7 believe personally as I have told you, Chief Judge, on a
8 number of occasions, I believe personally that this
9 initiative is one of the most important initiatives in our
10 state which will surely help bridge the justice gap.

11 The decisions that have been issued by the
12 United States Supreme Court at the conclusion of this
13 2012-2013 term in my view reinforce the importance of
14 instilling in our students a social conscience. Many of
15 the court's recent rulings implicate civil legal rights
16 that will have real-life consequences for our citizens.
17 Alexander Hamilton once told us that the first duty of
18 society is justice.

19 As the dean of this law school, I will continue
20 our work to ensure that our most vulnerable neighbors have
21 access to justice. I believe that every lawyer must
22 really live and work at the intersection of power and
23 powerlessness and in that exercise practice law with a
24 social conscience. That is what we teach our students
25 here, Chief Judge Lippman, that is our ethic of our circle

1 now, and that is why we are so proud to partner with you
2 in pushing for more funding and more support for these
3 services.

4 I applaud you, and I applaud the work of the
5 legislature and the executive branches in responding to
6 your call for more funding to support these activities. I
7 don't think that it would be possible for us to uphold our
8 democracy, as I have said before, without access to legal
9 service for the poor. I want to thank you and thank the
10 panel for listening to me. Thank you so much.

11 JUSTICE LIPPMAN: Thank you, Dean, for your
12 eloquent remarks. In every way they're inspiring, and you
13 make this law school really a place all about justice and
14 equal justice. I would ask you just a couple of brief
15 questions, Dean. How is the economy -- you know, we read
16 a couple of days ago in the New York Law Journal about the
17 difficulties that law schools have these days in terms of
18 enrollment and the limited number of jobs when the
19 students come out. How does it affect our efforts or your
20 efforts, really, in terms of inculcating -- which I think
21 is the right word -- the students with that spirit of
22 service, this idea that lawyers are supposed to serve
23 others? How does the difficult economy play into that
24 with the limited number of jobs when they come out? Has
25 it made it more difficult or --

1 MR. MUTUA: Thank you, Chief Judge Lippman.
2 Just to give you a sense of the impact of the crisis on
3 law schools, in the last five years the number of
4 applications to law schools have dropped from 100,000 to
5 50,000. In the meantime, the number of law schools have
6 remained the same, 200. So law schools have to compete
7 for half as fewer students as there were just five years
8 ago.

9 But I believe that every challenge is an
10 opportunity. It's a time for us to re-examine why we
11 exist as law schools and to think about the core values of
12 our profession. In that regard, I think that the kind of
13 student who is applying to law schools today has examined
14 why they are coming to law school. And, you know, I just
15 want to admit that the changes in the marketplace in terms
16 of why people want to go into law school, how much they
17 pay, the number of applications, has caused -- those
18 questions have forced law schools to re-examine themselves
19 and to look at the kind of product that they deliver to
20 students.

21 I cannot remember a time of more soul searching
22 for law professors and for law school deans than today.
23 The consequence of it, Chief Judge, is that, you know, we
24 are rethinking how we educate and why we educate. And so
25 one of the things that I just want to emphasize here is

1 that virtually every law school dean that I know is
2 talking about how do you deliver a legal education that
3 produces lawyers who are profession ready. And profession
4 ready is not simply lawyers who are going to go off to
5 practice law in big corporate firms in New York City. It
6 is lawyers who are going to go and became solo
7 practitioners in Batavia and rural America.

8 We cannot, as law schools, continue to tell
9 students that at the end of a legal education that there
10 is a six-figure salary waiting for them. I think that
11 would be irresponsible. I think we have to educate
12 lawyers who are going to serve the public, and in the
13 course of serving the public, you know, attain a good
14 lifestyle. You know, and so what I have been pushing for
15 and I think what my faculty and this law school has been
16 interested in doing this, but in responding to these
17 challenges is to find opportunities through which we can
18 imbue our students with a more caring legal attitude.

19 JUSTICE LIPPMAN: Isn't it an ironic thing that
20 we have these troubles and the law students have more
21 trouble finding jobs and yet we have this tremendous need
22 that's out there to service the poor and people of limited
23 means? And it's this kind of -- you and I were talking --
24 this kind of disconnect that seems so at variance with
25 this so-obvious goal that we should all have for law

1 schools, that people who serve the public, you can earn a
2 good living while you're doing it, that's fine, but to
3 serve the public, and yet we have this strange dichotomy
4 today where so few jobs, the law school decline is down,
5 and yet this need is greater than ever.

6 DEAN MAKAU: Yes. I agree with that. Actually,
7 it's ironic that you think that whenever there are more
8 social problems in society lawyers are a greater need. It
9 is surprising to me that the reverse appears to have been
10 true for the last five years, that lawyers are less needed
11 in a more complex and more trying environment. But I
12 think that's a personal perspective. I think I agree with
13 you, Chief Judge Lippman, that if we give our students the
14 perception and the expectation that once they graduate and
15 the only place to work is in Boston and New York City and
16 Washington, DC, and San Francisco and so on, we will be a
17 failure. You know, we have to give them the tools and the
18 perspectives to understand that you can really earn a good
19 living in rural America, including poor neighborhoods in
20 this country and including in rural areas. You can do
21 both, and you can succeed.

22 And I think, you know, my two students here who
23 are among the best will, you know, have an education of
24 the values. And so, yes, I think that the need is even
25 greater. I think the crisis in legal education, as

1 difficult as it has been for us, is fortuitous because it
2 has made us rethink what we do and why we do it. And I am
3 glad to say that I am glad to see that the Bar itself is
4 partnering with us giving us advice.

5 Mr. Doyle, I have been speaking, you know, over
6 the past several years on how to respond to these
7 challenges are good opportunities for our students to make
8 sure that they are better prepared, and the bench as well
9 has been very, very helpful towards.

10 JUSTICE LIPPMAN: I agree with that, and I think
11 it's all about partnerships. I think that we're all, what
12 we have -- not that we shouldn't have understood it
13 before, but certainly we all understand that the
14 profession, the Academy and the Judiciary, are very much
15 in this together and have that same goal which revolves
16 around serving people and access to justice, and I think
17 that partnership is instrumental. It's critical to really
18 being able to address the challenges that, you know, that
19 you have talked about today and I think are so inherent in
20 today's society and the economy that we live in in all
21 parts of our state. And you're right, not just, you know,
22 the few big firms in the big cities downstate, and there's
23 a problem which is statewide and not reserved to any one
24 community.

25 Do any of the other panelists have any questions

1 for the dean? Vince?

2 MR. DOYLE: If I could. Dean, I just want to
3 take a personal moment to express to you how proud I am of
4 my law school. As you know, I'm a proud graduate of
5 Buffalo Law School, and I'm so proud for what you're doing
6 and what the law school is doing, hosting us here today,
7 the conference that you talked about, and the other
8 efforts that you talked about, all of the law school's
9 efforts for many, many years on access to justice.

10 It was indeed, Dean, I can tell you, a value
11 instilled in me here at Buffalo Law School, and one that I
12 have carried through my career, and I think all the other
13 graduates of Buffalo Law School that are here would say
14 the same thing. It is something that should be instilled
15 early and will pay fruits later in the life and career of
16 that lawyer, which is why I think the pro bono initiative
17 of the Chief Judge for the law school applicants, the
18 admission applicants, makes so much sense, because we do
19 need to instill this core value of the profession.

20 And, Dean, I couldn't agree with you more that
21 the discussion that's occurred over the last few years
22 about whether law schools make their law graduates
23 practice ready is really misguided. Law schools need to
24 make people profession ready, ready for the profession and
25 instilled with and prepared for the core values that this

1 profession requires, including access to justice and a
2 devotion to access to justice.

3 The question I wanted to ask you, and maybe also
4 when your two students speak they can address it as well,
5 I wanted to ask this. The fifty-hour requirement, we know
6 that one of the thing law school graduates and seniors are
7 concerned with are finding jobs and being marketable,
8 being able to get out and start the profession with a job.
9 Does a fifty-hour requirement in your experience, is that
10 something that has been viewed as a hindrance to them in
11 those efforts or something rather that expands their
12 opportunity, expands their experience, their ability and
13 their opportunities to find jobs? How have the students
14 that you have spoken to found the requirement?

15 DEAN MAKAU: Well, I think it is too early to
16 say definitively, you know, the trend that is taking
17 place. What I can tell you is that the returns are
18 extremely positive. I can tell you that for a fact. I
19 can tell you that our students have embraced the
20 fifty-hour requirement with enthusiasm. They recognize
21 the importance of the requirement, not simply as a pathway
22 for admission to the Bar but for what it does for them in
23 terms of giving them a leg up in the marketplace.

24 Actually, Chief Judge, you know, I wanted -- the
25 panel recommended the fifty-hour rule, and one of the

1 things that I told my fellow panelists, you know, was that
2 perhaps fifty hours was too short. Now, I don't want to
3 be attacked for saying that but --

4 JUSTICE LIPPMAN: At the dean's suggestion,
5 we're doubling it to a hundred.

6 DEAN MAKAU: You know, but my sense was that we
7 could deal with a little more hours. Because I think, you
8 know, we essentially spend the first two years of law
9 school curriculum teaching blackletter law for the most
10 part. I tell you no secret when I say that, you know, law
11 schools are putting more emphasis on the ability of
12 students to write and write better in plain English, to be
13 able to stand up and articulate arguments in a similar
14 courtroom experience. And I think, you know, the kind of
15 clinical opportunities that our students get in the
16 fifty-hour, you know, setting, you know, gives them all
17 these -- all these, you know, tools and teaches them how
18 to start to behave and understand, you know, the word of
19 law as it operates.

20 You know, too often I felt that legal educators
21 did not put a lot of emphasis or enough emphasis on legal
22 skills, you know, and especially by creating for students,
23 you know, opportunities such as the ones we are talking
24 about here. So, you know, I think it's one of the best
25 things to happen in all of legal education, this

1 fifty-hour rule. As I said, I think perhaps it should be
2 extended to more hours, and I would even ask, you know,
3 the Bar itself, the Bar itself, to consider adopting
4 something similar.

5 You know, I know that many members of the Bar
6 Association provide valuable legal services to the poor,
7 pro bono legal services, which is very, very important.
8 But perhaps, you know, Mr. Doyle, that is something that
9 the Bar would take up to see what could be done to
10 enhance, you know, what is already being done. Because as
11 the Chief Judge said, and I think you believe this as
12 well, there is too much, you know, need and not enough
13 opportunities for people to get the service, you know,
14 they need. You know, and I don't think that extending,
15 you know, the requirements for pro bono service to the Bar
16 would interfere in any negative way with the profession.
17 I think it would strengthen it.

18 JUSTICE LIPPMAN: I think that's an issue that
19 Vince and I have had many discussions about and is
20 something that deserves to be on the table, and certainly
21 the organized Bar has been terrific. But, you know, we
22 are talking about all those issues and how to inspire,
23 ensure that the organized Bar does absolutely the maximum
24 that they can do because, as you say, the need is so great
25 and there aren't enough -- there isn't enough public

1 funding in the world, and there isn't enough volunteer
2 services to truly close the gap. So we need to do
3 everything together, and the State Bar has certainly been
4 a partner in this effort, and this is an ongoing dialogue
5 that we're having about how we do that. So thank you
6 again for your eloquent testimony. And, Dean, we are
7 going to hear from our two prized students?

8 DEAN MAKAU: Yes. We are going to hear from our
9 two prized students. Let me just once again thank all of
10 you and, you know, thank Mr. Doyle for the kind words that
11 he has said about our law school. Thank you so much.

12 JUSTICE LIPPMAN: And let me say this, Dean. I
13 mean this sincerely, that you honor us by your presence
14 here, by allowing us to be here, and by your presence and
15 by your leadership in this whole part of the state,
16 statewide and in this particular law school, which is a
17 great place. And we're going to be getting a graphic
18 demonstration of why it's such a great place by
19 speaking -- to hearing from our two students.

20 DEAN MAKAU: Thank you.

21 KERISHA HAWTHORNE: Good morning. I extend
22 sincere appreciation to Chief Judge Lippman and members of
23 the hearing panel for conducting these hearings to discuss
24 unmet civil legal needs. My name is Kerisha Hawthorne,
25 and it is an honor to have this important hearing at our

1 law school, where I'm a proud member of the student body
2 and an active participant in serving those in need. Today
3 I want to share with you my experiences advocated for
4 low-income individuals through the law school clinical
5 program and my thoughts on the Bar admissions requirement
6 of fifty hours pro bono service.

7 Before I delve into my experiences advocating
8 for low-income individuals through the law school's
9 program, I would like to give you some background. I came
10 to law school wanting to bridge the gap between the legal
11 system and low-income individuals. Growing up in a
12 low-income community, I did not know much about the legal
13 system or the legal profession until I entered college at
14 SUNY Geneseo. In fact, it was this lack of knowledge
15 about the profession that steered my desire to enter the
16 legal field.

17 Throughout college I was very involved in
18 various service opportunities and spent my summer before
19 law school working with the New York State Division of
20 Human Rights. So going into law school, I knew that a
21 career in public interest law would be a good fit for me
22 because I enjoyed advocating for disadvantaged
23 individuals, and I wanted to make the legal system more
24 accessible to people coming from similar communities as
25 me.

1 However, as I made my way through my first year
2 of law school, I began losing sight of that goal. I got
3 caught up in the first year frenzy of wanting a large firm
4 career. The flurry of on-campus interviews and networking
5 events with large firms and the pressures of paying back
6 my loans made large firms with large paychecks appealing.
7 And in fact, the summer after my first year I did end up
8 in a large firm. It was a great experience, but a part of
9 me knew it wasn't the right fit.

10 In my second year of law school, I participated
11 in the Healthy Homes Legal Practicum through our law
12 school's Clinical Legal Education Program, and it was this
13 experience that reminded me why I came to law school. It
14 reminded me that I wanted to use my degree to advocate for
15 disadvantaged individuals, specifically low-income
16 communities. The Healthy Homes Legal Practicum is a
17 four-credit course with a service loan -- sorry, service
18 learning field placement designed to give students the
19 opportunity to advocate for Buffalo residents who are most
20 impacted by unhealthy housing.

21 In addition to educating me about various
22 housing hazards and the importance of environmental
23 justice, the practicum gave me the opportunity to advocate
24 for low-income individuals through my field service hours
25 at the Neighborhood Legal Services. At the Neighborhood

1 Legal Services, I worked with clients facing various
2 housing hazards such as lead paint chips, mold, rat
3 infestation, lack of heat, and more. I conducted client
4 interviews, provided referrals, and drafted legal
5 documents for clients with no other access to legal help.

6 My experience at the Neighborhood Legal Services
7 and in the Healthy Home Legal Practicum gave me an
8 opportunity to make a difference while in law school. I
9 was able to get out of the classroom and do real world
10 work. I was able to be a part of something that was
11 bigger than me and my desire to get a law school diploma.
12 This opportunity has truly enhanced my law school
13 experience and allowed me to use my legal education in a
14 meaningful way.

15 Through the Healthy Homes Legal Practicum I was
16 able to complete my fifty hours pro bono requirement. The
17 fifty-hour pro bono requirement is a great initiative to
18 encourage service among law students and to provide legal
19 assistance to low-income individuals. In law school it is
20 very easy to forget the people in our community who depend
21 on public interest attorneys and the pro bono work -- and
22 pro bono work to have their legal needs met. However,
23 initiatives like the fifty hours pro bono requirement and
24 the law school's clinical education program are great ways
25 to service communities in need and to encourage pro bono

1 work among law students.

2 One truism guides much of life, and it's
3 actually a philosophy of mine. To whom much is given,
4 much is expected. This committee and its work have my
5 utmost respect. I thank you for holding these hearings
6 and working to increase access to justice for
7 disadvantaged individuals.

8 JUSTICE LIPPMAN: Thank you, Kerisha, for that
9 testimony, and let me say to you that you have our utmost
10 respect. And thank you so much for that testimony that I
11 know I and the panel find very moving in terms of -- and
12 very reassuring in terms of the future of our profession
13 and the quality of our law students here at UB and around
14 the state. So thank you so much for coming and
15 testifying.

16 And, Emily, we're now looking forward to hearing
17 from you.

18 EMILY DINSMORE: Thank you for inviting me to
19 this hearing. Access to civil legal services is a key
20 component of our justice system, and I'm honored to have
21 the opportunity to share my experiences with you.

22 SUNY Buffalo Law School, in line with its public
23 interest tradition, has provided many opportunities for
24 students to meet and exceed the pro bono requirement.
25 Through our clinic, practicum, and externship programs, my

1 classmates have worked in a variety of agencies, courts,
2 and law departments across Western New York and beyond.

3 This past spring, I participated in the
4 mediation clinic. Under the guidance of our professor,
5 Steven Sugarman, five other students and I were able to
6 observe many mediations and court-mandated settlement
7 conferences. In addition to our observations, we were
8 able to co-mediate several small claims disputes, and I
9 co-mediated two custody disputes as well.

10 This experience was especially meaningful for me
11 because I group up with a clinical program, so to speak.
12 My mother, Suzanne Tomkins, is a clinical professor here
13 at SUNY Buffalo Law School, and I have spent countless
14 hours stuffing envelopes, staffing tables, and running
15 supplies for various events over the years. As such, I
16 grew up with the understanding that my duty as a citizen
17 and community member is to help those in need.

18 Even with that background, I didn't always fully
19 grasp the influence my mother's work was having. Now,
20 however, I see that this school's clinics really have a
21 twofold impact on the community. First, and perhaps most
22 obviously, students in the program directly help people in
23 need. I agree with Albert Einstein that in matters of
24 truth and justice there is no difference between large and
25 small problems, for issues concerning the treatment of

1 people are all the same.

2 In my work in small claims court, I saw the
3 palpable difference between persons represented by counsel
4 and those proceeding pro se. Even in a court with limited
5 scope and relatively relaxed procedure, pro se litigants
6 were at a distinct disadvantage. Forms, procedure, and
7 even vocabulary provide potentially insurmountable
8 hurdles. When we were able to successfully mediate,
9 however, the litigants were able to obtain justice as they
10 defined it and move on with their lives, whether or not
11 they were represented by counsel.

12 As much as we as students help the community,
13 though, our direct efforts while we're in law school are
14 only one part of the puzzle. The true impact we will have
15 is that we will not stop providing pro bono services when
16 we graduate. I have spoken to many of my mother's former
17 students, and each of them has left her clinic with the
18 same message she gave her daughters, that those of us with
19 the ability to help others must do so.

20 As a member of the first class subject to the
21 pro bono requirement, my individual efforts may be but a
22 drop in the bucket. I take comfort, however, in knowing
23 that as each successive group of graduates becomes imbued
24 in the value of service, more and more members of the Bar
25 will share this commitment. Individually we can only do

1 so much. But if lawyers as a group carry on a tradition
2 of service, we can make a true difference in providing
3 access to civil legal services.

4 In closing, I would like to state that I'm
5 proud to be part of this law school whose administration,
6 led by Dean Mutua, has supported its clinical program and
7 provided its students with so many opportunities to make
8 strides in the community, and I'm proud to be part of this
9 state that has adopted a pro bono requirement advocated by
10 Chief Judge Lippman and the other members of this panel.
11 Thank you again for allowing me to speak before you today.

12 JUSTICE LIPPMAN: Thank you, Emily. And let me
13 say to you, too, that we are very proud of you, and we
14 have no doubt that the students at UB will continue to do
15 their pro bono work when they go out into the profession,
16 and we thank you so much for being here. I can't tell you
17 how moving I found both of your testimonies. And I think
18 you get it, you know, at this point in your life what it
19 means to be a lawyer. And, again, thank you so much. And
20 thank you, Dean, as always for your terrific testimony and
21 for bringing these two terrific students with you. And
22 UB, again, you really demonstrate what a great place it
23 is. Thank you so much.

24 DEAN MUTUA: Thank you.

25 JUSTICE LIPPMAN: Before I introduce our next

1 panel, I do want to introduce to you Judge Ralph Boniello,
2 Supreme Court Judge from Niagara County who is here with
3 us today, the incoming president of the Supreme Court
4 Justices Association. And, Justice Boniello, we're
5 delighted you're here with us today at the law school.

6 JUSTICE BONIELLO: Thank you.

7 JUSTICE LIPPMAN: Let me introduce now the next
8 panel, which is our local officials panel. We have the
9 Honorable Mark Poloncarz, who is the county executive of
10 Erie County, and Catherine M. Mackay, the director of the
11 Cattaraugus County Department of the Aging, New York
12 Connects.

13 Mr. County Executive, you honor us by your
14 presence. We're so pleased to have you with us. And,
15 Catherine, we're delighted to have you here. Do you want
16 to begin, Mr. County Executive?

17 COUNTY EXECUTIVE POLONCARZ: Sure. Thank you.
18 And to state, may it please this august body?

19 JUSTICE LIPPMAN: It pleases us.

20 COUNTY EXECUTIVE POLONCARZ: I'm Mark Poloncarz,
21 the Erie County Executive as well as a practicing attorney
22 in the State of New York and other courts throughout this
23 region. I wish to thank the Honorable Jonathan Lippman
24 for conducting his fourth annual series of public hearings
25 to evaluate the continuing unmet civil legal services

1 needs in all parts of the state, including Erie County,
2 and to assess the level of resources necessary to meet
3 those needs. I want to thank you for securing
4 unprecedented funding for legal service and for your new
5 pro bono requirement for newly-admitted attorneys, which
6 I'm sure they're very pleased are in existence. These new
7 resources will go a long way in providing low-income
8 persons with the representation that is surely needed in
9 civil matters.

10 Now, prior to being elected as Erie County's
11 Comptroller in November of 2005, I practiced law for a
12 number of firms in Buffalo, the last was Kavinoky Cook,
13 LLP. During my practice I saw firsthand those with low
14 income or little resources struggle through the myriad of
15 legal hurdles here in Erie County, including representing
16 a number of pro bono very low income individuals in
17 bankruptcy and landlord/tenant law matters.

18 Erie County is a vibrant county made of a major
19 urban core, significant suburban towns, and a vast rural
20 expanse. The County's 2012 population is estimated to be
21 919,086 residents, and the legal system in Erie County is
22 vast including 34 town and village courts, three city
23 courts -- over 15 judges -- six Family Court judges, plus
24 nine support magistrates and six court attorney referees,
25 five County Court judges, one Surrogate's Court, and of

1 course 24 Supreme Court judges.

2 Like much of New York State, Erie County is not
3 without its problems. Unfortunately, the City of Buffalo
4 is rated the eleventh most dangerous city in America.
5 Buffalo was ranked the third poorest city in America with
6 populations over 250,000, and has the third highest rate
7 of child poverty nationwide. But, as most people know,
8 poverty in Erie County is not just centered in our urban
9 core.

10 In fact, one quarter of Erie County's population
11 receives some form of public assistance. Our own data
12 that we have from the Department of Social Service.
13 Between 2007 and 2011, the percentage of persons below the
14 poverty level in Erie County was 29.9 percent compared to
15 14.5 percent for New York State. Medicaid enrollees in
16 Erie County from 2008 to 2013 steadily grew at a rate of
17 more than 4 percent annually to a point where 22 percent
18 of Erie County residents are presently on Medicaid. And
19 unfortunately, even more distressing, 30 percent of the
20 children that live in Erie County, their health care is
21 provided by Medicaid. As you know, Medicaid is a
22 means-based program. You cannot get Medicaid unless you
23 are at or below the poverty level. And as we have seen,
24 DSS statistics reveal that poverty is not limited to any
25 one area of Erie County. It is throughout the entire

1 county.

2 Now, New York State places a huge financial
3 burden on counties to cover the cost of Medicaid and the
4 delivery of programs like temporary assistance for needy
5 families, supplemental nutrition assistance programs, and
6 other public assistance programs. Over the years, state
7 unfunded mandated programs and services that are to be
8 delivered by the counties has grown. At the same time,
9 now counties have to operate within a 2 percent tax cap,
10 which leaves local officials in the difficult position of
11 being required to provide more services with little way to
12 pay for them or to decrease the amount of services that
13 are available.

14 It is under these circumstances, while I applaud
15 and encourage legal services to be provided to low-income
16 individuals, unfortunately Erie County is not in a
17 position to take on any additional mandates at this time,
18 but that does not state that Erie County does not play a
19 key role in providing legal services for those in this
20 community.

21 Through the Department of Social Services, Erie
22 County provides an attorney in Article 81 cases for those
23 who do not have a suitable relative or friend that can act
24 as law guardian. An attorney will be provided at reduced
25 costs for petitioners in child support matters when the

1 petitioner utilizes the Support Collections Unit. In
2 addition, Erie County provides Legal Advocacy for the
3 Disabled, otherwise known as LAD. The LAD unit is
4 dedicated solely to assisting low-income persons with the
5 Social Security Administration's disability application
6 process. LAD receives referrals from within the
7 Department of Social Services and from many county and
8 community agencies. If a case is open, a paralegal,
9 overseen by an attorney, works in conjunction with the
10 applicant and the Social Security Administration assisting
11 in all steps of the application and appeals process. LAD
12 re-reviews all submitted applications at every level of
13 the decision-making process in order to determine the
14 merits of the claims in addition regarding future appeals.

15 In Erie County, unlike many other counties,
16 because of our size we are also very lucky to have several
17 private agencies and hundreds of private practice
18 attorneys that provide no cost or low cost services to
19 low-income people and those in need. Whether a person
20 finds their home is being foreclosed upon in bankruptcy,
21 Small Claims Courts, or a landlord/tenant problem or
22 divorce, there are resources available here in Erie County
23 throughout the entire county, urban, suburban, and rural.
24 A self-help center has been placed in the Supreme Court
25 building, and both the State Bar and the Erie County Bar

1 Association have many online resources.

2 There is are also brick and mortar resources
3 such as Neighborhood Legal Services, Inc., NLS. NLS is a
4 not-for-profit agency with three offices throughout
5 Western New York. NLS provides free legal services in the
6 areas of domestic violence, disability, housing, public
7 benefits, and other areas to persons with low income and
8 persons with disabilities.

9 Another wonderful organization is Legal Services
10 for the Elderly, Disabled, and Disadvantaged of Western
11 New York. It is their mission to provide free legal
12 services for the elderly, disabled, and low-income
13 persons. Their primary goal is to use the legal system to
14 assure that their clients may live independently and with
15 dignity.

16 Here in Erie, we also have the Volunteer Lawyers
17 Project, whose mission is to provide free quality legal
18 service for low-income persons and small or not-for-profit
19 groups and to involve volunteers to do those. The VLP
20 recruits, trains, and coordinates the works of over 800
21 volunteer attorneys in our area in the areas of
22 unemployment benefits, bankruptcy, estates,
23 landlord/tenant, foreclosure, immigration, as well as
24 several other areas. And I should testify, based on
25 having done some of that work myself when I practiced law,

1 they do good work on behalf of the people of this
2 community.

3 The Western New York Law Center is another legal
4 service organization funded by the Office of Court
5 Administration that plays an important role in providing
6 services to Erie County residents. It provides
7 representation to home owners whose homes are being
8 foreclosed on and runs a consumer clinic for residents who
9 have legal problems with debt collectors. The Western New
10 York law Center, through the Attorney Emeritus Program,
11 also provides counsel to the Buffalo Erie Niagara Land
12 Improvement Corporation, which is a land bank that was
13 recently started here in Erie County and Buffalo and
14 Western New York which was passed by Governor Cuomo, and
15 this helps deal with the significant issues of vacant
16 properties and foreclosed homes all across Erie County.

17 However, even with those great services
18 available, I know there still is a great need to assist
19 those that do not know where to turn when their legal
20 services issues arise, who to trust or even communicate
21 with because of language barriers. Future partnerships
22 should be forged with law libraries and law schools to
23 provide additional resources. As we know, Erie County is
24 the home to the State University of New York at Buffalo
25 Law School. We are also partnering with the Say Yes to

1 Education Foundation to provide legal services with the
2 private Bar, people in the City of Buffalo to assist them
3 with problems that unfortunately will directly impact
4 their children and to ensure that those children graduate
5 with an education from the City of Buffalo School
6 District, and I certainly hope that program can be
7 expanded here in the City of Buffalo.

8 Access to qualified and effective attorneys
9 means the ability to access justice. Low income
10 individuals, regardless of where they live, should have
11 the right to quality, civil legal services just as much as
12 those who can afford it. Justice should be blind to
13 income and economic status as well as to guilt or
14 innocence.

15 Once again, I applaud the work of your panel,
16 Judge Lippman, and this committee for locating new funding
17 sources and creating ideas and solutions and solving
18 problems in this community.

19 JUSTICE LIPPMAN: Thank you, Mr. Poloncarz. You
20 know, I ask you. I think it's very interesting. It's
21 obvious that this is a community that sticks together and
22 tries to do what's best for the overall general good.
23 And, you know, in relation to -- particularly as a
24 practicing attorney, in relation to providing legal
25 services, you know, in this terrible economy, which is

1 still not what it should be, people really, I use the
2 expression, can fall off the cliff very easily without the
3 help of legal services. What happens, as the county
4 executive of really an important place in this state, what
5 happens when people who don't get legal services go into
6 social services, worse, you know, incarceration, family
7 breakups, how does that affect the health of the
8 community? Because what we say is this, is the best
9 investment that the public, New York State, could make is
10 providing legal services for the poor, because in the end
11 it's an investment that's paid back many times over. Do
12 you agree with that? When people don't have legal
13 services and bad things happen, what happens to your
14 budget, your bottom line, and the health and wellbeing of
15 the community that you represent?

16 COUNTY EXECUTIVE POLONCARZ: Well, Your Honor, I
17 fully agree with that. I think we have seen the result of
18 that since the economic crisis of 2008, which almost
19 brought down the entire economic system of the United
20 States and the world. Our case loads in social services
21 and across the board, whether it's child protective
22 services or probation, they're increasing. Unfortunately,
23 when you have problems in the home on the economic front,
24 whether it be with regards to a loss of job or a health
25 care issue or an individual can't pay for their health

1 care services and unfortunately they fall into foreclosure
2 and other means, it impacts the entire family.

3 I saw that myself as a practicing attorney,
4 especially in the areas of bankruptcy. I primarily
5 practiced in corporate and finance law, but I did have a
6 bankruptcy background, and I had a number of cases from
7 individuals who fell into bankruptcy primarily because of
8 issues they couldn't control, loss of a job or a major
9 health care issue where they could not afford to pay the
10 bills associated with it, and unfortunately it resulted in
11 individuals falling into social services, divorces that
12 would inevitably result because of the problems that
13 started in the home due to financial issues grew to other
14 issues which of course create major problems and backlogs
15 for the courts.

16 It is fair to say that if an individual does not
17 have the ability to represent themselves or have a
18 representative for them in any type of legal matter that
19 it invariably is going to have an impact elsewhere, and
20 often then the people of the community has to pay for it
21 when these people seek public assistance.

22 JUSTICE LIPPMAN: Thank you. Thanks. Thank you
23 so much. Catherine, you are on.

24 CATHERINE MACKAY: Thank you very much. Before
25 I start my remarks, I want to make two apologies. One is

1 that I am going to be reading certain remarks here today.
2 Any of those of you in the room that know me know that I
3 am an off-the-cuff kind of girl.

4 JUSTICE LIPPMAN: You should feel free to do
5 other -- you can just tell us or read it as you are, your
6 pleasure.

7 CATHERINE MACKAY: I am afraid -- I have some
8 really important things in here that I'm afraid I'll
9 forget if I don't do that. So at the risk of sounding
10 rote, I'm going to read some of those remarks, but I want
11 you to know that they are very heartfelt.

12 My second apology is to all of you lovely folks
13 behind me for having to stare at the back of my head. I
14 hardly ever comb my hair, and I don't know what kind of a
15 horrible mess is back there, but I apologize for being so
16 rude.

17 Again, my name is Cathy Mackay. I'm the
18 director of the Cattaraugus County Department of the
19 Aging, New York Connects. We're an aging and disability
20 resource center, and I extend my regards from the
21 Cattaraugus County administrator and the legislators who
22 are very happy to have me here today while they stay back
23 home and work on their budget. It's always a fun time of
24 year.

25 I am also both pleased and honored to share not

1 only my personal testimony but my strong desire to further
2 advocate for the legal needs of the poor, isolated, and
3 frail elderly across the rural communities of New York
4 State. I heard you say you have 900,000 something people?

5 COUNTY EXECUTIVE POLONCARZ: 919,000.

6 CATHERINE MACKAY: I was listening. We have a
7 little over 80,000. So Cattaraugus County is rural and
8 small. And of those 80,000, I have 18,000 who are sixty
9 years of age or older. So I have a very aging population
10 in my county, and I have a lot of people coming through my
11 door every day. I have been doing this a long time, and I
12 can honestly say I have never seen a greater need for
13 legal assistance than I do today.

14 Every year I'm required through the State Office
15 for the Aging as well as federal regulations tied to the
16 Older American's Act funding that I receive to present a
17 public hearing, and this is my annual report. I just
18 thought you might get sick of looking at me, so I brought
19 a visual aid. And in this annual report this year, the
20 forum typically gives me an opportunity to do a few
21 things, to review current trends, to examine data, to
22 showcase my achievements -- or I should say my staff's
23 achievements for the year -- to collect feedback from the
24 community, and perhaps most importantly to take a cold
25 hard look at the numbers, the funding or lack thereof,

1 what I did with those dollars, and what unmet needs still
2 exist.

3 In this year's report I went over five-year
4 trends with my legislators, and we looked at areas with
5 unusual activity or heightened steady growth. This year I
6 highlighted for the first time the legal need. Legal
7 referrals went up an unprecedented 60 percent in one year.
8 And you heard that right, that is 60 percent in one year.
9 And trust me, there are going to be more and more senior
10 citizens walking through my door every day. Why? Because
11 they're isolated. They live an hour and a half from
12 Buffalo. Even if they do still drive or have access to
13 transportation, that transportation doesn't typically
14 include a trip to Buffalo.

15 If it weren't for Legal Services for the Elderly
16 and Disabled or Southern Tier Legal, LawNY, they would
17 have no affordable accessible legal representation in the
18 remote areas of Cattaraugus County. But it's not like
19 their issues are life threatening. They are only issues
20 like, oh, access to health care, elder abuse and fraud,
21 housing and weatherization, income and benefits, long-term
22 care planning. You know, just those issues that provide
23 them with stability, personal safety, quality of life,
24 those things that allow them to remain living in the
25 community in their own homes in the least restrictive

1 setting in the most cost effective way.

2 When I was forced to make some drastic cuts in
3 my budget the past few years, I was encouraged to cut
4 legal funding. That's part of my IIIB moneys, and it
5 seemed to me that people didn't understand the importance
6 of that funding. So what I did was I showed my local
7 lawmakers the data. I showed them how the marriage of
8 legal services and long-term care planning, much like
9 those more concrete services that I provide like a warm
10 home-delivered meal or a home health aide or a personal
11 care attendant, divert those costly tax dollars, those tax
12 dollars that would go to a more costly institutionalized
13 setting due to unwarranted early admittance and allow for
14 the opportunity of lower-income older adults to remain in
15 their own homes, paying taxes, shopping locally, using
16 their limited resources for their own informal support
17 systems.

18 So to make a long story short, I didn't have to
19 cut my funding. In fact, I was able to increase it, but
20 only because I had that wonderful support from my local
21 lawmakers who gave me more of a match than I was required.
22 The Federal Older Americans Act, Title IIIB moneys, never
23 increase. I don't even know if I'm going to have them
24 after the first of the year. I have to get more and more
25 creative to continue to meet these growing needs.

1 The OCA money allowed me this past year to help
2 so many more seniors. I had a woman who almost lost the
3 majority of her meager Social Security benefit due to an
4 error at the Social Security Administration. And I'm not
5 putting them down, but these things happen. She was
6 recently helped through the long arduous process by the
7 Legal Services for the Elderly and Disabled. She came
8 into my office just this last week to thank us again, to
9 sit in my office, and she wept tears of joy for literally,
10 what she said, saving her life and her livelihood.

11 We actually had a local write up on a case where
12 Legal Services for the Elderly and Disabled assisted in
13 getting money back to a Cattaraugus County senior citizen
14 from a telephone scam. And I just want to give you a
15 little bit of a detail of that. This past year, it was
16 just a little over a year ago, it was actually my
17 sheriff's office called me to say there's another scam out
18 there. And we try to, you know, get the news out. We're
19 rural, so if you don't read the Olean Times Herald, you
20 know, we try to get it out in other ways. But it was --
21 it seemed to be going on in our area, and people were
22 getting phone calls. So I did a press release. I posted
23 it in the paper. Now, this was Labor Day weekend, so we
24 were off on Monday. I was barbecuing or doing something
25 fun, I'm sure. But Tuesday morning I came in to work, and

1 at eight a.m. there was a woman there who had read the
2 article that weekend and who had actually just sent some
3 money out in the mail.

4 Just to give you a short recap, a man had called
5 her a few times and smooth talked her into using her
6 credit card to obtain a cash advance to send him three
7 separate money orders for 500 dollars each. And he was
8 very good. We weren't talking about you're going to get a
9 million dollars, you have to wire money offshore to
10 wherever, I'm from this country far, far away and I need
11 your help. It wasn't one of those things. This woman was
12 bright. She was very humiliated to come into the office,
13 because she thought something like this could not happen
14 to her. What we did was what we normally do. We worked
15 with the local police force. We tried to get research
16 done. We tried to do what we could do, but I thought we
17 needed to make a referral, so we made a referral to legal
18 services for the elderly.

19 And Sarah Galvan, who I believe is in this
20 courtroom today -- who was able to help because of the OCA
21 grant money, may I add -- started to do some research.
22 And together with my supervisor of services they completed
23 paperwork, they got things together, they got copies of
24 the money orders and the scanning tracking numbers. I
25 believe it was Sarah who was able to contact the U.S.

1 Postal Service because this money was going to an Andrea
2 Johnson in Philadelphia, PA. Philadelphia, where a lot of
3 times, you know, you get money from winning something.
4 And to make a long story short, it appeared that the first
5 class mail which was 1,500 dollars in money orders had not
6 yet been delivered. The postal carrier who had the
7 envelope in his bag was found and instructed to bring the
8 envelope back to the post office and not to deliver it.
9 That day it was en route. That kind of thing just doesn't
10 happen. You usually don't get your money back, and I
11 can't tell Sarah how grateful I am for her. It was a
12 dream come true. I will tell you folks, don't ever try to
13 stop the delivery of the U.S. Postal mail. That is a
14 difficult thing to try to do.

15 But honestly, seriously, if it weren't for the
16 OCA grant, Sarah wouldn't be able the take so many of
17 those consumer-related cases that we had this year which
18 then freed Bill Berry up to be able to take on those
19 cases. And like I said, I have more and more people
20 walking through my door every day. So believe me when I
21 say I'm not trying to be overly dramatic. These legal
22 services really do save lives in rural communities.

23 What would I do without Legal Services for the
24 Elderly and Disabled or Southern Tier Legal? I really
25 have no idea. We recite the pledge every time we meet in

1 our legislative chambers, and every time when I mouth
2 those words, and justice for all, I am keenly aware of
3 what important work happens in my office every day. I'm
4 also keenly aware that it could easily go away if I don't
5 continue to advocate for this fundamental right, the right
6 to an attorney.

7 The Supreme Court, as I know you mentioned
8 earlier, ruled that people accused of a crime deserve the
9 right to an attorney whether they can afford one or not.
10 Well, most of the seniors walking through my door needing
11 help or some sort of justice, most of those folks aren't
12 criminals. The fact that they need to be a criminal in
13 order to get an attorney, well that is just criminal.

14 I'm so grateful for those attorneys that work
15 for little to nothing to make things right for the
16 isolated, frail, elderly of my community. Those attorneys
17 that go above and beyond making home visits, putting in
18 extra unbillable hours, they truly are heroes. And this
19 year I made sure my whole community knew it. Not just by
20 presenting those numbers and those facts in my annual
21 report but also by giving out the Star award. This is a
22 prestigious award. I give it out at my annual public
23 hearing. And if you saw the names on this plaque, you
24 would see a lot of -- well, we have senators and we have
25 mayors. We have officials and dignitaries. And their

1 names aren't on here because they're powerful, important,
2 and influential people -- although they are -- it's
3 because while they were in that place of influence they
4 went above and beyond and did something outside of the
5 normal scope. That's why this year's winner was William
6 Berry. And I don't say this so that, you know, I can, you
7 know, embarrass him in front of his colleagues, but he
8 drives all the way out to East Jahunga and goes well far
9 beyond what he -- I expect of him or what our contract
10 calls for to assist those folks that just don't have
11 assistance in any other way. And he is a hero to me. I
12 am sure that there are many other heroes in this room, and
13 I just want to personally thank you all of you for
14 everything that you do for us.

15 JUSTICE LIPPMAN: Thank you.

16 CATHERINE MACKAY: Thank you for giving me the
17 time.

18 JUSTICE LIPPMAN: Thank you. Thank you for
19 being here. I have one question. It's more of a
20 rhetorical question. So the money that we get from the
21 state legislature to give out these grants, they affect
22 real human beings? I mean, this isn't just about, you
23 know, giving money? This is very direct to the people in
24 need?

25 CATHERINE MACKAY: They most certainly do. And

1 like I said in my remarks, I think it's my job as well as
2 others in this room to prove that these are tangible
3 services that truly save lives, that truly --

4 JUSTICE LIPPMAN: Exactly.

5 CATHERINE MACKAY: We know it comes down to the
6 bottom dollar. If I can prove that somehow I am averting
7 a more costly, less wanted end for some of these frail,
8 vulnerable, rural adults, then that's how I'm going to be
9 a champion, and that's how I'm going to make sure that I
10 keep getting the funding that I need.

11 JUSTICE LIPPMAN: Anybody else? Thank you,
12 County Executive Poloncarz. Thank you Cathy Mackay. We
13 appreciate it greatly. We're really pleased that you are
14 both here.

15 COUNTY EXECUTIVE POLONCARZ: Have a good day.

16 JUSTICE LIPPMAN: Thank you so much. The next
17 panel will be clients who have been benefitted from legal
18 services, and I'm going to ask Diane Butler, a client to
19 the Legal Assistance of Western New York accompanied by
20 David Pels; Ursula Anderson, a client of Legal Services
21 for the Elderly, Disabled, or Disadvantaged of Western New
22 York accompanied by William Berry; and Richard Hesse,
23 client of the Legal Aid Bureau of Buffalo accompanied by
24 Mark J. Connors to come up.

25 MARK CONNORS: Where would you like us to sit?

1 JUSTICE LIPPMAN: It doesn't matter as long as
2 there's a mic nearby. Okay. So you should all feel free
3 to either read your statements or just tell us, you know,
4 how legal services benefitted you and your particular
5 circumstance. Let's start with Diane Butler.

6 DIANE BUTLER: Good morning.

7 JUSTICE LIPPMAN: Good morning.

8 DIANE BUTLER: My name is Diane Butler. I'm the
9 mother of three daughters ages twenty-eight and twenty-six
10 and eleven. And I have five grandchildren. Until 2012 I
11 had a small house cleaning business. I'm also a survivor
12 of domestic violence. Most recently, I became a survivor
13 of breast cancer.

14 For approximately five years after my youngest
15 child was born, her father engaged in acts of domestic
16 violence against me. He was controlling and violent. It
17 never occurred to me that a person of my limited income
18 could get a lawyer to help me get out of this situation.
19 Then in May of 2009 he was arrested and sentenced to six
20 months of jail time for aggravated unlicensed operation of
21 a vehicle. I thought that this was my opportunity. He
22 was out of my home, and I told him I did not want him to
23 return. He began to write to me several times a week
24 telling me I'll never let you go, you're mine, that's the
25 way it is, I kill anybody that touches you, believe that.

1 I received telephone calls from the jail, a
2 counselor telling me that I had an angry man on my hands
3 and he wants to control the situation and he can't. By
4 good fortune, I was directed to the Domestic Violence
5 Program. An advocate there met with me and assisted me in
6 filing petitions with Family Court seeking custody and an
7 order of protection. The advocate would also refer me to
8 the LawNY office in Bath. There was a way for me to get
9 legal representation, even for someone who was low income
10 like me.

11 That began what has become a four-year
12 relationship with the LawNY office in Bath. I did not
13 want to be in the same room as my former partner, even if
14 it was a courtroom. Having an attorney by my side made
15 the process less stressful and helped me navigate through
16 the complex Family Court process to obtain what I was
17 seeking from the court, safety for myself and my daughter
18 and safe contact for my daughter with her father because
19 she wanted contact with him. My attorney helped me to get
20 a two-year stay-away order of protection, full custody of
21 my daughter with supervised visitation with her father.

22 My need for a lawyer did not end there. The
23 following year when my abuser's mother filed a petition in
24 Family Court seeking grandparent visitation, LawNY again
25 represented me. Although I agreed to her having some

1 visitation with my daughter, because that is what my
2 daughter wanted, my lawyer helped me be assured that she
3 would be safe during visitations by getting a provision
4 prohibiting her grandmother from allowing any unsupervised
5 contact with my daughter and her father.

6 For a number of years I had a nagging concern of
7 what would happen to my little girl if I wasn't around to
8 take care of her. Anybody can be hit by a car crossing
9 the street at any time. The father was not an option as
10 far as I was concerned. He rarely exercised the
11 supervised visitation that he was entitled to. He could
12 not provide the safe and appropriate care for her.

13 My daughter's father took himself out of the
14 picture in the fall of 2011 when he was arrested for
15 firing a rifle at state troopers. By the following year
16 he was convicted of counts of attempted murder and
17 sentenced to forty years to life in prison. It was also
18 in early 2012 that I received the diagnosis of breast
19 cancer, again the fear of who will take care of my
20 daughter if something happens.

21 By now I knew where to turn, and that was the
22 New York Law helped me to get a pro bono counsel to help
23 set up a legal guardianship for my daughter if something
24 happened. As I faced a mastectomy and chemotherapy, I
25 believe that knowing a plan for my daughter's care in

1 place just helped me be a lot less anxious and better able
2 to fight the cancer that I had to fight.

3 As a result of my cancer, I was no longer able
4 to work. I had no choice but to seek public assistance
5 for myself and my daughter. Although I had provided proof
6 of my medical condition that had been granted a work
7 exemption from the public assistance workforce, the
8 Department of Social Services threatened to cut off my
9 assistance unless I attended employment-related group
10 training sessions. Because I was on chemo, I was
11 receiving -- because of the chemo I was receiving, my
12 immune system was compromised making it a health risk to
13 be in a crowd of any kind. When I told this to my
14 caseworker, she rudely dismissed the fact that I was
15 seriously ill.

16 It was not until apparently LawNY intervened on
17 my behalf that I was allowed to keep my benefits without
18 risking my health. When I confided to the paralegals that
19 I was feeling particularly stressed because my Social
20 Security application had been denied twice already, she
21 informed me that -- it had been denied twice. She told me
22 the LawNY had an attorney that could help me. LawNY
23 agreed to represent me at my Social Security hearing. My
24 attorney at LawNY was able to convince the administrative
25 law justice, the judge assigned to my case, to issue a

1 favorable decision without even holding a hearing based
2 just upon the medical evidence we provided. It took
3 fifteen months.

4 While I was undergoing chemotherapy, my
5 daughter's father, who was then in jail awaiting trial,
6 thought it would be a good idea to drag me back into
7 Family Court in two separate proceedings. First he filed
8 seeking visitation with my daughter in jail. Dealing with
9 this while I was so ill was very difficult.

10 Again LawNY represented me. His attorney argued
11 for a visitation schedule that required my daughter to
12 spend hours in a waiting room in jail and argued that his
13 mother should be allowed to supervise the visits. If
14 either of these conditions had been put in place, I would
15 have been extremely stressed during those visitations. My
16 attorney successfully argued on my behalf for a more
17 restrictive visitation supervised by one of my own
18 daughters, her sister. This I can live with. I'm sure
19 you get that, why. The second petition he filed from jail
20 was a petition seeking to reduce his child support
21 obligations. I had to laugh when I received that. I have
22 yet to get paid a dime of support to me. The LawNY
23 represented me. At that point I was not up to facing a
24 court proceeding, and perhaps the greatest benefit of
25 having representation was that my attorney got permission

1 from the support magistrate for me not to attend the
2 proceedings. Because he was incarcerated, his obligation
3 for support was terminated but I was granted a judgment
4 for over 6,000 dollars plus interest. Given the length of
5 his prison sentence, I don't expect to receive that dime
6 ever, the first time from them, but it's there for her.
7 You never know.

8 I'm just one low-income person, and as you can
9 see I have needed a lot of legal representation. I filled
10 a whole paper and a big file for these guys. And over the
11 course of four -- the last four years I have had a lawyer
12 represent me in half a dozen Family Court proceedings. A
13 lawyer has helped me obtain my Social Security benefits.
14 There are a lot of people like me. I know that most of
15 them face a lot of legal problems. I'm afraid that many
16 of them do not have the legal representation that I have
17 received.

18 I know about -- if time permits, I would like to
19 tell you one of the darkest moments of my life and how my
20 connections with the legal services eventually put a
21 positive spin on this terrible story I just told you. I
22 told you earlier that with the help of LawNY I got an
23 order of protection against my daughter's father. Well,
24 several months after the order was issued I was shocked to
25 discover that he had moved himself and his girlfriend into

1 my home while my daughter and I were away. Initially I
2 was in shock and afraid to confront him. However, after
3 spending a few days with relatives, they took action and
4 made a criminal complaint stating that my order of
5 protection was being violated. To my horror, I was
6 arrested for allegedly violating the order of protection
7 that required him to stay away from me. You see, he had
8 told them that I allowed him and her to move in. The cops
9 he had told that to. Right, I let him and his girlfriend
10 move in. I didn't. Despite the absurdity of that claim,
11 I was arrested and charged with violating an order issued
12 to protect me. LawNY was not able to represent me. They
13 only do civil representation, but they took my calls over
14 the year that these charges were over my head and gave me
15 the encouragement to continue to refuse to take the plea
16 bargain they were offering.

17 Now for the positive spin. You may know that in
18 the last legislative session a bill was passed that
19 prohibits charging a protected party with violating the
20 order of protection issued to protect them. Before the
21 bill was passed, the domestic violence advocates who
22 lobbied for this bill asked the LawNY if they knew anyone
23 that had been affected by this issue who would be willing
24 to have their story told to the legislature as part of
25 their lobbying efforts. LawNY contacted me. Sure, I

1 would share my story if it could help prevent other
2 victims of domestic violence from being victimized by the
3 system as I was. I don't know if my story helped convince
4 some of the legislators to vote for the bill or not. I
5 would like to thank it did. You can't imagine how
6 empowering it is for a domestic violence victim like me to
7 feel that I had played a part in making this system safer
8 for victims in the future. Thank you for the opportunity
9 to speak.

10 JUSTICE LIPPMAN: Thank you for coming in and
11 telling us your story, and I think it speaks for itself,
12 and I gather without legal assistance you would have no
13 way to deal with all of this.

14 DIANE BUTLER: Or my daughter. I can't even
15 tell you. I have no idea.

16 JUSTICE LIPPMAN: And your description about the
17 legislative bill and the situation that you went through
18 is really something very, very interesting, and we
19 appreciate, again, you coming in. Anything, Judge
20 Scudder?

21 JUSTICE SCUDDER: I would just like to take the
22 opportunity to thank David Pels and the rest of the people
23 on behalf of New York that do a great job that we get to
24 chat awhile. It's been a time, but you really do. And
25 that's really about all we have in an area like that. So

1 I don't know what it would be like without that, because
2 just there's nothing else. So I thank you again.

3 DAVID PELS: Thank you.

4 JUSTICE LIPPMAN: Thank you.

5 DIANE BUTLER: I second.

6 JUSTICE LIPPMAN: The importance of the work
7 done by legal services provided in areas all around the
8 state just like in Bath where people really couldn't exist
9 without having that assistance. I'm going to call now on
10 Ursula Anderson to tell your story.

11 DR. URSULA ANDERSON: Thank you.

12 JUSTICE LIPPMAN: Thank you for being here.

13 DR. URSULA ANDERSON: I'm sorry?

14 JUSTICE LIPPMAN: Thank you for being here.

15 DR. URSULA ANDERSON: Thank you. Well, as a
16 human being and as a physician of sixty years' experience,
17 I wish to thank the Honorable Jonathan Lippman and your
18 group here for this opportunity to speak to the plight of
19 many of the elderly, disabled, and disadvantaged who are
20 in need of legal assistance but who are either unable to
21 pay for it or don't know about state-funded legal services
22 or both. Their needs all too often revolve around
23 retaining and maintaining their homes and property which
24 they have worked hard for all their lives as well as other
25 situations that threaten their survival and wellbeing.

1 But first, I wish to pay tribute to the
2 tremendous and helpful service provided by Legal Services
3 for the Elderly, Disabled, and Disadvantaged located here
4 in Buffalo and for dear Bill Berry who helped me so so
5 much.

6 Three years ago I applied for a loan from a
7 federally-funded agency in order to repair the roof on the
8 home I had worked hard for all my life which is located in
9 an isolated and rural area of New York. They disallowed
10 the contractor I wanted and sent a contractor of their
11 choosing who was seldom seen and who used unskilled
12 workers. On one occasion, after stripping the old
13 shingles, they left the roof uncovered over a rainy
14 holiday weekend which resulted in flooding in my kitchen.
15 The contractor could not be reached. And when I called
16 the consultant at the loan office on the first work day
17 following the incident, I was rudely given to understand I
18 was just an ungrateful old woman and a nuisance, and the
19 ceiling was never repaired by them.

20 But worse was to happen. Six months later, in
21 the dead of winter, the entire roof failed leading to
22 flooding in my home. The living room ceiling collapsed,
23 panelling fell off the walls, and some of my furniture and
24 belongings were ruined. As a result, I contracted
25 pneumonia which led to congestive heart failure and

1 ultimately to a heart attack which almost took my life.
2 At the time, countless calls to the loan agency and
3 contractor went unanswered.

4 After inquiring about the cost of legal help, I
5 realized I couldn't afford it, which in hindsight makes me
6 think how helpful a list of pro bono attorneys would be to
7 others who find themselves in similar situations despite
8 their previous record of giving their service to others
9 through different professions like my own, which is
10 medicine. However, by some miracle the County of
11 Cattaraugus County Office of the Aging, whose director is
12 here, suggested that I meet with their legal consultant
13 from Legal Services for the Elderly, and this I did. He
14 and his staff have been attentive and helpful and gave me
15 peace of heart and mind and a chance to recover physically
16 that I otherwise would not have had. Nevertheless, even
17 with their input and assistance, the stonewalling
18 continued. It took another year before the loan agency
19 agreed to fund repairs, because they claimed they were not
20 responsible because I had signed off on the job.

21 Now, in this regard what really happened is an
22 example of how the elderly and disabled, both of which I
23 am, are cheated. It was Friday afternoon, just after the
24 so-called job was finished when the loan agency consultant
25 came to see me with a form for me to sign. I asked to see

1 it, and he said it wasn't necessary but my signature was
2 required for without it no one would be paid.

3 Well, pediatricians and psychiatrists of my
4 advantage, of which I am both, are known for their kind
5 hearts and excessive pro bono services. This is why so
6 many of us find ourselves short of money in our old age
7 and feel humbled at having to ask for help after a
8 lifetime of service to others. However, being within this
9 tradition of kind hearts and a little stupidity and not
10 wishing anyone not to be paid, I signed that form and
11 later learned it stated I had personally inspected the job
12 and found it to be satisfactory.

13 Given my obvious disability, climbing a ladder
14 is impossible. And combined with having no knowledge of
15 roofing, it is clearly ridiculous and cynical to have
16 expected me to sign off on such a job. Clearly he
17 deceived me. Incidentally, he walked around the outside
18 of the house where he could see nothing other than the
19 edges of the shingles because, as he said, his arthritis
20 prevented him from getting on a ladder.

21 Now, to add insult to all of this injury, a lien
22 was place on my home for this loan from hell. Putting all
23 of this into the frame of my own experience, it amounts to
24 nothing less than personal abuse and physical harm, plus
25 contempt for the honorable intent of federal and state

1 loan agencies that fund these programs.

2 Overall, four issues emerged to be addressed.
3 Correction number one, correction of the prevailing
4 mindset that perceives the elderly, disabled, and
5 disadvantaged, particularly older women who live alone, as
6 targets to be exploited for financial gain. Secondly, the
7 lack of oversight of local, federal, and state agencies
8 that administer financial aid really needs to be
9 addressed. Thirdly, the extensive need for legal
10 resources, both pro bono and funded for those being
11 exploited is quite obvious. And there should be,
12 fourthly, defined penalties for those who do the
13 exploiting.

14 Now, time doesn't allow me to address the
15 specifics of these items. But as you may or may not know,
16 I am a long-time and internationally-known researcher in
17 medicine and health services and so on. I am more than
18 willing to contribute my expertise to contribute to those
19 who will be involved in defining solutions. And, again, I
20 thank you very much for this opportunity to be with you
21 and to share.

22 JUSTICE LIPPMAN: Thank you for coming in. I
23 greatly appreciate it. And the bottom line, and I think
24 people have to understand, even a person of great
25 learning, someone who has had great experience in life,

1 isn't necessarily able to deal with legal problems when
2 they come up. You learned yourself of a different kind.

3 DR. URSULA ANDERSON: At call they're all human
4 beings who need each other. And I would be very happy to
5 address the issues that you addressed, because in this
6 city, 45 years ago in Buffalo, New York, which I left and
7 came back to eventually, I established a precedence for
8 programs for mothers and children that had not been
9 addressed previously. I was almost run out of town for
10 changing the status quo. But these programs that I had
11 initiated and pioneered have become accepted worldwide,
12 and I have been a consultant to the World Health
13 Organization on stuff that I really started right here in
14 Buffalo. Of course I have lived all over the world since
15 then and have been all over the world since then, but I
16 would like maybe sometime to talk with you, because it's
17 not easy to be a pioneer. You have to really have your
18 feet stuck in that mud and convince people one way or the
19 other.

20 JUSTICE LIPPMAN: But the bottom line is, for
21 pioneers, for human beings, sometimes they need a helping
22 hand, and sometimes you need a lawyer.

23 DR. URSULA ANDERSON: I'll say amen to all of
24 that.

25 JUSTICE LIPPMAN: Very good.

1 DR. URSULA ANDERSON: Thank you.

2 JUSTICE LIPPMAN: Thank you. Appreciate it.
3 Richard Hesse. Richard, do you want to tell us your
4 story?

5 RICHARD HESSE: Yeah. It was about 2010 I
6 started having financial problems because my wife got hurt
7 on the job and I got diagnosed with lymphoma, and we fell
8 behind on our bills and our taxes. Well, I went to
9 several lawyers trying to find help, and I called the tax
10 department theirself, and they told me to send them a
11 thousand dollars and I could make payments. Well, it
12 wasn't very many weeks after that I got a letter of
13 foreclosure in the mail stating that they were going to
14 put my house up for sale. So I called a bunch of lawyers,
15 nonprofit lawyers, and none of them would help me because
16 most of them would only deal with foreclosures on houses
17 and bank foreclosures and others wanted a ton of money.
18 Well, if I had that kind of money I would have paid my own
19 taxes, you know. So I called Legal Aid, and they helped
20 me get through it. You know, in the meantime they were
21 working.

22 JUSTICE LIPPMAN: How did you know to call Legal
23 Aid?

24 RICHARD HESSE: How did I know? I just happened
25 to come across them in the phone book and gave them a try.

1 JUSTICE LIPPMAN: So blind, basically --

2 RICHARD HESSE: Yeah.

3 JUSTICE LIPPMAN: -- you basically contacted
4 them?

5 RICHARD HESSE: Right. They were the only ones
6 that would help me, because most of them said that because
7 I lived out in East Concord they didn't want to deal with
8 it. They didn't want to deal with taxes. So while I was
9 going through chemo and everything, Legal Aid started
10 doing what they did, and in the end they helped me save my
11 house and set up payments for the taxes. Without them, me
12 and my wife would have been homeless, and they were the
13 only ones who would help us.

14 JUSTICE LIPPMAN: You know, I think it's hard
15 for people to understand that, you know, when we talk
16 about legal services it comes in all different ways and to
17 all different people, and it's not just people who are
18 destitute and have no money whatsoever. It's normal
19 people leading normal lives who wind up having a problem
20 that they can't resolve, can't afford to resolve, and
21 don't have the expertise to resolve without the help of
22 legal services. And basically that was the situation that
23 you found yourself in.

24 RICHARD HESSE: Yeah. They didn't even
25 hesitate. They just got right on it.

1 JUSTICE LIPPMAN: They're good people. Okay. I
2 want to thank you all for demonstrating on a firsthand
3 basis what this is all about and putting a human face on
4 what we're talking about. So you really are the best
5 witnesses in so many ways. I really appreciate your being
6 here. Thank you so much.

7 DR. URSULA ANDERSON: You're welcome.

8 JUSTICE LIPPMAN: The next panel will be
9 business and community leaders, Dennis Walczyk, the chief
10 executive officer of Catholic Charities of Buffalo; Miguel
11 Santos, consumer advocate for the National Grid; and
12 Joseph Fruscione, vice president and commercial branch
13 manager of M&T Bank.

14 Dennis, do you want to start, be our leading
15 witness on this panel?

16 DENNIS WALCZYK: Good afternoon, everyone, and
17 welcome to beautiful, sunny Buffalo.

18 JUSTICE LIPPMAN: It is beautiful and sunny.
19 That's for sure. And all of you, again, feel free to
20 either read your statement or just tell us, you know, what
21 you want to say, whatever pleases you.

22 DENNIS WALCZYK: Chief Judge Lippman and
23 esteemed panelists, my name is Dennis Walczyk, and I have
24 been the CEO of Catholic Charities of Buffalo since 2003.
25 I am truly honored to be able to testify today about the

1 need for civil legal services in rural areas. Thank you
2 for this great opportunity.

3 My brief testimony will hopefully inform you
4 about the very special partnership role that providers of
5 civil legal services play with Catholic Charities in rural
6 communities and will urge you to continue to do everything
7 you can to expand the financial support for these programs
8 to ensure that people in rural areas have access to
9 justice.

10 Catholic Charities of Buffalo serves all eight
11 counties which form the Eighth Judicial District,
12 including Erie, Niagara, Orleans, Genesee, Wyoming,
13 Chautauqua, Cattaraugus, and Allegany. Our mission is to
14 empower all individuals and families to achieve and
15 maintain meaningful, helpful, and productive lives. Like
16 our legal services counterparts in the rural counties of
17 Western New York, we are advocates for those in need,
18 particularly those who are poor and most vulnerable.

19 As one of the largest and longest-serving
20 providers of human services in the region, Catholic
21 charities is uniquely qualified to understand and respond
22 to the needs of rural poverty in the western part of New
23 York State. We provide a myriad of services, including
24 adoption counseling and assistance, emergency financial
25 assistance, a full array of mental health counseling,

1 domestic violence services, immigrant and refugee
2 assistance, school intervention services, and senior
3 services. With a budget exceeding 37 million dollars, we
4 served over 134,000 clients in Western New York during
5 2012.

6 The rural areas of the Western New York region
7 are vast. There are many impoverished communities which
8 place a significant demand on Catholic Charities'
9 resources. The distances between villages and towns
10 presents special transportation and service delivery
11 issues for poor and disabled people throughout the region.
12 When traveling throughout the region, the signs of poverty
13 can be both very obvious and very well hidden. Resources
14 are scarce, and access to them is often very difficult for
15 poor people in rural areas.

16 Each day throughout this vast region our
17 outstanding case managers and social workers assist people
18 with a variety of complicated issues and emergent needs.
19 During 2012, in the six primarily rural counties of
20 Allegany, Cattaraugus, Chautauqua, Genesee, Orleans, and
21 Wyoming, Catholic Charities provided emergency financial
22 assistance to 7,490 individuals. We provided counseling
23 services to 947, kinship care services to 140, and have
24 continued intervention services to 276 perpetrators of
25 domestic violence who are referred to us by the judicial

1 system. Overall we served over 27,000 clients in the
2 western counties outside of Erie last year.

3 When programming expertise is in short supply,
4 we run the risk that these critical needs will go
5 unattended. In responding to the needs in rural areas, we
6 rely heavily on partnerships with many other human service
7 providers throughout the region in order to be able to
8 provide the broadest possible and most holistic support of
9 the individuals and families that require our assistance.
10 Each human services agency partner fills a niche which
11 compliments or enhances the services which we provide, and
12 especially our partnership with the legal services
13 providers enhances the overall quality of life with these
14 individuals and families in very critical ways.

15 We are increasingly aware of the growing need
16 for trained legal services attorneys and paralegals to
17 assist people when social workers and case managers are
18 faced with legal issues beyond their expertise. Legal
19 matters relating to housing, domestic violence, public
20 benefits, homelessness, health insurance, family law,
21 child support, unemployment insurance, mortgage
22 foreclosure, disability benefits, disability rights,
23 access to health care, employment discrimination, wage and
24 hour claims, and numerous other issues are brought to our
25 attention every day.

1 We rely on legal services providers to accept
2 our referrals regarding these matters and to meet the
3 legal needs of our clientele. We also rely on their
4 community legal education materials and training to inform
5 our staff and clients about the rights of low-income
6 individuals. We know, however, that the legal services
7 providers in our region are understaffed in rural areas
8 and are in need of additional funding to support expanded
9 services in these critical -- critically underserved rural
10 areas.

11 I come here today as a representative of a major
12 regional Western New York provider of human services with
13 a longstanding history of serving rural areas. It is in
14 this capacity that I urge you to do everything possible to
15 expand the funding for legal services providers so that we
16 may all be more effective when serving the needs of the
17 poor in rural communities in Western New York. Without
18 support for legal services in rural areas, we simply
19 cannot be fully effective in our regional anti-poverty
20 strategies.

21 Once again, I want to thank you for the
22 opportunity to testify on these very important concerns
23 today.

24 JUSTICE LIPPMAN: Thank you, and thank you for
25 highlighting the rural areas of our state where the

1 providers are under such difficult circumstances as the
2 legal service providers in assisting organizations like
3 Catholic Charities, which does such wonderful work. And I
4 think that there's a failure to understand that covering
5 large areas geographically and that there are unique
6 challenges, and I think you really have highlighted the
7 good works that are done and the need for the providers to
8 be able to help organizations like yours. So thank you so
9 much. Mr. Santos?

10 MIGUEL SANTOS: Good afternoon, Chief Jonathan
11 Lippman and members of the panel. Thank you for the
12 opportunity to testify on the importance of legal services
13 in New York. My name is Miguel Santos. I work for
14 National Grid, a utility company in New York that provides
15 electric and gas. We are an electric and gas company that
16 connects customers to energy sources through its network.

17 As a consumer advocate, I would like to say that
18 I work with customers that no one know what is to do with.
19 I am many times the last assistance. This is why I work
20 weekly with various legal services as it pertains to
21 customer utility service to try to prevent utility service
22 termination.

23 The reason why I am here today is to speak on
24 the importance of to provide legal services to poor -- to
25 the poor, especially in our rural communities. The rural

1 community is a very different environment. People tend to
2 forget that New York State, in particular Upstate New
3 York, is an agricultural state. New York State is the
4 second largest apple-producing state in the country. New
5 York also produces much dairy products such as milk,
6 cheese, and yogurt. New York State also produces large
7 quantities of corn and grapes for Welch's and to produce
8 large quantities of New York State wines, which many of us
9 enjoy.

10 Who would have known that our Erie County Fair
11 is the second largest county fair in the country? I give
12 this information to remind ourselves that New York State
13 has large areas of rural communities. Take a drive into
14 our rural communities throughout Upstate New York, and you
15 can see poverty from Amsterdam to Geneva and all over
16 Upstate New York.

17 Social services for impoverished rural residents
18 are sorely lacking. Rural residents are a strong breed of
19 people. They deal with social problems head on and with
20 pride. They are a strong community, but there comes a
21 time where folks just don't know how to work out their
22 problems. Rural communities do not have access to as many
23 social agencies as you can find in the urban areas. These
24 hardworking people are not accustomed to rely on social
25 programs. They want to work out their own problems, but

1 they need the assistance of a variety of social
2 organizations to help them resolve their issues.

3 Seniors, whose children had to leave the area
4 because of lack of jobs, find themselves without the
5 family network to help them along. Seniors don't know how
6 to access services they need for health coverage and
7 financial assistance.

8 People are suffering in silence when others take
9 advantage of those who appear weak. I, as a consumer
10 advocate, meet on a regular basis with various civil
11 service legal aid services to discuss elder abuse and
12 homelessness in our counties. Although I am a consumer
13 advocate for the utility company, I find myself helping
14 endangered poor rural residents connect with local social
15 agencies to help them apply for food stamps since some
16 people are hungry and don't know that there are
17 assistance. Others suffer under domestic violence and
18 don't realize that there is help out there to stop the
19 violence. People don't know what legal services are --
20 that legal services are available or that they are a
21 afraid because they can't possibly afford a lawyer.

22 Legal services agencies help improve the quality
23 of life of those who are fortunate enough to find these
24 services. Legal services programs bring resources into
25 our community to help keep them safe and protect our most

1 vulnerable customers by assisting them to gain access to
2 social financial programs such as HEAP, direct voucher,
3 and other financial assistance offered by our government.
4 These types of assistance allow customers to remain in
5 their home, which we reduce homelessness. By providing
6 legal services, rural residents can remain in their homes
7 and fill the labor pool needed for the job market within
8 their communities. Many of these jobs provide us with the
9 food we enjoy each time we sit in our dining room table.

10 For those who lose their jobs or cannot keep up
11 with the expenses because they work part-time at minimum
12 wage, many cannot access the various assistance programs.
13 Some residents are denied unemployment benefits or
14 government assistance. This is where legal services
15 provide a vision of hope and make their magic work to
16 guide their clients through the process to gain the
17 assistance they need and sometimes are denied. Services
18 offered by legal services assist in preventing even larger
19 issues that can impact the entire community.

20 Supporting funding for the civil legal services
21 makes sense from an economic point of view as civil legal
22 services programs bring federal and other dollars into our
23 state. Legal services provide -- programs provide the
24 services that avoid such income disruption that help keep
25 our community intact. These types of services keep people

1 in their homes who then support the local economy.
2 Without services from Legal Aid, some rural communities
3 lose population in search of assistance programs to urban
4 environments. This creates a spiral effect that leads to
5 layoffs, foreclosures, community collapse which affects
6 the state economy since rural communities play a major
7 role in our state's standard of living. The housing stock
8 in many rural communities is growing worse since
9 homeowners and landowners cannot afford to maintain these
10 older old housing stock, let alone the heating and
11 electric units that help them through the winter.

12 Nonprofit community agencies, in particular
13 legal services programs, are part of the fabric that hold
14 our community together and in particular keep many of our
15 residents safe.

16 As I work with customers with their utilities, I
17 find myself working through other social ills, first by
18 referring customers to the few agencies that are available
19 in their communities. Much attention is given to the poor
20 urban environments as it should be, but let us remember
21 that the rural folks suffer sometimes even more because
22 they suffer in isolation. Lack of transportation to get
23 to social agencies is a major problem. For some,
24 traveling to our urban communities is very stressful since
25 they are not accustomed to urban car patterns and crowds

1 of people. Some rural folks do not have access or know
2 how to obtain free cellphones. Social agencies may have
3 difficulties at times making contact with rural agencies
4 with the rural community because many do not have phones
5 and transportation. Public transportation is not in
6 existence for many, many of the elderly and do not have --
7 and they do not have their children around to drive them
8 to agencies or even to the doctor when they are ill.

9 Sometimes people will ask me how does a consumer
10 advocate from a utility company get involved. Poor people
11 sometimes don't know how to make contact, and they contact
12 what limited phone listing they have, and sometimes it's
13 National Grid. National Grid then, phone representatives
14 contact me as a consumer advocate. They refer that
15 customer to me, and I speak to them. It may have nothing
16 to do with their utilities.

17 I will not allow, when I become aware of someone
18 suffering under domestic violence, I will not allow that
19 phone call to go by. If it doesn't have anything to do
20 with utilities, I will always follow up. I received
21 several years ago an award from the domestic violence in
22 Erie County because I had three cases, one right after the
23 other. The first, she died. She was murdered from her
24 partner. The second was a lady who suffered multiple
25 sclerosis. She lost her children in Niagara County. She

1 was placed in Erie County. She was living with a
2 boyfriend who abused her, not physically but mentally.
3 She -- the stress had an effect on her body that she could
4 not even feed herself. Her boyfriend left the apartment
5 one day, and she went into her neighbor's home. That
6 neighbor called National Grid who then referred the call
7 to me. The neighbor said, my neighbor -- she used this
8 word -- escaped her apartment. I got in contact with
9 legal services and other agencies who ultimately assisted
10 this lady in order to gain the energy to leave her
11 boyfriend.

12 When it comes to our rural communities, I became
13 aware of a lady, a senior woman. Her husband seventy
14 years old. She's sixty-five. When her husband became
15 seventy, he began to punch her in her stomach. She would
16 call me when he was napping to discuss her situation. I
17 in turn got different agencies together, legal services,
18 our local office for the aging, a local community-based
19 organization. Collectively we worked as a team, and
20 ultimately I don't know what was the end result, because
21 obviously for confidentiality and so forth. But one thing
22 that I do know is that because I know she was afraid
23 because she had no income. She never worked outside the
24 home. She was afraid to leave her husband. She's
25 probably still with him. But in the end I believe what

1 took place was that the local community-based organization
2 and the office for the aging and in particular her primary
3 physician are all aware of her situation. So if the
4 primary physician sees any scarring or bruises, then there
5 is something in place that can alert of any further
6 domestic violence. Many people in rural areas suffer in
7 isolation.

8 The impact legal services has in assisting
9 customers assisting social programs to help pay utility
10 bills and purchase food benefits, benefits the local
11 economy. Low-income families spend most of their money in
12 their communities and which affects the local merchants.
13 As a result, the majority of the benefits flow into our
14 local economies. Thank you very much for this
15 opportunity.

16 JUSTICE LIPPMAN: Thank you. And thank you for
17 explaining how I think the private sector contributes to
18 these partnerships that ultimately require the assistance
19 of legal services and that ultimately, as you say, make
20 communities work, and it's all an ensemble task that,
21 again, in the end provides desperately-needed legal
22 assistance. And thank you for your role in the private
23 sector and for making the connections that help people.

24 Now, Joseph Fruscione, we're ready for your
25 testimony, and you're the vice president and commercial

1 branch manager of M&T Bank?

2 JOSEPH FRUSCIONE: Yes, sir. Good afternoon,
3 Chief Judge Lippman and distinguished panelists. Thank
4 you for the opportunity to allow me to the testify on the
5 importance of civil legal services in New York and in
6 particular for our rural customers and how those services
7 benefit the local business community.

8 As you noted, my name is Joe Fruscione. I'm the
9 branch manager of the M&T Bank's One M&T Plaza Office in
10 downtown Buffalo. We previously had submitted our
11 testimony, Judge. What I would like to do is just hit
12 some of the highlights if that's okay with you?

13 JUSTICE LIPPMAN: Sure. Appreciate it.

14 JOSEPH FRUSCIONE: Terrific. M&T Bank is a
15 Buffalo New York based regional bank with retail locations
16 across the state. In the Buffalo region we have over 70
17 retail branches, a residential mortgage lending group, and
18 a commercial lending office. M&T has about 6,000
19 employees in the Buffalo region. In addition to
20 traditional bank services, M&T Bank has a charitable
21 foundation that supports various organizations. Even in
22 difficult economic times, M&T has maintained its active
23 role in supporting our communities.

24 M&T has long held the view that healthy
25 communities are the foundation of successful businesses.

1 This belief lies at the heart of M&T's community banking
2 philosophy. Over the past ten years the foundation has
3 made 147 million dollars of grants to nonprofit agencies
4 that are focused on improving the quality of life in our
5 communities and assisting the economic environment where a
6 customer's employees live. These can include such rural
7 communities as places like -- I made a note, I would like
8 to hit them all -- Springville, Rushford, Corfu,
9 Lyndonville, Olean, Fredonia. So outside the city of
10 Buffalo in some of these rural areas where we have offices
11 and we support those communities as well.

12 One such organization that we support is Legal
13 Services for the Elderly, Disabled, or Disadvantaged of
14 Western New York whom our foundation has supported for
15 over fifteen years. At M&T we recognize --

16 JUSTICE LIPPMAN: Let me ask you a question.

17 JOSEPH FRUSCIONE: Yes. Yes.

18 JUSTICE LIPPMAN: Why does it matter to you?
19 You know, I think that one of the great benefits of these
20 hearings is where people are really counterintuitive to
21 some as to why they would be advocating legal services.
22 Why does it matter to M&T Bank whether people get --
23 people in the community get legal services both on an
24 issue of what's right and on an issue of your bottom line?
25 How does it help you in both regards?

1 JOSEPH FRUSCIONE: Such an excellent question.
2 So one of the initiatives that we have undertaken
3 recently, we have trained our tellers in Buffalo and
4 Rochester, so the people on the front line, to spot signs
5 of elder abuse. And we see it so frequently. It's really
6 on the rise. So tellers now have magnets at their teller
7 stations on what to look for, key signs, and then numbers,
8 phone numbers to call to reach out so that we can help.
9 And I have personally done that. I have personally
10 spotted this where, you know, a young grandson appears is
11 taking advantage of a grandmother or grandfather, and I
12 will pull them aside and say does this transaction make
13 sense to you. And they're maybe not even that coherent,
14 and then we can just call and get them help. So it
15 touches us personally. And I think as a bank M&T
16 recognizes that there's more than taking in deposits and
17 making loans.

18 At the end of the day, sure we want to be
19 profitable, and we have been since 1856 since we opened up
20 our doors. But there's much more that goes into being,
21 you know, a good citizen. And so what's really neat about
22 M&T, and one reason I'm really proud to work at M&T now
23 for thirteen years, is part of our annual review process,
24 so when I sit down with my manager at the end of the year,
25 is community service. That's actually part of the annual

1 review process, and I think that says a lot about who M&T
2 is.

3 JUSTICE LIPPMAN: When people get legal
4 assistance and they remain viable members of the community
5 who have shopped in stores and go to your bank, that not
6 only helps you in terms of you like to see people thriving
7 and as say you want to be good citizens, but it also helps
8 your bottom line?

9 JOSEPH FRUSCIONE: It does.

10 JUSTICE LIPPMAN: And the people that just fall
11 into despair and go on social services or worse, it
12 doesn't help your business aside from not helping your
13 community.

14 JOSEPH FRUSCIONE: You're absolutely right.
15 Judge, that's more than fair. You're absolutely correct.
16 We like to see people get the assistance that they need so
17 that they can be informed, and that helps us.

18 JUSTICE LIPPMAN: And they can buy from a local
19 store and make deposits in a local bank.

20 JOSEPH FRUSCIONE: Absolutely. Absolutely.

21 JUSTICE LIPPMAN: You know, I think that, again,
22 people don't quite understand that this isn't just about
23 giving poor people a helping hand or people of limited
24 means to making our communities work. And all of you I
25 think in different ways are explaining that, that it's not

1 just, gee, it's the right thing to do and sure people need
2 a helping hand. It is, but the community works because
3 the local bank, the utilities, the Catholic Charities
4 organization, everyone sort of contributes to this
5 wellbeing. And I guess what we're trying to get across is
6 that a priority in our state, in addition to all the other
7 obvious things, housing, hospitals, education, that legal
8 services is very much up there in terms of what are the
9 highest priorities really in our society.

10 JOSEPH FRUSCIONE: Absolutely.

11 JUSTICE LIPPMAN: So we thank all of you for
12 coming in and for making that point, and I think that
13 that's what this panel is about. So thanks so much. I
14 appreciate it.

15 JOSEPH FRUSCIONE: Thank you. Thank you.

16 JUSTICE LIPPMAN: Before I call the next -- the
17 last panelist, I would note that Paula Feroletto, the
18 Administrative Judge for the Eighth Judicial District is
19 here, and is a great leader of our courts in this part of
20 the world. And, Paula, a delight to see you and also a
21 delight to see you accompanied by Michael Coccoma, who is
22 the Deputy Chief Administrative Judge in charge of courts
23 outside of New York City, and he will be our last witness
24 today. Thank you. Judge Coccoma is also a Supreme Court
25 Justice of the Supreme Court in the Sixth Judicial

1 District. Mike.

2 JUSTICE COCCOMA: Thank you. Good afternoon.

3 JUSTICE LIPPMAN: Good afternoon.

4 JUSTICE COCCOMA: Chief Judge Lippman, Judge
5 Scudder, Judge Marks, and President Doyle. First of
6 all --

7 JUSTICE LIPPMAN: I might add that Judge Coccoma
8 is the judge of all the courts outside New York City in
9 terms of overseeing their operations. He's got a very,
10 very big job, and he travels all -- it's no -- it's no
11 unique thing for him to be here in the Eighth Judicial
12 District. He gets around the state. So go ahead.

13 JUSTICE COCCOMA: Well, thank you. Thank you
14 very much. And as the last speaker said, I too have
15 submitted my remarks to you I believe late last week, and
16 you certainly have them. And although I would like to
17 read them into the record, I would be happy to entertain
18 any questions that you might have, and I thank you for the
19 invitation and the opportunity to appear and speak on
20 behalf of the Judiciary outside the City of New York.

21 May I begin where I ended my remarks in 2011
22 when I had the privilege of appearing before this panel
23 referencing a quote from the former United States Supreme
24 Court Justice Honorable Lewis Powell, in which he said to
25 the American Bar Association, equal justice under the law

1 is one of the ends for which our entire legal system
2 exists. It is fundamental that justice should be the same
3 in substance and availability without regard to economic
4 status. And his quote explains the reason for judicial
5 civil legal services funding and why it should continue.

6 I want you to know that in preparing my remarks
7 I have spoken with a number of legal providers currently
8 receiving this funding, and I made it a point to call and
9 reach out to them and even meet with some of them. I have
10 solicited reports from the administrative judges statewide
11 who work with me, and I have focused on the progress we
12 have made in judicial training of town and village
13 justices as well as the clerks of those courts, but my
14 remarks are also based upon my personal experiences as a
15 judge on the bench for over nineteen years in a rural
16 county, Oswego County for those of you who do not know
17 where I come from, including my thirteen years as a
18 multi-bench judge sitting in Family Court, County Court,
19 Surrogate Court, a Drug Treatment Court, and being an
20 acting JSC.

21 And I would like to focus my remarks on three
22 topics: first, what I believe the impact this funding is
23 having on rural counties; second, how we have progressed
24 in approving education and training to town and village
25 justices, especially in the area of summary proceedings;

1 and, finally, an update on the progress which has been
2 made in the drafting of simplified uniform forms across
3 the state for use in foreclosure proceedings,
4 landlord/tenant matters, consumer debt, and child support
5 matters.

6 With the continued economic problems facing our
7 state and this country, you have heard, as I know as you
8 traveled across the state and had these public hearings,
9 there's been a significant increase in the number of cases
10 in our courts relating to the quality of life issues --
11 housing, unemployment benefits, child support, divorce,
12 and domestic violence. In rural counties -- in rural
13 counties -- in rural counties, and I emphasize that
14 because I don't want the rural counties to be forgotten,
15 more must be done to fill the need for legal services and
16 access to those services in these areas.

17 In speaking with one legal provider, he informed
18 me that between 2000 and 2009, on average their agency
19 opened 800 cases annually, but now with the economic
20 crisis they are averaging 1,200 cases annually. Many
21 cases relate to evictions of tenants. Judiciary funding
22 that has been provided so far has permitted this agency to
23 hire additional landlord/tenant attorneys, one of whom is
24 placed directly in the local town court to meet with
25 families on court days and to provide legal assistance and

1 advice. We need to bring services to the people in the
2 rural counties.

3 And as was remarked by a number of my
4 predecessors who spoke here today, transportation is
5 probably one of the biggest hurdles. I saw it when I sat
6 as a drug court judge, getting people to the services. It
7 applies when it comes to legal services as well, not just
8 mental health services or drug treatment services.

9 Additional funding to the Legal Assistance of
10 Western New York has permitted the hiring of full-time
11 attorneys to supervise pro bono programs and also to
12 assist in tackling the increasing number of uncontested
13 matrimonials. This agency services fourteen counties, but
14 it only has offices located in six of those counties.

15 The Rural Law Center in Upstate New York near
16 Plattsburgh reports to me that this Judiciary funding has
17 enabled their agency to provide more services to families.
18 And by way of example, this agency -- I presume you know
19 Susan Patnode who is the executive director of that
20 agency. She explained to me a situation where their
21 agency was providing assistance to a woman in a rural
22 county who was purchasing her home on a land contract.
23 Having completed all the payments, she was having
24 difficulty in obtaining a deed from the record title
25 owner. But through agency cooperation, interagency

1 cooperation between the Rural Law Center and LawNY, they
2 located the landlord outside of the State of New York, and
3 with the assistance of pro bono attorneys in that other
4 state, they are working on a successful outcome in
5 securing a deed for their client. This is an example of
6 how the sharing of resources and the collaboration between
7 agencies has helped families in rural counties.

8 And while it remains a challenge to provide
9 legal services to rural counties, especially with the lack
10 of public or other transportation, this funding has at
11 least provided a breakthrough. Some providers have
12 utilized their funding to hire staff and attorneys to
13 train and coordinate pro bono programs with the local Bars
14 in the rural counties. For example, again, LawNY staff
15 coordinates the efforts of pro bono attorneys in Allegany,
16 Cattaraugus, Chautauqua, Chemung, Livingston, Ontario,
17 Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, and
18 Yates County.

19 The statistics which I know this panel received
20 from my colleague, the Honorable Fern Fisher, at your New
21 York City hearing demonstrate that the number of people
22 being served is currently increasing. However, statewide,
23 based upon the 2010 Federal Census, we believe 5,717,644
24 New Yorkers are eligible for free legal services, those
25 living at or below 200 percent of the federal poverty

1 level. We do not know the percentage of those eligible
2 individuals who are in need of legal services in any given
3 year; however, we do know that in 2012-13, with the
4 current funding statewide, we have been able to provide
5 legal services to 4.69 percent of eligible clients. We
6 are really just scratching the surface. However, in the
7 previous year, 2011-12, only 2.19 percent of the eligible
8 population received services statewide. Once again, this
9 underscores the need to get more services in place in the
10 individual counties so that those in need can access them.

11 Establishing clinics in rural counties where
12 attorneys have an opportunity to donate a defined amount
13 of time, pro bono is one method of service delivery which
14 is popular, and I urge funding be directed toward the
15 support of clinics in these communities, the promotion of
16 pro bono work, recruitment training, as well as support of
17 pro bono attorneys such as incentives and rewards for pro
18 bono attorneys. Also, better coordination among
19 stakeholders and the Judiciary to locate attorneys in the
20 counties willing to provide pro bono services who will
21 also reach more clients. As I am sure you understand, in
22 the rural counties, connecting the client to the service
23 is especially difficult due to the long distances clients
24 must travel to meet with the providers and the lack of
25 accessible transportation.

1 In the area of technology, judicial CLS funding
2 has provided support to some of these providers for the
3 implementation of word processing, e-mails, case notes,
4 and Westlaw and for other internet-based research in order
5 to better represent clients by case handlers at legal
6 service providers. At Northeast Legal Aid in the Capital
7 District, the funding has enabled support staff to use a
8 system known as Time, T-I-M-E, which is a case management
9 system to check eligibility and do intakes, enter case
10 notes and ticklers, maintain client data, run necessary
11 reports to better manage their work, keep time, and
12 generate time and attendance records, among other things.

13 There's still much which needs to be done in the
14 rural areas, relating to mobile home owner rights,
15 services for domestic violence victims, services for our
16 seniors, our veterans, and services in the area of
17 employment law, education law, and land sale contracts.
18 The challenge is how to provide civil legal services over
19 a large geographic expanse. And may I suggest the
20 acquisition of more mobile vans staffed with attorneys and
21 paralegals and law students as an idea worth pursuing.

22 The Task Force has recommended expanding the use
23 of telephone and video conferences in remote areas, and
24 that is certainly an idea worth pursuing. A pilot project
25 testing the use of video conferencing for some court

1 conferences involving attorneys or unrepresented
2 individuals who live in remote areas will also expand
3 access to justice.

4 A program well worth highlighting, and I know
5 Justice Scudder is familiar with this, is the pro bono
6 appeals program which is currently in place in the Third
7 Department and will be instituted -- I believe it's under
8 way now -- here in the Fourth Department. It's a good
9 example, again, of collaboration between the Bar and in
10 this case the New York State Bar, private attorneys
11 specializing in appeals, and the Rural Law Center.

12 Let me turn to our town and village courts.
13 Over the past two years we have retooled our education and
14 training programs through the Office of Justice Court
15 Support for town and village court justices, recognizing
16 that these are the courts that generally have first
17 contact with many of our poor in the rural counties. We
18 certainly realize that it is not only the judges who must
19 be aware and stay current in the area of summary
20 proceedings but the court clerks as well. These clerks
21 are the ones on the front lines dealing with
22 self-represented litigants, and they too must be able to
23 assist these people to a certain extent. We as judges and
24 lawyers concede that a court clerk must be cautious not to
25 give legal advice. A clerk does, however, need to be

1 aware of the procedural rules in regards to summary
2 proceedings to better assist the litigant, such as
3 directing litigants to the do-it-yourself forms available
4 on the OCA website. The Office of Justice Court Support
5 has expanded its court clerk training in all regards just
6 this past year.

7 In an effort to expand the reference materials
8 available to town and village justices, the Office of
9 Justice Court Support has reviewed the Justice Court
10 Manual on Summary Eviction Proceedings, which is published
11 by Legal Assistance of Western New York. The document has
12 proven to be a very comprehensive reference guide, and the
13 Office of Justice Court Support intends to work closely
14 with this organization in an effort to promulgate the
15 document statewide and to our town and village judges.

16 The Task Force to Expand Legal Services has
17 recommended more training and support materials for these
18 courts in all areas, but particularly in the area of
19 landlord and tenant cases. To assist in this endeavor,
20 the Task Force prepared a bench card for landlord and
21 tenant cases that was distributed to our judges in
22 September 2013.

23 The Office of Justice Court Support takes very
24 seriously the issue of ensuring that town and village
25 judges are well trained in the area of summary

1 proceedings, especially as it relates to cases where there
2 are unrepresented litigants. Every year during the taking
3 of the bench certification course, which newly-elected and
4 appointed non-attorney judges are required to take prior
5 to assuming office, judges are given instructions and
6 training materials as it relates to procedures relating to
7 summary proceedings. In 2014, new and expanded training
8 will be provided to all town and village justices, and
9 this course is already in the development stages.

10 And, finally, let me turn to the topic of forms
11 simplification. This is one of the issues unrepresented
12 litigants face. The complexity and the lack of uniformity
13 of our court forms makes its a daunting hurdle for these
14 people. Thus, we have devoted resources and set up
15 subcommittees to address the creation of uniform
16 simplified forms in the areas of landlord/tenant, consumer
17 debt, foreclosure, and child support matters. Our efforts
18 to revise the forms to plain language format and the
19 uniformity of both forms and procedures continues.

20 The development of uniform simplified forms is a
21 challenge because of the varied practices statewide. Our
22 subcommittees recognize this but are making progress in
23 revision. To date the following forms have been completed
24 by the subcommittees and approved by both Judge Fisher and
25 myself: the uniform landlord and tenant nonpayment answer

1 form and consumer debt answer form, a foreclosure
2 preliminary conference order form, and a child support
3 modification form.

4 In addition, a subcommittee has recommended that
5 the consumer debt procedure that exists in the City of New
6 York be adopted in the rest of the state. These would
7 include a notice of a pending case mailed by the court to
8 the defaulting defendants and statewide requirements for
9 obtaining a default judgment. It is also recommended that
10 all courts charge families similarly for name changes when
11 there are multiple children. Some courts charge one fee
12 per family while others charge for each child. Both
13 Judge Fisher and I ask that these forms and uniform forms
14 be approved for statewide implementation either by the
15 Chief Administrative Judge or the Administrative Board as
16 appropriate.

17 In conclusion, I encourage continued
18 collaborative effort between the Judiciary, local Bar
19 Associations, and Legal Aid providers. All of their
20 efforts to date deserve our praise and support as they are
21 helping thousands of New Yorkers, but unfortunately they
22 are not enough to avert the crisis which is upon us. I
23 recommend continued funding so that new ideas to stem the
24 tide of the overwhelming need for civil legal services
25 representation for our most needy citizens can be

1 provided.

2 As my time draws to a conclusion, I again thank
3 you for the opportunity to highlight some of my concerns
4 and that of my colleagues, the administrative judges from
5 around the state, and to give you an update on how we are
6 progressing in our efforts to provide equal justice. Only
7 the Bar and the Judiciary truly can understand and
8 appreciate how important it is that in our courts a level
9 playing field is provided for all who enter through the
10 courthouse doors. Thank you. And as I said, I would be
11 happy to entertain any questions.

12 JUSTICE LIPPMAN: Thank you, Judge Coccoma.
13 Thank you for emphasizing the good that's been done with
14 the funding that we get to promote the legal services
15 outside the city and the partnerships that go into making
16 that work. I think Judge Marks has a question.

17 JUDGE MARKS: Yeah. Judge Coccoma, with regard
18 to the town and village courts, it's true, isn't it, that
19 most of the judges in those courts are not lawyers?

20 JUSTICE COCCOMA: A large percentage. The
21 further away from the metropolitan areas, Syracuse,
22 Buffalo, you know, downstate, the further away you get
23 into the rural counties, most of the judges are
24 non-attorney judges. So the challenge for Justice Court
25 Support is the continual training of those judges.

1 JUDGE MARKS: Isn't it so developed then --
2 isn't it a particularly compelling situation when someone
3 walks into a town and village court without a lawyer that
4 the judge, him or herself has no formal legal training, is
5 that something that we should be particularly concerned
6 about?

7 JUSTICE COCCOMA: Yes, we should. And, you
8 know, I should add that the Office of Justice Court
9 Support, under our current director, Nancy Sunukjan, has
10 retooled the education training of town and village judges
11 and the clerks. We've actually reconstituted the panels,
12 the education training panels, gone over the entire
13 curriculum. We have put it online so these judges -- and
14 one of the complaints we have heard from these judges is
15 the ability to get to the training, the in-person training
16 that we are having. Now they can sit in their homes in
17 the evening, go online, and take the courses necessary,
18 including the testing that they are required to do in
19 order to satisfy their ethical obligations and their
20 training obligations.

21 But, yes, what you say, the fact that you have a
22 non-lawyer judge who is there without formal legal
23 training and pro se litigants or unrepresented litigants
24 who, you know, are overcome by the issues that bring them
25 into court is a double-edged prong.

1 JUSTICE LIPPMAN: Okay. Thank you, Judge
2 Coccoma.

3 MR. DOYLE: Judge, briefly. Judge Coccoma, I
4 know when the issue of the form simplification was first
5 raised I was on one of these panels and offered the State
6 Bar's assistance and help in that regard, and I again
7 offer it. We have twenty-seven substantive law sections,
8 including a Family Law section and a Real Property Law
9 section that are filled with experts in these areas. And
10 if at any point you or the group, the subcommittee that is
11 working on the forms, if you would like us to identify
12 people who would be willing voluntarily to give you any
13 insight, we're more than willing to do that for either the
14 ones you have developed now or going forward.

15 JUSTICE COCCOMA: Thank you for that offer,
16 President Doyle.

17 JUSTICE LIPPMAN: Okay. Thank you. And I want
18 to thank everyone for being here. I thank Judge Coccoma.
19 And I think the things that the judge emphasized are
20 really things that we have heard all day, starting with
21 the dean, Dean Mutua, and the law school students, local
22 officials, business community leaders, and the Judiciary
23 of how important legal services are to the lives of our
24 communities here in the Fourth Judicial Department and
25 around the state.

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So these hearings have really greatly helped us to try to look at the state of civil legal services in New York and to figure out, help us to try and figure out what funding is needed to, again, as we started today, to eliminate or at least greatly narrow the justice gap in our state. So thank you all for being here. This has been a tremendous assistance, and have a good day in this beautiful Buffalo weather. We were going to do the hearing in February, but we decided to do it now. Thank you.

(Whereupon the proceedings concluded.)

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

I certify that the foregoing pages are a correct transcription of the proceedings recorded by me in this matter.



JILL R. DRASZKIEWICZ
Official Court Reporter