

SUPREME COURT OF THE STATE OF NEW YORK

--FOURTH DEPARTMENT--

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THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES,

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Telesca Center for Justice  
1 West Main Street  
Rochester, New York 14614  
September 29, 2014

BEFORE:

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

HONORABLE A. GAIL PRUDENTI,  
Chief Administrative Judge

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

DAVID P. MIRANDA,  
President-Elect of the NYS Bar Association

REPORTED BY:

MELANIE WYSKIEL  
Official Court Reporter

1 W I T N E S S L I S T:

2 HON. STEPHANIE A. MINER,  
3 Mayor, City of Syracuse

4 HON. LORETTA C. SCOTT,  
5 President and Councilmember At-Large, Rochester City Council

6 T. ANDREW BROWN, ESQ.  
7 Corporation Counsel, City of Rochester

8 VAN HENRI WHITE, ESQ.  
9 President and Commissioner, Rochester City School District  
10 Board of Education; Chair, Council of Urban Boards of  
11 Education

12 JULIE LONGMORE,  
13 Client of Hiscock Legal Aid Society, accompanied by Susan Horn

14 DAWN and MICHAEL FARNSWORTH,  
15 Clients of Western New York Law Center, accompanied by Kate  
16 Lockhart

17 EILEEN KLEPS,  
18 Client of Western New York Law Center, accompanied by Kate  
19 Lockhart

20 COMMISSIONER M. JOSH McCROSSEN,  
21 Wayne County Department of Social Services

22 SANDRA A. PARKER,  
23 President and CEO, Rochester Business Alliance

24

25

1 CHIEF JUDGE LIPPMAN: Welcome. I want to  
2 welcome all of you to this year's Civil Legal Services  
3 Hearings. This is the second hearing. The first one was  
4 in Manhattan. Tomorrow we're going to do Staten Island  
11:33:02 5 and next Monday, Albany.

6 As you know -- let me first introduce the panel  
7 members. To my right is Presiding Justice Henry Scudder  
8 from the Fourth Department; to my left, Chief  
9 Administrative Judge Gail Prudenti and to the far right  
11:33:26 10 David Miranda, the President-Elect of the State Bar. And  
11 we're so pleased to have the leadership of the court  
12 system presiding over these hearings.

13 You know, we hold these hearings because there  
14 is a justice gap in our city, in our state and in our  
11:33:42 15 nation between the legal resources available and the  
16 desperate need for legal services for people of limited  
17 means and people who are indigent.

18 Around the state I would say it's fair to say,  
19 and particularly in this building where we house so many  
11:34:06 20 legal service providers, it's fair to say that around the  
21 state three out of four people who come in seeking legal  
22 services help are turned away.

23 I want to thank the Monroe County Bar  
24 Association, Steve Modica, for having us, allowing them  
11:34:31 25 in our space -- in their space, to come here and do this

1 hearing in the same building where we have so many  
2 providers. The Monroe County Bar Association has always  
3 been a beacon of strength and support. The legal  
4 services in Monroe County and around the state, and we  
11:34:49 5 thank you, Steve, and we thank all the providers who are  
6 also housed in this building for your support and so much  
7 really vital assistance in the quest for equal justice.

8 I also want to recognize Helaine Barnett, the  
9 Chair of our Task Force to Enhance Civil Legal Services  
11:35:13 10 who is sitting right there. Waive your hand, Helaine.  
11 There she is. And Sheila Gaddis who played such a  
12 federal role in the preparing for these hearings who is  
13 so terrific and we so appreciate her assistance. Judge  
14 George Lowe is here also from the Task Force standing in  
11:35:36 15 the back. Raun Rasmussen is here somewhere, Raun, there  
16 he is. And Anne Erickson is here and thank you, and I  
17 also want to acknowledge Christine Fecko the General  
18 Counsel for IOLA, who is here with us today, and very  
19 much applaud of these proceedings in a mosaic of legal  
11:35:59 20 services in our state.

21 Let me just say that in these difficult  
22 economic times, people literally threaten to fall off the  
23 cliff at great cost to our society and to our community,  
24 and we feel in the judiciary that it is essential to our  
11:36:22 25 Constitutional mission to foster equal justice. This is

1 what the judiciary is supposed to be doing. This is what  
2 the profession is supposed to be doing and that's why we  
3 take the leadership with the Bar in holding these  
4 hearings to measure the gap in legal services for the  
11:36:41 5 poor in Monroe County, in the Fourth Department and in  
6 New York State.

7 This is not tangential to what we do. This is  
8 up front and center to our own judiciary. As recognition  
9 of that role, the Legislature has passed a resolution  
11:36:59 10 that directs us to hold these hearings and come back with  
11 an idea as to how much money is needed to close the  
12 justice gap in our state.

13 The Task Force helps us to plan the hearings,  
14 to digest what we get at the hearings and to put in the  
11:37:18 15 new requests to the Legislature each year. We are proud  
16 that New York has been able to get \$70 million from our  
17 friends and the Legislature and the Executive to support  
18 grants to legal service providers directly by the court  
19 system and through IOLA and we're delighted it's by far  
11:37:39 20 the most in the country of state funding and yet just the  
21 tip of the iceberg.

22 We have done -- we recognize that there isn't  
23 enough money in the world to totally do the job. We need  
24 the pro bono efforts of the Bar to assist us. And that's  
11:37:55 25 why we have our Lawyers Emeritus Program to encourage the

1 baby boomers as they wind down their careers to do pro  
2 bono, why we have focussed on corporate counsel and allow  
3 attorneys not admitted in New York to perform pro bono  
4 work for the poor and why we have focussed on law  
11:38:21 5 students with the only state in the country requiring law  
6 students to do 50 hours of pro bono work before they're  
7 admitted to the Bar in New York.

8 We want it in their DNA that this is what  
9 lawyers do. We help people. We provide services to  
11:38:37 10 people. This is what we're supposed to be doing and all  
11 of these, the public funding pro bono work are critical  
12 to what we need to do to push this forward to get to the  
13 point of having a civil Gideon or a right to counsel or  
14 right to effective assistance of counsel for all people  
11:38:56 15 fighting for the necessities of life, a roof over their  
16 heads, their physical safety, the well-being of their  
17 families, their livelihoods.

18 We in the courts feel particularly dedicated to  
19 this effort. I want to recognize our Administrative  
11:39:13 20 Judge here in the Seventh Judicial District, Craig Doran,  
21 who is sitting right there -- standing right there. If  
22 it's Monday, we're in the Seventh Judicial District.  
23 Tuesday, the Second. But thank you, Craig, for all of  
24 your wonderful assistance and for your support.

11:39:42 25 These hearings have in the past had testimony

1 from statewide elected officials Attorney General  
2 Schneiderman, Comptroller DiNapoli, Cardinal Dolan,  
3 business leaders, leaders of the Bar, education leaders,  
4 big banks, landlords testifying to the need for civil  
11:40:06 5 legal services for the poor, and if we don't get those  
6 services, we not only hurt people's lives but we hurt the  
7 bottom line of our state, that our economy, the strength  
8 of New York benefits from civil legal services for the  
9 poor, our Task Force estimates for every dollar invested  
11:40:27 10 in civil legal services \$6 are returned to the state in  
11 decreased social service costs, incarceration costs and  
12 more federal dollars are flowing into the state.

13 So it is very, very important that these  
14 hearings be held, that we promote attention to this issue  
11:40:46 15 and that we recognize the special responsibility that we  
16 in the judiciary and the profession and our communities  
17 around the state are to provide people with the  
18 assistance they need, to really have the essentials of  
19 life. It's the most, certainly for the judiciary and I  
11:41:08 20 know I speak for Justice Scudder, for Judge Prudenti, for  
21 Judge Doran, for all of us, this is the most important  
22 thing we do, which is to provide equal justice for every  
23 single person who comes into our courts.

24 So I'm going to take one speaker out of order  
11:41:28 25 and then we're going to go straight to the Mayor of

1 Syracuse right after that. But the first speaker is  
2 going to be Sandra Parker, the President and CEO of the  
3 Rochester Business Alliance.

4 Sandra, do you want to come forward?

11:41:45 5 MS. PARKER: Thank you for accommodating my  
6 schedule.

7 CHIEF JUDGE LIPPMAN: It's our pleasure. Thank  
8 you for all of your assistance.

9 MS. PARKER: Well, good morning. I'm Sandra  
11:41:58 10 Parker, Chief Executive Officer of the Rochester Business  
11 Alliance, the region's chamber of commerce representing  
12 2,000 employers in the Finger Lakes area. When I learned  
13 that the focus for the Civil Legal Services Hearing in  
14 Rochester was on education, I felt it important that the  
11:42:15 15 business community provide testimony.

16 Our public policy agenda includes three primary  
17 areas of focus. These include: Economic development,  
18 healthcare and urban education.

19 Many have questioned why the business community  
11:42:31 20 is concerned about urban education. The response is  
21 really quite simple. The 28,000 students of the  
22 Rochester City School District represent our future  
23 workforce. They must have the necessary skills and  
24 talent to meet our labor force needs. Given the abysmal  
11:42:49 25 results coming out of the City School District with a

1 less than 50 percent graduation rate, there's a lot that  
2 must be done.

3 There are many aspects to ensuring that kids  
4 receive a good education that prepares them for the  
11:43:02 5 workforce. Civil Legal Services providers do many things  
6 that help kids get a good education.

7 These include: Representing kids with  
8 disabilities to get them an appropriate education which  
9 will lead them to be able to have a fulfilling life  
11:43:17 10 commensurate with their abilities;

11 Structural work which focuses on the value of  
12 the community's economic diversity in schools and  
13 increasing interdistrict transfer opportunities like the  
14 urban suburban program;

11:43:31 15 Advocating for the expansion of quality early  
16 education programs for preschool children.

17 The City School District has identified school  
18 attendance and not having kids move between schools  
19 unnecessarily as critical to educational success. Here,  
11:43:49 20 again, Civil Legal Services make a real difference in  
21 whether kids experience or avoid things that will be  
22 disruptive to their education.

23 For example: CLS represents families and  
24 tenants in foreclosure prevention working to keep  
11:44:05 25 families living in the same home and thereby avoiding

1 kids missing school or changing schools midyear because  
2 the family is displaced;

3 Representing families to ensure access to  
4 healthcare coverage to ensure kids with health needs can  
11:44:19 5 get appropriate treatment;

6 The work in lead poisoning that has led to city  
7 and county policies that cut the incidents of childhood  
8 lead poisoning by over 87 percent over 10 years resulting  
9 in more than one thousand children each year not having  
11:44:36 10 their IQs reduced by lead poisoning and enabling them to  
11 arrive at school better able to learn.

12 The Rochester Business Alliance will continue  
13 to focus on improving educational outputs in the future  
14 with time and resources. This issue, however, will take  
11:44:53 15 the energy of the entire region. Civil Legal Services is  
16 a much needed partner to the community efforts on this  
17 issue. Thank you for giving me the opportunity to  
18 express these views.

19 CHIEF JUDGE LIPPMAN: Sandra, let me ask you  
11:45:07 20 one question. In the simplest form, why is Civil Legal  
21 Services for the poor important to the business  
22 community? You know it seems a little counterintuitive.  
23 People understand that businesses are there to make a  
24 profit. What makes -- why is it that you care about this  
11:45:28 25 issue.

1 MS. PARKER: Well I think one of the reasons is  
2 that by enabling people in the entire community to  
3 receive quality, fair legal representation, I think  
4 that's important for the community to be viewed as a  
11:45:45 5 place where businesses want to come and grow. I think if  
6 we had disparities among the kind of legal advice or lack  
7 of legal advice, that a portion of the community  
8 received, we would have -- we would encounter a lot of  
9 issues I think that would not make this region a very  
11:46:06 10 attractive one for businesses.

11 CHIEF JUDGE LIPPMAN: In difficult economic  
12 times if people fall by the wayside, lose their jobs,  
13 family life is disrupted --

14 MS. PARKER: It impacts everybody.

11:46:18 15 CHIEF JUDGE LIPPMAN: -- it does not help the  
16 businesses, community or our society.

17 MS. PARKER: That's right.

18 CHIEF JUDGE LIPPMAN: Anything else? Thank you  
19 for coming.

11:46:25 20 MS. PARKER: Thank you very much.

21 CHIEF JUDGE LIPPMAN: We next have a trio of  
22 really top elected officials. I'm going to ask the Mayor  
23 to come up first. We're so delighted to have you. One  
24 of the outstanding municipal leaders in our state,  
11:46:52 25 someone who is not afraid to speak her mind and someone

1 who has been a fighter for equal justice and for what's  
2 right in her hometown of Syracuse and around the state.  
3 Nothing gives us more pleasure, Mayor Miner, than having  
4 you here with us today.

11:47:13 5 MS. MINER: Thank you, Judge Lippman. You are  
6 of course always welcome in Syracuse, but now I'll make  
7 sure you'll have a personal guide with those kind words.  
8 I want to thank you and your fellow judges and  
9 Mr. Miranda for taking time out of your busy schedule to  
11:47:31 10 plan and call attention to this vital issue.

11 I was pleased to travel from Onondaga County to  
12 Monroe County today to talk about how access to civil  
13 legal services can promote family stability and often how  
14 that is intricately related, as Ms. Parker said, to  
11:47:52 15 children's schooling and ultimately to the stability of  
16 our communities. So in my limited opportunity to speak I  
17 want to focus on the core issue of housing where family  
18 stability begins and ends.

19 First let me say that in Onondaga County we are  
11:48:09 20 proud of our legal community and in deed the fact that if  
21 people -- lawyers forget that pro bono is part of their  
22 DNA, there are several members of our august Bar  
23 Association who remind them daily, if not monthly, and  
24 it's really a privilege to stand shoulder to shoulder  
11:48:29 25 with them to talk about and advocate for this issue.

1           As a way of context let me tell you a little  
2 bit about the city that I proudly represent. We are the  
3 fifth largest city in New York State. We have tremendous  
4 pockets of poverty. In the last week, the US Census  
11:48:48 5 Bureau told us that we rate 23rd in the country for  
6 having the number of poorest children.

7           In contrast to that, we are home to a rich  
8 cultural diversity, a burgeoning population of new  
9 Americans, Syracuse University and several topnotch  
11:49:04 10 hospitals. We are seeing record development and signs of  
11 urban renewal in our downtown and across our  
12 neighborhoods. We were named a "Smarter Cities" by IBM  
13 for our proactive and innovative approach on addressing  
14 vacant properties and neighborhood development.

11:49:22 15           In the face of these exciting new developments  
16 though, the people that I represent experience tremendous  
17 challenges. Many of our families and children live in  
18 grinding poverty. Thirty-eight percent of our City  
19 School District families scrape by with household incomes  
11:49:38 20 below \$10,000. 2010 Census data reports that New York  
21 State and nationwide poverty rates are about 15 percent.  
22 In Syracuse, a jarring 82 percent of our City School  
23 children qualify for free or reduced price lunch. The  
24 People of Syracuse clearly have real needs.

11:49:57 25           The vast majority of children in our school

1 district when asked if they had ever visited a food bank  
2 or a soup kitchen had all responded yes. This is a  
3 poverty that has been unseen and unknown before.

4 In Onondaga County, over 424 individuals and  
11:50:16 5 families are homeless and reside in shelters and over  
6 1700 young people do not have a permanent home. There is  
7 a growing homeless population that you see on our streets  
8 and under our bridges and in our intersections and right  
9 under our noses. Many of them are young.

11:50:34 10 Family stability, or rather lack thereof,  
11 manifests itself in housing. In my city of approximately  
12 a 150,000, 6,000 landlord/tenant eviction cases were  
13 brought to City Court last year, primarily involving  
14 those living in poverty-stricken residential  
11:50:53 15 neighborhoods -- the vast majority of which are either  
16 self-represented or simply default in appearing.

17 These numbers I just mentioned make it easy to  
18 see that when faced with a legal crisis, these families  
19 do not have the financial resources or often the  
11:51:12 20 sophistication to get legal help. In addition to  
21 financial resources, issues such as literacy,  
22 transportation and knowledge of one's rights also present  
23 barriers in navigating the legal system.

24 Public funding for legal service providers is  
11:51:28 25 critical to assist these families with issues most

1 essential in maintaining a basic standard of living so  
2 parents can work, children can learn and families can  
3 become closer to achieving a quality of life.

4 Recent programming in Syracuse has increased  
11:51:44 5 the demand for free civil legal representation. As I  
6 mentioned earlier in my remarks, we have put a renewed  
7 focus on dealing with our vacancy issues. We created a  
8 Syracuse Land Bank, which came out of the IBM "Smarter  
9 Cities" notification process and through this Land Bank  
11:52:04 10 we are foreclosing on delinquent, tax delinquent and  
11 blighted properties and using water shut offs to force  
12 the arm of property owners and landlords to pay their  
13 water bills, their tax bills and to meet their  
14 responsibilities to our city.

11:52:20 15 Our city Department of Neighborhood and  
16 Business Development, in partnership with our Law  
17 Department, are referring more and more renters to  
18 Hiscock Legal Aid and I saw that you will be hearing from  
19 Hiscock Legal Aid later.

11:52:35 20 Hiscock Legal Aid provides legal assistance to  
21 low income families and individuals living in rental  
22 housing with a focus on prevention of homelessness and  
23 obtaining housing stability through early intervention.  
24 The City of Syracuse shows its commitment to assisting  
11:52:48 25 our constituents through its annual allocation of federal

1 community block grant funds to the Hiscock Legal Aid.

2 In its current contract with the city, Hiscock  
3 Legal Aid receives \$110,000 to help fund three attorneys  
4 to assist city residents with homeless prevention  
11:53:07 5 services such as landlord/tenant matters, water shut  
6 offs, relocation services, advocates for tenants.

7 Prior to that, their funding hovered between 20  
8 and \$50,000 a year. And also Hiscock Legal Aid is now  
9 part of our Housing Vulnerable Task Force.

11:53:24 10 This is all in the face of diminishing  
11 resources where we have chosen as a community to increase  
12 what is unfortunately a decreasing pie.

13 Unfortunately, there is usually a pending legal  
14 proceeding and a host of other events that have already  
11:53:41 15 transpired by the time a legal service gets involved.  
16 When given an eviction notice, many people default and do  
17 not show up to court. If these tenants do not show up to  
18 court, they are required to vacate in 72 hours. This  
19 results in families splitting up, children relocating and  
11:53:58 20 perhaps being required to attend a different school and  
21 often not knowing where they will spend the night that  
22 night.

23 This type of chaos could be avoided, or at  
24 least lessened, with proper legal representation. An  
11:54:12 25 attorney could negotiate additional time for these

1 families to move out and find new housing or assert a  
2 defense for habitability issues.

3 Eviction and relocation puts a tremendous  
4 amount of stress on our children and our families. Such  
11:54:28 5 circumstances hardly provide a living environment that  
6 helps our young people focus in school, much less excel  
7 in school. How is a child expected to do homework if  
8 they do not have a home? How can a child learn when they  
9 are worrying where they are going to sleep that night?  
11:54:44 10 And as a parent, how can you help your child with their  
11 homework or read to them when you are worried about where  
12 your family will sleep, how you will navigate a court  
13 system, which frankly is very intimidating.

14 With such a tumultuous home life, it's no  
11:55:01 15 wonder that only about 50 percent of our students  
16 graduate from high school. It's an embarrassing number  
17 that we share with the City of Rochester. Nothing is  
18 more fundamental than one's home, but there is so much  
19 instability on the family that time spent at school  
11:55:16 20 cannot clearly compensate with homes that are riddled  
21 with such chaos.

22 In Syracuse, we are fortunate enough to have a  
23 program called Say Yes to Education, a program that  
24 provides an array of social supports to help close the  
11:55:30 25 achievement gap and offers an opportunity for

1 post-secondary success with the promise of free college  
2 tuition to all City High School graduates. Syracuse is  
3 proudly the first city in the nation to implement this  
4 program districtwide. And as a part of Say Yes' holistic  
11:55:45 5 approach to closing the achievement gap, free legal  
6 clinics are available to assist families with issues that  
7 disrupt family stability. The most common issues are  
8 housing, family and divorce and immigration. The program  
9 started in 2008 with school-based drop-in clinics for  
11:56:03 10 parents to receive legal advice and be referred to  
11 ongoing legal representation.

12 In the 2011-2012 school year, the school-based  
13 legal clinic served 74 families. The following year, Say  
14 Yes partnered with the Volunteer Lawyers Project of  
11:56:22 15 Onondaga County to include community based clinics into  
16 the Say Yes program and provide free legal assistance to  
17 all Syracuse City School District students and families.

18 This partnership led to a major increase,  
19 serving 533 Say Yes families that year. Last school  
11:56:37 20 year, the program assisted 942 Say Yes families with  
21 issues such as family matters, eviction, divorce and  
22 again immigration. These free legal clinics, two at  
23 neighborhood schools and one downtown in the courthouse,  
24 are a great start but merely scratch the surface of  
11:56:54 25 addressing this demand.

1                   Interestingly, in the past two years the number  
2 of families served by these legal clinics nearly doubled,  
3 and the number of housing and eviction cases remained  
4 proportionately the same, comprising about 60 percent of  
11:57:08 5 the caseload. The need is just that compelling.

6                   And although at the local level in Syracuse we  
7 are using innovative approaches to address the problem,  
8 there are still not enough resources allocated to fully  
9 address this demand. We have seen the demand for walk-in  
11:57:25 10 legal clinics with the expansion of the Say Yes Legal  
11 Services program, and those clinics are only at 2 of our  
12 35 schools. Not having a stable place to live is  
13 disruptive to everyday life, and the repercussions carry  
14 over to every phase of your life and of our community.  
11:57:41 15 It's a threshold issue.

16                   Volunteer Legal Services certainly help, but  
17 it's not enough. We look and think about storefront  
18 legal clinics in easily accessible residential  
19 neighborhoods that could potentially close this gap, and  
11:57:57 20 we see the pilot program in Brooklyn and the Bronx of  
21 using navigators, or trained nonlawyers to help steer  
22 people to existing programs as a potential to help plug  
23 this hole in people's access to the justice.

24                   Again I thank you for coming and I applaud your  
11:58:12 25 efforts to seek creative solutions to expand access and I

1 look forward to hearing what comes out of these hearings.  
2 Thank you very much.

3 CHIEF JUDGE LIPPMAN: Thank you, Mayor Miner.  
4 Let me ask you a question. Now you posed a lot of very  
11:58:25 5 eloquent comments on housing, do you think in the  
6 broadest sense that anyone who is threatened with the  
7 loss of the roof over their head is entitled to an  
8 attorney?

9 MS. MINER: I do, and I have seen what happens  
11:58:45 10 when people do not get attorneys and I think part of what  
11 we have been missing as a society when we think about  
12 this, is the analysis stops with that. Well is somebody  
13 entitled to representation or not? But if they don't get  
14 representation, the problems don't stop there. They  
11:59:06 15 manifest themselves in a whole host of ways, and we end  
16 up paying for it in far often much more expensive ways,  
17 both to our society, our community and to ultimately our  
18 taxes.

19 CHIEF JUDGE LIPPMAN: And following on that,  
11:59:21 20 and I know it's a given based on what you said, but I  
21 don't think everyone realizes that this doesn't make  
22 sense financially -- forget if this is the right thing to  
23 do -- you know that everyone should be entitled, but the  
24 cost in terms of a city like Syracuse to the fabric of  
11:59:41 25 your community when people are losing their homes, it's

1 almost incalculable in terms of the well-being.

2 MS. MINER: Well we pride ourselves, both as  
3 Syracuseans and as New Yorkers on our progressive history  
4 of taking care of people and thinking of ourselves as one  
12:00:01 5 society and if we turn a blind eye to the real suffering  
6 that's going on in our society, then we won't have a  
7 community. We won't have neighborhoods where people can  
8 live unless they think they need a gated community or  
9 barbed wire. People will fear walking down the streets  
12:00:17 10 because somebody may accost them because they don't have  
11 money or resources or they have been through this process  
12 where they have run out of any functional way to work in  
13 our economy. And for far too many of our children, we're  
14 seeing them not graduate. We're seeing them live in a  
12:00:38 15 world where it's very common for them to not sleep in the  
16 same bed or even a bed for months at a time and often  
17 years and what that does to the ability of that child to  
18 become an asset to our society, much less a good neighbor  
19 is devastating.

12:00:55 20 CHIEF JUDGE LIPPMAN: And, you know, I think  
21 you make so many good points. I think what people don't  
22 realize, should people be entitled to this kind of  
23 representation, if you ask people on the street if  
24 someone's liberty is at stake, should they have an  
12:01:10 25 attorney, they know from the TV programs, from -- you

1 know, first thing is you're entitled to an attorney,  
2 everyone gets it. And what I want to make clear is that  
3 testimony like yours should get people to start to  
4 realize -- and I think they are -- that if you go out in  
12:01:28 5 the street and take a survey and say, gee, do you think  
6 someone who is going to lose the roof over their head is  
7 entitled to an attorney? I think people are starting to  
8 say -- as you and I would say -- absolutely.

9 So I think it's so important that our leaders  
12:01:43 10 in our municipal and the statewide level, you know, speak  
11 out on these issues. Again I think that your testimony  
12 is important and as a leader in your city and the state,  
13 I so thank you for coming in. Do we have other  
14 questions? No. Thank you so much.

12:02:10 15 MS. MINER: Thank you again for giving me the  
16 opportunity.

17 JUDGE LIPPMAN: It's a pleasure. Thank you for  
18 coming.

19 I now ask Loretta Scott, President and  
12:02:23 20 Councilmember At-Large of the Rochester City Council.  
21 President Scott, so delighted to have you in your  
22 hometown coming to talk to us today.

23 MS. SCOTT: Thank you for inviting me. I thank  
24 you all for being here and for giving me the opportunity  
12:02:50 25 to speak to you. I also want to thank you for all of

1 your work today to acquire funds for civil legal  
2 services. The amount is generous but not adequate, and  
3 we just want to encourage you to continue pushing to get  
4 that increased, because each year it's all used which  
12:03:11 5 speaks to the extent of the need.

6 Civil legal services are critically important  
7 to the citizens that utilize them. Regrettably I have to  
8 say that Rochester holds the distinction of being named  
9 the fifth poorest city in the entire United States among  
12:03:30 10 the top 75 metropolitan areas, and the second poorest  
11 city among comparably sized cities in the top 75  
12 metropolitan areas. The City of Rochester is ranked  
13 third for the highest concentration of extremely poor  
14 neighborhoods among cities within the top 100 metro areas  
12:03:50 15 in the nation.

16 Poverty, poverty. They say that the poor will  
17 always be with us, but it doesn't mean that we should not  
18 try to alleviate those issues that are imbedded. The  
19 lack of education directly effects poverty. The  
12:04:15 20 statistics are deplorable and they speak to the true  
21 needs that Rochester residents have for civil legal  
22 services.

23 They pale in comparison to the statistics  
24 facing the school district. The Rochester City School  
12:04:30 25 District is the poorest urban district in our state, and

1 the graduation rate is an unacceptable 43 percent with  
2 only 9 percent of African-American males and 10 percent  
3 of Hispanic males graduating. As a member of Rochester  
4 City Council and the city's retired Commissioner of the  
12:04:49 5 Department of Parks, Recreation and Human Services, which  
6 is now called the Department of Recreation and Youth  
7 Services, I know full well the connection between the  
8 lack of basic essentials of life and the effect that it  
9 has on a child's ability to learn. Children who are  
12:05:05 10 hungry, homeless or victims of abuse cannot learn.

11 Mayor Miner talked about the impact of  
12 evictions and that type of fear of not having a roof over  
13 your head, we see that daily. At our recreation center,  
14 sometimes the children are there before the staff get  
12:05:30 15 there. There are issues regarding eviction without the  
16 benefit of civil legal services.

17 Our community, our neighborhoods are preyed  
18 upon. They are often the victims of unscrupulous  
19 landlords and others who take advantage of the fact that  
12:05:48 20 there's nothing they can do about it -- don't have a  
21 lawyer. We desperately need the continuation and  
22 expansion of civil legal services.

23 If we're going to impact the statistics that  
24 are mentioned, the ones that effect education and  
12:06:04 25 poverty, the underlying one, people have to have access

1 to civil legal services that help them to address those  
2 things that for many of us would simply be a daily  
3 nuisance. We just go to court and get a decision and get  
4 a judgement and go on about our way. That is not an  
12:06:22 5 option without the benefit of civil legal services for  
6 far too many people in our community.

7 In our country, if a person finds themselves in  
8 a criminal court they receive a court appointed attorney  
9 without a blink of an eye. If there was the same kind of  
12:06:41 10 enthusiasm about funding criminal services as there is  
11 about funding civil services we'd be much farther ahead.

12 If someone found themselves in court going  
13 through a home foreclosure, or dealing with domestic  
14 issues and ultimately their personal safety, or if  
12:07:00 15 they're experiencing problems with financial assistance  
16 benefits, they need to access lawyers who specialize in  
17 those matters. They need to have the right to have  
18 access to those kinds of services. It's not always easy  
19 or achievable.

12:07:16 20 We must ensure that people have access to legal  
21 services that address the root of the problems that  
22 they're experiencing; not just when they engage in  
23 illegal activities. Having an attorney advocate for them  
24 when they need help assessing -- accessing life's  
12:07:35 25 essentials, such as housing, income benefits, safety from

1 abusive situations, and access to adequate food for their  
2 family will begin to address the effects of and the  
3 underlying issues associated with poverty.

4 In Rochester, 29 percent of our families live  
12:07:56 5 at or below the poverty rate. Our community needs these  
6 services, the sobering statistic that speaks for itself.  
7 I refuse to not fight for these programs. I've been  
8 working with antipoverty efforts for the last 30,  
9 40 years. I've been working with Action for a Better  
12:08:16 10 Community, the designated antipoverty agency. We've seen  
11 progress but not enough. It's a fight that has to  
12 continue and I do so applaud and thank you all for  
13 continuing to push for that and recognizing how essential  
14 these services are to improving the lives of people in  
12:08:39 15 our community.

16 Education is a facet of it for sure, because if  
17 you can get a good education you can probably get a good  
18 job. If we can begin to address those issues and have  
19 available the legal services necessary to deal with the  
12:08:52 20 people who prey upon the poor, we will be so much better  
21 as a community. Family stability, community stability,  
22 it all adds up. When everyone does well, everyone does  
23 well. I thank you for allowing me to speak to you this  
24 morning.

12:09:09 25 CHIEF JUDGE LIPPMAN: Thank you. President

1 Scott, let me ask you a question. You know, a lot of  
2 your talk deals with poverty and how it manifests itself  
3 in different ways. I don't think people necessarily  
4 understand that so many of the problems associated with  
12:09:28 5 poverty can be alleviated by legal services. What's that  
6 connection? Do you need a lawyer? Does a lawyer get you  
7 out of poverty? How does having legal help help to pull  
8 people out of poverty or at least stop them from totally  
9 declining into being a burden on society?

12:09:52 10 MS. SCOTT: When a family's circumstance is  
11 fragile, the least barrier can push them over the edge.  
12 Sometimes something as simple as an eviction notice --  
13 it's not simple, it's traumatic -- but having options to  
14 address it, especially if the person -- the property  
12:10:14 15 owner didn't go through the right steps to impact the  
16 eviction, if people don't show up to fight it, because  
17 they don't know that they should or they don't have an  
18 attorney, that puts that family on a track toward deeper  
19 despair, deeper poverty. You cannot function well in a  
12:10:34 20 society if your life is so consumed with just living,  
21 having a roof over your head and food on your plate,  
22 especially when that is being impacted by people who  
23 don't have your best interests in mind. Having legal  
24 counsel can help to address that.

12:10:48 25 CHIEF JUDGE LIPPMAN: So your kids stay in

1 school, you can have employment or keep employment or try  
2 and get it. You don't go into government run shelters or  
3 whatever, all these things are consequences when you  
4 don't have legal representations.

12:11:07 5 MS. SCOTT: They're all consequences of not  
6 having legal representations.

7 CHIEF JUDGE LIPPMAN: Thank you. Anything  
8 else?

9 JUDGE PRUDENTI: I just have one question.  
10 Obviously you're a very positive person as well, and as I  
11 can tell -- and I totally agree with you -- that everyone  
12 can do well and that we have an obligation in our society  
13 to make sure that all of us, you know, not only have the  
14 essentials of life, but have dreams come true and  
12:11:30 15 whatever. You know, the Chief Judge is champion in civil  
16 legal services during his tenure as Chief Judge and I  
17 thank you for thanking him, but I just wanted to ask you,  
18 have you seen a difference with the direct representation  
19 that civil legal services has provided from our programs  
12:11:47 20 in your communities?

21 MS. SCOTT: I have an anecdotal lever. We have  
22 statistics about poverty and education and graduation,  
23 but some of those impacts are not measured as closely I  
24 have seen, and just because of my work and interaction in  
12:12:08 25 the community, but absolutely yes.

1 CHIEF JUDGE LIPPMAN: What we're trying to do,  
2 and I think Judge Prudenti is driving at, is we're trying  
3 to collect that information so we can go back to the  
4 Legislature and the Governor and say these are the  
12:12:21 5 people, the number of people who have been served and  
6 this is the result, so many evictions avoided, you know,  
7 foreclosures, domestic violence cases, consumer credit  
8 cases, but we thank you for coming to testify and for  
9 fighting the good fight and we're with you and we know  
12:12:41 10 you're with us.

11 MS. SCOTT: Thank you so much.

12 CHIEF JUDGE LIPPMAN: I now ask my old friend  
13 Andrew Brown to come up, Corporation Counsel of the City  
14 of Rochester, who has been such a great leader in the  
12:12:57 15 Monroe County Bar Association and someone who we also  
16 greatly respect and admire and is now working in City  
17 Government as Corporation Counsel. Mr. Corporation  
18 Counsel, lovely to have you here today.

19 MR. BROWN: Chief Judge Lippman, Judge  
12:13:18 20 Prudenti, Justice Scudder, Honorable President-Elect  
21 David Miranda. For the record, my name is T. Andrew  
22 Brown. I'm the Corporation Counsel for the City of  
23 Rochester. It's a pleasure to be here today for such an  
24 important purpose, and I commend and applaud each of you  
12:13:37 25 for your conviction to this cause.

1 I'm here on behalf of the Mayor of Rochester,  
2 Lovely Warren, today; however, I also cannot ignore other  
3 hats that I have worn in the past, one being an attorney  
4 who has practiced in the courts of New York for 30 years,  
12:13:56 5 one as a past president of the Monroe County Bar  
6 Association, and with respect to education, one that I  
7 continue to serve in, that is a Regent of the State of  
8 New York, and as you all know the Board of Regents of New  
9 York sets educational policy. So I am pleased to hear so  
10 much about education today.

11 Chief Judge, I would like to thank you and your  
12 ongoing efforts especially during this fifth anniversary  
13 of public hearings. These hearings will highlight and  
14 tackle the very important issue of funding for civil  
12:14:37 15 legal services for those most vulnerable and needy in our  
16 community as in other communities across the state.

17 I would also like to extend, on behalf of the  
18 Mayor, greetings to the rest of the esteemed members of  
19 this community who will come before you to offer  
12:14:56 20 testimony.

21 On behalf of Mayor Warren, it is my honor to be  
22 here to discuss the benefits of providing civil legal  
23 services to students and families and what kind of a  
24 difference it can make in their long term success.

12:15:15 25 Families and children in the City of Rochester

1 interact with the civil legal service system in a  
2 plethora of areas, just to name a few: Social security  
3 disability, child custody issues, truancy, PINS, juvenile  
4 delinquency proceedings, physical and/or sexual abuse and  
12:15:33 5 neglect matters, and foreclosure and eviction  
6 proceedings.

7 I want to underscore what's been said by  
8 President Scott. Recently, Rochester was ranked the  
9 fifth poorest city in the country among the top 75  
12:15:53 10 largest metropolitan areas and the poorest urban school  
11 district in New York State. In addition, Rochester has  
12 the lowest graduation rates compared to the four other  
13 largest school districts in the State of New York, which  
14 would be Buffalo, Syracuse, New York City and Yonkers.  
12:16:10 15 That's a very sad state.

16 In addition to graduation, a statistic that  
17 often goes unrecognized is readiness. Most of our  
18 students graduating from Rochester Schools are not ready  
19 for what comes next, either a career or continuing  
12:16:37 20 education. That is, to me, a vital concern.

21 These statistics translate to a very large  
22 percentage of children in the City of Rochester living in  
23 poverty. By virtue of their caretaker's economic  
24 situation, they do not have the same access to civil  
12:16:56 25 legal services because their parents, guardians or

1            caretakers way too often do not have the means to hire an  
2            attorney when and if the need arises.

3            These families are the ones who have to rely on  
4            publicly funded civil legal services. Thus, access to  
12:17:19 5            civil legal services is critical to many of the citizens  
6            of this city. That is why this is an issue Mayor Warren  
7            and her administration feels so strongly about.

8            I remind the panel that as an attorney, Mayor  
9            Warren most certainly recognizes the fundamental role the  
12:17:36 10            legal system plays in the lives of city residents and the  
11            critical importance for everyone to have equal access to  
12            justice no matter their economic status, education level,  
13            address or any other factor of their current life  
14            circumstances.

12:17:51 15            Today's hearings are important because they  
16            document and explore the very tangible consequences that  
17            flow from lack of access to civil legal services and how  
18            that has a direct impact on parents' ability to provide a  
19            stable secure home for children. A parent's inability to  
12:18:10 20            provide stability for his or her family in turn creates  
21            unstable neighborhoods and communities, which is one of  
22            the major challenges Mayor Warren has been focused on  
23            turning around since her tenure began, and even before as  
24            President of the Rochester City Council.

12:18:27 25            I think we can all agree that at some point in

1 nearly everyone's life, they or a member of their family  
2 will have some contact with or need to interface with the  
3 civil legal system. Unfortunately, for many of the  
4 children in this community and many others around the  
12:18:44 5 state, that interaction will not necessarily begin on a  
6 positive note.

7 Those interactions often wreak havoc in the  
8 lives of young people and jeopardize their physical and  
9 mental health and that of their families. The stress of  
12:18:57 10 not knowing if you'll be thrown out in the street with  
11 all your worldly possessions from night to night would  
12 make it almost impossible for students to concentrate on  
13 fractions, Shakespeare or anything else being taught in  
14 school.

12:19:11 15 Or witnessing physical abuse or being  
16 themselves the victim of any kind of abuse or neglect  
17 without recourse would not be conducive to getting a good  
18 night's sleep and being ready to tackle school the next  
19 morning. To overcome and succeed in the face of such  
12:19:27 20 adversity would be extremely difficult even for the most  
21 mentally stable person here in this room, but yet our  
22 children are asked and expected to do that day in, day  
23 out.

24 This is why in part removing all barriers to  
12:19:43 25 equal justice and finding a way to civil Gideon for all

1 New Yorkers is such a critical goal. It is equally  
2 critical for children and parents. Many parents and  
3 children navigate this complex legal system without the  
4 benefit of qualified, effective legal representation and  
12:20:00 5 are often adversely affected by not having the benefit of  
6 competent counsel.

7 Most of us can identify with the mistakes of  
8 youth that bring them into contact with the legal system.  
9 The outcome of that interaction with the court at a young  
12:20:17 10 age sets a course for a child's future either positively  
11 or negatively.

12 Having access to competent counsel can make all  
13 the difference at such a critical stage in the child's  
14 life. This is why recruiting and retaining a qualified  
12:20:32 15 public service bar is so critical to the Court's mission  
16 of equal justice for all.

17 And, Your Honor, I do agree with you, that  
18 there has to be a combination of effort. You have  
19 mentioned a number -- senior lawyers, as well as  
12:20:45 20 students, as well as practicing practitioners -- offering  
21 pro bono services. Equally important are the parents and  
22 guardians of these children having that same equal  
23 access, because if the parent is not in the home due to  
24 any number of outcomes that flow from contact with the  
12:21:06 25 civil legal system, then we know that home becomes

1 unstable and that child's life becomes unstable.

2 With qualified and competent counsel, a child  
3 can either avert life altering contact with the legal  
4 system through diversionary programs like Teen Court or  
12:21:21 5 have a more positive outcome which enables him or her to  
6 complete high school, pursue higher education, and hold  
7 meaningful jobs in the future. And that is necessary to  
8 have a vibrant community here in Rochester, as well as  
9 any other community across the state. The same holds  
12:21:38 10 true for the parents and guardians of these students,  
11 with competent counsel by their side, they usually have a  
12 much more positive outcome in the court system which  
13 translates to their ability to maintain employment, stay  
14 in their homes and provide for the well-being of their  
12:21:53 15 family.

16 The need for civil legal services funding in  
17 Rochester, as around the state, is great. When I was  
18 President of this Bar Association, Civil Legal Services  
19 was front and center. This building serves as a model  
12:22:08 20 for Civil Legal Services. There are many in this room  
21 who practice in the field of Civil Legal Services and  
22 just so happen to be among the very best and brightest  
23 attorneys in the Rochester area. They are to be  
24 applauded.

12:22:23 25 Although Rochester has several reputable legal

1 service providers, some housed in this very building in  
2 which we sit, these agencies do not have the resources to  
3 meet the tremendous needs facing our community. They  
4 never have. If we double their size, there will still be  
12:22:42 5 a great need. A small percentage of those in need are  
6 being met now and it will take considerable effort for  
7 many of us within the legal community and a larger  
8 community to bring about a change.

9 Again the Telesca Center is a national model  
12:23:02 10 providing legal services to individuals in need  
11 throughout our community. The success of its mission  
12 depends on continued support from our entire community  
13 and state. Ensuring access to equal justice is not only  
14 a moral obligation but a test of our democratic  
12:23:18 15 principles. The important work of the Telesca Center and  
16 this Task Force and you, Your Honor, leading the way  
17 should have our full and continued support. Thank you on  
18 behalf of the Mayor of the City of Rochester.

19 CHIEF JUDGE LIPPMAN: Thank you,  
12:23:32 20 Mr. Corporation Counsel. Now let me pick up on something  
21 which relates to your background and very much front and  
22 center as a leader in the Bar and in this community and  
23 in the state -- and I mentioned by the way that the  
24 former president, immediate past president of the State  
12:23:51 25 Bar, Dave Schrauer is here. He's here. I'm so glad that

1 David is here, and the role that the Bar has played here  
2 locally and around the state in promoting pro bono work,  
3 and I think you said it well, that the Telesca Center is  
4 a model for our state and I believe for the country in  
12:24:18 5 terms of bringing together providers in kind of a more  
6 easier one stop shopping kind of mode where you can get  
7 the assistance that you need regardless of the area it  
8 involves, but you made the point that we don't really, no  
9 matter how much we stride to do it and we've gotten  
12:24:44 10 tremendous public resources to support our providers,  
11 it's not enough.

12 What do you see as why should a member of the  
13 Bar as representative of our great Bar Associations in  
14 this state, Monroe County, President-Elect Miranda with  
12:25:04 15 the State Bar, the New York City Bars, why is it that  
16 lawyers should be so concerned with doing pro bono work?

17 MR. BROWN: Because I think the best lawyers  
18 enter the profession for the right reasons. As lawyers  
19 we have the ability to go into court. We have licenses  
12:25:27 20 that enables us to go into court for someone else. In  
21 New York State, you cannot do that unless you are  
22 licensed. And I know that there has been talk about  
23 finding ways to enable others without law degrees to  
24 represent those most needy in the courts and I applaud  
12:25:47 25 that effort.

1 CHIEF JUDGE LIPPMAN: And the lawyers are  
2 important.

3 MR. BROWN: Lawyers are vitally important.  
4 I've been one for 30 years and I believe that it's part  
12:25:57 5 of my obligation --

6 CHIEF JUDGE LIPPMAN: Thank you.

7 MR. BROWN: -- as an attorney.

8 CHIEF JUDGE LIPPMAN: And I think all of us  
9 believe in the profession, and I know I speak for  
12:26:07 10 President-Elect Miranda and the ex-president Schraver and  
11 the leaders of the judiciary, that this is so fundamental  
12 to what our profession is all about, serving people,  
13 helping people, it's what lawyers do.

14 MR. BROWN: And we are in the best seat to  
12:26:27 15 safeguard the integrity of the legal community, including  
16 clients as a core component of that. We have an  
17 obligation to provide for those who are most in need.  
18 And in a community like Rochester where we have a high  
19 percentage of poverty, there is a great need, and I am  
12:26:49 20 grateful to have spent most of my career in this  
21 community along with lawyers who so greatly think along  
22 the lines of what I've just said.

23 CHIEF JUDGE LIPPMAN: I think the Monroe County  
24 Bar is -- fair to say -- has been a real leader in this  
12:27:05 25 area, public spirited and recognized that obligation that

1 you talk about, so I thank you for all of your work  
2 before becoming a Corporation Counsel and in your present  
3 responsibilities. Any other questions?

4 JUDGE SCUDDER: I just would like to know if  
12:27:24 5 you have read statistics or whatever. You mentioned if  
6 you could double the amount of funds, the amount of  
7 resources, it still wouldn't take care of the need, and  
8 I'm wondering would triple, would quad --

9 MR. BROWN: Your Honor, I think we can --  
12:27:42 10 there's two ways we can get at this. When we talk about  
11 civil legal services, we're talking about people who  
12 largely would not be able to go out and hire their own  
13 attorney. If we lift up that group of people and  
14 lessened the numbers in poverty that would fall within  
12:28:01 15 that qualified range, if you will, then we'll have less  
16 need. So we have to address this from the aspect of  
17 providing civil legal services for those in need, but  
18 also we have to do what we can as city and state  
19 officials to provide meaningful opportunities to people  
12:28:19 20 out there in the workforce.

21 If you can get a job, you're probably not  
22 knocking on the door of a civil legal services agency.  
23 We have way too many people who are unemployed, who have  
24 no other recourse than to seek representation through  
12:28:35 25 civil legal services agencies.

1 CHIEF JUDGE LIPPMAN: And, you know, to answer  
2 presiding Justice Scudder's question, one of the things I  
3 asked the Task Force to do this year is to try and focus  
4 on what exactly is the universe that we have to address  
12:28:53 5 and what do we need to deal with that universe and to be  
6 able to make the ideal of equal justice a reality  
7 throughout this municipality, throughout this department  
8 and throughout this state.

9 So we're trying to get our arms around  
12:29:11 10 questions like the one that the presiding justice asked,  
11 which is what is this going to take?

12 MR. BROWN: I think it's going to take a group  
13 effort and I think one of the things that I mentioned is  
14 your ability to seek legal recourse should not depend  
12:29:27 15 upon the size of your wallet and it should not depend  
16 upon your zip code.

17 Here in Rochester, we have a significant number  
18 of individuals living in poverty. If you look at where  
19 poverty is most prevalent, you'll also find greater  
12:29:47 20 incidents of injustices. That's an unfortunate reality.  
21 Those who have the least ability to retain competent  
22 counsel are most vulnerable and often suffer the most at  
23 the hands of the legal system. We are allowing it to  
24 happen. We should not be allowing it to happen. We pay  
12:30:10 25 too great a price, not simply on the individual's level,

1 but as a community.

2 CHIEF JUDGE LIPPMAN: It can't be said any  
3 better. Thank you. I appreciate it and thank you for  
4 all of your work. Thank you for your testimony today.

12:30:23 5 MR. BROWN: Thank you.

6 CHIEF JUDGE LIPPMAN: The next speaker is Van  
7 Henri White, the President and Commissioner of Rochester  
8 City School District Board of Education and Chair of the  
9 Council of Urban Boards of Education.

12:30:42 10 MR. WHITE: Good afternoon.

11 CHIEF JUDGE LIPPMAN: Delightful to see you.  
12 Tell us about what this all has to do with education.

13 MR. WHITE: First of all, let me explain, I  
14 wear multiple hats. As you correctly indicated, I'm the  
12:30:56 15 Commissioner of schools, for the Rochester City School  
16 District, which has been referred to on a number of  
17 occasions here. I'm honored to have it here and  
18 notwithstanding the distinctions that we have received  
19 regarding our poor performance, which we admit, guilty as  
12:31:07 20 charged. I also --

21 CHIEF JUDGE LIPPMAN: We're all guilty as  
22 charged.

23 MR. WHITE: I will also be the first to admit  
24 that this is a problem that occurs nationwide in urban  
12:31:17 25 districts across this country. Hat number one that I

1 wear, you referenced it, the Council of Urban Boards of  
2 Education. We represent over a hundred urban school  
3 districts throughout this country. That's 7.5 million  
4 students, 12,000 schools. And I, again, I would  
12:31:35 5 respectfully suggest in the testimony from the Mayor from  
6 Syracuse has reflected this fact, that the struggles, the  
7 challenges that we face are in fact challenges that  
8 districts, urban districts, face throughout this country  
9 and as Chair of CUBE I can affirm that.

12:31:51 10 You speak about justice gaps. In urban  
11 communities, we speak about opportunity gaps, achievement  
12 gaps and of course nationally economic gaps. I am  
13 convinced as a result of another cap that I wear as a  
14 lawyer, that these -- all these gaps can be appropriately  
12:32:09 15 bridged through effective legal services.

16 Now let me talk about that second hat that I  
17 wear that is as President of the Rochester City School  
18 District Board of Education. We are the third largest  
19 urban district in the State of New York. We enroll some  
12:32:25 20 30,000 students in grades pre-K through 12, and those  
21 families and staff and students can attest to, we are  
22 quite familiar with the economic, social and academic  
23 challenges of which we speak.

24 About 80 percent of our students, 80 plus  
12:32:45 25 percent of our students, are eligible for free or reduced

1 lunches. Fifty percent of those district school students  
2 have free or reduced lunch eligibility, because they  
3 exceed or equal 90 percent of the federal poverty  
4 guidelines. So an overwhelming number of our students  
12:33:04 5 live and struggle with poverty.

6 In addition, 8 percent of our student  
7 enrollment is made up of limited proficient -- English  
8 proficient students, which represents a real challenge  
9 for educating urban children.

12:33:17 10 And finally I must tell you that 17 percent of  
11 our district enrollment is composed of students with  
12 disabilities. Now you all know when you deal with  
13 English proficient students and students with  
14 disabilities, you are talking the legal environment.

12:33:34 15 CHIEF JUDGE LIPPMAN: Commissioner, but --

16 MR. WHITE: Yes, sir.

17 CHIEF JUDGE LIPPMAN: -- what do lawyers have  
18 to do with it? We know that schools have disadvantaged  
19 kids who need help, what do lawyers have to do with it?

12:33:45 20 MR. WHITE: Well being a lawyer myself -- let  
21 me back up a bit, my post important role is I'm a father  
22 of two district graduates so my testimony is very unique  
23 in that regard. I'm also a civil rights lawyer. I'm  
24 also a former assistant district attorney. And as  
12:34:00 25 President wearing those different other hats, I can tell

1 you that the role of attorneys is key.

2 Just consider for a moment, as people have  
3 testified already, the impact that not having a home  
4 would have on a child. Or consider the impact that

12:34:16 5 witnessing domestic violence in the home would have on a  
6 child. These are indirect services that do effect  
7 directly the need of children to have --

8 CHIEF JUDGE LIPPMAN: Appropriate classrooms  
9 and these kids have problems that are unaddressed at home  
10 or in the families or whatever it might be.

11 MR. WHITE: Absolutely. I also think it is  
12 important to step back and look comparatively. We talked  
13 a lot about the Rochester City School District, but you  
14 need to understand that concentrative poverty in a  
15 geographical or geopolitical context. When I was a kid I  
16 went to Brighton High School. I lived in the Town of  
17 Brighton for 10 years of my life, lived in the city for  
18 10 years of my life. Let's compare the students with  
19 disabilities and the students with limited proficient  
12:34:52 20 English skills.

21 In the Town of Brighton where I attended as a  
22 middle school kid and a high school kid, the special ed  
23 classification rate -- you want to talk about lawyers,  
24 let's talk about classification of students with  
12:35:18 25 disabilities. It's 8.7 percent. The graduation rate for

1 students with disabilities is 87 percent in Brighton.  
2 The drop-out rate for students with disabilities is  
3 2.9 percent and the graduation rate -- I'm sorry, the  
4 graduation rate, as I indicated, was 87 percent.

12:35:40 5 So immediately it is apparent that the outlying  
6 suburban districts do not have the challenges we have in  
7 the city. Now I want to tell you why that is and I want  
8 to be up front about why we have those struggles. Much  
9 of it is self-owned and the reason why I need to explain  
12:35:57 10 this to you is -- to respond to your question about why  
11 lawyers are important. We did an assessment of where we  
12 were at with special needs students and students with  
13 limited proficiency skills in English. We hired an  
14 outside contractor to look at how we were handling those  
12:36:14 15 essentially legally related services. This is what the  
16 Council for Great City Schools said about our district.

17 The district -- and I quote, The district  
18 appears to lack clear written policies and procedures  
19 pertaining to the identification, evaluation, placement,  
12:36:26 20 and provision of procedural safeguards for students with  
21 disabilities. As a result, as expressed by interviewees,  
22 staff often had a limited knowledge of legal requirements  
23 regarding special education, especially those included in  
24 the Individuals with Disabilities Education Act of 2004.

12:36:46 25 The report also said, and I quote, An

1 inconsistent understanding of procedures for  
2 manifestation-determination phase of a special ed hearing  
3 required for students was often missing in district  
4 procedures.

12:37:00 5 To answer your question, we need competent,  
6 capable, experienced attorneys, yes indeed, to challenge  
7 us to be better and to provide for the law.

8 CHIEF JUDGE LIPPMAN: To interface with the  
9 education bureaucracy --

12:37:14 10 MR. WHITE: Absolutely.

11 CHIEF JUDGE LIPPMAN: -- to represent these  
12 kids.

13 MR. WHITE: Exactly. I can give you another  
14 example. I happen to participate in a weekly radio show  
12:37:21 15 and a parent called in and said, hey, listen, my son was  
16 suspended. And I asked the parent, I said, did you  
17 appeal that decision? As you know, the law allows a long  
18 term suspension decision to be appealed. And the parent  
19 said to me, why would I do that? And I said, because we  
12:37:35 20 would have sent you a letter telling you you have the  
21 right to appeal. And he said, I never got such a letter.  
22 So I said, send me the letter that you got. And sure  
23 enough, it said nothing about his rights under New York  
24 State Law to appeal.

12:37:48 25 The moral of this story is we need advocates,

1 some of them will be internal, but many of them will be  
2 external to tell us where we are wrong so that we can be  
3 right. I can also tell you that there are outside  
4 lawyers who help us do this in another indirect way. We  
12:38:09 5 must acknowledge that there are lawyers who are  
6 contributing their time in ways that don't directly  
7 relate to challenging what we do or don't do in the  
8 district. We must give kudos to lawyers for learning.  
9 These are folks who step out and help and encourage young  
12:38:22 10 people to value education. I cannot overstate the  
11 importance of not just looking at this from a litigation  
12 point of view but also from a supportive point of view.  
13 How do we encourage young people as lawyers to aspire to  
14 a comprehensive education?

12:38:40 15 But as a civil rights lawyer, I am compelled to  
16 tell you, notwithstanding my role as president of the  
17 board of education, that sometimes that help must and  
18 surely be in the form of agitation or litigation. We  
19 must encourage people to represent children with  
12:38:56 20 disabilities, because otherwise it won't happen. We must  
21 continue to encourage lawyers to work on structural  
22 deficits within the district.

23 The Empire Justice clinic is an excellent  
24 example to that. The Title IX softball case in Batavia  
12:39:12 25 is another example of that. And finally the Cohn Fellow

1 at the Empire Justice clinic, as I understand it, is  
2 doing work on LGBT work, essential to understanding what  
3 is going on in our schools and protecting the rights of  
4 all our children.

12:39:28 5 In my capacity as Chair of CUBE, I would also  
6 encourage you to not forget the legion of lawyers, many  
7 of them sitting in this room today, who serve as in-house  
8 counsel to districts throughout this state. Law firms,  
9 some of them represented here today because I know many  
12:39:45 10 of them, provide adequate and comprehensive legal advice  
11 to school districts about what their responsibilities are  
12 as school education leaders.

13 The Rochester School District, CUBE and the  
14 National School Board Association, of which I represent,  
12:40:00 15 we value the work of these legal service providers. They  
16 are making a difference in the lives of our children and  
17 in our schools. We take our hats off to them and we  
18 would encourage you to continue to do what you're doing  
19 and more to support and encourage the expansion of these  
12:40:19 20 activities and services throughout our city, our state  
21 and our nation. Thank you.

22 CHIEF JUDGE LIPPMAN: Thank you. And thank you  
23 for connecting the dots for us, between the education  
24 community and the need for legal services providers, pro  
12:40:35 25 bono work and the need for lawyers to interface, to help

1 you, to help the students, to -- it's so fundamental to  
2 -- what can be more fundamental for our society than  
3 education. What we're trying to explain to everyone as  
4 important as education, as important as housing, as  
12:40:56 5 important as hospitals, is legal services for those  
6 people in need, because they're so interrelated and I  
7 think your testimony so demonstrates that. Any other  
8 questions? Thank you so much, really appreciate it.

9 MR. WHITE: My pleasure.

12:41:15 10 CHIEF JUDGE LIPPMAN: I'm going to ask the  
11 three clients that we have here today to come up together  
12 and sit at the table and they're going to tell us their  
13 stories as to what legal services has been to them.

14 So Julie Longmore, Michael Farnsworth and  
12:41:31 15 Eileen Kleps, please come up to the front table. And  
16 Julie is the client of the Hiscock Legal Aid Society  
17 accompanied by Susan Horn; Michael Farnsworth, client of  
18 the Western New York Law Center, accompanied by Kate  
19 Lockhart; and Eileen Kleps, client of Western New York  
12:41:57 20 Law Center, accompanied again by Kate Lockhart. So let's  
21 start with Julie. Tell us your story.

22 JULIE LONGMORE: Thank you for having me here  
23 today. The Hiscock Legal Aid Society is able to provide  
24 civil legal services for so many people unable, through  
12:42:24 25 life circumstances, to pay for themselves -- is

1           incredible. Because I am here today, vibrant, positive  
2           and moving forward dynamically with my life because of  
3           the assistance they provided.

4                        They provided me with the opportunity to get a  
12:42:37 5           divorce and ultimately leave an abusive marriage. I did  
6           not have the financial means to hire an attorney.

7                        For so many people, especially women, trying to  
8           exit an abusive relationship, a really big problem is the  
9           financial piece. The financial controls that often exist  
12:43:03 10           in an abusive relationship keep a person trapped. Money  
11           is needed to start a new life, but also to hire an  
12           attorney, pay the retainer and afford the continuing  
13           legal costs. At the rate I was going, it was going to  
14           take a very long time as I tried to squirrel away money.

12:43:24 15                      Civil Legal Aid Services also helped navigate  
16           the complicated requirements of all the custody  
17           arrangements, housing provisions, protection orders and  
18           all the other legal pieces that I needed to have a new  
19           abuse-free life.

12:43:42 20                      Domestic violence profiles similarly across all  
21           demographic groups. It happens in all neighborhoods,  
22           irrespective of income levels and education levels  
23           actually. It can happen to anyone at any time and this  
24           explains why Civil Legal Services provides much needed  
12:44:05 25           help. The assistance is one most needed. It helps to

1 free those whose lives are constrained by fear and  
2 economic controls.

3 I was trapped in a situation of wanting to get  
4 out but not having the financial means. I was pretty  
12:44:26 5 miserable. I was hurting. I was crushed and crumpled  
6 and I didn't know where to turn. And then I was made  
7 aware -- through the Vera House in Syracuse, I was made  
8 aware of the Hiscock Legal Aid Society because I got a  
9 free legal consultation with Vera House. And after yet  
12:44:48 10 another violent incident, that left me tattered and torn,  
11 I did contact them.

12 It was determined that I was eligible for Legal  
13 Aid due to being reliant on my husband's income. I went  
14 into the offices and met with Christie Van Duzer and she  
12:45:06 15 so patiently, respectfully and kindly listened to my  
16 story, and she photographed the very large bruise on my  
17 leg. It was determined that as I had no direct access to  
18 the family funds, I was eligible for civil legal  
19 services.

12:45:24 20 One of the staff attorneys, Stacey Schliffer,  
21 validated the abuse and she asked me to record incidents  
22 of it from over the years and this formed the basis of  
23 the divorce.

24 Senior Attorney Bryn Lovejoy-Grinnell of  
12:45:40 25 Hiscock Legal Aid, she worked so dynamically on my case

1 through to the final divorce decree and filed motions as  
2 necessary to complete the process.

3 And I can only stress how important it was to  
4 me then and even to this day to have the words Domestic  
12:45:57 5 Violence Project clearly mentioned on every  
6 correspondence that came through Hiscock Legal Aid  
7 Society. It was so very validating of everything I had  
8 been through.

9 To my part, the very first time my husband hit  
12:46:13 10 me was very soon after we were married, I remember  
11 thinking it was an episode, it was a mistake and that it  
12 wouldn't happen again. But in those first few months of  
13 marriage, there were many awful incidents that  
14 established a pattern behavior that repeated and  
12:46:28 15 continued and countless times over the years -- punches,  
16 kicks, bites, throttling and deliberately targeted  
17 injuries. There were cruel, harsh, demeaning and  
18 disparaging words. And many layers of abuse occurred,  
19 including alienation from friends and family. This  
12:46:49 20 leaves you very isolated, it leaves you without vital  
21 support systems.

22 This is where the civil legal services that  
23 were provided are so very important and I will forever be  
24 grateful for this. And I'm very glad to provide the  
12:47:06 25 information today. Thank you for listening and I look

1 forward to continuing to work to provide support and help  
2 for my son so he doesn't become another generation of  
3 abuser and I will speak to anyone who will listen about  
4 this. Thank you so much.

12:47:23 5 CHIEF JUDGE LIPPMAN: Thank you so much. I  
6 think that nothing more graphically describes what this  
7 is all about when we talk about how legal services can  
8 change people's lives. What would you have done without  
9 the help of legal services?

12:47:41 10 JULIE LONGMORE: I would probably still be  
11 there and in fact at the rate the injuries were going, I  
12 might not even be here and that's something to be  
13 considered always.

14 CHIEF JUDGE LIPPMAN: Fair to say it changed  
12:47:55 15 your life?

16 JULIE LONGMORE: Absolutely.

17 CHIEF JUDGE LIPPMAN: Thanks so much. I  
18 appreciate it.

19 Michael Farnsworth.

12:48:02 20 MICHAEL FARNSWORTH: First off thank you for  
21 coming here and let me come here to tell my story. My  
22 name is Michael Farnsworth and my wife Dawn can't be here  
23 today, because we have twin babies that are sick at home  
24 and we didn't want to get everybody else sick.

12:48:26 25 I have to speak about the excellent

1 representation I got from Western New York Law Firm.  
2 That center, through the OCA funding, was just  
3 tremendous. We were in danger of losing -- we were going  
4 to lose our house, and there was no doubt that was what  
12:48:49 5 was going to happen, because I had never done this  
6 before. I had no idea where to go, who to turn to or  
7 anything.

8 I'm an Army vet. I was in Vietnam and no one  
9 would listen and which didn't seem to matter to anyone.  
12:49:11 10 Right now, currently I am disabled. I broke my back in  
11 '02 where I was working for a company and also for the  
12 World Trade Center cleanup -- I was at that cleanup at  
13 Staten Island. I was one of the equipment operators  
14 separating debris. That was with the FBI. Everybody was  
12:49:40 15 there. I think you all know about that.

16 There was many different places I worked. I  
17 was in the environmental field for 37 years. I traveled  
18 all over the United States cleaning up hazardous waste.  
19 The equipment operator was my main thing.

12:50:01 20 I was really making some good money. We never  
21 had any problems. Things were going good. After I broke  
22 my back, I stayed home for a year and a half in a body  
23 cast and healed. I didn't do any surgeries and so I went  
24 back to work rather than trying to do something different  
12:50:22 25 and taking the easy way out so to speak. So I was forced

1 into retirement by my doctor.

2 At first I was turned away, but I talked to  
3 Wells Fargo, which is our mortgage company, and I was  
4 able to talk to them every step that I took and I  
12:50:40 5 informed them of everything that was going on and we were  
6 having trouble paying the mortgage obviously because my  
7 income was no longer there. My wife had to go to work  
8 and she could only work for minimum wage. She was not --  
9 she just had a school education. She worked for the  
12:50:57 10 Salvation Army in Batavia, New York. It took -- when I  
11 signed -- I tried to go up to disability myself without  
12 any representation.

13 This was a first for me, the first time that I  
14 had legal representation, but he took part obviously of  
12:51:19 15 the settlement, but it took two years, and I was talking  
16 to Wells Fargo, but every time -- I never talked to the  
17 same person twice, and they were calling me from four,  
18 five times a day from different states. We have  
19 computers, you would think they could talk to each other.

12:51:37 20 CHIEF JUDGE LIPPMAN: You would think.

21 MICHAEL FARNSWORTH: You would think and it  
22 just made our lives so miserable.

23 CHIEF JUDGE LIPPMAN: But the lawyer made a  
24 difference?

12:51:50 25 MICHAEL FARNSWORTH: They made the complete

1 difference, because I tried it the first time and was  
2 denied immediately. So I had to go get legal  
3 representation and of course they take a percentage which  
4 is fine with me and it worked. It worked out great. The  
12:52:03 5 judge knew -- I had to go in front of a judge and I told  
6 them everything and they reviewed all my paperwork and  
7 within five days that was approved, fully approved, fully  
8 disabled, because I just couldn't do it anymore. I'm  
9 trying to cut this short as you can see.

12:52:32 10 The lender, of course, was what I call beating  
11 me up. There were times that they would -- I'd be  
12 sitting in my chair and they would come to my front door  
13 and stick something to the door and run off the porch and  
14 I wouldn't even know it was there.

12:52:47 15 CHIEF JUDGE LIPPMAN: You didn't know what to  
16 do with it either.

17 MICHAEL FARNSWORTH: I had to contact Wells  
18 Fargo and I would be like, okay, which one do I contact?  
19 I've got 14 names and three hundred numbers. So I just  
12:53:00 20 would call an eight hundred number and get a different  
21 person again of course and explain everything over and  
22 over and over and told them that I would pay them once my  
23 social security would kick in, because I was very  
24 confident that it was going to work due to the lawyer  
12:53:16 25 telling me that this is -- this case is a very easy

1 no-brainer type case. It's simple. It's all right here.

2 And Western New York Law Center, I was told by

3 that lawyer, because he knew my financial situation was

4 in dire straits so to speak, he informed me of Western

12:53:40 5 New York Law. So I talked to them and then we went in

6 for a conference and they right off the bat were looking

7 at me going I don't understand why they're doing this to

8 you. This just doesn't make sense. So they looked into

9 it for me and they took me on as a client and without

12:53:58 10 them, I would say we would be -- the six of us and our

11 family would be homeless at this time. They would have

12 took our home. They were constantly, constantly -- I had

13 nothing more to tell them other than what I was being

14 told. So I tried to keep them as much up-to-date as I

12:54:19 15 could and they acted like they really didn't care. They

16 didn't want to hear it. They didn't want to hear

17 nothing. Even when I told them I was going to get my

18 social security and I could pay them back, they didn't

19 want it. They completely said no. We don't want that.

12:54:34 20 We want you to pay now. How can I pay now? My wife is

21 making 7.50 an hour. We're just barely eating.

22 So we went through the modification. First it

23 was a trial modification for three months. So once I

24 started getting my social security, I had no problem

12:54:56 25 making those payments and ever since then I have not

1 missed a payment. We made our mortgage payments.

2 We've had a little snafu. We have a set of  
3 twin 14-year-old girls and my stepdaughter just left us  
4 with -- they're going to be a year in October -- another  
12:55:19 5 set of twin girls. So I've got one-year-old girl twins  
6 and 14-year-old girl twins and that is quite a nightmare.  
7 It's a lot of work. I say nightmare, but they're great.  
8 They're precious.

9 CHIEF JUDGE LIPPMAN: You have to deal with the  
12:55:44 10 twins, but lawyers are here to help you deal with the  
11 other legal service problems. They might be able to help  
12 you with the twins too.

13 MICHAEL FARNSWORTH: But they're very demanding  
14 and everyone knows that children are demanding. This  
12:56:04 15 happened after.

16 CHIEF JUDGE LIPPMAN: But you as a nonlawyer  
17 didn't now how to deal with it.

18 MICHAEL FARNSWORTH: I had no idea. I tried  
19 and tried. I kept telling them I'll pay you, I'll pay  
12:56:16 20 you.

21 CHIEF JUDGE LIPPMAN: You needed someone to  
22 talk their language.

23 MICHAEL FARNSWORTH: Yes, which is still  
24 foreign to me.

12:56:22 25 CHIEF JUDGE LIPPMAN: No, thank you. I believe

1 your story so explains to everyone else what this means  
2 to human beings who just need someone who can deal with  
3 these kinds of problems that are foreign to you.

4 MICHAEL FARNSWORTH: Yes, foreign to me. I had  
12:56:38 5 no idea which way to turn -- up, downside, sideways. I  
6 was frustrated. I'm getting four, five calls a day from  
7 different people, different states, and I'm like this is  
8 technology, why don't you guys talk?

9 CHIEF JUDGE LIPPMAN: Thank you for telling  
12:56:55 10 your story. Give our best regards to your wife. You  
11 have a day off that you're here telling your story so  
12 this is good. But thank you so much. It is very  
13 instructive for all of us.

14 MICHAEL FARNSWORTH: Western New York, New York  
12:57:15 15 Law Group, thank you.

16 CHIEF JUDGE LIPPMAN: Thanks. I think it's not  
17 untypical of people who not only come to them for help,  
18 legal service providers, the kind of providers that are  
19 here in this building at the Telesca Center, and it's a  
12:57:28 20 wonderful thing for human beings and their family.

21 MICHAEL FARNSWORTH: You work very hard  
22 yourself and you have a human heart, you know.

23 CHIEF JUDGE LIPPMAN: Thank you again for  
24 telling everyone.

12:57:39 25 All right, Eileen Kleps.

1 MARY ELLEN WILBER: Your Honor, I would like to  
2 speak for Eileen. Eileen is a little nervous and  
3 sometimes a little forgetful. My name is Mary Ellen  
4 Wilber. I'm honored to be Eileen's power of attorney.  
12:57:58 5 So I'll read from her statement and add what I need to  
6 add.

7 I'm hear today because I assisted Eileen and  
8 Eileen has some memory issues related to dementia due to  
9 her HIV/Aids. I'm honored to speak for her and represent  
12:58:11 10 the great work that the Western New York Law Center did  
11 for homeowners through the OCA funding.

12 Eileen had paid her mortgage consistently since  
13 she had switched to Wells Fargo in 1999. She fell behind  
14 in 2012, and she was only a few months behind, Your  
12:58:33 15 Honor. She was maybe three months behind when she called  
16 me saying she simply had forgotten payment and literally  
17 she was three months behind and it's common with people  
18 that have dementia, and I had been her power of attorney  
19 once Eileen and I had realized that she was having some  
12:58:51 20 problems with her memory, and we went to Volunteer  
21 Lawyers Project, another tremendous program funded, and  
22 we got assistance in for me becoming her power of  
23 attorney to assist her with different legal issues that  
24 she would have.

12:59:07 25 So when I contacted the lender, who happened to

1 be Wells Fargo, immediately when we noticed that things  
2 were going on with her payments, and I tried to make  
3 arrangements immediately to make her current, well they  
4 didn't want to hear that. They really didn't want to  
12:59:26 5 make any arrangements to make her current even though she  
6 was three months behind. We informed them right away and  
7 I was immediately referred to the foreclosure department,  
8 and so I started to try to work with them. They wouldn't  
9 accept payments even though they said, oh, send us a  
12:59:43 10 payment and then that was sent back to Eileen.

11 I sent them my power of attorney. They  
12 mysteriously didn't receive the fax, all those things  
13 happened. And for nine months I submitted every single  
14 form to them and sometimes double forms would be  
01:00:00 15 submitted to them and I, you know, kept submitting these  
16 forms, contacting them and similar to the gentleman over  
17 here, multiple calls to multiple people and just getting  
18 the general runaround.

19 And I am a very astute person and have handled  
01:00:18 20 legal situations before and so when I submitted the  
21 paperwork and got very frustrated, I just kept getting  
22 really frustrated, really getting crazy, and I was at  
23 wits' end and after going really insane with them, I just  
24 said that's it. I called the Western New York Law  
01:00:38 25 Center. I was familiar that they did great work for

1 people. I knew that I needed to have a lawyer for her.  
2 You know, for Eileen.

3 CHIEF JUDGE LIPPMAN: There comes a point you  
4 can't deal with it yourself.

01:00:50 5 MARY ELLEN WILBER: You can't. I'm not a  
6 lawyer. I might be intelligent, but you need a lawyer.  
7 You need that power of a law center. You need the voice  
8 of the legal system, because just being a regular Joe  
9 does not hold a lot of weight when you're talking to  
01:01:04 10 someone like Wells Fargo. It was just not working. You  
11 get three or four different people and you're getting  
12 frustrated and I have a life. You know, I wanted to go  
13 on vacation. I wanted to do things and you just get  
14 crazy.

01:01:18 15 So I called the Law Center in July of 2013. I  
16 worked with the office, talked to Kate, talked to the  
17 other attorneys there and tried to get a modification, a  
18 trial modification. We did have a few issues, because  
19 they tried to put a lien on the property, but as the  
01:01:37 20 other gentleman, Mike, said they would come to Eileen's  
21 house and stick little papers on the door.

22 We too live in Batavia and I've got to applaud  
23 you guys, because us people in the rural communities, we  
24 usually get the short end of the stick, but with the law  
01:01:51 25 centers, really the state does a good job helping the

1 rural communities.

2 So they put the wrong address -- they would go  
3 to Walnut Street instead of Walnut Place, and I would  
4 have to correct them all the time. So the Law Center  
01:02:06 5 helped with that. They made sure that they got the right  
6 address. They made sure papers came to my house, because  
7 with her issues of memory problems, I would tell them  
8 send papers to me and they would never send them to me in  
9 all those nine months. They refused even though they had  
01:02:23 10 the power of attorney. They would do that often, send  
11 one to her, and not send one to me, or send one to me and  
12 not her.

13 So with the Law Center, they straightened  
14 things out and we got things straightened out. They gave  
01:02:37 15 us a permanent loan modification. We did the trial  
16 payments. Those went smooth. Everything went perfect  
17 once we got the Law Center involved. What was great,  
18 because I was suspicious about the high rate of interest,  
19 the Law Center worked it out, got it from 10.75 to 5.15,  
01:02:59 20 which you know --

21 CHIEF JUDGE LIPPMAN: All the difference in the  
22 world.

23 MARY ELLEN WILBER: Absolutely, Your Honor.  
24 When I questioned them, what's this rate? How come  
01:03:08 25 everyone else is paying this low rate? The Law Center

1 did the trick though. Because they weren't listening to  
2 me, they listened to the attorney. So they got her  
3 payment reduced from 618 to 525.

4 You know, this is a woman who worked her whole  
01:03:22 5 life, was on social security and social security  
6 disability. You know, she worked. But, you know, when  
7 you're getting that, you're still at poverty level. It's  
8 unfortunate when you are at poverty level and you worked  
9 your whole life, you still need the Law Center, because  
01:03:38 10 she could not afford an attorney. Even though you work  
11 your whole life, when you're on low -- you are at poverty  
12 level, you need the Law Center.

13 So they set up the automatic payments, which we  
14 tried to do before, but they wouldn't do. But we have a  
01:03:55 15 payroll deduction, automatic payment, and the lender --  
16 I'm going to tell you -- until we got the Law Center,  
17 they did not respect Eileen. They did not respect myself  
18 and until we had the power of the Law Center behind us we  
19 got no respect.

01:04:12 20 CHIEF JUDGE LIPPMAN: Thank you.

21 MARY ELLEN WILBER: I'm extremely grateful,  
22 because without agencies like the Law Center, and I have  
23 done this work for 30 years by myself in the rural  
24 communities and you guys, the funding from the state,  
01:04:29 25 makes a difference for people that fight in the rural

1 communities, because our voice is silent especially with  
2 Aids and the stigma, nobody respects us. So thank you.

3 CHIEF JUDGE LIPPMAN: So Legal Services really  
4 changed this whole thing?

01:04:46 5 MARY ELLEN WILBER: Yes. Legal Services helps  
6 people tremendously especially when there's stigma behind  
7 it. Poverty is one stigma. With poverty and disease,  
8 compounds the stigma a hundred percent and I give her  
9 credit, because I said are you willing to step forward  
01:05:01 10 and come to this hearing and she said absolutely, so  
11 thank you.

12 CHIEF JUDGE LIPPMAN: We're proud of all of you  
13 for coming in and telling your story. I think it so  
14 helps to try and the people that understand what it means  
01:05:16 15 to have legal representation when you're dealing with the  
16 fundamentals of your life, things we're all entitled to.  
17 So thank you. It was really helpful and we greatly  
18 appreciate it.

19 MR. MIRANDA: I have a question.

01:05:32 20 CHIEF JUDGE LIPPMAN: Sure, President-Elect  
21 Miranda.

22 MR. MIRANDA: Thank you. I thank each of you  
23 for your very compelling and personal stories and for  
24 taking the time to be here. This is what this is all  
01:05:43 25 about and this is why we're doing this. Let me ask you,

1 you each were fortunate in some ways to have found your  
2 way to Legal Services, can you provide us any advice on  
3 how we can do a better job of making sure that others  
4 that are in your situation can find their way to the  
01:06:00 5 Legal Services that you obtained? Is there anything that  
6 we could do better to make sure that you don't have to  
7 wait so long?

8 MARY ELLEN WILBER: The Pennysavers. Put your  
9 information out there in anything that's not expensive.

01:06:18 10 CHIEF JUDGE LIPPMAN: Well the Pennysaver is a  
11 good thought, because it gets to a lot of people.

12 MARY ELLEN WILBER: Honest. I know because of  
13 the work I've done all these years, but anything that's  
14 free to the public, internet, little tags on social  
01:06:31 15 media, I mean we do that. I've served five governors and  
16 I'm on everything, our Facebook for hepatitis and HIV,  
17 they're on every Facebook, Twitter accounts. There's  
18 little logos, I put you guys on every Twitter and every  
19 Facebook.

01:06:47 20 CHIEF JUDGE LIPPMAN: That's important in  
21 today's world.

22 EILEEN KLEPS: But then you have the people  
23 that don't want to come out with the medical problems.  
24 It's a small city. Everyone knows everyone, so they  
01:06:59 25 don't come out of the wood, you know? And if they don't,

1 we can't help them.

2 MARY ELLEN WILBER: So maybe social media.

3 MICHAEL FARNSWORTH: Advertising the Pennysaver  
4 is a good idea. I get mine and I go through it.

01:07:17 5 MARY ELLEN WILBER: And they're free to the  
6 people and our local Pennysaver reaches 25,000 people.

7 CHIEF JUDGE LIPPMAN: I think that's a great  
8 idea. Any other questions? Thank you all. I appreciate  
9 you coming in.

01:07:41 10 Our last witness is Commissioner M. Josh  
11 McCrossen, Wayne County Department of Social Services.

12 MR. McCROSSEN: Somewhere it says the last  
13 shall be first.

14 CHIEF JUDGE LIPPMAN: Somewhere it does say  
01:08:02 15 that, Commissioner.

16 MR. McCROSSEN: Thank you for having this  
17 hearing and inviting me. My name is Josh McCrossen,  
18 Commissioner of the Wayne County Department of Social  
19 Services. For those of you who aren't familiar with the  
01:08:17 20 lay of the land, Wayne County is the county immediately  
21 to the east of Monroe.

22 I appear today before you to share information  
23 with you about the continued high unmet need for civil  
24 legal services for low income residents both of Wayne  
01:08:33 25 County and the surrounding Finger Lakes region. I also

1 will share with you the information about ways in which  
2 we in Wayne County collaborate with the Office of Court  
3 Administration's grantee, which for us is Legal  
4 Assistance of Western New York, known as LawNY, which is  
01:08:50 5 the primary provider of legal services in our area.

6 By way of background, my life's work has been  
7 spent either directly providing services, or overseeing  
8 the provision of human services, to economically  
9 disadvantaged people and other vulnerable populations in  
01:09:08 10 primarily rural settings.

11 I presently serve as the Commissioner of the  
12 Wayne County Department of Social Services and have been  
13 in that position since February of 2000, in which  
14 capacity I oversee, among other programs, our county's  
01:09:23 15 Child Protective Services, our Child Support Enforcement,  
16 our Foster Care Services, Temporary Assistance, Medicaid  
17 Preventive Services for Children, Protective Services For  
18 Adults and Safety Net assistance. I also oversee a  
19 number of contracts for services from other agencies,  
01:09:44 20 including LawNY.

21 Prior to assuming this position at DSS, I  
22 served as the executive director of Catholic Family  
23 Center in Wayne County from 1980 until 2000. In that  
24 position, I oversaw a broad range of human services  
01:09:59 25 programs, including services to prevent teenage pregnancy

1 and to strengthen family units. I began the PINS program  
2 in Wayne County and I actually continue to fund it to  
3 this day. I started as a one-person operation in Wayne  
4 County. I was able to grow the services to ten full-time  
01:10:20 5 staff by the time I left.

6 But that service growth is not indicative of a  
7 service rich environment. Per capita, far more funding  
8 and far more services are available in metropolitan areas  
9 than in rural areas. In addition, rural families face  
01:10:40 10 the barrier of little or no public transportation and  
11 often have to travel long distances to access what  
12 services may be available, at a not inconsiderable cost.

13 I know the focus of today's hearing is on  
14 education and school law issues, the impact of providing  
01:11:00 15 civil legal services to students and their families and  
16 what a difference it makes in their success, but I would  
17 like to begin by discussing civil legal services  
18 generally, and at the end focus my remarks on education  
19 and school law issues at hand, with a particular focus on  
01:11:18 20 Wayne County and other rural areas.

21 I, together with the attorney in charge of our  
22 in-house legal department, our director of income  
23 maintenance and other agency leaders, meet regularly with  
24 LawNY executive director, the managing attorney of the  
01:11:37 25 LawNY Geneva office and the LawNY staff member who

1 conducts outreach in Wayne County with regard to the  
2 Supplemental Nutrition Assistance Program, or SNAP, which  
3 is formerly Food Stamps.

4 During these meetings, which we schedule on a  
01:11:53 5 quarterly basis, we exchange information about new  
6 developments in the programs that we offer. We also  
7 discuss and often resolve policy matters of the type  
8 which, in the past, may well have led to litigation, with  
9 such resolutions having to be determined by the courts.  
01:12:11 10 Rather than assume a litigious posture with each other,  
11 we emphasize the commonalities of our concerns and  
12 attempt to work together to resolve situations to the  
13 benefit of our mutual clients, as much as possible.

14 I have been made aware of your initiative to  
01:12:32 15 help abate the high unmet needs for civil legal services  
16 among low income New Yorkers, and I can attest to the  
17 fact that, during the years of this initiative, LawNY's  
18 presence in Wayne County has grown and the number of  
19 low-income people that LawNY has been able to serve has  
01:12:49 20 increased.

21 My colleagues there have shared with me that  
22 the number of cases closed for Wayne County residents  
23 grew from 620 in 2010 to 843 in 2013, a 36 percent  
24 increase over the course of four years. The number of  
01:13:08 25 people benefitting from the services provided in these

1 cases grew from 1449 in 2010 to 1854 in '13, an increase  
2 of 30 percent over that same four years.

3 LawNY's enhanced presence in Wayne County today  
4 now includes a number of programs which we effect mutual  
01:13:31 5 referrals back and forth of our mutual clients:

6 A homelessness intervention project, through  
7 which low-income people who are homeless or at risk of  
8 homelessness receive information, advice and  
9 representation, if needed, with the goal of stabilizing  
01:13:49 10 them in safe and permanent housing;

11 A disability advocacy project, through which  
12 low-income people who are unable to work because of a  
13 physical or mental impairment receive the assistance they  
14 need to document their medical condition so that they can  
01:14:06 15 qualify for federal disability benefits from the social  
16 security administration;

17 A nutrition outreach and education project,  
18 through which low-income people who qualify for benefits  
19 from the SNAP program receive assistance in the  
01:14:23 20 application process;

21 A project to provide seniors over the age of 60  
22 with civil legal services, often in matters regarding  
23 access to healthcare;

24 A foreclosure prevention project;

01:14:37 25 And an employment law advocacy project, which

1 my department helps to fund.

2 In addition, our county funds LawNY to provide  
3 mandated representation to low-income adults in Family  
4 Court proceedings. Yet despite the enhancements to its  
01:14:59 5 service delivery system that LawNY has been able to  
6 implement in these recent years, the demand for its  
7 services still outstrips its ability to provide them.

8 Please note:

9 The poverty population in Wayne County, those  
01:15:14 10 under 100 percent of the federal poverty level, stood at  
11 10,449 in 2013, which is 11.3 percent of Wayne County's  
12 total population;

13 The number of people at or below 200 percent of  
14 the poverty level were at 26,262, constituting 28 percent  
01:15:35 15 of the county's total population;

16 The number of foreclosures filed in Wayne  
17 County increased from 2012 to 2013 by 82 percent from 126  
18 to 229;

19 And as of June 2014, the number of people in  
01:15:55 20 Wayne County receiving Temporary Assistance stood at  
21 1,166, 1.3 percent of our residents. And August 2014 saw  
22 a year over year growth of 5.9 percent of individuals  
23 receiving that assistance. The number receiving SNAP  
24 benefits stood at 10,943, which was 11.8 percent of our  
01:16:19 25 residents. These numbers have not come down appreciably,

1 indicating the loss to our neediest residents have not  
2 been touched by whatever economic improvement may have  
3 occurred in New York State.

4 In calendar year 2014, the number of people  
01:16:37 5 enrolled in Medicaid in Wayne County averaged  
6 approximately 14,000. It's a number which is 35 percent  
7 higher than our 2007 figures.

8 These numbers portray a community still  
9 suffering economic problems which result in increased  
01:17:00 10 reliance on governmental supports. With the belief that  
11 school success is one of the prime paths out of poverty,  
12 the Department is committed to trying to make sure that  
13 those students from our poorest families are given the  
14 supports they need to become economically independent.

01:17:22 15 To this end, my agency provides TANF funds to  
16 LawNY to provide representation to low-income families  
17 needing assistance on issues such as the development of  
18 individual education plans, discipline issues, such as  
19 suspensions or expulsions, and bullying issues.

01:17:59 20 Advice, advocacy and information are necessary  
21 for low-income children in rural areas such as Wayne  
22 County, and elsewhere in New York State, to help ensure  
23 that children with disabilities receive an appropriate  
24 education as defined by each child's academic, physical,  
01:18:22 25 mental, emotional and social needs. If we can be

1 successful in this endeavor, we better prepare them to be  
2 productive members of our community.

3 Students not only need an understanding of how  
4 to access particularly community, state and federal  
01:18:42 5 resources, but their parents also need an understanding  
6 regarding the range of degree options in New York State  
7 and the changing New York State curriculum requirements.

8 In Wayne County alone, we have eleven school  
9 districts. According to the New York State Education  
01:18:59 10 Department, in the 2012-13 academic year, there were  
11 14,319 students in those school districts. Of those,  
12 12.2 percent had a diagnosed disability. In addition,  
13 42.7 percent were economically disadvantaged.

14 Yet, in Wayne County, in 2013, LawNY served  
01:19:30 15 only 18 families. Those were families with school law  
16 problems and throughout its seven offices, which serve a  
17 total of 14 counties, they served only a total of 52  
18 families. Each of those figures is clearly just a small  
19 portion of the total which need those services. It is  
01:19:56 20 not the case that we believe that schools do not care  
21 about these students; however, resources are limited,  
22 limited for us all, which leads to a greater demand and  
23 competition for those who do exist. In the great  
24 majority of cases, low income families cannot compete  
01:20:22 25 effectively due to their own resource limitations. The

1 attempt here, small though it may be, is to level the  
2 playing field.

3 With unfettered demand for services in such as  
4 basic areas -- housing, income and health issues --  
01:20:44 5 LawNY, and likely most all providers of civil legal  
6 services must triage cases. Consequently, a very basic  
7 need involving the education of children is relegated to  
8 lower priority areas. In so doing, we plant the seeds of  
9 future difficulties. We address acute needs rather than  
01:21:14 10 root causes. And only if additional resources are made  
11 available can we hope to effectuate a shift in this  
12 paradigm.

13 I want to thank you for conducting these  
14 hearings on civil legal services in the Fourth  
01:21:32 15 Department. I commend you on the thoughtful process that  
16 you go through to assess the scope of the unmet needs for  
17 these services. And I do look forward to reading the  
18 report -- I have to admit for the first time -- that will  
19 be issued containing recommendations about your next  
01:21:52 20 steps.

21 CHIEF JUDGE LIPPMAN: Thank you, Commissioner.  
22 I appreciate it and I gather the thrust of what you've  
23 laid out for us and the problems in Wayne County is we  
24 need more money to do more legal services and not just  
01:22:11 25 touch a small part of the need.

1 MR. McCROSSEN: One of the real benefits here,  
2 as far as I'm concerned, is that we have worked  
3 cooperatively with the provider of civil legal services  
4 in the county. We work closely with them. It doesn't  
01:22:28 5 mean we always agree.

6 CHIEF JUDGE LIPPMAN: But if the provider had a  
7 lot more resources, it would be more helpful?

8 MR. McCROSSEN: Absolutely.

9 CHIEF JUDGE LIPPMAN: Thank you so much.

01:22:35 10 MR. McCROSSEN: Thank you.

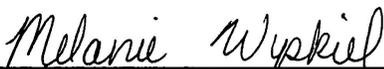
11 CHIEF JUDGE LIPPMAN: So this concludes our  
12 hearings. We've heard today from local officials: The  
13 Mayor of Syracuse, from the Rochester Legislature, from  
14 the Corporation Counsel of Rochester, we've heard from  
01:22:57 15 the education community as to what legal services means  
16 and why it's important to us, we've heard most  
17 effectively from clients themselves as to what legal  
18 services has meant to them and to their lives, and we've  
19 heard from the business community, the Department of  
01:23:18 20 Social Services, and I think everyone recognizes one  
21 basic clear truth, which is without civil legal services  
22 available to poor people, the people of limited means,  
23 you're not only talking about people who have no  
24 resources whatsoever, you're talking about average people  
01:23:40 25 who have real problems and need a helping hand and don't

1 know how to do it without having someone who's educated  
2 in dealing with legal problems.

3 If we don't do that, again there's such a  
4 tremendous cost to our community, to our society, but I  
01:24:02 5 think it's clear that for every dollar invested in legal  
6 services so much more, or our estimate of 5 to \$6 are  
7 returned by \$1's investment and look at the investment in  
8 legal -- in human lives and you see the effect, the  
9 impact of legal services can be and this combination of  
01:24:25 10 publicly funded civil legal services and pro bono work as  
11 represented by all the really tiring figures from the Bar  
12 that have -- that are here and are with us in New York  
13 State together that's what's necessary to make, again I  
14 would say, the ideal of equal justice be a reality to  
01:24:51 15 each and every person in our state.

16 So we're going to take the results of this  
17 hearing and our other three hearings. We will put it  
18 into a report by the Task Force, by Helaine Barnett,  
19 which will then -- we will base it to make our annual  
01:25:09 20 request to the Legislature for assistance. So thank you  
21 so much. Thank you for having us in Rochester. It was a  
22 delight to be here. I appreciate it.

23 **(Certified to be a true and accurate transcript.)**

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**Official Court Reporter**