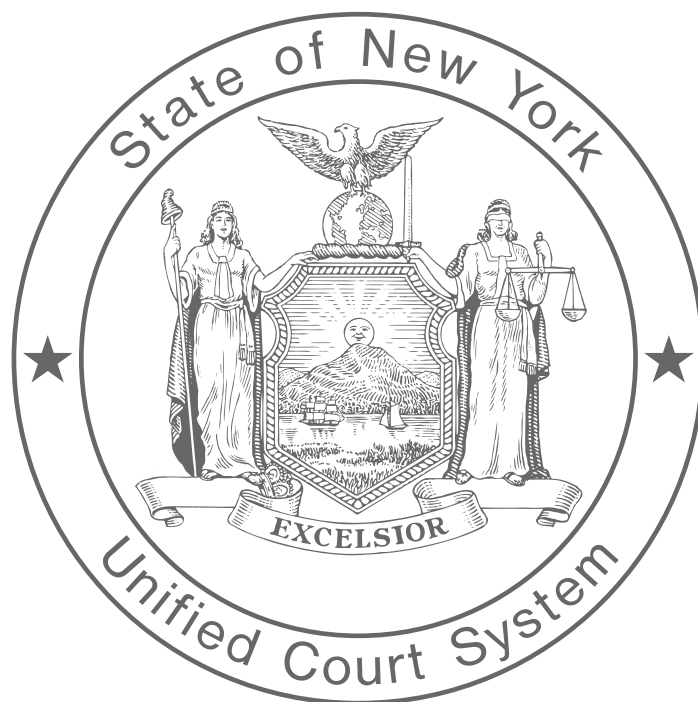


PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2023



PERMANENT COMMISSION ON ACCESS TO JUSTICE

HELAINÉ M. BARNETT, CHAIR

November 30, 2023

Hon. Rowan D. Wilson
Chief Judge of the State of New York
230 Park Avenue
New York, NY 10169

Dear Chief Judge Wilson:

I am pleased to forward the 14th Annual Report of the New York State Permanent Commission on Access to Justice, which contains a review of our work and our recommendations for additional Judiciary Civil Legal Services (JCLS) funding and medical debt court reforms, two critical topics in access to justice for low-income New Yorkers.

As you are aware, over the past two years, the Permanent Commission focused on developing a realistic current estimate of the funding necessary to provide effective assistance to all low-income New Yorkers living at or below 200% of the poverty level, facing civil legal problems impacting the essentials of life. The Permanent Commission recently approved and adopted its Funding Working Group's Report finding that between \$842 million and \$1 billion is a realistic estimate of the additional annual funding necessary, over and above existing funding, to close the justice gap.

This finding confirms what we learned at this year's Civil Legal Services Hearing. In addition to demonstrating the positive outcomes when legal assistance is available, presenters highlighted the scope of the significant unmet need for civil legal services and the additional funding necessary to provide the effective assistance to meet that need. Accordingly, the Permanent Commission recommends an initial goal of adding an incremental \$100 million to the annual JCLS funding (relative to currently planned funding), over the next five years (in addition to any COLA increases that may be warranted), starting in the coming fiscal year, in an amount deemed appropriate.

The Permanent Commission's Future Access to the Courts Working Group completed its study of the often-overlooked critical issue of medical debt. The Permanent Commission recommends reforms to address the significant access to justice barriers that unrepresented individuals face when seeking to resolve these complex legal proceedings.

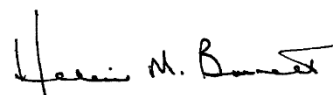
In addition, during the past year, the Permanent Commission convened its three annual signature events which were conducted virtually. In March, the annual Law School Conference was co-hosted with the University of Buffalo School of Law. The Conference drew over 250 attendees from New York's 15 law schools, including deans, faculty, administrators, and law students. In April, the Technology Conference was held in partnership with Cornell Tech, with over 550 attendees, including attorneys and technology staff from approximately 75 legal services providers throughout New York State. In June, our annual Statewide Stakeholders Meeting was attended by the leadership of the Judiciary along with stakeholders from every judicial district. The Meeting highlighted current topics of interest and provided local access to justice committees with a variety of tools to engage their communities and successfully develop and implement relevant programs and initiatives.

The members of the Permanent Commission represent a broad diversity of experience and background and share a commitment to increasing access to justice through creative solutions. They have made significant contributions of time and energy to our work throughout the year and are unanimous in supporting the recommendations in this report. The Permanent Commission was greatly assisted in its work by its Counsel, Jessica Klein, as well as by Madeline Jenks, Tessa Y. Shimizu, and Marissa Torelli, all from Sullivan & Cromwell, and by Rochelle Klemptner, Barbara Mulé, and Barbara Zahler-Gringer, all from the Office of Court Administration, and Mary Mone, Special Advisor to the Commission.

When it comes to addressing the civil legal needs of low-income individuals and families, no other state comes close to New York's long-term commitment. However, as you aptly stated at the annual Civil Legal Services Hearing, "New York's commitment falls far short of any conceivable measure of need." With your dedication to ensuring an accessible civil justice system, we are confident that we will move closer toward our shared mission of achieving access to justice for all.

We thank you for your leadership, support, and resolve, and look forward to working together in the coming year.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Helaine M. Barnett". The signature is fluid and cursive, written in a professional style.

Helaine M. Barnett
Chair, New York State Permanent
Commission on Access to Justice

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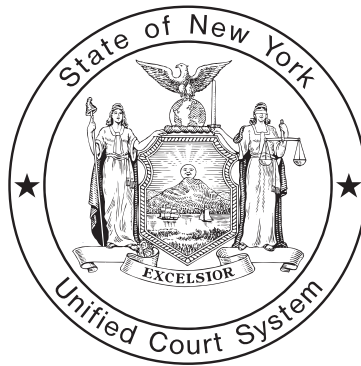
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PERMANENT COMMISSION ON ACCESS TO JUSTICE

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2023

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Note: Appendices can be viewed on the Permanent Commission’s website:
<http://www.nycourts.gov/accesstojusticecommission>

EXECUTIVE SUMMARY

Since 2010, the New York State Permanent Commission on Access to Justice (Permanent Commission) has been tasked with assessing the unmet needs of low-income New Yorkers for civil legal services in matters involving the essentials of life and with proposing solutions to meet those needs. It soon became evident that the justice gap—the difference between the unmet needs and the resources available to meet those needs—could not be bridged easily. Incremental steps to expand access to justice, however, are having a positive impact.

The ongoing efforts of the Permanent Commission, the court system, and others in the access-to-justice community, whether advocating for increased funding or implementing non-monetary efficiencies and innovations, or both, have improved conditions substantially. During his 2023 Civil Legal Services Hearing, Chief Judge Rowan D. Wilson referred to the Permanent Commission’s role in expanding access to justice through its advocacy for Judiciary Civil Legal Services (JCLS) funding. He observed that “no other state comes close to New York’s commitment.”¹ At the same time, he said, “New York’s commitment falls far short of any conceivable measure of need.”²

To understand the extent to which New York “falls far short” of closing the justice gap, in January 2022 then-Chief Judge Janet DiFiore asked the Permanent Commission to develop a realistic current estimate of the funding and resources necessary to provide “effective assistance” to all low-income New Yorkers living at or below 200% of the poverty level and facing civil legal problems impacting the essentials of life.³

The Permanent Commission formed a Funding Working Group to comply with that request, and it has made a realistic current estimate in a new Report adopted by the Permanent Commission.⁴ The Funding Working Group selected the types of matters to study and gathered information and created preliminary budget models for each matter type. It then identified and employed key inputs to the analysis, enumerated noteworthy observations about each matter type, identified factors that could impact the realistic estimate, and noted unresolved questions.

Based on currently available data and information, the Funding Group determined that between \$842 million and \$1 billion is a realistic current estimate of the annual funding necessary, in addition to planned existing funding, to close the justice gap in New York. The Report proposed moving incrementally from current JCLS funding toward the realistic estimate but acknowledged that, as additional funding is made available and as the civil justice ecosystem continues to evolve, further analysis will be warranted to continue to evaluate, update, and refine the estimate. As the Report advises, the role of other branches of State government along with local governments in providing portions of this funding

should be included in long-term strategies to expand civil legal services to close the justice gap.

The Permanent Commission has adopted the Funding Working Group's recommendation of an initial funding goal of adding \$100 million, over the next five years, to the currently planned annual JCLS funding and proposes reaching that goal through incremental increases beginning in the upcoming fiscal year in an amount deemed appropriate.⁵

To lend further support for the urgency of meeting the initial funding goal, this annual Report details numerous issues for which additional funding is critical, such as: addressing provider attorney shortages; meeting rural justice needs; assuring fairness in housing, family and consumer debt matters; expanding and improving public outreach; updating technology, ensuring cybersecurity, and addressing the digital divide; expanding and supporting pro bono efforts; alleviating the burden on the court system when one or both parties is unrepresented; and more.

Much of the evidence for the unmet needs and potential solutions described in this annual Report came not only from the wide range of presentations at the Chief Judge's 2023 annual hearing on civil legal services, but also from the Permanent Commission's three annual signature events: the Law School Conference held in March, the Technology Conference in April, and the Statewide Stakeholders Meeting in June.

Further, it was the Chief Judge's Hearing in 2022 that led directly to the Permanent Commission's decision to choose medical debt as a focus for 2023. At that Hearing, two presentations described the devastating impact of medical, hospital, and nursing home debt and the access-to-justice barriers faced by debtors in such matters.⁶ Those presentations indicated that the Permanent Commission's further study of medical debt was warranted and that additional protections might be needed for unrepresented debtors in these matters. Its Future Access to the Courts Working Group undertook the study by meeting with experts and performing their own independent research.

As spelled out in detail in this Annual Report and in the Summary of Recommendations below, the Permanent Commission makes extensive recommendations, based on the Future Access Working Group's study, and centered on procedural reforms to address the complex issues and access-to-justice barriers met by unrepresented litigants involved in medical debt matters.

Summary of Recommendations for 2024

Based on the annual Civil Legal Services Hearing and the Permanent Commission's work over the last year, the Permanent Commission is making the following recommendations for action:

A. Judiciary Civil Legal Services Funding

The Permanent Commission recommends an initial five-year goal of adding \$100 million to the currently planned annual JCLS funding (including any COLA increases that may be warranted) and proposes reaching that goal starting with incremental increases beginning in the upcoming fiscal year starting April 1, 2024. The Permanent Commission recommends that this additional funding be administered in the same manner as current JCLS funding, which enables local legal services organizations to respond to the unique local needs of their community in the manner most effective for their organization and community.

B. Medical Debt

The Permanent Commission's recommendations for medical debt matters focus on procedural changes for litigating and adjudicating medical debt cases, seeking to implement improved court procedures, either through legislation or court rules, to enhance procedural fairness and the effective administration of justice.

Plain Language Summons. A standardized plain-language summons form should be developed for medical debt matters, including hospital and nursing home debt, and for healthcare consumer credit transactions involving medical credit cards, that provides clear and understandable information about the proceeding, explains the actions needed to be taken by the defendant and the consequences of nonaction, and offers a list of available resources where a defendant might get legal and other assistance.

Additional Notice of Lawsuit. "Sewer service" continues to be a problem in all consumer debt matters, including medical debt cases. An additional Notice of Lawsuit sent by the court has reduced default judgments in consumer credit matters and should be required in medical debt matters. This can be a letter as is required for all consumer credit lawsuits.

Enhanced Pleading Requirements. Pleadings in medical debt matters must contain greater specificity. A summons with complaint should be required in all matters, with the complaint containing sufficient facts to establish compliance with the statutes relevant to the matter type and claims presented, including an itemization of the amount sought and a statement that the applicable statute of limitations has not expired. In hospital debt matters, the complaint should plead that the defendant has been screened for financial aid eligibility and found to be non-eligible pursuant to the State Public Health Law.

Consideration also should be given to requiring an affidavit from the hospital's chief financial officer stating that the hospital has taken reasonable steps to determine if the patient qualified for financial assistance pursuant to the Public Health Law or for eligibility for Medicaid or other public health insurance. In nursing home matters, the complaint

should plead compliance with the federal Nursing Home Reform Act and its implementing regulations.

Standard Form Answer. A uniform plain language form answer should be developed for the various types of medical debt that lists available defenses, like the form answers developed for foreclosure, consumer credit, and housing proceedings. Such a form would ensure that defendants are made aware of the defenses available to them. The form answer should be readily available for unrepresented litigants in clerks' offices throughout the court system.

Early Settlement Conferences with Assistance of Counsel. Settlement conferences have proven to be successful in resolving foreclosure matters. They should be required in medical debt matters to allow early review of the legal and procedural issues, to determine if there is a legal basis for the lawsuit, and whether resolution can be reached. Assistance of counsel should be provided to make the conferences most effective for defendants.

Additional Requirements for Judgments and Transcript of Judgments. To prevent the entry of default judgments on claims that lack merit, applications for such relief should include: (1) an affidavit by the medical provider of the facts constituting the debt, the default in payment, the sale or assignment of the debt, and the amount due at the time of the sale or assignment; and (2) an affirmation by the plaintiff's attorney or an unrepresented plaintiff stating that, after reasonable inquiry, they believe that the debt is owed. Consideration also should be given to requiring an inquest by the court to determine whether service was proper, if there was compliance with the relevant laws, and whether the case can be resolved by addressing any Medicaid or other public health insurance issues.

Transcripts of Judgment for medical debt cases should contain mandatory language indicating that: (1) the judgment is for a medical debt and no property lien can be filed or enforced against the defendant's primary residence pursuant to CPLR 5201(b); and (2) the statutory interest rate imposed is 2% pursuant to CPLR 5004.

Special Category Designation for Medical Debt Matters. Adding a category to the Request for Judicial Intervention (RJI), e-filing system and case management systems will ensure compliance with enacted reforms and make it easier to track medical debt case data and trends. It also will allow the courts and county clerks' offices to readily identify the cases so that default judgments are not entered without judicial review.

Establish Medical Debt Parts. Specialized parts have been established throughout the State to handle foreclosure and consumer credit matters. These parts are presided over by judges who are knowledgeable about the subject matter and are staffed with trained clerks and other court personnel who help unrepresented litigants move matters to

resolution. Additional resources may be offered in the parts, including legal services attorneys to provide brief advice services or representation, or court “navigators” who are not lawyers but who are able to help defendants understand the court processes.

Given the complexity of medical debt matters, the establishment of specialized parts to handle these case types should be considered, either on a pilot or permanent basis, in areas of the State where medical debt lawsuits are most prevalent. Specialized parts will bring resources and special attention to addressing medical debt, ensuring more consistent application of the relevant laws and consumer protections and fairer disposition of the cases. They also will afford greater efficiency for legal services attorneys to provide essential representation in these matters.

I. INTRODUCTION

The New York State Permanent Commission on Access to Justice was established in 2010 to help address the crisis of unrepresented litigants in the New York State courts and the vast unmet civil legal needs of low-income New Yorkers.⁷ Since its inception, the Permanent Commission has been led by Helaine M. Barnett, former President of the federal Legal Services Corporation, and has been composed of representatives from the Judiciary, the business, health, and education communities, government, law firms, bar associations, civil legal services and pro bono legal assistance providers, law schools, and funders.⁸

Each year, New York’s Chief Judge, with assistance from the Permanent Commission, holds a public hearing to assess the unmet civil legal needs of low-income New Yorkers. Based on the public hearing and its ongoing work, the Permanent Commission issues an annual report to the Chief Judge recommending initiatives to help close the access-to-justice gap in the State. The Chief Judge submits these annual reports to the Governor and Legislature pursuant to a 2010 Joint Legislative Resolution.⁹ The result of this process has been the implementation of multi-faceted initiatives to help bridge the justice gap—most importantly attaining the initial funding goal of \$100 million of dedicated annual State funding for civil legal services.

Today, greater numbers of low-income individuals have access to a broader range of effective assistance to address their legal matters, including legal information, legal assistance, and referrals at Legal Hand Call-in Centers; in-court support and guidance through Help Centers and the Court Navigator Program; pro bono assistance from law students and attorneys at libraries and other locations; and full representation by legal services providers. In addition, implementation of the Permanent Commission’s Strategic Action Plan has resulted in local initiatives being developed throughout the State. The overall impact is that a substantially higher percentage of the civil legal needs of low-income New Yorkers are being met, resulting in better outcomes, and averting dire consequences for these individuals as they seek to address matters involving the essentials of life (i.e., housing, family matters, access to healthcare and education, and subsistence income).

A. Accomplishments

Since its establishment, the Permanent Commission has made numerous recommendations aimed at expanding access to justice for low-income New Yorkers that have been implemented. The most significant are set forth in the sections below.

1. Recent Accomplishments

Legislative and Court Policy

- Amendment of CPLR 2106 allowing for the use of an affirmation subscribed and affirmed to be true under the penalties of perjury, in New York civil actions, in lieu of and with the same force and effect as an affidavit.¹⁰

Pro Bono Efforts to Increase Access to Justice

- Amendment of the Court of Appeals Rules for the Admission of Attorneys and Counselors at Law to permit Pro Bono Scholars to complete a portion of the program during the fall semester immediately preceding their final semester of law study.¹¹

Court Support for Local Access to Justice Committees

- Envisioned and developed by the court system's Deputy Chief Administrative Judges, Administrative Judges for Judicial Districts 3 through 10, and other court leaders, establishment of a full-time position within each Judicial District, with primary responsibility to engage with the Office of Justice Initiatives, the courts, and local stakeholders to develop, expand, implement, and coordinate the District's Access to Justice and Equal Justice programs and goals.¹²

2. Past Accomplishments

Funding for Civil Legal Services

- Attainment in 2016 of the funding goal of \$100 million of dedicated annual State funding for civil legal services included in the Judiciary's budget, with additional cost of living increases in FY 2022-2023 and FY 2023-2024, bringing the total amount of annual funding to \$116 million.¹³

Legislative and Court Policy

- Adoption by the Legislature of our proposed concurrent resolution proclaiming it to be the State's policy that low-income New Yorkers facing legal matters concerning the essentials of life have effective legal assistance;¹⁴
- Amendment to the Code of Judicial Conduct clarifying that judges may make reasonable accommodations for unrepresented litigants to have their matters fairly heard;¹⁵

- Development of an online dispute resolution (ODR) pilot program by the court system to evaluate the efficacy of ODR to help bridge the access-to-justice gap;¹⁶
- Implementation of an Administrative Order by the Chief Administrative Judge declaring it to be the policy of the court system to support and encourage the practice of limited-scope representation in appropriate civil cases;¹⁷
- Establishment of the Chief Judge’s Business Council on Access to Justice to provide strategic advice and support on critical initiatives, from educating the business sector on the importance of policies supporting equal access to justice, to fostering pro bono service by corporate counsel, to partnering with legal service providers on specific projects designed to close the access-to-justice gap in low-income communities;¹⁸
- Amendment of Part 36.1 of the Rules of the Chief Judge to allow a party’s friend or relative to act as a Guardian Ad Litem (GAL) in housing and other matters without the need to complete enrollment and appointment documentation;¹⁹ and
- Establishment of a court-based GAL Program in Westchester County, replicated on the New York City Civil Court’s GAL Program, created in partnership with the Office of Court Administration’s (OCA) Office of Justice Initiatives, court leaders in the 9th Judicial District, the Westchester County Executive, and the Westchester County Department of Senior Programs and Services.²⁰

Pro Bono Efforts to Increase Access to Justice

- Amendment of Section 6.1 of the New York Rules of Professional Conduct that increased the recommended annual pro bono service for New York lawyers from 20 to 50 hours;²¹
- Establishment of mandatory reporting of pro bono activities and financial contributions to civil legal services providers as part of biennial attorney registration;²²
- Revision of a court rule to permit and encourage in-house counsel who are admitted out-of-state to register in New York for purposes of performing pro bono work;²³
- Support for three additional, major non-monetary access-to-justice initiatives announced by then-Chief Judge Jonathan Lippman to expand pro bono legal services:
 - Adoption of the 50-hour pro bono service requirement for law graduates seeking admission to the New York bar;²⁴

- Formation of the Pro Bono Scholars Program, which enables law students to spend their final semester performing pro bono service and permits them to take the bar examination in the February prior to graduation;²⁵ and
- Establishment of the Attorney Emeritus program, to encourage attorneys who are retired or are approaching retirement to provide pro bono legal assistance to low-income New Yorkers.²⁶

Law School Involvement

- Commencement of an annual Law School Conference and establishment of the Statewide Law School Access to Justice Council, which have led to enhanced access-to-justice involvement by New York’s 15 law schools and promoted collaborations with civil legal services providers, the bar, courts, and community organizations.²⁷

Technology Initiatives to Expand Access to Justice

- Commencement of an annual Statewide Technology Conference to promote and support knowledge sharing and collaboration to leverage technology to improve and expand the capacity of the civil legal services delivery system;²⁸
- Implementation and expansion of the Pro Bono Law Firm IT Initiative, which provided law firm IT staff to assess the technology needs of individual civil legal services providers and made recommendations for enhancing and improving technology;²⁹ and
- Support for the development of two pilot projects to create online intake portals in consumer matters to facilitate the dissemination of information and access to legal assistance.³⁰

Role of Non-Lawyers

- Formation of an advisory committee to consider how non-lawyers can help bridge the justice gap, leading to the issuance of an administrative order authorizing creation of Court Navigator pilots in which community members are trained to assist unrepresented litigants in certain matters;³¹ and
- Opening of five Legal Hand neighborhood storefront centers that are staffed with trained community non-lawyer volunteers who provide free legal information, assistance, and referrals to help resolve issues and try to prevent problems from turning into legal actions.³²

Strategic Action Planning and Implementation

- Development and implementation of a Strategic Action Plan in 2017 that focuses on both statewide and local initiatives, with the goal of providing effective assistance to all low-income New Yorkers facing legal challenges impacting the essentials of life;³³ and
- Convening of an annual Statewide Stakeholders Meeting to bring together diverse stakeholders to share knowledge, strategies, and best practices for developing local access-to-justice plans.³⁴

II. THE YEAR IN REVIEW

In 2023, the Permanent Commission continued to focus on the nature and extent of unmet legal needs. Set forth in the sections below is a summary of the presentations at the Civil Legal Services Hearing and a review of the Permanent Commission's other work performed throughout the year that has informed this year's recommendations. The recommendations are described in Parts III and IV.

A. Chief Judge's Annual Civil Legal Services Hearing

On September 18, 2023, Chief Judge Rowan D. Wilson presided over the 14th annual Civil Legal Services Hearing.³⁵ Joining Chief Judge Wilson on the panel in person at the Court of Appeals were Chief Administrative Judge Joseph A. Zayas, the Presiding Justices of the four Appellate Departments or their representatives (First Department Presiding Justice Dianne T. Renwick; Second Department Presiding Justice Hector A. LaSalle; Third Department Associate Justice Christine M. Clark, representing Presiding Justice Elizabeth A. Garry; and Fourth Department Presiding Justice Gerald J. Whalen), and New York State Bar Association President Richard C. Lewis.³⁶

Chief Judge Wilson began by acknowledging the work of the Permanent Commission and its role in expanding access to justice through its advocacy for JCLS funding. He emphasized New York's commitment to civil legal services but noted that more still needs to be done.³⁷

The Chief Judge went on to speak about the Permanent Commission's work over the last two years "to develop a rigorous conservative estimate"³⁸ of what it would cost to provide civil representation to persons at or below 200% of U.S. Poverty Guidelines for the most pressing types of matters related to the essentials of life. The Permanent Commission estimates that the cost required is nearly an additional billion dollars annually.

Recognizing the magnitude of the need, the tremendous disparity faced by unrepresented litigants, and the social consequences that result when unrepresented litigants are unable to attain better outcomes in their legal matters, the Chief Judge noted:

We should not forget, though, that civil legal representation is a means to various ends. . . . [L]egal representation, standing alone . . . will not eliminate [our social] problems, but legal representation gives people a chance for a better outcome, a chance to avoid or climb out of the spiraling abyss of our social ills. In conjunction with other programs, . . . the benefits of civil legal representation can be multiplied. . . .³⁹

The Chief Judge then went on to highlight a United States Department of Justice finding that ensuring access to legal services not only improves outcomes for those who would seek assistance, but also can save public dollars by preventing problems like homelessness or health issues that can be extremely costly and harmful to individuals and the public.⁴⁰

After noting New York's poverty rate of 13%, which places it 14th from the bottom among the 50 states, the Chief Judge concluded his remarks by stating:

The president of a much poorer country than ours, Nelson Mandela, once observed, "Like slavery and apartheid, poverty is not natural. It is man-made, and it can be overcome and eradicated by the action of human beings."

Poverty is the cause of and is exacerbated by most of our social ills. Greater provision of civil legal representation is one step we must take to build a stronger, healthier, and more equitable society.⁴¹

The panel then heard from 18 presenters that included judicial, bar, business, funder, and nonprofit leaders, as well as JCLS grantees and their clients.⁴² Presenters appeared both virtually and in-person. An additional 26 non-presenter individuals and organizations submitted written statements.⁴³ The Hearing was livestreamed and later posted on the Court of Appeals website.⁴⁴

Presenters documented continued unmet legal needs and the urgent need for additional funding for civil legal services to help close the justice gap in New York State.

Ronald S. Flagg, Esq. (President, Legal Services Corporation) primarily discussed the pressing need for civil legal aid on a national level, as the Legal Services Corporation (LSC) is the largest funder of civil legal aid in the United States, funding 131 legal aid programs comprising over 900 offices, aiding clients across the nation.⁴⁵ In New York, seven LSC-funded grantees serve low-income individuals in every part of the State but cannot fully meet the need.⁴⁶

Mr. Flagg highlighted the foundational importance of equal access to justice in the United States, citing the Constitution's emphasis on "justice" as a priority.⁴⁷ He acknowledged that the principle of equal justice has eroded, especially in the civil justice system, where financial resources often determine access to legal rights.⁴⁸ Mr. Flagg noted that low-income domestic violence survivors, veterans, and the elderly, are disproportionately affected by this inequality,⁴⁹ stating:

The access to redress for survivors fleeing the violence of an abusive partner, veterans seeking a benefit that they earned for their service, or elderly

people protecting their structured income should not turn on the means available to them to pay a lawyer.⁵⁰

Mr. Flagg cited stunning findings in LSC's 2022 Justice Gap Study, revealing that nearly 75% of low-income individuals experience a life-altering civil legal issue annually, with 92% of these issues receiving little or no legal aid.⁵¹ The Justice Gap is most evident in the nearly 50% of eligible applicants who are turned away from legal services providers due to resource constraints.⁵² However, this percentage markedly understates the unmet need because millions more do not know they have a legal issue or do not seek help.⁵³

Mr. Flagg emphasized that legal assistance makes a significant difference in cases, especially in tenant eviction disputes.⁵⁴ He spoke about the devastating impact of an eviction on a family.⁵⁵ He noted the high percentage of housing cases handled by legal services providers and the increase in these cases and other civil legal needs due to the pandemic.⁵⁶ Mr. Flagg also pointed out that rural communities face a lack of access to legal services due to geographic isolation and emphasized that technology innovation can help bring services to these "legal deserts."⁵⁷

Mr. Flagg stated that LSC's funding from Congress has not kept pace with inflation and increasing service needs.⁵⁸ He said the underfunding has resulted in legal aid lawyers being the lowest-paid group in the legal profession and this has led to a decrease in the number of public interest lawyers.⁵⁹ He also noted the "tremendous burden on our courts" and the danger that the burgeoning justice gap brings to our democracy when low-income people do not have access to an attorney to safeguard the essentials of life.⁶⁰

Mr. Flagg urged that, in light of the justice gap data he shared, JCLS funding should be increased.⁶¹

Hon. Richard Rivera (then-Supervising Judge, Family Court, Third Judicial District⁶²) began his remarks by emphasizing the critical nature of representation in Family Court, where individuals must confront some of the most difficult life events, such as child custody battles, cases of neglect and abuse, and family offense matters. These cases carry high stakes, including the potential loss of custody, termination of parental rights, and even incarceration.⁶³ The Family Court Act provides for counsel in many of these cases, but there are significant gaps in the statutory right to assigned counsel in various Family Court cases, particularly child support and paternity matters.⁶⁴

Judge Rivera went on to describe the impact of this gap on litigants, most of whom are not knowledgeable about the legal requirements for proof, as payee, entitlement to support for the full financial needs and expenses of the child, or, as payor, of the factors that may be a basis for a reduced child support obligation or the evidence that should be provided to the court in defense. The resulting consequences can be dire, leading to

unreasonable support obligations for both parties, ongoing litigation, and potential incarceration for the payor if unable to pay the support obligation.⁶⁵ He also noted the “striking power imbalance” that results when one of the parties is represented by experienced legal counsel and the other is left to present and defend their case without the requisite experience or knowledge.⁶⁶

He noted the times when an unrepresented litigant agrees to an order out of frustration, the misconception that they do not have a choice, or because they are too embarrassed to admit that they do not understand the court proceedings or how to defend their case and refuse to participate further.⁶⁷

Judge Rivera stressed the importance of expanding funding for civil legal services to provide representation for all parties in child support and paternity matters.⁶⁸ Moreover, Judge Rivera noted the need for increased funding for the protection of children’s rights and efficient case resolution:

The ability of civil legal services to provide representation for clients in these types of cases would ensure that cases are more efficiently resolved[,] that the due process rights of litigants are preserved, and that the rights and interests of children are better protected. Furthermore, increased funding for legal services is necessary not only to hire and train more attorneys to represent litigants facing child support and paternity matters, but increased funding is also necessary for civil legal services agencies such as The Legal Project and Legal Aid Society of Northeastern New York to have the budget to hire investigators and process servers so that they may fully meet the legal needs of their clients.⁶⁹

Additionally, Judge Rivera addressed the issue of low pay for assigned counsel and attorneys for children, which has led to a decline in the number of attorneys willing to take on these cases. Judge Rivera emphasized the need for regular pay increases to retain experienced and committed practitioners in Family Court, which would prevent harm to the court, litigants, and, most importantly, the children involved.⁷⁰

Matthew R. Dornauer (Chief Legal Officer, HEINEKEN® USA) focused on the need for the business community and its leaders to use their positions to assist low-income New Yorkers in accessing civil legal services.⁷¹ He described his efforts at HEINEKEN® USA (Heineken) to revive his company’s pro bono program, including a recent partnership with neighboring civil legal service providers to assist with certain housing advice matters.⁷² Mr. Dornauer observed that lawyers and business leaders are uniquely situated to use their expertise to help significant numbers of low-income New Yorkers gain access to civil

legal services to which they may not otherwise have access, and he implored his fellow business leaders to become advocates for New York's most vulnerable citizens.⁷³

Mr. Dornauer explained that high inflation, the expiration of COVID-related benefits, the increased demand for civil legal services, and staffing constraints heighten the critical need for continued support for increased annual funding for civil legal services.⁷⁴ He noted that, although Heineken is a global brewer, the company operates at a very local level in New York and is invested in local people.⁷⁵ In his words:

[Heineken's] company purpose is predicated upon a strong societal infrastructure, which begins with ensuring people have fair and equal access to justice. In turn, this creates a stable, healthy society and business environment for not only Heineken, but the thousands of other companies throughout the [S]tate.⁷⁶

Concluding his remarks, and speaking on behalf of Heineken, Mr. Dornauer respectfully requested that "Judiciary Civil Legal Services funding be increased to the maximum amount deemed feasible."⁷⁷

Hon. Fern A. Fisher (Executive Director, Legal Hand, and Visiting Associate Professor of Law, Maurice A. Deane School of Law at Hofstra University) discussed the housing crisis faced by New York State residents.⁷⁸ She stressed that the State is currently at a crossroads and bemoaned the continually increasing housing shortages and eviction rates. She suggested legislative changes and court reforms that could prevent unwarranted evictions.⁷⁹

Judge Fisher explained that New York housing law is complex and multi-layered, and it takes years to develop an expertise in the domain.⁸⁰ In court proceedings, unrepresented tenants often lack knowledge of substantive law and the procedural rules required to navigate the relevant forms, motions, and evidentiary procedures, which often leads to uninformed and unfair settlements.⁸¹ Judge Fisher noted that an increase in legal representation would address many of the inequities faced by those being evicted,⁸² and she commented that there is an undersupply of legal assistance in 11 counties where eviction rates are extremely high.⁸³ Judge Fisher called for additional funding for legal representation in eviction cases until 100% of low-income tenants are represented.⁸⁴

In addition to devoting more resources to legal services programs, Judge Fisher urged support for various legislative changes that would help to narrow, and hopefully one day close, the justice gap.⁸⁵ She also shared examples of court-based procedures, practices, and programs that lack uniformity throughout the State and exacerbate inequities with housing issues.⁸⁶ Standardizing these procedures, she argued, would reduce the

complexities and uneven burdens low-income litigants face when navigating the court system.⁸⁷

Judge Fisher underscored the importance of adding and maintaining statewide resources for unrepresented litigants.⁸⁸ She contended that continuing education on housing law for both judges and non-judicial personnel—including education on best practices for dealing with unrepresented litigants as well as those from impoverished diverse populations—will, in turn, avert unjust outcomes.⁸⁹

Finally, to assess the full extent of the eviction crisis, Judge Fisher recommended that the court system work with the State Legislature and localities to improve data collection on filings and warrants, particularly from Town and Village Courts.⁹⁰ She noted that the court system’s influence—and, by extension, its resources—can contribute to stopping unnecessary evictions in the State, at a time when so many New Yorkers stand on “economic precipices.”⁹¹

Dede Hill, Esq. (Director of Policy, Schuyler Center for Analysis and Advocacy) focused her remarks on the ways in which access to civil legal services can play a critical role in helping to reduce childhood poverty; by ensuring that children living in poverty and their families can access the essential services and resources needed to shield them from the harmful consequences of poverty.⁹² She stressed that the importance of timely access to “robust” civil legal services for these families in need could not be “overstated.”⁹³

Ms. Hill explained how access to civil legal services would ensure that New Yorkers are able to access essential social services when they are wrongly denied or delayed access to them.⁹⁴ She outlined the consequences, which could easily spiral out of control:

Typical families that are low income have, on average, a savings of about \$600. So, this leaves many families one-denied benefit away from a tragedy. Delayed or denied public assistance or heating assistance or SNAP food assistance or childcare assistance, this can have a cascading effect[,] leaving a family scrambling to make up for the lost resources by skipping a car repair, which can lead to missed days at work[,] which can lead to job loss, or they might skip a rent check which can lead to homelessness. So, this unraveling can happen quickly with devastating and long-lasting impacts, particularly for children.

...

Adequately funding legal services would not only prevent New York families from the trauma and hardship benefits denials often cause, it would also

result in cost savings to the State by saving money in the many other systems that then need to pick up the pieces.⁹⁵

Ms. Hill said that there always will be a need for representation; calling the shortage of available legal assistance in New York to have been “at crisis levels for decades.”⁹⁶ Ms. Hill said that, repeatedly, she has heard that the one sure way to address that need is to provide “more funding for civil legal services.”⁹⁷

Ms. Hill then described how access to civil legal services can ensure that New York families who become involved with the child welfare system, “simply because they are poor,” have representation from their first contact with Child Protective Services to “prevent unnecessary and traumatic family separations and ensure families that encounter child welfare gain access to the services they need to thrive as a family.”⁹⁸ Currently, New York families do not have a right to counsel until a court proceeding is commenced. This leaves most low-income families to navigate on their own critical interactions with the caseworker investigating them and gathering information that can later be used in making the extraordinary decision to remove a child from their family. Ms. Hill stressed the need for increased funding for civil legal services to provide this representation.⁹⁹

Neil Steinkamp (Managing Director, Stout; Consultant to the Permanent Commission on Access to Justice) provided a comprehensive overview of the Permanent Commission’s funding analysis that was initiated at the behest of former Chief Judge Janet DiFiore to establish a realistic estimate of the funding necessary to close the justice gap for individuals and families living at or below 200% of the poverty level.¹⁰⁰

Mr. Steinkamp stated that a significant portion of New York’s population, approximately 14%, lived below the Federal Poverty Guidelines in 2021, a percentage higher than the national average.¹⁰¹ Furthermore, in October 2022, nearly half of New Yorkers faced challenges in meeting household expenses.¹⁰² Poverty was identified as a root cause for various associated crises, affecting education, housing stability, legal involvement, health disparities, employment, and community stability.¹⁰³ These effects of poverty are commonly reflected in civil cases involving fundamental life essentials, heard in state courts.¹⁰⁴

Mr. Steinkamp shared that the Permanent Commission’s Funding Working Group analyzed various matter types that make up approximately 50% of the total civil case docket in New York State courts,¹⁰⁵ and found that often fewer than 5% of these litigants had representation.¹⁰⁶ The Working Group also analyzed administrative hearings and other matters involving income maintenance and access to public benefits. He explained that the Working Group developed separate estimates for each matter type by

considering various forms of assistance, and by accounting for a host of factors that could influence funding, such as court reforms and community outreach.¹⁰⁷

Mr. Steinkamp revealed that the funding analysis estimated that an additional \$842 million to \$1 billion in annual funding is necessary to bridge the justice gap for low-income New Yorkers involved in civil legal matters affecting their essential needs.¹⁰⁸ The Working Group suggests an initial five-year plan to add \$100 million to the existing JCLS funding and proposes achieving this plan with incremental increases.¹⁰⁹ The Working Group further recommends that the funding be administered in the same manner as current JCLS funding.¹¹⁰ Mr. Steinkamp stated that the contemplated scope of expansion of legal services programs to deliver additional services requires stakeholder engagement and strategic development over time, and requires continual evaluation and assessment.¹¹¹ He concluded by noting that the Working Group's Report will be included in the Permanent Commission's annual report to the Chief Judge later in the year.¹¹²

Vernell Robinson (Client of Legal Services NYC) and **Raun Rasmussen, Esq.** (Executive Director, Legal Services NYC). Ms. Robinson recounted her experience with leading the resident council at the Carleton Manor New York City Housing Authority (NYCHA) Development in a multi-year effort to compel NYCHA to restore hot-water services to the building.¹¹³ Ms. Robinson noted that even prior to the hot-water incident, tenants of the building, who are predominantly African-American, had endured various habitability issues at the hands of NYCHA, including a period of time during which the building was without gas.¹¹⁴ According to Ms. Robinson, NYCHA acted with a disregard for the tenants' dignity and well-being by repeatedly resisting or declining requests to provide updates on the case or to investigate the building, which continued even during the winter months, forcing some residents to pay out of pocket for hotels to take a proper shower.¹¹⁵ Some tenants, Ms. Robinson noted, even passed away before the hot-water issue was ever resolved.¹¹⁶ In the words of Ms. Robinson:

Before we had a lawyer, the court didn't help us at all, so I was relieved when Legal Services NYC got involved a few weeks after we filed. I was so happy to have the lawyers fight for us, because by this time, I didn't know what to do, where to go, or anything else, that I'd exhausted all of my things that I thought I could do. And I just[] assumed the case would just fall through the cracks and NYCHA [would] get away with it.¹¹⁷

Even after Ms. Robinson and the resident council retained the services of Legal Services NYC (LSNYC), progress on fixing the hot water was slow due to NYCHA's unresponsiveness; NYCHA even made matters worse by using unlicensed workers, which led to damage in many of the tenants' apartments.¹¹⁸ Only after months of negotiations, court appearances, the filing of a contempt motion, and press coverage by the Daily News,

did NYCHA finally make the necessary repairs; it also granted a 25% rent abatement for 101 tenants in the building.¹¹⁹ Ms. Robinson attributed the resident council's success to the aid of their "amazing" lawyer from LSNYC, and she expressed gratitude for LSNYC's work and the JCLS funding that supports it.¹²⁰

Mr. Rasmussen began his remarks by commending Ms. Robinson's dedicated and prolonged efforts pursuing her and her neighbors' legal rights, submitting that "[a] years-long battle for this most essential service [hot water] . . . should never be necessary."¹²¹ He lamented how NYCHA's incompetent handling of Ms. Robinson's and other cases wasted already scarce government and civil resources.¹²²

Mr. Rasmussen provided insight into LSNYC's services and some of the organization's recent work.¹²³ In addition to the primary goal of restoring hot water to Ms. Robinson and other tenants in her building, Mr. Rasmussen noted that another interest of LSNYC is holding both NYCHA and private landlords accountable for neglecting to provide essential services such as heat, hot water, and water pressure.¹²⁴

Mr. Rasmussen remarked that tenants throughout New York State are "desperate for help" due to funding limitations that impact civil legal services providers' ability to meet the demand for assistance.¹²⁵ Even though tenant representation receives considerably more funding than other practice areas, legal services providers in New York City are still only serving far less than half of those in need.¹²⁶ In closing, Mr. Rasmussen noted that without JCLS funding, his organization would not have been able to represent Ms. Robinson and her neighbors.¹²⁷ He thanked OCA for its continued support and joined in the Permanent Commission's request for additional JCLS funding.¹²⁸

Lionel Harvey (Client of Legal Assistance of Western New York) and **Lori O'Brien, Esq.** (Executive Director, Legal Assistance of Western New York). Lionel Harvey, an 85-year-old resident of Hilton, New York, shared his experience as a victim of elder abuse. He revealed that it began in 2015, when his daughter suggested that he deed his house to her, in return for taking care of his wife, who was ill at the time.¹²⁹ Mr. Harvey did as he was asked, deeding the house as well as giving his daughter Power of Attorney. His daughter then took control of all his finances—his spending, savings, and all his credit card accounts. Without his knowledge, she depleted almost everything he had, leaving him near destitute.¹³⁰ When he finally noticed what his daughter had done, she tried to convince him that he had told her she could have all his money. She then turned hostile, isolating Mr. Harvey in a part of the house with no access to the kitchen and laundry room and subjecting him to further mental abuse by surveilling him and banning his grandchildren from seeing or assisting him. Mr. Harvey eventually sought help from Legal Assistance of Western New York (LawNY). His attorneys assisted him in filing a lawsuit against his daughter that resulted in a mediated settlement of \$80,000, monthly payments of \$1,200

for up to 60 months, and the return of personal property.¹³¹ The settlement helped him regain his dignity and livelihood. In concluding his remarks, Mr. Harvey stated:

I'm still getting over what my daughter did to me, but with time, and with help from people like [the attorneys] at LawNY, I know I will be OK. [They] helped me during some of the hardest times of my life and I will always be grateful.¹³²

Lori O'Brien explained that Mr. Harvey's story is one that illustrates the prevalence of elder abuse and financial exploitation. Ms. O'Brien began by highlighting the significant number of older adults in LawNY's service area, with statistics revealing that a substantial portion of the elderly population, a staggering one in ten, faces elder mistreatment.¹³³ The financial impact of such abuse is considerable, with financial exploitation often impoverishing elder adults by costing victims millions of dollars, seriously impacting their quality of life, and leading to increased government expenditures for public benefits to help victims cope with their loss. Ms. O'Brien emphasized that "[m]any individuals like Mr. Harvey would have never needed our services but for the loss of their income and resources resulting from financial exploitation."¹³⁴

Ms. O'Brien then discussed the tremendous positive impact of legal services on the lives of vulnerable older adults. Elder abuse cases often involve intricate legal matters related to guardianship, healthcare decisions, and estate planning. Legal services provide education on rights and options, enabling informed decisions and proactive prevention of elder abuse. Community outreach and awareness campaigns aim to raise public consciousness about elder abuse. Legal experts offer specialized knowledge to help safeguard seniors' interests.¹³⁵ Collaboration with support organizations, healthcare providers, and law enforcement agencies forms a comprehensive network of assistance for elder abuse victims, addressing all aspects of the issue.¹³⁶

She then described the enormous challenges in delivering legal services to older adults, focusing on the lack of attorney resources in rural communities and LawNY's lack of resources to fully fill that gap, as well as their inability to handle complex legal cases due to limited resources.¹³⁷ Ms. O'Brien noted:

LawNY is fortunate to have specialized expertise in areas impacting older adults and to have the opportunity to work with individuals like Mr. Harvey. However, we are also impacted by significant challenges as we strive to meet the needs of individuals in our communities. In one of LawNY's rural offices, there is only one full-time elder law attorney for a five-county service area. Further, some funders place limitations on the number of hours of service

we can provide on each matter, often severely limiting the scope of our services.¹³⁸

In concluding her remarks, Ms. O'Brien stressed the importance of additional funding for civil legal services to address elder abuse:

Increased funding in this area of law would reduce the number of individuals seeking assistance who are turned away, and allow us to increase outreach efforts in hard-to-serve areas, particularly rural areas where community members may be isolated from resources. It would increase full representation in complex matters. Enforcement of protections for vulnerable community members would ensure that more older adults are protected from abuse, while also dissuading individuals from committing acts of financial exploitation.¹³⁹

Terri Tupper (Client of Empire Justice Center) and **Kristin Brown** (President and Chief Executive Officer, Empire Justice Center). Terri Tupper was a member of three class action lawsuits led by the Empire Justice Center.¹⁴⁰ In 2007, Ms. Tupper was diagnosed with Lipo-Lymphedema, a combination of two highly inflammatory disorders.¹⁴¹ Because she could not afford \$2,000 compression garments, Ms. Tupper's condition progressed and she was forced to stop working and rely on Social Security Disability Insurance income.¹⁴² When her family had difficulty obtaining approval for Medicaid enrollment, Ms. Tupper reached out to Empire Justice Center and became a client in a class action suit.¹⁴³ Not only was she granted access to Medicaid in the action, Ms. Tupper became part of another class action that secured the compression stockings she desperately needed as a Medicaid benefit.¹⁴⁴

Ten years later, Empire Justice Center assisted Ms. Tupper again by ensuring her participation in a third class action suit—this time for Suffolk County residents with disabilities who needed reasonable accommodations to access DSS benefits.¹⁴⁵ Ms. Tupper's family had been living in temporary housing and her request for a hospital bed and dorm-sized freezer to store the ice packs she needed to alleviate her swelling had been denied.¹⁴⁶ The DSS representatives had informed Ms. Tupper that if she asked for the accommodation again, she would "instead be sent to a nursing home."¹⁴⁷ Upon hearing this, her attorney at Empire Justice Center immediately acted and Ms. Tupper's reasonable accommodations requests were granted without a transfer.¹⁴⁸

Today, Ms. Tupper permanently resides in project-based housing and her family's well-being has significantly improved.¹⁴⁹ She has also leveraged her experience and co-founded a grassroots not-for-profit—Long Island Connections—to connect others in need to resources like the Empire Justice Center.¹⁵⁰

Reflecting on the Empire Justice Center's assistance, Ms. Tupper concluded her remarks stating:

I would not be where I am today if it were not for the assistance of Empire Justice Center. . . . My life has propelled forward now in a positive and uplifted way. I have tools I so desperately needed to piece life back together for my family and I am a survivor now instead of a statistic.¹⁵¹

Kristin Brown explained how civil legal services were critical to Ms. Tupper's obtaining Medicaid benefits and the essential medical supplies to address her health conditions. Ms. Tupper was just one of over 365,000 New Yorkers who benefitted from the three class actions combined.¹⁵² Ms. Brown emphasized that when the Empire Justice Center is successful in a case "scores of New Yorkers are able to assert their civil rights, access government benefits and critical services that stabilize folks' lives so that they can focus on the essential aspects of everyday life."¹⁵³ However, impact cases like these require "a high level of expertise and talent"¹⁵⁴ and "filling positions is becoming increasingly difficult."¹⁵⁵ For instance, the Center's civil rights managing attorney position has been vacant for most of the year.¹⁵⁶

Ms. Brown explained that a key element of this challenge is that civil legal services attorneys' salaries are much lower than those in public interest law.¹⁵⁷ Civil legal services attorneys earn approximately 20-40% less than those working directly for the government.¹⁵⁸ This widening salary gap is making it increasingly difficult to attract and retain top legal talent.¹⁵⁹ Ms. Brown urged that JCLS funding be increased by a substantial amount to meet the overwhelming need.¹⁶⁰

Bobbie Dafoe (Client of Volunteer Lawyers Project of Central New York) and **Sal Curran, Esq.** (Executive Director, Volunteer Lawyers Project of Central New York). Bobbie Dafoe is a breast cancer survivor. Following a series of life-saving breast cancer treatments, she was left with a hospital debt due to an insurance deductible of \$5,500.00.¹⁶¹ This debt was exacerbated after Ms. Dafoe contracted COVID-19 and required additional treatment.¹⁶² During both of these hospital visits, Ms. Dafoe qualified for charity care, but the hospital never assessed her for eligibility.¹⁶³ Shortly after, Ms. Dafoe received a letter from the sheriff that her wages would be garnished to satisfy the amount of her outstanding balance plus interest, a debilitating amount.¹⁶⁴

Ms. Dafoe was so distraught and overwhelmed by the letter that she almost did not take any action, but subsequently sought out legal assistance in hopes of avoiding the devastating impact of a wage garnishment. After reaching out to one civil legal services program that was unable to assist her, Ms. Dafoe was connected to Volunteer Lawyers Program of Central New York (VLPCNY). Her attorney, Sal Curran, quickly determined that

a default judgment had been entered against Ms. Dafoe despite her never having been served with process. They also determined that Ms. Dafoe was eligible for charity care and should have been offered financial help by the hospital. After filing a motion, the default judgment was vacated, and the case dismissed. In closing, Ms. Dafoe stated:

When I got the news that the judgment was vacated, I never felt so grateful in my life. . . . I absolutely would not have been able to fight this garnishment on my own. This legal service saved me headache and financial ruin.

But I also thought about all those people who just go along with it and have no idea that there are legal services out there. They don't even know they have a right to financial help with medical bills, and they don't know how to fight bogus lawsuits like this. I wish that when people get this paperwork that there is a number to call for help. And that there are more lawyers available!¹⁶⁵

Sal Curran began their remarks by explaining that Ms. Dafoe's medical debt story is a common one among New York communities, impacting not only a medical recipient's financial well-being but also mental and physical health.¹⁶⁶ Across the State, uninsured and underinsured New Yorkers face crippling medical debt.¹⁶⁷ From 2015 to 2020, nonprofit hospitals sued over 53,000 people to collect outstanding medical balances.¹⁶⁸ Despite the number of people impacted and the complicated nature of this process, there are not enough civil legal services attorneys available to help underprivileged people navigate the process of understanding or fighting this type of debt. Sal Curran shared that as part of a 2017 survey across 13 counties in Central New York, the largest area affected by consumer medical debt, only one civil legal aid attorney was dedicated solely to debt and bankruptcy matters.¹⁶⁹ Additionally, in many instances, defendants shared similar circumstances as Ms. Dafoe. They also qualified for financial assistance from the hospitals but either had not been offered that assistance or had been unable to navigate the confusing process of who should pay their bill (e.g., Medicaid, Medicare, no-fault, or a high-deductible insurance plan).¹⁷⁰

Sal Curran called upon the courts to implement reforms to address medical debt, including an additional notice of lawsuit sent by the court, judicial review of pleadings for compliance with relevant statutes prior to the entering of a default judgment, and the availability of a plain language standard answer form for use by unrepresented litigants. They further requested the establishment of a Medical Debt Part to bring resources and special attention to addressing these matters, and proposed that the Part be in Central New York, given the disproportionate share of debt burden in that region.¹⁷¹

Sal Curran reaffirmed the need for improved community outreach and information-sharing.¹⁷² Impacted individuals need better access to the legal resources available to help combat medical debt litigation. Sal Curran also highlighted the impact legal representation can have on the outcomes of these cases. In a survey of medical debt cases, 100% of the hospitals were represented by counsel, contrasting with the only 1% of patients that had lawyers.¹⁷³ Those statistics were coupled with a 98% default judgment rate in favor of the hospitals.¹⁷⁴

Finally, Sal Curran stressed the critical need for significant increases in JCLS funding to ensure that those who face the direct consequences of medical debt have their rights protected through expanding access to attorneys.¹⁷⁵ In addition to funding for creation and expansion of programs, they noted the importance of pay equity for sustaining legal services programs. Civil legal aid attorneys are consistently paid 20-40% less than public service peers who work for government.¹⁷⁶ Lesser pay leads to difficulty in hiring, significant rates of attrition, overwhelming caseloads, high levels of burnout, and most importantly, fewer clients served—the same clients whose outcomes are often determined by the presence of a lawyer rather than the merits of the plaintiffs' claims.

Robert Burek (Client of Neighborhood Legal Services, Inc.) and **Mary C. Hanson, Esq.** (Program Director, Western New York Eviction Prevention Program, Neighborhood Legal Services, Inc.). Mr. Burek described how Neighborhood Legal Services, Inc. (NLS) helped him avoid eviction from his home in a manufactured home park.¹⁷⁷ He explained that he is 62 years old, disabled, and has limited income, which consists only of Social Security Disability Insurance benefits and a small pension.¹⁷⁸ After his daughter passed away in 2019, he and his wife fell behind in rent payments and ultimately applied for, and began receiving, Section 8 Housing Choice Voucher benefits.¹⁷⁹ However, their past-due rent balance remained.¹⁸⁰ Further, in mid-2022, the manufactured home park's owners sold the home park,¹⁸¹ and although Mr. Burek reported the sale of the manufactured home park to his Section 8 provider,¹⁸² the new park owner did not request payment of Mr. Burek's rent arrears until November 2022, at which point the owner sent Mr. Burek a 30-day notice to pay or quit, demanding a higher amount than Mr. Burek knew he owed.¹⁸³ When Mr. Burek reached out to the park to inquire about the discrepancy, he learned that the park had not received Section 8 payments for five months, increasing the balance he owed by nearly \$1,000.¹⁸⁴ Unable to reach anyone at his Section 8 provider—and knowing that he could not afford to pay this and fearing eviction—Mr. Burek contacted NLS.¹⁸⁵

With the aid of an attorney, Mr. Burek was able to obtain and complete the necessary forms to correct the prior park owner's failure to notify Mr. Burek's Section 8 provider of the transfer in ownership, and to successfully negotiate a waiver of late fees and more time to pay the remaining rent balance without starting formal eviction proceedings.¹⁸⁶ In the words of Mr. Burek:

Without legal services assistance, not only would I have been at risk of homelessness, but the park would have obtained a judgment against me . . . for the court costs, attorney fees, and amounts already paid by the Section 8 program on my behalf.¹⁸⁷

Mr. Burek concluded his remarks by stating how important it is to him and other tenants in need of housing security to fund civil legal services providers.¹⁸⁸ Ms. Hanson described how, by providing legal representation, NLS helps promote housing stability and reduce the rates of homelessness.¹⁸⁹ Ms. Hanson explained that many tenants are at risk of becoming homeless due to a combination of factors, such as the shortage of safe and affordable housing, the increase in housing costs, the extensive changes to eviction law in 2019, and the discontent of property owners following the pandemic.¹⁹⁰ She emphasized that “a tenant’s need for counsel has never been more apparent.”¹⁹¹

Ms. Hanson also commented on the rise of manufactured homes, like Mr. Burek’s, and the unique problems that residents encounter. These homes may be leased or owned, and even those who own their homes may not own the land on which the home sits, creating complicated legal challenges.¹⁹² She explained that some homeowners who reside in manufactured home parks can lose their homes within as little as three months.¹⁹³ Rental tenants may receive a 10-day or 30-day notice of eviction, but if the court orders eviction for a renter, that tenant may have as few as 72 hours to move.¹⁹⁴

Ms. Hanson emphasized the crucial role of legal representation, echoing what others had said:

Eviction has a demonstrably negative impact on physical and mental health, educational outcomes, and family stability. Legal representation not only results in housing stability for vulnerable households, but it can also prevent the loss of savings that some tenants have spent their whole lives building.¹⁹⁵

Rosemary Rodriguez (Client of The Legal Aid Society), **Christine Rivera** (Client’s daughter) and **Adriene Holder** (Attorney-in-Charge, Civil Practice, The Legal Aid Society). Rosemary Rodriguez is a senior citizen whose sole source of income is Social Security benefits and who receives healthcare benefits through Medicaid.¹⁹⁶ In March 2019, Ms. Rodriguez faced significant medical debt because her dentist deceptively enrolled her in a CareCredit card account.¹⁹⁷ Instead of billing Medicaid, which would have covered her expenses, the dentist had Ms. Rodriguez sign a CareCredit Card application mid-procedure and while under anesthesia, and subsequently charged the card \$6,000 without Ms. Rodriguez’s knowledge or consent.¹⁹⁸ After receiving a credit card statement in the mail, Ms. Rodriguez tried to resolve the matter with the help of her daughter, reaching out to the

dentist, her managed care plan and even making payments she knew she did not owe to avoid damage to her credit.¹⁹⁹

When those efforts failed, she contacted The Legal Aid Society, which agreed to represent her to demand the debt's discharge and to file a Medicaid complaint for the services improperly billed to her by the dentist's office.²⁰⁰ Despite sending Cease Contact and Verification Demand letters, the bank ignored Legal Aid's notices and sued Ms. Rodriguez for the debt.²⁰¹ Ms. Rodriguez was assisted again by Legal Aid, helping her to draft and file an Answer and serve discovery demands while she awaited a court date. During this time, despite further investigations, the bank continued to maintain the validity of the debt. After two and a half years, without a court date being scheduled, the bank agreed to dismiss the case.²⁰² In closing, Ms. Rodriguez commented that the dismissal would never have been possible without the extensive efforts by The Legal Aid Society.²⁰³ Though the experience was traumatic for Ms. Rodriguez and her family, Legal Aid's assistance allowed Ms. Rodriguez to avoid garnishment and levy of her money and to get back on the path to financial and medical recovery.²⁰⁴

Adriene Holder, Chief Attorney of Civil Practice at the Legal Aid Society, focused her remarks on The Legal Aid Society's approach to serving consumers in various types of debt matters.²⁰⁵ She emphasized that over 100,000 consumer debt cases are filed in New York City Civil Court each year, with less than 4% of defendants represented by counsel.²⁰⁶ Most of these cases lead to unfavorable outcomes and 70% of medical debt collection suits end in default judgments, resulting in wage garnishments and frozen bank accounts.²⁰⁷ Furthermore, litigants like Ms. Rodriguez, who should not be billed for medical services, when confronted with a court case, often settle or agree to unfair repayment terms.²⁰⁸ These default judgments or settlements can harm credit, affect access to housing and employment, and perpetuate financial instability.²⁰⁹ The emotional and psychological toll on litigants is evident, causing distress, embarrassment, and even humiliation.²¹⁰

Ms. Holder contended that increased funding is necessary to provide quality services to vulnerable communities and to reduce attorney pay gaps, as inadequate resources hamper legal aid organizations' ability to retain experienced staff.²¹¹ Ms. Holder stated:

The demand for civil legal services far outstrips the available resources, leaving many individuals without the representation they desperately need. This imbalance undermines the very principles our legal system is built upon. Therefore, we must advocate for increased funding for civil legal services. Adequate funding is not merely an investment in legal aid; it is an investment in justice, equity, and the protection of some of the most vulnerable members of our client communities. Therefore, I respectfully

request a substantial increase to JCLS funding to help close the justice gap and to meet the urgent needs of our communities.²¹²

Ms. Holder concluded her remarks by thanking the panel for their continued support of JCLS funding, which not only moves New York closer to closing the justice gap but serves as a “blueprint” for other state courts.²¹³

B. Statewide Civil Legal Aid Technology Conference

The eighth New York Statewide Civil Legal Aid Technology Conference (Technology Conference) was convened by the Permanent Commission in partnership with Cornell Tech. The conference was held remotely over two half-day sessions on April 18 and 19, 2023.²¹⁴

The Conference is targeted at the New York State civil legal aid community to educate providers about how technology can improve the delivery of legal services and the efficiency of their operations. It also promotes replication, innovation, and collaborative use of technology. Providers were encouraged to send their legal and technical staff who might benefit from attending. This year, approximately 75 New York State civil legal aid organizations were represented at the conference.

Though primarily intended for New York providers, the conference was free and open to anyone interested in attending. It brought together members of the legal services community, private law firms, law schools, technology companies, court systems, bar associations and foundations, funders, and other interested access-to-justice stakeholders, from across the country. The conference had its largest attendance to date, with more than 550 people joining one or more sessions.

A public request for session proposals resulted in an abundance of presentations and caused the Permanent Commission to expand the conference to include a total of 16 sessions.²¹⁵ There were four plenary sessions: (1) “Rapid Fire Tech,” (2) “Building Cultures of Innovation—What Lessons Can We Learn from Law Schools?” (3) “LSC Technology Baselines,” and (4) “25 Apps in 50 Minutes.” Plus, three rounds of four concurrent breakout sessions divided into four tracks: Data and Privacy, Court Technology, Law Practice Management, and Online Legal Services Delivery. The Conference also included remarks by Permanent Commission Chair Helaine Barnett, then-Acting Chief Judge Anthony Cannataro, and Cornell Tech Dean Greg Morrisett.²¹⁶ Sixty presenters volunteered their time and shared their expertise with attendees at the conference. The agenda, recordings, transcripts, slides, CLE materials, and presenters’ bios from the conference are available on the Permanent Commission’s website.²¹⁷

For the first time, continuing legal education credits (CLE) were available to New York State attorneys, at no cost, for attendance at any of the 16 sessions. Permanent Commission member Scott D. Musoff graciously arranged for his firm, Skadden, Arps, Slate, Meagher & Flom LLP, to serve as the Conference CLE provider and 131 attorneys received CLE credit. This was a great benefit to attorneys from smaller legal services programs who are not reimbursed for their CLE expenses. Sessions offered credits in all categories of New York State CLE, including ethics; diversity, inclusion, and elimination of bias; and the new required category, cybersecurity, privacy, and data protection (both general and ethics).

The post-conference survey gave the conference an average rating of 4.65 out of 5 with 96% of respondents saying that they were very likely or somewhat likely to implement something they learned at the conference.²¹⁸

C. Statewide Stakeholders Meeting

The Statewide Stakeholders Meeting, held each year since 2017, brings together leaders of the Judiciary, court managers, members of local access to justice committees, and a wide range of community stakeholders from across the State. This is a singular opportunity to share knowledge, strategies, and best practices for developing and expanding local access-to-justice initiatives in order to provide effective assistance²¹⁹ to help low-income New Yorkers address their civil legal needs.

This year's meeting was held virtually on June 12, 2023, with more than 250 participants, a record attendance.²²⁰ Permanent Commission Chair Barnett welcomed the attendees and outlined the important role of the local access to justice committees, supported by the Permanent Commission, in creating and implementing access-to-justice initiatives.²²¹ Chair Barnett explained that the focus of this year's stakeholders' meeting was to identify present access-to-justice challenges and to help ensure that the local committees have the tools that they need to address ongoing local needs.²²²

The keynote speech was delivered by Chief Judge Rowan D. Wilson, who proudly pointed out that New York State has been a leader in the provision of civil justice, while cautioning that we need to do better to meet the needs of the people in the State.²²³ The Chief Judge said that studies have shown that one out of two individuals living below the poverty line has a civil legal problem each year and that they are the ones who most need assistance in order to navigate the courts.

The Opening Plenary session highlighted "Issues at the Forefront."²²⁴ Permanent Commission member Sal Curran moderated the session and emphasized that the local access to justice committees have "a unique opportunity to provide collaborative

approaches, drawing in the courts, legal services providers, government and social services providers, and more,” to help bridge the justice gap.²²⁵ Deputy Chief Administrative Judge Edwina Richardson’s remarks highlighting the work of the Office for Justice Initiatives (OJI) were delivered by Chief Administrative Judge Joseph A. Zayas.²²⁶ Judge Zayas said that the mission of OJI is “to ensure [that] people of all backgrounds, incomes and abilities can have fair and just court encounters.”²²⁷ Included among the many initiatives spearheaded by OJI are the Virtual Court Access Network (VCAN); court-based Help Centers; the Attorney Emeritus Program; and the Statewide Guardian Ad Litem (GAL) Landlord/Tenant Working Group.²²⁸

Danielle Elyce Hirsch, Managing Director, National Center for State Courts, spoke about the value of diversion programs, and asked attendees to think about how we reach those individuals who do not even realize that they have a legal problem, and without guidance may not take any action.²²⁹ Anna Anderson, Staff Attorney, National Consumer Law Center, brought attention to the crisis in medical debt collection matters, in particular, nursing home cases in which non-responsible relatives and friends are often sued for outstanding bills.²³⁰ Keith Porcaro, Reuben Everett Senior Lecturing Fellow and Director of the Digital Governance Design Studio, Duke Law School, presented an overview of the present state of Artificial Intelligence, explaining how large language models like ChatGPT work.²³¹

Permanent Commission member Kim Diana Connolly, Professor and Vice Dean for Advocacy and Experiential Education at the University at Buffalo School of Law, State University of New York (Buffalo Law School), moderated a session entitled, “Importance of Community Engagement to Identify and Address Unmet Local Needs.”²³² Hon. Melissa Hart, Justice, Colorado Supreme Court, and August Hieber, Senior Program Manager, Inclusive Access, Access to Justice Division of the Administrative Office of the Illinois Courts, talked about the importance of conducting listening sessions with diverse groups of individuals to identify problems, strengthen connections, and build trust.²³³

Sue Ludington, Chief Law Librarian, New York State Unified Court System (UCS), spoke about the benefits of having librarians deal directly with patrons, both to learn what their issues are and to be able to make relevant referrals.²³⁴ Ms. Ludington also stressed the importance of the court system’s law libraries joining forces with local public libraries to identify problems and to collaborate on solutions. Brief updates were provided on the “Clergy Day” program in the Third J.D.;²³⁵ the Community Justice Council in the Seventh J.D.;²³⁶ a listening session on family law in Suffolk County;²³⁷ and the consumer debt court in Nassau County.²³⁸

Permanent Commission member Hon. Fern Fisher moderated a best practices session on “Nuts and Bolts of a Successful Program or Initiative.”²³⁹ Three Pro Bono Net stalwarts led

this roundtable discussion: Tim Baran, Program Director, New York Justice Initiatives; Liz Keith, State and National Program Director; and Jeanne Ortiz-Ortiz, then-Senior Program Manager. The three spoke about the critical elements that go into building and executing a successful court program or initiative, and highlighted many of the online tools that can be helpful in managing a program.²⁴⁰ Brief updates were provided on social workers serving as court navigators in the Third J.D.;²⁴¹ the specialized foreclosure clinic in the Ninth J.D.,²⁴² the brand-new Community Connections Desk in the Seventh J.D.,²⁴³ and the impact of installing computer kiosks in Town and Village Courts.²⁴⁴

The agenda, recordings, and transcripts from the conference are available on the Permanent Commission's website.²⁴⁵

D. Law School Conference

On March 8, 2023, the Permanent Commission, in partnership with Buffalo Law School, convened the eleventh annual Law School Conference.²⁴⁶ With its theme focusing on cultivating civil legal justice leaders, the Conference had broad participation from New York's law schools and beyond, including a greater number of law student participants than in previous years.

Permanent Commission Chair Barnett, then-Acting Chief Anthony Cannataro and Buffalo Law School Dean Aviva Abramovsky welcomed conference participants and applauded the law school and legal services communities for their significant efforts to expand access to essential legal services for low-income New Yorkers.²⁴⁷ They noted the responsibility of the legal community to address structural barriers that impede access to justice and the critical role of law schools in instilling an ethos of public service within their institutions to foster future civil justice leaders.

The Conference proceeded with a Keynote Roundtable, entitled "Cultivating Civil Legal Justice Leaders to Address the Structural Challenges of Poverty, Injustice and Inequality," which was moderated by Steven Banks, Special Counsel, Pro Bono, Paul Weiss, Rifkind, Wharton & Garrison LLP, and included panelists Permanent Commission member Kim Diana Connolly, Permanent Commission member Adrian Neil, General Counsel, Rochester City School District, Department of Law, Hon. Craig Hannah, New York State Supreme Court Justice, Eighth J.D., and Shivani Parikh, Senior Attorney, National Center for Law and Economic Justice. The roundtable discussion focused on the guiding principles, motivations, and traits of civil justice leaders.²⁴⁸ Guiding each of the panelists' public service career was the desire to expand access to justice and equalize opportunities for all. The panelists stressed the importance of law school experiences outside the classroom, along with classes focusing on poverty law, civil rights law, and law reform work, as

significant factors.²⁴⁹ These experiences provided an understanding of what low-income individuals face and helped develop the empathy demanded by public interest work.

The discussion was capped off by a call to action by William P. Quigley, Clinical Professor of Law Emeritus, Loyola University New Orleans, College of Law, author of the seminal 2007 article, “A Letter to a Law Student Interested in Social Justice.”²⁵⁰ Professor Quigley passionately outlined seven reasons to be grateful for and inspired by advocates that can motivate and inspire others.²⁵¹ He noted that forums, such as the Conference, can be an igniting force, where the power of a few advocates can propel law students to action.

The Roundtable was followed by a plenary panel on Artificial Intelligence’s (AI) impact on access to justice. Moderated by Ray Brescia, Hon. Harold R. Tyler Chair in Law and Technology and Professor of Law, Albany Law School, the panelists Renee Danser, Associate Director, Research and Strategic Partnerships, Access to Justice Lab, Harvard Law School, Sateesh Nori, then-Executive Director, JustFix, Andrew M. Perlman, Dean and Professor of Law, Suffolk University Law School, and Elizabeth Tran, Legal Services Director, Houston Volunteer Lawyers, discussed the positive uses of AI to expand access to justice through tool development and program evaluation, while noting areas for caution and concern.²⁵²

In work group sessions, participants had the opportunity to delve deeper into how best to cultivate civil legal justice leaders. Two sessions focused on substantive areas of law (housing and family law), while the two others explored the importance of pro bono service and strengthening and sustaining pathways for public service/interest careers.²⁵³ Several recommendations arose from these sessions and are contained in the Law School Involvement Working Group’s report on the conference.²⁵⁴ The agenda, recordings, and transcripts from the conference are available on the Permanent Commission’s website.²⁵⁵

E. Permanent Commission Working Groups

During 2023, the Permanent Commission’s working groups continued to support the Permanent Commission’s access-to-justice agenda by studying issues of major concern. The working groups’ members are extremely generous with their knowledge, time, and assistance.²⁵⁶

1. Funding Working Group

In 2022, in response to former Chief Judge Janet DiFiore’s request that the Permanent Commission develop a realistic estimate of the funding and resources necessary to close the State’s justice gap, the Funding Working Group, led by the Permanent Commission’s consultant Neil Steinkamp, began development of a methodology to measure the cost of effective assistance in matters impacting the essentials of life for individuals and

households at or below 200% of the Federal Poverty Guidelines. The Working Group identified specific matter types to study and developed the methodology to develop separate estimates for each matter type, considering the different forms of effective assistance that can provide access to justice.

This year, the Working Group completed its analyses. Its findings, along with a review of the process undertaken to develop the estimate, are contained in its report, "A Realistic Estimate of Funding Required to Close the Justice Gap in New York," which was accepted and adopted by the full Permanent Commission.²⁵⁷

2. Future Access to the Courts Working Group

The Future Access to the Courts Working Group was established in the early months of the COVID-19 pandemic to explore innovative approaches to expand future access to the courts. From its inception, the Working Group has focused on alternative and simplified court procedures and processes, initiatives that increase the availability of effective assistance, and efforts to address the digital divide. Since 2020, the Working Group has actively supported the court system's legislative proposal to amend CPLR 2106 to permit the use of affirmations, subject to penalty for perjury, in place of affidavits in civil proceedings. The legislation was enacted during the current legislation session and will be effective on January 1, 2024.²⁵⁸

This year, the Working Group centered its attention on the devastating impact of medical debt and the significant barriers that low-income defendants confront when seeking resolutions of these matters. Since January, the Working Group has met with consumer and medical debt experts,²⁵⁹ and undertaken independent research, to understand the complex issues and access-to-justice barriers involved in medical debt matters. Based on its findings, the Working Group has proposed extensive recommendations centered on court procedural reforms that have been adopted by the Permanent Commission; the recommendations are set forth in Part IV of this report.

3. Technology Working Group

The Permanent Commission established a Technology Working Group in 2013 to assess the technological needs of the legal services community and to formulate potential recommendations that could begin to address the technological gap that exists in the legal services community. Technology Working Group members are knowledgeable and dedicated attorneys and technical staff from all over New York who volunteer their time.

a. Technology Conference

The 2023 Technology Working Group's Conference Planning Committee met weekly for several months to plan the Technology Conference, which was held in April 2023.²⁶⁰

b. Technology Survey

In 2013²⁶¹ and 2018,²⁶² the Permanent Commission surveyed the New York State civil legal aid community regarding the use of technology. The data resulted in a number of initiatives to assist the provider community, including the creation of a technology assistance project between pro bono IT professionals from leading law firms and civil legal aid providers, and the establishment of an annual Technology Conference.²⁶³ In 2023, the Working Group's Technology Survey Committee partnered with LSC's Office of Data Governance and Analysis and created and disseminated the 2023 NYS Civil Legal Aid Technology Survey.²⁶⁴ Ninety civil legal services organizations from around the State responded to the 35-question survey.²⁶⁵ The survey asked about budget, staffing, training, policies, cybersecurity, hardware and software, and service delivery. The questions about remote working and cybersecurity were not topics of concern in prior surveys.²⁶⁶

The Technology Working Group has received some initial findings from the data and is waiting for LSC to complete its full analysis.²⁶⁷ The Technology Working Group hopes to use the information about the providers' use of technology to assess gaps, learn about successful projects and systems to share with the wider community, and to help inform the Permanent Commission's future conferences, programming, and initiatives.

4. Law School Involvement Working Group

The Law School Involvement Working Group partnered with the Buffalo Law School to establish the 2023 Law School Conference Planning Committee and to convene the virtual 2023 Law School Conference.²⁶⁸ The Working Group supports the efforts of the Statewide Law School Access to Justice Council to promote collaboration among the law schools. In the upcoming year, the Working Group will oversee efforts to implement law school-related recommendations proposed at this year's Law School Conference and plan the next virtual Law School Conference.

In 2022, based on the efforts of a Working Group at the annual Law School Conference, the Permanent Commission recommended that a comprehensive review of the Pro Bono Scholars Program (PBS Program)²⁶⁹ be undertaken to consider modifications to the program's rules and proposals for expansion.²⁷⁰ In this year's Law School Conference Report, a narrower recommendation was put forth, proposing adjustments be made to the PBS Program's timetable to allow some qualifying hours to be completed in the fall semester in advance of the Bar exam.²⁷¹ Following a request by the faculty and law school

instructors of the PBS Program to the Court of Appeals in July 2023,²⁷² the Court amended its Rules for the Admission of Attorneys and Counselors at Law to permit Pro Bono Scholars to complete a portion of the program during the fall semester immediately preceding their final semester of law school.²⁷³

At this year's Law School Conference, the Work Group on "Legal Knowledge, Cultural Competence and Life Experience through Sustained Community Pro Bono Engagement," explored the significance of co-curricular access-to-justice programs, such as Legal Hand Call-In Centers. The discussion identified the benefits to participating law students, who are trained and supervised to provide legal information to low- and moderate-income community residents on a variety of legal topics. Law students engage in legal intake and triage, including issue spotting, and legal resource research, while developing, among other skills, communication and cultural competency skills.²⁷⁴

Based on the discussion, the Work Group recommended that law students' pro bono service at the Call-In Centers be recognized as qualified law-related service for New York's 50-hour pro bono requirement for bar admission.²⁷⁵ Subsequent to the Conference, Permanent Commission Chair Barnett submitted a request to OCA staff at probonorule@nycourts.gov seeking recognition that the law students were engaged in qualifying pro bono work under the 50-hour rule. OCA provided guidance that the services of trained and supervised law students at Legal Hand Call-In Centers, as outlined in the Law School Conference Report, qualifies as pro bono work under the 50-hour pro bono rule.²⁷⁶

5. Judicial Districts Leadership Group

The Judicial Districts Leadership Group comprises the local access to justice committee leadership from all the Judicial Districts outside New York City, as well as the Permanent Commission member liaisons to each local access to justice committee. The Group meets periodically to discuss current or emerging access-to-justice issues, and to share successful initiatives and insights with their counterparts for possible implementation or replication.

The Judicial Districts Leadership Group met in March 2023 to learn about the grant opportunity available through the National Center for State Courts (NCSC) Eviction Diversion Initiative. Evan Tanenbaum, Principal Law Clerk to Suffolk County Administrative Judge Andrew Crecca, Amanda Berman, Deputy Director of Regional Programs, Center for Justice Innovation, Viviana Gordon, Director of Planning and Implementation, Center for Justice, and Jordan Dressler, Special Counsel, OCA, shared their insights and guidance about the NCSC-funded eviction diversion efforts underway in Suffolk and Kings Counties.

III. ADDITIONAL CIVIL LEGAL SERVICES FUNDING IS ESSENTIAL TO CONTINUE TO CLOSE THE JUSTICE GAP IN NEW YORK STATE

From the start of its work in 2010, the Permanent Commission's primary focus has been measuring the unmet need for civil legal services for low-income New Yorkers and recommending funding levels to meet that need. In 2016, the initial recommendation of \$100 million annually was reached, with the understanding that additional funding would be needed in the years to come. For the past seven years, with adjustments for cost-of-living increases that brought the funding to its current level of \$116 million, JCLS funding has remained a stable funding source, enabling legal services providers to assist greater numbers of low-income New Yorkers confronting challenges involving the essentials of life.²⁷⁷ However, as is more fully set forth in the sections below, additional JCLS funding is needed to continue to close the justice gap in New York.

A. Additional Funding Is Needed to Address the Continuing Unmet Need

In November 2023, the Permanent Commission approved and adopted its Funding Working Group's report, "A Realistic Estimate of the Funding Necessary to Close the Justice Gap in New York."²⁷⁸ The Funding Working Group found that between \$842 million and \$1 billion is a realistic estimate of the additional annual funding necessary (at full implementation), over and above existing funding, to close the justice gap for low-income New Yorkers involved in civil legal matters.²⁷⁹ This estimate is limited to matters involving the essentials of life and to low-income individuals and households at or below 200% of the Federal Poverty Guidelines.²⁸⁰ Given this eligibility criteria, the estimate inherently understates the full need for funding for all New Yorkers in need of legal assistance.²⁸¹

The Funding Working Group analyzed various matter types involving the essentials of life, which make up approximately 50% of the total civil case docket in New York State courts.²⁸² These matter types included consumer debt, eviction, child support, disability benefits assistance, guardianship, contested divorce, foreclosure, paternity, family offense actions that do not involve intimate partner violence, and custody matters for kinship caregivers.²⁸³ These cases represented over 540,000 civil case filings in New York in the prior 12 months leading to March 31, 2023.²⁸⁴ The Funding Working Group found that a significant percentage of litigants in these cases, often more than 95%, had minimal or no legal representation.²⁸⁵ In addition to court cases, the Working Group also examined administrative hearings, income maintenance matters, and other actions at the administrative level because JCLS funds civil legal services providers to assist in these matters, which are essential to their clients' livelihoods.²⁸⁶

Separate estimates were developed for each matter type, considering the different forms of “effective assistance” that can provide access to justice. This consists of a spectrum of services, including full and limited-scope representation by attorneys, pro bono lawyers, law school clinics, pre-filing diversion programs, assistance from trained, supervised non-attorneys, mediation and other forms of ADR, community-based resources (including Legal Hand and Community Dispute Resolution Centers), and technology (including, but not limited to, guided interviews, online automated forms, e-filing, and other technology innovations).²⁸⁷

The estimates include salaries for all legal services personnel that reasonably approximate the competitive compensation necessary to attract and retain the staff necessary to close the justice gap. These estimates of compensation are higher than what is currently paid at legal services organizations across the State due to funding limitations.²⁸⁸ The estimates for the various forms of effective assistance that would be deployed with additional funding could require thousands of additional personnel (i.e., lawyer and non-lawyer client-serving staff and support).²⁸⁹

In addition to the costs of providing effective assistance for each matter type, the Working Group considered and estimated the costs of statewide investments needed for effective implementation of the funding, such as technology and self-help resources, community-based outreach and organizing, and statewide program administration.²⁹⁰

The current annual JCLS funding of \$116 million is only a part of the approximately \$750 million total annual funding from all sources for civil legal services in New York.²⁹¹ The estimates presented in the table below represent the annual funding required by matter type in addition to that already being provided, for a total between \$842 million and \$1 billion.

Matter Type	Estimated Range of Additional Annual Funding Required to Ensure Access to Effective Assistance in New York
Consumer credit	\$40,000,000 - \$50,000,000
Eviction – NYC ²⁹²	\$300,000,000 - \$400,000,000
Eviction – Outside NYC ²⁹³	\$130,000,000 - \$160,000,000
Child support	\$20,000,000 - \$30,000,000
Disability benefits administrative assistance ²⁹⁴	\$65,000,000 - \$75,000,000
Guardianship	\$10,000,000 - \$15,000,000
Contested matrimonial	\$40,000,000 - \$45,000,000

Foreclosure ²⁹⁵	N/A	-	N/A
Paternity	\$2,000,000	-	\$5,000,000
Family offense not involving intimate partner violence	\$40,000,000	-	\$50,000,000
Custody matters for kinship caregivers ²⁹⁶	TBD		TBD
Administrative hearings and income Maintenance	\$175,000,000	-	\$200,000,000
Sub-Total	\$822,000,000	-	\$1,030,000,000
Annual statewide outreach and technology	\$20,000,000	-	\$30,000,000
Total	\$842,000,000	-	\$1,060,000,000

The Working Group recommended moving incrementally from the current funding for legal services toward this realistic estimate, which would provide the opportunity to grow, learn, and adapt at an appropriate pace. The courts, legal services organizations, community-based organizations, and other stakeholders would need to be engaged to develop the appropriate initial strategies for the expansion of services. Just as it took over five years to phase in JCLS funding to the current level of \$116 million, numerous years may be required to move from \$116 million to the substantially larger amount necessary to close the justice gap in New York.²⁹⁷

Accordingly, the Permanent Commission recommends an initial goal of adding an incremental \$100 million to the annual JCLS funding (relative to currently planned funding), over the next five years (exclusive of any COLA increases that may be warranted), starting April 1, 2024, while longer-term strategies for the expansion of the civil legal services are developed. Included in such strategies should be the role of the other branches of State government, along with local government, in providing portions of this funding.²⁹⁸ The additional funding should be administered consistent with current JCLS funding, enabling local legal services organizations to respond to the unique local needs of their community in a manner most effective for their organization and community.²⁹⁹

This estimate is likely to change in the years ahead as legal services organizations adapt, change, and develop new service models as additional funding is provided and as economic, technological, social, cultural, and governmental change occurs. As additional funding is made available and as the civil justice ecosystem continues to evolve, further analysis will be warranted to continue to evaluate, update, and refine these estimates.³⁰⁰

B. Additional Funding Is Needed to Expand the Positive Impact of Civil Legal Services

JCLS funding is crucial to address the legal needs of low-income New Yorkers. Over the last two years, more than a million cases were handled by 80 JCLS grantees.³⁰¹ Clients were represented in a broad array of legal matters including housing, family, income maintenance, employment, consumer/finance, education, healthcare, individual rights, and immigration, resulting in life-changing outcomes that not only benefitted the individuals involved and their families, but also their communities as well as the State.³⁰² Clearly, JCLS funding has a profound impact on the lives of so many low-income litigants who would otherwise suffer the consequences of the lack of legal assistance.

1. Positive Impact of JCLS Funding on Client Presenters

Since 2010, clients of legal services providers have presented at the Civil Legal Services Hearings to share their personal stories that evidence how they greatly benefitted from JCLS funding.³⁰³ Chief Judge Wilson referred to the client presentations as the most interesting part of the Hearing.³⁰⁴ Their stories are quite intimate and moving, often describing terrible struggle and adversity, only to triumph with the help of their legal services attorney. The 2023 Civil Legal Services Hearing client presenters were no different. As Chief Judge Wilson remarked, these clients “each found themselves in really an unfathomable legal mess,” through no fault of their own.³⁰⁵ The clients proved the benefit of JCLS funding by sharing their difficulties dealing with a lack of essential services; elder abuse and financial ruin; denial of necessary medical benefits; improper and deceitful creditors in medical debt cases; the threat of eviction; and garnishment of wages.

Vernell Robinson and her fellow residents of NYCHA’s Carlton Manor had essential services restored after living without hot water and sufficient water pressure for months on end in the dead of winter, impeding their ability to take hot showers and perform their daily functions as normal.³⁰⁶

Lionel Harvey, who had endured years of financial and psychological abuse by his daughter, was able to “live in dignity again” after being awarded a financial settlement and return of personal property that had been stolen from him.³⁰⁷

Terri Tupper, a person with disabilities, who obtained essential medical benefits and accessories, and ADA accommodations that gave her the tools to piece her and her family’s lives together, propelling them forward “in a positive and uplifted way.”³⁰⁸

Bobbie Dafoe, who was improperly sued for medical debt and faced severe consequences of a wage garnishment, was able to have her default judgment vacated and the case discontinued against her.³⁰⁹

Robert Burek, a mobile homeowner and Section 8 recipient, who averted homelessness when his attorney untangled problems with his Section 8 benefits and worked out an agreement with the landlord for outstanding rent without the need to go to court.³¹⁰

Rosemary Rodriguez, a cancer survivor and Medicaid recipient, who endured extreme trauma and distress as she was pursued for an improper and deceitful medical debt. The matter was eventually resolved, allowing Ms. Rodriguez to avoid garnishment and levy of her limited income and to get back on the path to financial and medical recovery.³¹¹

2. Lasting Positive Impact on a Client's Life

Civil legal services representation can do more than rescue the client from the consequences of their current looming legal problem; it can have a lasting affirmative impact on the trajectory of a client's life. Several past client presenters submitted statements to the Permanent Commission updating where they are in life years after receiving legal services; each makes a compelling case for the long-term benefits of JCLS funding.³¹²

Raasan Kellam, a former client of LASNNY, presented at the 2011 Civil Legal Services Hearing, where he explained how he was formerly homeless and addicted to drugs, had rebuilt his life and was fully employed, but faced eviction when he could not pay his rent until his next paycheck arrived.³¹³ He said he averted the loss of his home and repeat homelessness when a civil legal services lawyer intervened on his behalf.³¹⁴ Today, Mr. Kellam is married, just bought a home, and is employed at the New Choices Recovery Center as a case manager and counselor helping substance abusers in recovery.³¹⁵ Mr. Kellam has spent years in the substance abuse field, helping others get their lives in order.³¹⁶ He believes that if he had not been assisted by LASNNY, he might have slipped back into using drugs and his "life might have gone in a whole different direction."³¹⁷

Corinna Carrillo, a former client of Legal Services of the Hudson Valley (LSHV), presented at the 2018 Civil Legal Services Hearing, where she stated that her attorney helped her, and her children, escape and survive years of domestic violence.³¹⁸ She believed that without LSHV, she would probably be dead.³¹⁹ Since the Hearing, she has been able to move out of her mother's home and live on her own with her children; she's employed and in a healthy relationship.³²⁰ She attributes this to the guidance and support from her attorney.³²¹ Ms. Carrillo serves on LSHV's Board of Directors and says that she enjoys "being an ambassador to the community to let others know the importance of civil legal services."³²²

Evelicia Rodriguez, a former client of LSHV, also now sits on their Board of Directors and speaks to community members about the importance of legal services.³²³ Ms. Rodriguez presented at the 2020 Civil Legal Services Hearing and shared how her attorney

represented her during the pandemic and obtained a court order requiring the landlord to make necessary repairs restoring gas to the apartment and to stop threatening her.³²⁴ She submitted that her experience with LSHV has empowered her to address issues with her landlord and improved her living situation for the long term.³²⁵

Joy Wefum, a client of LSNYC, also presented at the 2020 Civil Legal Services Hearing.³²⁶ Mr. Wefum shared that he is gay, which is a crime in his home country, Ghana, with severe penalties.³²⁷ He came to the United States, became involved in an abusive relationship, was diagnosed with HIV, lost his job and apartment, and ended up in a homeless shelter, became depressed, and made several attempts to commit suicide.³²⁸ Mr. Wefum stated that he was told by many immigration organizations that his case was hopeless.³²⁹ LSNYC accepted his case and was able to get him asylum.³³⁰ Today, he has his green card, lives in safe and affordable housing and is pursuing a nursing degree.³³¹ Mr. Wefum sits on LSNYC's Board of Directors and believes that his attorneys changed his life.³³²

Each of these past legal services clients have not only thrived since their representation but have found ways to pay it forward by helping others. This is an added return on investment from funding legal services.

3. Positive Impact on the Business Community

At the annual Civil Legal Services Hearing, Matthew Dornauer underscored the crucial impact that civil legal services have on the business community. Mr. Dornauer shared his company's purpose, which "is predicated upon a strong societal infrastructure" and "which begins with ensuring people have fair and equal access to justice."³³³ He stressed the importance of civil legal services to ensure such access, which creates "a stable, healthy society and business environment for HEINEKEN USA and the thousands of other companies throughout the [S]tate."³³⁴

Mr. Dornauer made clear that he is not alone in these views, stating that last year, he and over 200 other general counsel and chief legal officers signed a letter to Congress requesting increased funding for LSC to support civil legal aid providers across the country, including in New York.³³⁵ The business leaders explained that funding civil legal services is necessary for the success of the economy and their businesses:

Legal aid plays an important role in developing and maintaining the strength of the American workforce on which our companies rely, by resolving barriers to employment, occupational licenses, and educational programs. It also creates financial stability for families that forms the foundation of a resilient middle class and healthy consumers of our products and services.³³⁶

At the annual Civil Legal Services Hearing, Chief Judge Wilson noted the impact that JCLS funding has on our workforce; stating that improved access to legal services is “a matter of economics” for companies.”³³⁷ He explained:

[I]f you have an employee who is having a housing issue or a child custody issue or a credit issue, it—to the extent that it detracts, which it must, from that person’s work, from their mental well-being, from you know, things they have to worry about [i]t hurts your business.³³⁸

The Chief Judge concluded that when “people are just barely hanging on and can’t afford a lawyer, the consequences can be catastrophic for not just them, but for business.”³³⁹ Clearly, access to free legal services promotes stability and success for the business community.

JCLS funding positively impacts the business community through the key role it plays in the overall health of the workforce, communities, and the economy.

4. Substantial Economic Benefits to New York State and Its Communities

For the past ten years, the Permanent Commission has obtained assistance from the New York State Interest on Lawyer Account Fund (IOLA) and other area experts to analyze the cost savings and economic benefits resulting from funding civil legal services programs in the State. This year, assistance was provided by Colleen Finan Fehringer, MPA, Deputy Director of Grant Administration, IOLA. Ms. Fehringer updated previous years’ analyses of the economic impact on New York State of federal benefits obtained through civil legal assistance.

Civil Legal Services Provided a Positive Economic Impact on the New York State Economy Owing to the Long-Term Financial Impact from Federal Benefits Obtained. In 2022, civil legal services for low-income New Yorkers provided substantial economic value to families in need, as well as to State and local economies and governments. As a result of legal representation in 2022, the economic value to clients and their families of federal benefits secured, including Supplemental Security Income (SSI) and Social Security Disability Insurance (SSD) awards, Medicare and Medicaid benefits and other federal benefits, was estimated to be approximately \$973 million. These federal benefits obtained because of legal representation in 2022 provide a significant overall stimulus to the New York State economy and create thousands of local jobs. The estimated overall impact, when also considering the “economic multiplier effect,”³⁴⁰ amounted to \$2.8 billion and the creation of approximately 8,000 jobs.

Total Estimated Cost Savings from the Avoidance of Emergency Shelter Increased to \$470.9 Million. To estimate the annual savings to the government in 2022 from the provision of civil legal services in eviction cases, IOLA utilized grantee case data, the 2022 New York City Preliminary Mayor’s Management Report, and inflation-adjusted figures from a 2011 analysis by Cornerstone Research (provided to the Permanent Commission). For 2022, based on cost savings from brief representation cases and extended representation cases, IOLA estimates cost savings to the government to total \$470.9 million, corresponding to shelter avoidance for approximately 22,026 individuals.

Present Value of Wage Increases Due to Work Authorization Assistance and Citizenship for Immigrants Was Estimated to Be \$162 Million and \$47 Million, Respectively. With the assistance of civil legal services providers, approximately 7,816 immigrant clients who applied for green cards, U visas, T visas, Violence Against Women Act (VAWA) self-petitions, or other long-term status were successful in achieving work authorization in 2022. Work authorization provides a significant wage increase to immigrants, amounting to an average increase of approximately \$2,056 per year for women and \$2,226 per year for men. Of the individuals who received work authorization under their green card, Deferred Action for Childhood Arrivals (DACA), or Deferred Action for Parents of Americans (DAPA) programs in 2022, 51% were estimated to be women.³⁴¹ For VAWA cases, 87% were estimated to be women.³⁴² The total net present value of wage impacts because of work authorization, assuming work authorization continues for two-, four-, and ten-year terms dependent upon the type of legal assistance provided to obtain work authorization, was estimated to be \$162 million for cases closed in 2022.

Additionally, approximately 2,606 clients of civil legal services providers attained citizenship in 2022. Citizenship provides a wage increase for former immigrants, amounting to an average increase of approximately \$1,036 per year for women and \$1,159 per year for men. Of the individuals who became citizens in 2022, 51% were estimated to be women.³⁴³ As a result of attaining citizenship, annual wages of former immigrants were estimated in aggregate to increase by \$810,000 for women and \$1.24 million for men in 2022. The total value of such wage impacts owing to citizenship in cases closed in 2022 was estimated to be \$47 million.

Additional Economic Benefit from Child and Spousal Support Payments to Recipients of Those Benefits and Their Families Was Estimated to Be \$35.4 Million in 2022. For 2022, IOLA data indicates retroactive awards of child and spousal support at approximately \$2.7 million and monthly payment awards at nearly \$429,742. The net present value of the monthly payments, based on a payment stream of nine years,³⁴⁴ is approximately \$46.4 million. Thus, the total value of the child and spousal support awards for 2022 is approximately \$49.1 million. After deducting the estimated value of support payments

not actually received, the estimated value of actual child and spousal support payments is approximately \$35.4 million.

Additional Economic Benefit from Affirmative Litigation of Disputes Against Other Individuals, Companies or Employers Was Estimated to Be \$44.9 Million. For 2022, IOLA data indicates awards obtained through affirmative litigation of civil disputes, including equitable distribution of assets in matrimonial matters and judgments in landlord/ tenant and employment matters, to be approximately \$44.9 million.

Civil Legal Services Provided a Total Economic Impact of \$3.55 Billion in New York State. IOLA calculated federal award benefits to be \$973 million in 2022 for programs such as SSI, SSD, Medicaid, the Earned Income Tax Credit, and other federal benefits. The “economic multiplier effect”³⁴⁵ generated further economic activity by, for example, allowing clients to spend those benefits in their community, and produced an additional \$1.8 billion (as well as approximately 8,000 jobs). When combined with civil awards of \$45 million and indirect benefits and cost savings to the community of \$694 million from shelter avoidance, domestic violence avoidance, and increased wages due to work authorization, the total economic impact is estimated to be approximately \$3.55 billion.

In prior reports, the Permanent Commission has described the estimated return on investment (ROI) for civil legal services in New York State (i.e., the estimated dollars of economic impact for every dollar invested in civil legal services). Several factors make an ROI estimate inappropriate and impractical in the current post-COVID environment. Civil legal services providers have reported significant challenges recruiting and retaining attorneys (and other staff) in the current economic environment, due to low wages, hybrid work not being available at certain legal services providers, significant turnover, and the difficulty and traumatic nature of the work. This, when combined with court backlogs, lowers the number of cases legal services providers can close and for which they can thus report benefits. The ROI estimate does not consider the interim benefits achieved for clients in cases that remain open; as of March 31, 2023, there were over 190,000 open cases at civil legal services providers in the State. These factors make it difficult to calculate an accurate return on investment as the observable impact of services is not aligned with the funding provided.

Moving forward, IOLA anticipates making significant enhancements to its economic impact model. For the 2024 analysis, IOLA will incorporate the data on open cases. In addition, the analysis will include updated research that will provide more accurate benefit estimates for immigrant work authorization and housing taxpayer savings. IOLA also will include the pension benefits, unemployment compensation benefits, insurance settlements, and dollar benefits resulting from foreclosure, bankruptcy, education, and miscellaneous matters that have not been incorporated in prior years’ estimates. The

taxpayer savings analysis will be expanded to include taxpayer savings related to education and foreclosure cases. Finally, IOLA will add a new section reporting client savings related to housing, domestic violence, and consumer cases, as well as filing fee waivers, tuition and education fees waived and avoided, among other savings. These changes will allow a calculation that reasonably reflects the ROI for civil legal services in the State.

C. Additional Funding Is Needed to Address Attorney Shortages

At the outset of the annual Civil Legal Services Hearing, Chief Judge Wilson underscored the importance of legal representation for low-income New Yorkers. He explained that legal representation provides opportunity, or “a chance for a better outcome, a chance to avoid or climb out of the spiraling abyss of our social ills.”³⁴⁶ Obviously, civil legal services providers cannot offer that opportunity without lawyers. And while legal service providers were overwhelmingly grateful for the Judiciary’s funding and commitment to civil legal services, it was clear from the Civil Legal Services Hearing that attorney shortages present considerable challenges for them. As discussed below, increased funding would go a long way towards enabling legal service providers to meet the ever-growing demand for legal assistance and promote more equitable treatment of low-income New Yorkers.

1. Rural Justice Crisis

Rural communities are “legal deserts,” areas that lack adequate access to legal services due to their geographic isolation.³⁴⁷ According to the 2020 report of the New York State Bar Association’s Task Force on Rural Justice, 96% of attorneys in New York practice in the State’s urban centers—Albany, Buffalo, New York City, Rochester, Syracuse, and Utica.³⁴⁸ Thus, while non-urban areas contain a considerable portion of the State’s population, only 4% of attorneys practice in those areas.³⁴⁹ Unfortunately, this imbalance is expected to worsen, as 2018 survey data revealed that nearly 75% of rural attorneys were 45 years of age or older, with 54% of attorneys at or near retirement age, while new attorney admissions in these areas continue to decline.³⁵⁰ Of the attorneys who practice in the State’s non-urban areas, many are solo or small-firm practitioners with general practices or who otherwise lack the resources to handle complex legal matters, or lack the expertise in specialized areas of the law.³⁵¹

At the Technology Conference, Third Department Presiding Justice Elizabeth A. Garry made it clear that no matter what legal task is needed, “people in rural areas are having a harder and harder time finding a lawyer.”³⁵² This ever-worsening decline in access to legal representation in New York’s more sparsely populated areas has created a rural justice crisis.³⁵³ Justice Garry’s co-panelist, Taier Perlman, described the difficulty she experienced representing rural clients when she was a staff attorney for LSHV. Ms. Perlman pointed

out that rural legal services attorneys must cover large geographic areas to represent their clients because most of the cases are heard in local Town and Village Courts which generally are far apart. Ms. Perlman referred to this as “windshield time” (i.e., the unproductive time spent in the car driving to numerous courts that are geographically spread out).³⁵⁴

At the annual Civil Legal Services Hearing, Lori O’Brien pointed out that LawNY has only 51 attorneys to represent clients in 13 rural counties that collectively span over 8,000 square miles.³⁵⁵ Mary Hanson noted that rural attorneys work non-traditional hours, endure frequent and distant travel, must balance conflicting court schedules, and endure less competitive pay.³⁵⁶ It is no surprise that additional funding is needed to represent the legal needs of rural residents.

While there are many contributing factors underlying the limited availability of civil legal assistance in rural areas, presenters at the annual Civil Legal Services Hearing explained that noncompetitive salaries for civil legal services practitioners have been one of the key factors, as such salaries have made it difficult to recruit and retain a sufficient number of experienced attorneys to meet the growing demand for legal assistance.³⁵⁷ According to Lori O’Brien, this has disproportionately impacted rural areas because there is already a limited supply of attorneys in those regions and competition in the market is particularly fierce.³⁵⁸

The annual Civil Legal Services Hearing made clear that providers are unable to fully meet the legal need in rural areas, a need which is only expected to increase in the future.³⁵⁹ Presenters strongly advocated for an increase in funding to help address this crisis.³⁶⁰

2. Pay Gap Between Civil Legal Services Attorneys and Government and Other Public Interest Attorneys

The issue of competitive compensation for legal services attorneys was also at the center of the annual Civil Legal Services Hearing. Across the board, presenters and written submissions expressed the same concern: the pay discrepancy between civil legal services attorneys, on the one hand, and government and other public interest attorneys, on the other hand.³⁶¹ The New York Legal Services Coalition (NYLSC), for example, surveyed its members across the State and found that their attorneys earn significantly less than their counterparts working directly for the government.³⁶² That study also found that the average salary for a first-year civil legal services attorney in New York City is \$69,000, while the starting salary for an attorney at the Office of the Attorney General (OAG) in New York City is \$90,000.³⁶³ This contrast is even starker in the rest of the State, where NYLSC’s study found that OAG attorneys earn at least \$87,000 to start, while the highest starting salary for a legal services attorney outside of New York City or the Hudson Valley is

approximately \$59,000.³⁶⁴ The magnitude of this discrepancy further increases with seniority, as an upstate attorney with 10 years of experience working for the OAG is paid an annual salary of \$131,000 while a civil legal services attorney with the same level of experience earns only approximately \$74,000.³⁶⁵

Nassau Suffolk Law Services Committee (NSLS) commented that their attorneys are generally the lowest paid public servants in any community, ranked last after State attorneys, county attorneys, district attorneys, and public defenders.³⁶⁶ Sal Curran, as a board member of the New York Civil Legal Services Coalition, reiterated this same point and explained that civil legal services attorneys are paid 20% to 40% less than their public service peers who work for the government.³⁶⁷

This pay gap presents a serious problem for civil legal services organizations and stymies those organizations' abilities to meet the ever-increasing demand for civil legal assistance. Adriene Holder explained that the pay gap makes it difficult to recruit and retain experienced attorneys.³⁶⁸ NSLS submitted similar concerns, explaining that it needs to be able to offer better pay and benefits to avoid losing talent.³⁶⁹ NYLSC stated—in no uncertain terms—that legal services organizations simply cannot compete in the present market for legal talent.³⁷⁰

As the presenters made clear, the pay gap creates high levels of attrition, burnout, and difficulty in hiring among the licensed attorney ranks at civil legal services providers.³⁷¹ Overwhelming caseloads end up hurting the civil legal services clients—those most in need of legal assistance—by limiting the amount of time and energy an attorney can devote to any given case, even when the client otherwise has a strong case for legal relief.³⁷² In the words of Chief Judge Wilson, “you need to be able to pay commensurate with what the government pays people doing the equivalent work because otherwise there won't be anybody on your side.”³⁷³

D. Additional Funding Is Needed in Housing Matters

The annual Civil Legal Services Hearing also highlighted the need for an increase in JCLS funding in connection with housing matters, due to the COVID-19 pandemic's destabilizing effects, the expiration of New York's eviction moratoria, and the ever-increasing strain on the State's civil legal system.³⁷⁴ Hon. Fern A. Fisher warned that the State is experiencing “the worst housing crisis ever,”³⁷⁵ and observed that:

This crisis is created by a perfect storm. A perfect storm of factors including increased poverty due to a bad economy and COVID, an aging population, increased mental illness, a growing immigrant population with language and documentation challenges, lack of affordable housing, complex,

substantive, and procedural housing laws, insufficient funding for legal assistance, and lack of training of judges and court personnel, and slow implementation of court reform.³⁷⁶

The theme in the oral and written materials submitted at the annual Civil Legal Services Hearing is the urgent need for increased funding for civil legal services programs to ensure that such programs are sustainable and are able to attract and retain attorneys who have experience with the complexities—and idiosyncrasies—of housing law.³⁷⁷ Housing issues have become the largest area of civil legal services providers' work, now representing more than 49% of case closings handled in the State by LSC grantees.³⁷⁸ However, there is a stark shortage of legal assistance available to meet the needs of low-income families in housing matters,³⁷⁹ which shortage contributes to a clear power imbalance in such proceedings. The majority of landlords are represented by counsel.³⁸⁰ The majority of tenants are not. In New York City, where there is significantly more funding available to represent tenants due to the City's Universal Access law mandating that the City provide legal assistance for tenants facing eviction in court,³⁸¹ the providers are still overwhelmed and unable to meet the demand.³⁸²

An analysis conducted by the Cornell University School of Industrial and Labor Relations (ILR) Buffalo Co-Lab underscores the deficit supply of public interest attorneys in this area of practice, especially in upstate localities, and that this deficit is correlated with negative outcomes such as "(1) more eviction filings, (2) more eviction warrants, and (3) a greater share of eviction filings leading to eviction warrants."³⁸³ Presenters urged that JCLS funding be significantly increased to support civil legal services providers' efforts to bolster their staffing levels and resources in order to meet the ever-growing magnitude of housing cases.³⁸⁴

1. Negative Impact of Evictions

As Judge Fisher noted in her testimony, unwarranted evictions often have a traumatic and destabilizing effect on both the individual family who is ousted from their home and on the broader community to which that family belongs.³⁸⁵ Due to upward market pressures and regional gentrification, families who are evicted are often forced to pay a higher rent to find a new home, and possibly even relocate to a new community altogether, or else wind up in a homeless shelter. Further, regardless of where an evicted family lands, the act of eviction itself has a demonstrably negative impact on the mental health, physical health, educational outcomes, and overall stability of families who endure it.³⁸⁶ As Raun Rasmussen stated, quoting Professor Matthew Desmond, "without shelter, everything else falls apart."³⁸⁷ For example, there is a strong, statistically significant negative relationship between evictions and electoral participation across the State,³⁸⁸ and eviction rates have been tied to, among other social ills: (1) the isolation of evictees from social networks, (2)

the disruption of residential stability and straining of social relationships in communities, and (3) a reduction in civic engagement that prevents communities from developing the types of norms and internal capacities that are critical for crime prevention and public safety.³⁸⁹ As Mary Hanson observed:

Housing instability does not exist in a vacuum. Hunger, poor health, family instability, employment instability, and lack of education all come along with housing instability, sweeping their victims into a cycle of poverty.³⁹⁰

To prevent the negative impact of evictions, additional funding is needed. The presence of legal representation can often make the difference between homelessness and housing stability for families undergoing eviction proceedings.³⁹¹ As Chief Judge Wilson noted, even a modest investment in preventative measures like legal assistance programs that preempt eviction can help to avoid or mitigate the otherwise extensive and expensive social costs of housing instability.³⁹²

2. Housing Matters Are Complex

Beyond the discrepancies between the demand for housing-related legal assistance and the lack of funding and resources adequate to support such demand, the complex—and often unique—nature of housing laws and related matters further exacerbates the justice gap. In the words of Judge Fisher:

[H]ousing law is complex and multi-layered. Real property law, real property actions and proceedings law, civil practice laws and rules, multiple-dwelling law, general business law, housing maintenance codes, housing discrimination laws, fair housing laws, laws affecting manufactured homes, and other local, State, and federal laws may apply depending on the type of housing involved and where the housing is located.

It takes years to develop an expertise in housing law. Attorneys who don't specialize in landlord and tenant law find the area complicated, and the courts that handle the cases daunting.³⁹³

Legal matters that are challenging for licensed attorneys to navigate are, understandably, next to impossible for low-income New Yorkers to navigate on their own. For example, in rent nonpayment cases, it is not uncommon for low-income New York City tenants' first exposure to legal defenses to occur at the answer stage of a civil suit, when their answer is recorded on a triplicate form that is filed and shared with the court, the landlord, and the tenant for their records.³⁹⁴ In most jurisdictions outside of New York City, there is no record of a tenant's answer at all, suggesting that, in these jurisdictions, tenants may be removed from their homes without even being made aware of the available legal

defenses.³⁹⁵ Judge Fisher added that she had personally witnessed court clerks providing inaccurate legal information and incorrect court forms to litigants in housing cases; it would be nearly impossible for such litigants to identify, much less correct, this misinformation without the assistance of experienced legal counsel.³⁹⁶

Increased JCLS funding is necessary to enable civil legal services providers to not only attract and retain attorneys who possess direct experience in housing law, but also to more effectively triage and staff cases more effectively based on substantive complexity and the familiarity of the assigned attorney with the relevant areas of law.³⁹⁷ It would also facilitate the creation and maintenance of training materials and information libraries to support attorneys seeking to work on housing law-related matters.³⁹⁸

a. Difference a Housing Lawyer Makes

At the annual Civil Legal Services Hearing, Ronald Flagg noted, “[i]n a system designed on the premise that people will have lawyers, not having a lawyer can often be dispositive.”³⁹⁹ As Mary Hanson stated, “Legal representation for evictions can be the difference between homelessness and housing stability, between employment and job loss.”⁴⁰⁰ The presence, or absence, of an attorney in eviction cases makes a substantial and demonstrable difference, which can be seen from the fact that eviction filings drop by as much as 30% in localities where a right to counsel exists.⁴⁰¹

The real and meaningful impact of having a lawyer in housing cases also was evident from the direct personal experiences of clients, such as Vernell Robinson, who presented at the annual Civil Legal Services Hearing. As the leader of a resident council composed of the 101 tenants at the Carleton Manor NYCHA Development in Queens, Ms. Robinson endured a years-long battle with NYCHA to restore the most basic of services to the building: sufficient hot water and water pressure to allow tenants to take a shower, especially during the winter.⁴⁰² According to Ms. Robinson, before she was assigned an attorney from LSNYC, she had exhausted all means of redress that she could think of, and had not succeeded in getting the repairs.⁴⁰³ Even after retaining an attorney to help with her case, Ms. Robinson noted that progress on the case occurred slowly, as NYCHA repeatedly resisted or declined requests to provide updates or otherwise allow the buildings to be inspected, compelling Ms. Robinson and the resident council to instead bring attention to their case through the media.⁴⁰⁴ Similarly, even with the aid of her lawyer, it was only after months of negotiations, court appearances, press coverage, and the filing of a contempt motion against NYCHA that Ms. Robinson and her resident council finally succeeded in causing NYCHA to make necessary repairs and to further grant a 25% rent abatement to all households who joined the cause.⁴⁰⁵

The difference the presence of a lawyer makes in these types of cases also was heavily emphasized in the written submissions from 17 different legal aid organizations and programs urging the adoption of statewide right to counsel legislation.⁴⁰⁶ According to these submissions, an estimated 97% of tenants who appear in eviction court would benefit from the establishment of a right to counsel, and that the implementation of such a right would decrease eviction filings outside of New York City by at least 19%.⁴⁰⁷ These submissions highlight the key, and often decisive, role that lawyers have in “level[ing] the playing field” in housing law-related matters and in improving equity in eviction cases,⁴⁰⁸ where landlords nearly always have access to representation and tenants typically do not.⁴⁰⁹ As the New York Civil Liberties Union’s submission aptly stated, “[e]very New Yorker deserves to have a champion at their side when they’re faced with losing their home.”⁴¹⁰

b. Complexity of Manufactured Homes Cases

At the annual Civil Legal Services Hearing, Mary Hanson discussed how the rise of manufactured homes adds an additional layer of complexity to housing-related matters. Though manufactured homes may be touted by some as the “new landscape of affordable housing,”⁴¹¹ tenants who live in manufactured homes must deal with a complicated legal landscape, the intricacies of which change depending on whether the tenant rents or owns the manufactured home.⁴¹² Even when a tenant owns their manufactured home, such homes are often in too poor a physical condition to be relocated, and to the extent a tenant resides within a manufactured home park, such tenant will never own the land on which the home is placed.⁴¹³ Manufactured home park owners may even, in some circumstances, initiate and finalize eviction proceedings against a tenant in as little as three months, and in some circumstances where the court orders an eviction, tenants may only have as few as 72 hours to move.⁴¹⁴

This expedited process is often further complicated by the fact that these types of cases are commonly overseen by non-attorney justices in rural Town and Village Courts in the localities in which manufactured homes are most common. Statutory time frames in summary proceedings for manufactured homes differ from the time frames for other housing types and tenants, providers and judges must be familiar with the applicable statutes.⁴¹⁵ Unfortunately, non-lawyer judges tend to be laxer in their compliance with established summary eviction procedures, and as a result, these cases often proceed quicker than they otherwise should.⁴¹⁶ Additional JCLS funding is essential to better equip providers to meet the needs of low-income manufactured home dwellers.

c. Complicated Veteran Housing Laws

Additional JCLS funding is needed to support civil legal services providers in their efforts to address the unique and complex challenges faced by low-income veterans, military

service members, and their families, both within the realm of housing-related matters and beyond. According to the New York Veterans Law Working Group, the inability to access adequate civil legal assistance is a critical factor in veteran homelessness, and a survey conducted by the U.S. Department of Veterans Affairs' (VA) Community Homelessness Assessment, Local Education, and Networking Groups found that legal services accounted for eight of the top ten categories of unmet needs for homeless veterans.⁴¹⁷ The ability of civil legal services providers to attract and retain attorneys that are familiar with veteran-focused benefits and systems is pivotal in this arena, as there are many federal services and programs that are uniquely available to veterans and their families and of which non-specialized civil legal services providers may not otherwise be aware.⁴¹⁸ Due to inadequate resources, however, many civil legal services providers are unable to invest in experts who understand the web of federal benefits and resources available to the veteran community, and, as a result, veteran clients remain more vulnerable than other populations to additional legal action. For example, even though veterans account for only 5% of the U.S. population, they comprise 11% of adults experiencing homelessness in the U.S. today.⁴¹⁹ As explained in the preceding sections, an increase in JCLS funding would enable civil legal services providers to better support low-income veterans in housing-related matters.

E. Additional Funding Is Needed in Family Matters

Presentations at the annual Civil Legal Services Hearing underscored the importance of and need for civil legal services in Family Court matters. Hon. Richard Rivera spoke of the detrimental impact on both petitioners and respondents who generally appear without representation in child support matters, as there is no right to counsel in these matters except in very limited situations.⁴²⁰ Without knowledge of the law, the parties generally are unable to put forth arguments and supporting evidence to enable a fair and just determination of the support obligation. This leads to ongoing litigation due to either an insufficient amount to meet the child's needs or an unreasonably high amount that is unmanageable to pay. In paternity cases, only the respondent (who is presumed to be the putative parent, but that is not always the case⁴²¹) is entitled to counsel, creating a striking imbalance of power when the petitioner is left to present and defend their case against an experienced legal professional, without the requisite experience or knowledge. Judge Rivera urged an increase in funding to address the gaps in the Family Court Act:

It is imperative that both legislation and funding for civil legal services are expanded to encompass representation for all litigants in paternity and child support matters. The ability of civil legal services to provide representation for clients in these types of cases would ensure that cases are more efficiently resolved[,] that the due process rights of litigants are preserved, and that the rights and interests of children are better protected.⁴²²

Even when there is a recognized right to counsel, as is the case in child welfare matters, representation is essential at the pre-petition stage to ensure that families are aware of their rights and gain access to the services to which they are entitled. Currently, representation is only available only once a petition is filed in the Family Court. Without timely representation, families must navigate the child welfare system by themselves. By the time a family reaches court, they may have already gone through a traumatic investigation without sufficient support or knowledge about their rights and options, potentially leading to negative outcomes.⁴²³ Increased funding for representation by civil legal services providers to fill this gap can help ensure that families dealing with child welfare issues have immediate access to the support they require. This proactive approach can make a significant difference in keeping families together and preventing unnecessary separations.⁴²⁴

F. Additional Funding Is Needed in Medical Debt Matters

Medical debt is the most common form of consumer debt and the leading cause of personal bankruptcy in the United States.⁴²⁵ In New York State, as of February 2022, an estimated 740,000 New Yorkers were facing collection actions over outstanding medical bills, with significant racial and regional disparities pertaining to who is pursued for medical debt.⁴²⁶ The burden of medical debt not only has severe financial consequences, but also affects access to health care, credit, employment, housing, and food, and worsens health outcomes.⁴²⁷ A high percentage of those with medical debt report regularly skipping doctors' visits and foregoing prescriptions for fear of getting into more debt.⁴²⁸

While legal defenses and remedies are available,⁴²⁹ legal assistance is crucial to fight these matters. Despite this, 98% of individuals sued for medical debts in New York are unrepresented, while almost 100% of all creditors have representation, with a high percentage of cases ending with default judgments.⁴³⁰ This is largely due to insufficient numbers of civil legal services attorneys to handle these matters.⁴³¹ As Sal Curran stated at the annual Civil Legal Services Hearing: "Time and again, we see that individuals with low incomes are disproportionately affected by medical debt due to being uninsured or underinsured, and that there are few or no legal aid attorneys available to help them navigate the confusing process of fighting debt."⁴³²

At the annual Civil Legal Services Hearing, two presentations highlighted the devastating impact of two types of medical debt—hospital and medical credit card debt—and the positive outcomes that are possible when legal services are available. Bobbie Dafoe shared her experience of being sued improperly by a hospital for a debt that should have been covered by charity care.⁴³³ Like many medical debt defendants, Ms. Dafoe had no knowledge of the lawsuit until she received a sheriff's notice informing her that her wages were going to be garnished. Knowing that the garnishment would be crushing, Ms. Dafoe

sought legal assistance and luckily was referred to VLPCNY, one of the few providers who handle medical debt matters. Her attorney, Sal Curran, successfully moved to vacate the default judgment that had been entered against Ms. Dafoe for improper service and the case was discontinued.

Similarly, Rosemary Rodriguez, a Medicaid recipient, spoke about the traumatic experience she endured due to a dentist deceptively enrolling her in a Synchrony Bank CareCredit card account and charging the card \$6,000.00 for Medicaid-eligible services that were never completed.⁴³⁴ Despite disputing the debt on her own and through her attorney at The Legal Aid Society, Synchrony Bank maintained that there was no fraud and that the debt was valid. Instead of ceasing to pursue debt collection, the bank sued Ms. Rodriguez for the debt. The bank took no action to resolve the matter, even after Ms. Rodriguez filed an Answer and served discovery demands. The Legal Aid Society continued to dispute the debt with Synchrony and, finally, after the matter had been pending two and a half years and before a court date had been scheduled, the bank finally agreed to discontinue the case.

These two cases highlight the critical role that access to legal services can play in determining an individual's ability to assert their rights and seek justice in medical debt matters. It is imperative that JCLS funding be increased to close the significant justice gap for these case types.

G. Additional Funding Is Needed to Address the Needs of Marginalized Groups

The justice gap is even greater when trying to provide services to marginalized groups, such as older adults, veterans, and communities of color.⁴³⁵ These groups tend to be disproportionately poorer, with greater numbers of unmet needs:

Older Adults: Nationally, 45% of individuals over age 65 have trouble meeting their basic needs.⁴³⁶ One in eight older New Yorkers—with higher rates of African-American, Latino, Asian-American, and immigrant populations—are increasingly living in poverty.⁴³⁷ LSC reports that 70% of senior households had one or more legal problems in the past year,⁴³⁸ and the elderly are one of the largest client populations that LSC grantees serve.⁴³⁹ Significant issues facing the elderly include health care, housing, kinship care, public benefits, elder abuse and consumer scams.

Within health care, medical debt and long-term care issues are significant; even with near universal coverage by Medicare, gaps in that coverage caused 22% of adults 65 and over to report that they currently had medical debt in 2022 and an additional 15% reported that they have had medical debt in the past five years.⁴⁴⁰ Despite these critical legal needs,

very few legal services providers focus solely on the needs of the elderly. Additional funding needs to be allocated to address older adult issues in general, as the statistics show that the need is not being met and the justice gap will continue to grow as the country and New York State populations age.

Veterans: New York is home to the fifth-largest veteran population in the country. Despite this, New York veterans receive fewer benefits from the VA compared to veterans in other states. Without these higher benefits, many veterans are left impoverished, facing various legal issues including rental arrears leading to eviction proceedings; inability to meet child support obligations and the potentially dire enforcement consequences; and unpaid bills that can lead to harassment by debt collectors and civil litigation. Civil legal services providers, with expertise in veterans benefits and resources, are needed to assist veterans through the complex application and appeals processes and secure benefits to which they are entitled. As was noted by the New York Veteran Law Working Group:

Attorneys are just as critical in the VA benefits system as in other federal administrative practices, like Immigration and Social Security. By allowing New York veterans to struggle to learn about and access benefits on their own, New York State will continue to leave veterans behind their counterparts in other states and have to pay the cost directly with public benefits and indirectly with overburdened courts.⁴⁴¹

Communities of Color: Black and Brown communities disproportionately have greater unmet needs than other marginalized groups. Presentations and submissions for the annual Civil Legal Services Hearing highlighted these discrepancies in housing, health care and medical debt matters. Black households are at greatest risk of eviction; tenants living in majority Black zip codes between 2017 and 2019 were three times as likely to be evicted as tenants in majority white zip codes.⁴⁴² Older Black adults in need of long-term care are more likely than other populations to be admitted to lower-quality nursing homes, nursing homes with limited resources, and those that have high rehospitalization rates.⁴⁴³

In medical debt matters, the burden falls even more heavily on older Black adults, who are 2.6 times more likely to carry medical debt than older white adults.⁴⁴⁴ These racial disparities also are present in medical debt collection actions. For example, while the average rate of people facing medical debt collections in all of New York is 8%, the rate for communities of color in Onondaga County, however, is much higher—at 41%.⁴⁴⁵

It is imperative that funding for civil legal services be increased to address the unmet legal needs of marginalized communities. As Judge Wilson stressed at the Statewide Stakeholders Meeting, we need to utilize our resources, both human and financial, to work

to eventually “get to the point where we’re providing the type of assistance for people who need it so that civil justice can be delivered to them.”⁴⁴⁶

H. Additional Funding Is Needed for Outreach Efforts

As noted by Ronald Flagg during his presentation at the annual Civil Legal Services Hearing, millions of low-income individuals’ legal needs go unmet each year because they are unaware that they are facing a legal issue, and, even if they understand there is a legal issue, they may not know of the availability of legal aid or how to find it.⁴⁴⁷ Three members of the hearing panel, including Chief Judge Wilson, flagged this as a concern, inquiring of presenters how these individuals can be reached and connected to services. Lori O’Brien and Sal Curran both pointed to outreach as the most impactful method to raise awareness about various types of legal issues and the availability of community resources to address them, including civil legal services. Ms. O’Brien stressed the need for creativity, particularly when trying to reach people in rural communities who are likely to be isolated from resources, but noted that such outreach requires additional staff.⁴⁴⁸ Sal Curran concurred, emphasizing the difficulties in doing the level of outreach that is needed given the extremely limited administrative support in civil legal services providers’ budgets.⁴⁴⁹ Currently, both LawNY and VLPCNY must rely on collaborations with community partners for outreach.

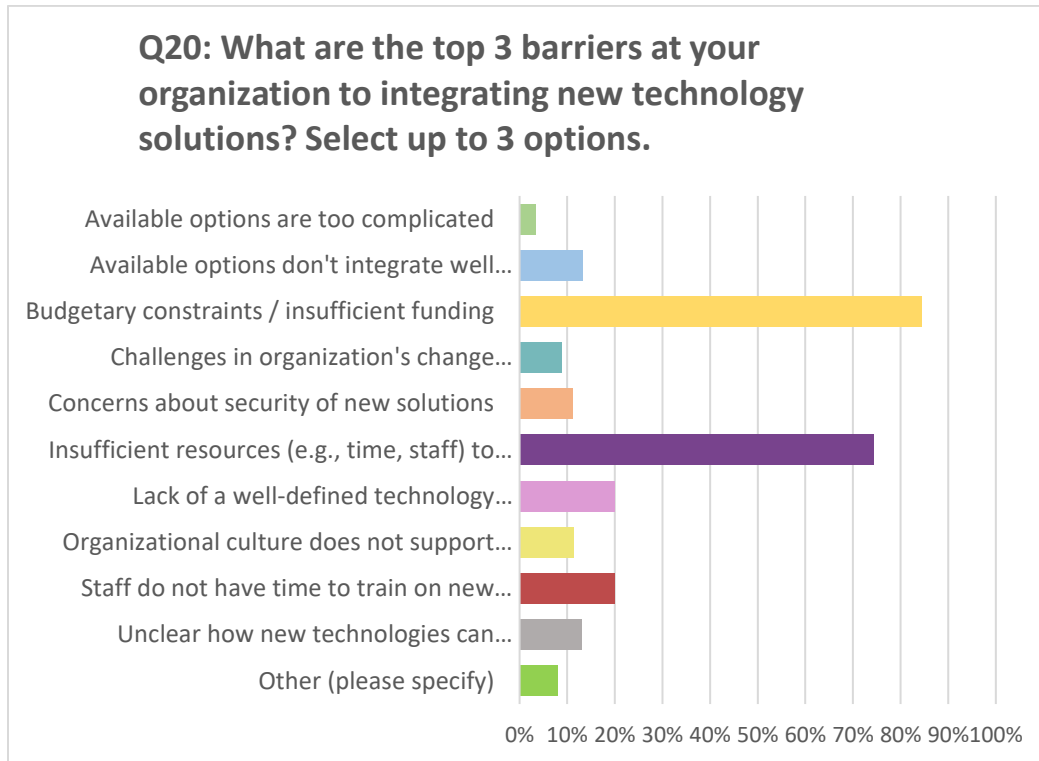
Through its written remarks, the New York City Bar Association also emphasized the need for outreach efforts that increase knowledge of legal services.⁴⁵⁰ One solution to address this knowledge gap is to improve delivery of “brief information and advice” services via “Know Your Rights” clinics.⁴⁵¹ Another is for civil legal services providers to directly partner with local community organizations and elected officials to ensure those in need of services know they exist and can access them.⁴⁵²

As was alluded to throughout the hearing, better access to information can connect low-income individuals to effective assistance that can assure more positive outcomes.⁴⁵³ In its written submission, the New York Health Foundation (NY Health Foundation) encouraged members of the judicial community to explore the work of their grantees. One example is VLPCNY, which provides direct legal assistance and education on medical debt.⁴⁵⁴ VLPCNY’s accomplishments include providing on-site legal education and assistance at local patient town halls and conducting trainings regarding consumers’ legal rights and recent changes in State law.⁴⁵⁵ Plain-language client educational materials on a variety of topics related to medical debt also have been created.⁴⁵⁶

With additional JCLS funding, outreach efforts can be expanded and replicated across the State, raising awareness of legal issues and the services available to help address them.

I. Additional Funding Is Needed for Technology

According to the 2023 Technology Survey responses, nearly 85% of New York State legal services providers attribute insufficient funding as one of the top three reasons that their organization does not integrate new technology solutions, and nearly 75% point to insufficient resources (e.g., time, staff) to explore or implement new technology options.⁴⁵⁷



At the Technology Conference, Erin Riker, Technology-Based Legal Services Attorney for the Center for Elder Law & Justice, lamented how challenging it is for legal services providers to find technology funding,” explaining that “[w]e’re all chasing after the same pots of money and increasingly fewer pots of money.”⁴⁵⁸ Yet, in today’s world, a legal services organization cannot function without a robust technology budget. Alexander Horwitz, Chief Operating Officer of LSNYC, explained that technology has become the “backbone of all of our work across all of our units.”⁴⁵⁹ He stated:

[E]ven if at first it doesn’t sound like a technology project, you pretty quickly realize that you’re going to need that input and you’re going to need those tools in order to carry through almost any operational or workflow change.⁴⁶⁰

Indeed, over 91% of legal services organizations described significant technology projects that they undertook during the 2022-23 FY in their responses to the Technology Survey.⁴⁶¹

Technology has redefined the legal field. Additional JCLS funding is needed for cybersecurity, innovation, infrastructure, data analytics, and efforts to close the digital divide.

1. Cybersecurity

At the 2023 Technology Conference, Christine Sisario, Chief Information Officer, UCS, expressed how important it is for civil legal services directors to shift their focus to prioritize cybersecurity in light of the growing risks of attack.⁴⁶² She urged attendees to defend against cyberattacks and prevent them before they happen.⁴⁶³ Tony Liu, Senior Consultant at JustTech LLC, confirmed that a study undertaken by the cybersecurity firm Quest, found that ransomware attacks on legal services providers increased tenfold in a one-year period.⁴⁶⁴ Mr. Liu explained that in the past you might have thought that attacking a legal services organization would be “like squeezing blood from a stone”; however, providers are not safe, and many have been forced to pay ransoms.⁴⁶⁵

Legal services providers collect and handle highly sensitive data, such as confidential client information, case records, and court and legal documents. The increase in frequency and sophistication of cyberattacks targeting legal services providers is likely due to this sensitive data which attracts attackers who think there is a higher chance of a payout, and if there is no payout, they get to keep valuable sensitive data.⁴⁶⁶ There is potential for great harm to clients and the legal system if this data is compromised.

Importantly, legal services providers are legally obligated to protect the security, confidentiality, and integrity of private information.⁴⁶⁷ The New York Stop Hacks and Improve Electronic Data Security Act (SHIELD Act) requires any organization that maintains private information to adopt administrative, technical, and physical safeguards.⁴⁶⁸ As Lori O’Brien cautioned at the Technology Conference, “We have to bear in mind that this is the law, and we need to follow it and we need to make sure that we’re really ensuring individuals’ data protection.”⁴⁶⁹

Compliance is required even though legal services providers, particularly non-profit organizations, face strict financial constraints that hinder their ability to invest in robust cybersecurity measures. Indeed, the 2023 Technology Survey revealed that more than half of the New York State legal services providers believe that funding for cybersecurity is one of their top three most-urgent technology funding needs.⁴⁷⁰ Increased financial support from the Judiciary can enable legal services providers to implement advanced cybersecurity measures, comply with the SHIELD Act, hire an expert in data security, and invest in necessary tools and technologies.⁴⁷¹ Today’s legal services budget should reflect the growing share of costs warranted for cybersecurity.⁴⁷²

Additional funding for cybersecurity is not just an investment in data protection but also in safeguarding access to justice and ensuring the continuity of legal services for vulnerable populations. At the Technology Conference, Sandy Coyne, Deputy Director of Operations at LawNY, shared that in 2015 her organization was a victim of a CryptoWall ransomware attack due to a staff member clicking on a phishing email.⁴⁷³ This cost LawNY time and money—requiring the reinstallation of Windows on all their computers and servers, and disrupting their ability to provide essential services.⁴⁷⁴ The need is urgent for additional JCLS Funding to protect legal services providers from cyberattacks and maintain their crucial role in delivering justice.

2. Technology Innovation

As demonstrated throughout this Report,⁴⁷⁵ the justice gap undermines the principles of equality and fairness within our legal system. To address this issue effectively, it is crucial to harness the power of technology to reach underserved populations.

The rapid development and advancement of new technologies, such as generative artificial intelligence (AI), has the potential to transform the delivery of civil legal services.⁴⁷⁶ The development of innovative tools and platforms, such as chatbots, online legal clinics, and document automation, can help bridge the access-to-justice gap. These technologies can provide legal information, assistance, and even limited representation.

Innovative legal technology projects have the potential to increase efficiency and reduce the cost of legal services.⁴⁷⁷ With the right technology in place, legal services providers can handle a larger caseload, leading to more individuals and families being served. Technology-driven legal services can provide a user-friendly experience for clients, which not only enhances accessibility but also enables individuals to navigate the legal system on their own. It can demystify legal processes and make them more approachable. Technology innovations also can be used to improve services to low-income rural communities to combat legal deserts.⁴⁷⁸

Technology projects can significantly improve case management for legal services providers. This can include tracking cases, automating administrative tasks, and ensuring that clients receive timely and efficient legal support. In addition, the legal landscape is constantly evolving. Legal services providers must adapt to changing legal requirements, especially in areas such as housing, consumer debt, and family issues. Innovative technology projects allow them to be more agile and responsive to shifting needs.

Moreover, additional technology innovation funding can be used to bridge connections between legal services providers by supporting the development of collaborative programs.⁴⁷⁹ Ronald Flagg provided an example of this at the annual Civil Legal Services Hearing:

LSC recently awarded Legal Aid Society of Mid-New York a technology initiative grant to create a coordinated online intake portal for the six funded LSC providers outside of New York City. The portal will focus on eviction services in the State with an eye to ensuring that applicants will not be bounced between service providers and miss timely pre-hearing assistance.⁴⁸⁰

Similarly, at the Technology Conference, Sal Curran described a successful shared document-access project that was a VLPCNY collaboration with partner organizations to address urgent client needs.⁴⁸¹ Collaborative technology projects are clearly a way to increase the providers' ability to close the justice gap.⁴⁸²

The magnitude of costs estimated to close the justice gap in New York using primarily human delivery of assistance could be lessened through investments in innovative technology.⁴⁸³ For example, Sal Curran explained how VLPCNY's technology efforts could be transformed if funding were available:

[I]f I actually had money to have somebody build it out, we would use all of the many, many other tools of SharePoint. Right now, we're really just using it as a document repository, but I would use other Microsoft tools. We could build in flows to do various document creation or to direct volunteers to the correct resources. We could build in video libraries of the trainings that would be readily accessible. We would maybe have a volunteer onboarding SharePoint site, or the volunteer site would have a whole onboarding capacity to it. There's so many things I would do with it, but we just don't have the time, space, and expertise in-house and we don't have the funding externally to make that happen at this point.⁴⁸⁴

Additional JCLS funding for innovative technology projects is a strategic investment in expanding access to justice, improving the efficiency of legal services, and ensuring that legal services providers can adapt to the changing needs of the communities they serve. Embracing and funding technology can create a more inclusive, responsive, and cost-effective legal system.

3. Data

At the Technology Conference, presenters emphasized the importance of data collection and analysis, explaining how data can be used to increase the numbers of clients served and can help providers improve case outcomes.⁴⁸⁵ With additional funding, legal services providers can invest in data analytics and predictive analysis tools. These tools can help identify trends, assess the impact of legal interventions, and improve resource allocation. This data-driven approach can enhance the effectiveness of legal services.

Funding for data is a budgetary issue for legal services providers because data-related costs are often not funded.⁴⁸⁶ Presenters at the Technology Conference stressed that the legal services community needs to treat a data analyst position as a key role in the organization's operation.⁴⁸⁷ The position should not be "extra" or "optional."⁴⁸⁸ Additional funding could help providers hire full-time data experts.

An investment in data can also lead to greater funding for legal services programs. Data analysis helps providers better measure their impact and tell better stories about the clients served.⁴⁸⁹ This data can then be used to showcase the value of legal aid programs to funders, policymakers, and the public, ultimately attracting more support.

4. Narrowing the Digital Divide

Additional JCLS funding is also needed for legal services providers to address the widening digital divide that has grown more pronounced since the pandemic. This gap particularly impacts residents in shelters and remote rural areas,⁴⁹⁰ deepens economic and gender-based inequalities, and worsens healthcare, financial and education issues for those with inadequate access to technology.⁴⁹¹ As the New York City Bar submitted at the annual Civil Legal Services Hearing:

[P]roviders, funders, and all stakeholders must view expanding access to justice and narrowing the digital divide in tandem, and think creatively about how to equitably further the advance of online and other virtual mechanisms of delivering civil legal services.⁴⁹²

Providers could utilize additional funding to educate the public by producing resources and reaching out to communities about technology access points and digital literacy.⁴⁹³ Providers can find ways to provide technology tools to people who lack access to a device. Funding is needed to narrow the digital divide.

5. IT Infrastructure

In technology, infrastructure is of the highest importance; it includes the hardware and software components required to support the applications and information management of an organization. Infrastructure requires ongoing maintenance.⁴⁹⁴ At the Technology Conference, Tony Liu stressed the importance of budgeting for ongoing maintenance costs, such as the costs of renewing and upgrading software, security patches, paying for third-party services, and administrative capacity for content updates to systems.⁴⁹⁵ Without proper infrastructure, a business may fail to operate. Additional funding is needed for legal services providers to maintain their IT infrastructure properly.

J. Additional Funding Is Needed to Handle Complex Legal Matters, Including Affirmative Cases

Affirmative litigation, through individual cases or class actions, is a critical tool for closing the justice gap. It enables legal services providers to build upon the needs of individual clients to effect systemic changes through litigation and advocacy that benefit large numbers of clients with similar legal problems. Terri Tupper, a client of Empire Justice Center, shared how successful class action lawsuits can prompt systemic changes in healthcare and disability accommodation policies, benefitting a broader range of individuals.⁴⁹⁶ She was just one of over 365,000 New Yorkers who benefitted from the positive outcomes from three class action cases that addressed the need for timely connection to resources.⁴⁹⁷

Affirmative litigation also can promote accountability. As detailed above, Vernell Robinson described how tenacious representation by LSNYC, through the consolidation of 101 individual HP cases and many months of active litigation, compelled her landlord, NYCHA, to take necessary actions to restore the hot water and sufficient water pressure. As stated by Raun Rasmussen, “Essential services for Ms. Robinson and her neighbors was the primary goal of our litigation; but putting NYCHA on notice that they cannot get away with neglecting essential services and disrespecting the humanity of tens of thousands of New Yorkers was also essential.”⁴⁹⁸

While class actions and other affirmative litigation potentially can benefit large numbers of litigants, these cases require a significant investment of time and resources, usually involving highly experienced attorneys to lead these cases and supervise either junior or pro bono attorneys.

The same is true for handling complex individual cases. Lori O’Brien discussed how cases involving elder abuse and financial exploitation often require specialized forensic and litigation skills.⁴⁹⁹ She explained that those cases often involve victims with cognitive impairment, loss of capacity, communication challenges, and significant dependence on their caregivers, which complicates investigations of fact and the development of legal remedies.⁵⁰⁰ These combined factors require allocating significant amounts of time to each matter, as was the case with LawNY’s representation of Mr. Harvey that required 207 service hours.⁵⁰¹ Ms. O’Brien also noted the significant challenges in meeting the needs of elderly community members, stressing that one of LawNY’s rural offices has only one full-time elder law attorney for a five-county service area. Further, some funders place limitations on the number of hours of service LawNY can provide on each matter, often severely limiting the scope of services.⁵⁰²

Increased funding for affirmative impact litigation and complex individual cases would greatly increase the impact of civil legal services by exponentially expanding the numbers of individuals who could be served and benefitted through representation. JCLS funding should be increased to allow providers to expand their practice areas to handle these types of litigation.

K. Additional Funding Is Needed to Support Pro Bono Efforts

The annual Civil Legal Services Hearing highlighted important pro bono legal work already being performed across the State,⁵⁰³ but it left no doubt that additional funding is needed to support the ongoing viability of these efforts. Pro bono work requires the involvement of legal services providers to establish and coordinate projects and to offer training and supervision to the attorney volunteers, most of whom are not experts in the subject matter areas of their pro bono work.

Since 2011, LSC has been providing grants to its grantees through the Pro Bono Innovation Fund, for projects that support new, robust pro bono partnerships through collaboration, innovation, and replication of effective practices. Several New York LSC grantees have been beneficiaries and have developed strong pro bono programs as a result. However, this funding is available only to seven out of the 80 JCLS funded programs in New York.

At the annual Civil Legal Services Hearing, Sal Curran described the efforts undertaken by VLPCNY, a pro bono legal aid organization, to recruit and train their volunteer attorneys:

We partner very closely with the Onondaga Bar Association . . . We provide free legal trainings to attract attorneys. We provide really quality supervision, which makes it so that attorneys who want to go outside their regular practice area are able to do so. And we provide a wide variety of volunteer experiences, everything from two hours of volunteering at the local library to answer legal questions, to providing ongoing representation in very complex cases like immigration asylum cases.⁵⁰⁴

For most legal services providers, these efforts are not possible given current funding levels. With increased JCLS funding, pro bono efforts can be expanded to help close the justice gap by serving more low-income New Yorkers.

L. Additional Funding for Civil Legal Services Can Alleviate Burdens on the Court System

Presenters at the annual Civil Legal Services Hearing spoke about the impact on the court system when low-income litigants lack access to representation. Judge Richard Rivera

described how difficult it is for a Support Magistrate to issue an order of support when both sides are unrepresented and do not know their rights.⁵⁰⁵ He explained that this can lead to unreasonable support obligations for both parties and results in cases being brought back before the court.⁵⁰⁶ He stated that this is where civil legal services are critical; experienced practitioners can submit the appropriate arguments and evidence to allow judges and magistrates to render the correct decisions.⁵⁰⁷ Referring to the tremendous burden on the courts, judges, administrators, and everyone involved in the civil justice system, Ronald Flagg stated that it is clear that “our [court] system cannot handle the demand of low-income Americans facing civil legal issues on their own.”⁵⁰⁸

Additional funding for effective assistance for low-income individuals is critical to ensuring the opportunity for justice for all. It also would alleviate some of the burden on the court system and enhance the effective and efficient functioning of the courts by significantly reducing the number of litigants appearing without legal representation and by avoiding civil litigation altogether or resolving matters early and effectively.⁵⁰⁹

M. Additional Funding Is Needed Due to Wasteful Use of Limited Resources

The need for JCLS funding is further exacerbated in circumstances where government agencies do not meet their legal obligations, resulting in the need for court action. At the annual Civil Legal Services Hearing, the remarks of Vernell Robinson and Raun Rasmussen, describing the need for affirmative litigation against NYCHA, highlighted how NYCHA’s failure to provide required essential services led to a tremendous waste of government resources, including the funding that goes to civil legal services.

As discussed above, beginning October 2021, Ms. Robinson and the board of her development initiated what would become a multi-year campaign to cause NYCHA to restore hot water to the 101 tenants living in the Carleton Manor development.⁵¹⁰ In her presentation at the annual Civil Legal Services Hearing, Ms. Robinson noted that NYCHA’s willful avoidance of the council’s complaints led to continued delays in restoring services, so much so that it eventually became apparent that NYCHA lacked knowledge of what had caused the problem in the first place or how to fix it.⁵¹¹ Only after involving a lawyer and enduring “months of negotiations, countless court appearances, press and the filing of a contempt motion with affidavits from numerous tenants” did NYCHA finally agree to make the necessary repairs.⁵¹² As Raun Rasmussen observed, “a years-long battle for this most essential service doesn’t make any sense” and “should never be necessary.”⁵¹³

Chief Judge Wilson aptly observed that not only was Ms. Robinson’s legal battle a waste of money for NYCHA, but it was also a waste of the scarce JCLS funding and federal funding that go to LSNYC and similar government-funded organizations.⁵¹⁴ In other

words, as Chief Justice Wilson put it, because of NYCHA's incompetency, the ordeal endured by Ms. Robinson and her resident council was an instance of "the government spending money to get the government to do the right thing."⁵¹⁵ Only by expending the State's limited government resources wisely and effectively can the justice gap faced by low-income New Yorkers be narrowed and eventually closed.

N. Additional Funding Is Needed for Disaster Preparedness

Whether a terrorist attack like 9/11, hurricanes like Irene and Sandy, a pandemic like COVID-19, or a mass shooting like the recent one Buffalo, civil legal aid plays a critical role in helping victims of disasters get back on their feet. Time and time again, legal services providers are called upon to provide legal assistance in response to cataclysmic events. However, programs that are financially strapped may not be able to spring into action when such a catastrophe occurs.

Congress has allocated an additional \$20 million to LSC annually over the past three years to fund LSC grantees when disaster strikes,⁵¹⁶ recognizing that civil legal aid is a form of disaster relief.⁵¹⁷ It is in New York's best interest for its legal services organizations to be prepared to address a range of disaster-related topics (such as navigating government agencies like FEMA, wills and estates, kinship care, and civil protections against scammers) by offering CLE trainings to volunteer attorneys, preparing instructional materials for attorneys, and creating online resources for disaster survivors.

Providers need essential tools to keep their offices running, like cloud-based software, hot spots for internet access, remote devices, call forwarding capability, portable scanners, and e-signature tools, to name a few. Business continuity takes planning and funding.⁵¹⁸ As disasters occur with greater frequency, taking a proactive, forward-leaning approach can make a major difference when emergency measures need to be quickly put into place. Accordingly, additional JCLS funding should be provided for disaster preparedness.

* * *

Recommendation: The Permanent Commission recommends an initial five-year goal of adding \$100 million to the currently planned annual JCLS funding (including any COLA increases that may be warranted) and proposes reaching that goal through incremental increases beginning in the upcoming fiscal year starting April 1, 2024. The Permanent Commission recommends that this additional funding be administered in the same manner as current JCLS funding, which enables local legal services organizations to respond to the unique local needs of their community in the manner most effective for their organization and community.

IV. MEDICAL DEBT REFORMS SHOULD BE IMPLEMENTED

Medical debt is an often-overlooked critical unmet need that can impact every aspect of a person's life.⁵¹⁹ At the 2022 annual Civil Legal Services Hearing, two presentations highlighted the devastating impact of hospital and nursing home debt and the access-to-justice barriers faced by litigants sued in such matters.⁵²⁰ In its 2022 annual Report to the Chief Judge, the Permanent Commission recommended that further study of medical debt be undertaken⁵²¹ and tasked its Future Access to the Courts Working Group to take up the charge.

Beginning in early 2023, the Working Group met with medical debt experts and undertook independent research to understand the complex issues involved in medical debt and the access-to-justice barriers faced by unrepresented litigants when sued for these debts. Presenters and written submissions at the 2023 Civil Legal Services Hearing further underscored the need for additional resources and reforms to address the burdens of medical debt.⁵²²

A. Medical Debt Matters

Medical debt originates from a wide variety of medical costs, including hospital and nursing home bills, and out-of-network services such as anesthesiologists, dental services, and laboratory work. The collection matters that are brought to recoup the debt are complicated, involving, among other issues, the interplay of federal and State health and consumer protection laws, health insurance coverage, government benefits, and procedural challenges including inadequate notice.

The confusing and complex nature of medical coverage and medical billing greatly contributes to the medical debt problem. For example, eligibility determinations for Medicaid can take months or longer. Rather than submitting applications for Medicaid or allowing the eligibility process to proceed, hospitals hastily sue patients for the debt—even those who may be eligible for financial assistance or debt relief pursuant to the Public Health Law.⁵²³

Further, most people cannot plan and shop around for better rates when seeking medical help, as services are often sought during a time of crisis or emergency. When consumers attempt to get pre-approvals and a list of charges in advance, the information they receive frequently does not match the bills they are issued.⁵²⁴ It is not uncommon to receive inaccurate or erroneous bills, and medical providers and insurance companies devote few resources to prevent, identify, and correct billing mistakes before beginning debt collection.⁵²⁵ In order to cope with unexpected medical expenses, some consumers may

turn to risky medical credit cards or medical loans to pay their medical bills—often at high interest rates or with deceptive terms like deferred interest.⁵²⁶

Exacerbating the issue, medical providers are often relentless in trying to collect payments, regardless of the merit of the claims or the patient’s eligibility for coverage by Medicaid, Medicare, or private insurance.⁵²⁷ At this year’s Civil Legal Services Hearing, Sal Curran shared that a hospital continued to pursue a judgment against their terminally ill client, despite knowing his diagnosis and that he was Medicaid-eligible at the time of incurring the debt.⁵²⁸ Up until his death, they refused to waive or reduce the amount owed.⁵²⁹

Three medical debt types are particularly troubling, given federal and State statutory mandates: hospital debt, nursing home debt, and medical credit card debt.

1. Hospital Debt

In New York, all hospitals are nonprofit charities pursuant to the Public Health Law.⁵³⁰ These hospitals receive \$1.1 billion annually through the Indigent Care Pool (ICP) to provide financial assistance to patients who cannot afford medical care⁵³¹ and are prohibited by law from engaging in extraordinary measures, such as suing someone, to recoup medical debt if a financial aid assessment has not been undertaken.⁵³² Despite this, many eligible patients are not informed about or assessed for eligibility for financial assistance and find themselves being aggressively pursued for debt collection. According to analysis done by the Community Service Society, from 2015 to 2020, New York hospitals sued more than 53,000 people for medical debt.⁵³³ In these cases, all of the hospitals were represented by counsel, whereas 98% of patients were not.⁵³⁴ In fact, 98% of the patients lost on default.⁵³⁵ Some of the judgments resulted in property liens or wage garnishments.⁵³⁶ Although most New York hospitals have changed their practices since 2021, five hospitals (including two State hospitals) continue to sue patients for medical debt despite their non-compliance with the law.

2. Nursing Home Debt

The federal Nursing Home Reform Act (NHRA) prohibits nursing homes from requesting or requiring third parties, such as a family member or friend, to personally guarantee payment before allowing a resident’s admission or continued stay in a facility.⁵³⁷ While NHRA allows nursing homes to require a resident’s representative with legal access to a resident’s resources (usually through a power of attorney) to agree to provide payment from the resident’s resources, the representative cannot be held personally liable to pay the resident’s debt.⁵³⁸ Despite this clear prohibition, many nursing homes often include “responsible party” clauses in their admissions agreement that appear to hold third parties

responsible for a resident's debt.⁵³⁹ If the third party refuses to pay, nursing homes sue them, usually for the full debt.

Nursing homes often file meritless complaints against caregivers and other third parties, using the threat of litigation and potential judgment to get families and caregivers to settle these debts out of their own funds. These complaints often consist of boilerplate language with only bare recitations of legal claims and statutes and no factual support. Third parties often face allegations of fraudulent conveyance (based on their use of authority over a patient's finances to expend the patient's funds for any purpose other than paying the nursing home bill), conversion, and unjust enrichment, in addition to breach-of-contract claims that illegally seek to impose personal liability on them.

To a layperson or a caregiver who has been served with one of these lawsuits, the effect can be terrifying. Many third parties settle for fear that they will lose their own homes, or worse that their loved ones will be kicked out of the nursing home. In New York, thousands of these cases have been filed. In Monroe County, for example, 24 nursing homes filed 238 cases from 2018 to 2021, seeking almost \$7.6 million.⁵⁴⁰ In nearly two-thirds of those cases, a friend, relative, or other caregiver was sued for the resident's bills.⁵⁴¹ Due to the third parties' lack of knowledge and familiarity with the law and court procedures, and a dearth of available legal assistance, the overwhelming majority of these cases result in default judgments or costly settlements.⁵⁴²

3. Medical Credit Cards

While once used primarily to pay for services not covered by traditional health insurance plans (like dental care), medical credit cards now are routinely being used by uninsured or underinsured patients or those with large deductibles to pay for out-of-pocket medical expenses associated with care traditionally covered by insurance.⁵⁴³ Medical providers promote these products⁵⁴⁴ or, as in hearing presenter Rosemary Rodriguez's case, deceitfully enroll patients in these accounts even if the patient is covered by Medicaid, Medicare or insurance, or is eligible for financial assistance. The availability of these credit cards allows medical providers to receive payment, with significant consequences for patients who likely are unable to pay for the charges. When patients fall behind in payments, they face, among other things, high interest rates, or deceptive terms like deferred interest, harassment by debt collectors, harm to credit and being sued for the debt.⁵⁴⁵ As with other types of medical debt cases, most medical credit card cases result in default judgments or unjust settlements.

B. Court and Legislative Reforms Are Needed to Achieve Equitable Outcomes in Medical Debt Matters

Defendants in medical debt matters require legal representation to ensure that all defenses and protections are raised and considered. Without legal representation, most defendants are unable to resolve their medical debts and face dire consequences, including property liens, wage garnishments, and even homelessness, as a result.⁵⁴⁶ In fact, during the last two years, liens were placed on New Yorkers' homes in nearly 5,000 judgments, and wages were garnished more than 1,600 times by five hospitals alone.⁵⁴⁷

Short of the benefits of full representation, defendants could receive significant assistance from procedural changes made to the way these actions are commenced and prosecuted, along with an understanding that appearing in court may provide opportunities to challenge improper debt claims, receive financial assistance from hospitals, enter into payment plans, or have alleged debts eliminated altogether.

Despite the devastating impacts described above, there is a divergence of opinion as to whether medical debt constitutes consumer debt, which means that medical debt matters do not receive the heightened consumer protections available in consumer credit and foreclosure matters under New York State law and court rules. As with other types of consumer debt, medical debt cases have a prevalence of "sewer service," in which debt collectors fail to serve defendants yet claim they have done so in court affidavits, leaving defendants without any notice of a pending court case.⁵⁴⁸ At this year's Civil Legal Services Hearing, Bobbie Dafoe described the situation she faced when the court papers indicated that she had been served but the papers were delivered to the address of a relative's summer cottage.⁵⁴⁹

Even if process is properly served, cases are commenced by "notice" pleadings, with little information, making it impossible for defendants to know what they are being sued for or how to respond, and overwhelming them from taking any action. In fact, those struggling with medical debt are three times more likely to experience anxiety, depression, elevated stress, and increased likelihood of attempted suicide compared to people without medical debt.⁵⁵⁰ Together, the lack of notice of a pending lawsuit coupled with emotional and psychological stressors mean that medical debt cases are often not challenged and result in default judgments. Without judicial oversight of entry of those judgments, recent legislative changes enacted to limit the harm of medical debt judgments are not being applied consistently.

Beyond the difficulty of initially responding to medical debt claims, unrepresented litigants lack the necessary information and tools to successfully defend a medical debt collection matter. Defendants are often unfamiliar with court procedure and either do not

know what defenses they have or how to assert them.⁵⁵¹ Because unrepresented litigants are unfamiliar with legal issues, they may not recognize when a boilerplate claim against them wholly lacks merit. For instance, in the context of nursing home debt, thousands of cases are filed “lacking any factual or legal support.”⁵⁵² Litigants who seek to challenge the allegations are left in an untenable situation, facing experienced legal professionals who aggressively pursue these matters. The result often is a costly settlement, even if the defendant is not responsible for the debt.⁵⁵³

Hearing presenters and written submissions expressed that court reforms can combat barriers faced by unrepresented litigants across various medical debt types and recommended procedural reforms to address common litigation disadvantages faced by unrepresented litigants. For instance, because “sewer service” is prevalent, Sal Curran urged that an additional notice of medical debt lawsuits—directly from the court to the respondent—be mandated.⁵⁵⁴ This would alert courts of failed service if the mail was returned as undeliverable.⁵⁵⁵ Presenters also advised that, to provide clear information about the proceedings and defendants’ rights, a plain language summons and an additional notice of lawsuit prior to the entry of a default should be promulgated.⁵⁵⁶ Similarly, a simple, standard answer form for individuals who cannot obtain a lawyer should be developed.⁵⁵⁷

Organizational reforms also were urged. Sal Curran and the NY Health Foundation suggested the establishment of a specialized medical debt court part with a centralized docket.⁵⁵⁸ Sal Curran explained that this would bring resources and special attention by the court to ensure that medical debt matters are resolved fairly. Furthermore, classification of medical debt cases needs to be improved to ensure compliance with statutory reforms and to monitor caseloads and trends.⁵⁵⁹ Currently, a medical debt case designation is not available in the electronic filing system (NYSCEF) or the case management systems, or on the RJI form; rather, medical debt cases are commenced under various other case designations, such as consumer debt, debt collection, contract actions or simply “other.”⁵⁶⁰

Court reforms that address discrete issues with hospital debt, nursing home debt, and medical credit card debt also are necessary. With regard to hospital debt and nursing home debt, it was proposed that default judgments should not be entered until the court has reviewed the case to determine compliance with the relevant statutes.⁵⁶¹ To that end, initiating pleadings in hospital cases should be required to include a statement confirming that the hospital has screened the patient for financial assistance pursuant to the Public Health Law⁵⁶² or otherwise, and explained the basis for the hospital’s determination that the patient is ineligible and therefore personally responsible for the debt.⁵⁶³

Similar reforms are needed to combat unlawful collection practices in the context of nursing home debt. Procedures should be implemented to ensure that improper judgments are not entered and that statutory protections—such as the Nursing Home Reform Act—are enforced.⁵⁶⁴ In cases involving a third-party defendant, no default judgments should be entered as “sum certain” by the clerk or court, as judicial review is necessary to ascertain what amount, if any, is owed by the third party. Also, initiating pleadings should provide a listing of legal service agencies and their contact information so that defendants can leverage the benefits of adequate representation. Reforms in nursing home debt matters are particularly important given that the population of New York State is aging and more individuals living in long-term care facilities need access to legal services.⁵⁶⁵

Reforms also are needed in medical credit card matters. While brought as consumer credit cases, these matters present distinct issues from other credit card cases. Medical providers have been known to offer these cards to patients when they are under significant stress, notwithstanding their Medicaid eligibility, and even when the medical services have not been completed.⁵⁶⁶ Heightened judicial review of pleadings, including defenses raised by defendants, is needed before entry of judgments to ensure that individuals are not facing default judgments or pressured into settlements for debts they do not owe or are not obligated to pay.

* * *

Recommendations: In recent years, some legislative actions have been proposed or enacted to address how particular medical debts should be covered or should otherwise be modified or forgiven, while other legislation has focused on procedural changes for litigating and adjudicating medical debt cases.⁵⁶⁷ The Permanent Commission’s recommendations focus on the latter, seeking to implement improved court procedures, either through legislation or court rules, to enhance procedural fairness and the effective administration of justice.

To begin to address the barriers to justice presented in medical debt matters, it is imperative that additional protections be afforded defendants like those in other consumer matters and other case types. Thus, the Permanent Commission recommends the following reforms that can rectify the most problematic causes of the power imbalance between debt collectors and unrepresented litigants.

- **Plain Language Summons.** A standardized plain-language summons form should be developed for medical debt matters, including hospital and nursing home debt, and for healthcare consumer credit transactions involving CareCredit cards, that provides clear and understandable information about the proceeding, explains the actions

needed to be taken by the defendant and the consequences of nonaction, and offers a list of available resources where a defendant might get legal and other assistance.

- **Additional Notice of Lawsuit.** “Sewer service” continues to be a problem in all consumer debt matters, including medical debt cases. An additional Notice of Lawsuit sent by the court has reduced default judgments in consumer credit matters and should be required in medical debt matters. This can be a letter as is required for all consumer credit lawsuits.
- **Enhanced Pleading Requirements.** Pleadings in medical debt matters should contain greater specificity. A summons with complaint should be required in all matters, with the complaint containing sufficient facts to establish compliance with the statutes relevant to the matter type and claims presented, including an itemization of the amount sought, and a statement that the applicable statute of limitations has not expired. In hospital debt matters, the complaint should plead that the defendant has been screened for financial aid eligibility and found to be non-eligible pursuant to the State Public Health Law. Consideration also should be given to requiring an affidavit from the hospital’s chief financial officer (a) stating that the hospital has taken reasonable steps to determine whether the patient qualified for financial assistance pursuant to the Public Health Law or for eligibility for Medicaid or other public health insurance and (2) explaining the bases for any determination of ineligibility for these forms of relief. In nursing home matters, the complaint should plead compliance with the federal Nursing Home Reform Act and its implementing regulations.
- **Standard Form Answer.** A uniform plain-language form answer should be developed for the various types of medical debt listing available defenses, like the form answers developed for foreclosure, consumer credit, and housing proceedings. Such a form would ensure that defendants are made aware of the defenses available to them. The form answer should be readily available for unrepresented litigants in clerks’ offices throughout the court system.
- **Early Settlement Conferences with Assistance of Counsel.** Settlement conferences have proven to be successful in resolving foreclosure matters. They should be required in medical debt matters to allow early review of the legal and procedural issues and to determine whether a legal basis for the lawsuit exists and whether resolution can be reached. Assistance of counsel should be provided to make the conferences most effective for defendants.
- **Additional Requirements for Judgments and Transcript of Judgments.** To prevent the entry of default judgments on claims that lack merit, applications for such relief should include: (1) an affidavit by the medical provider of the facts constituting the debt, the

default in payment, the sale or assignment of the debt, and the amount due at the time of the sale or assignment; and (2) an affirmation by the plaintiff's attorney or an affidavit by an unrepresented plaintiff stating that, after reasonable inquiry, they believe that the debt is owed. Consideration also should be given to requiring an inquest by the court to determine whether service was proper, if there was compliance with the relevant laws, and whether the case can be resolved by addressing any Medicaid or other public health insurance issues.

Transcripts of Judgment for medical debt cases should contain mandatory language indicating that: (1) the judgment is for a medical debt and no property lien can be filed or enforced against the defendant's primary residence pursuant to CPLR 5201(b); and (2) the statutory interest rate imposed is 2% pursuant to CPLR 5004.

- **Special Category Designation for Medical Debt Matters.** Adding a category to the RJJ, e-filing system and case management systems will ensure compliance with enacted reforms and make it easier to track medical debt case data and trends. It also will allow the courts and county clerks' offices to readily identify the cases so that default judgments are not entered without judicial review.
- **Establish Medical Debt Parts.** Specialized parts have been established throughout the State to handle foreclosure and consumer credit matters. These parts are presided over by judges who are knowledgeable about the subject matter and staffed with trained clerks and other court personnel who help unrepresented litigants move matters to resolution. Additional resources may be offered in the parts, including legal services attorneys to provide brief advice services or representation, or court "navigators" who are not lawyers but who are able to help defendants understand the court processes.

Given the complexity of medical debt matters, the establishment of specialized parts to handle these case types should be considered, either on a pilot or permanent basis, in areas of the State where medical debt lawsuits are most prevalent. Specialized parts will bring resources and special attention to addressing medical debt, ensuring more consistent application of the relevant laws and consumer protections⁵⁶⁸ and fairer disposition of the cases. They also will afford greater efficiency for legal services attorneys to provide essential representation in these matters.

As it becomes known that special expertise and resources are available to address medical debt matters, defendants may increasingly understand the need to come to court and default rates will be reduced. An additional outcome could be a reduction in baseless cases being brought by creditors.

V. CONCLUSION

For the foregoing reasons, the Permanent Commission respectfully requests that the additional funding and medical debt recommendations set forth in this Report be adopted to continue to bridge the access-to-justice gap for low-income families and individuals in New York State.

ENDNOTES

¹ Hearing Transcript, The Chief Judge’s 2023 Hearing on Civil Legal Services in New York, at 4:8-10 (opening remarks of Chief Judge Rowan D. Wilson) (Court of Appeals, Sept. 18, 2023) [hereinafter Hearing Transcript], available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2023Civil_Legal_Services_Transcript.pdf.

² *Id.* at 4:10-11.

³ The funding needs studied were not limited to the provision of full legal representation but included a spectrum of services ranging from full representation to self-help materials. *See* Funding Working Group, Permanent Commission on Access to Justice, A Realistic Estimate of the Funding Necessary to Close the Justice Gap in New York 3 (Nov. 2023) [hereinafter Funding Working Group Report] (Appendix 1 to this Report). The realistic estimate would not close the entire justice gap—namely because the analyses did not include individual and families whose income exceeds 200% of the Federal Poverty Guidelines or individuals or families who may need assistance in matters not involving the essentials of life. *See id.* at 7.

⁴ *Id.* at 3-4.

⁵ *See id.* at 12.

⁶ Hearing Transcript, *supra* note 1, at 120:5-122:15 (remarks of Bobbie Dafoe); *id.* at 146:25-152:25 (remarks of Christine Rivera on behalf of Rosemary Rodriguez).

⁷ Press Release, NYS Unified Court System, Task Force to Support Chief Judge’s Efforts to Ensure Adequate Legal Representation in Civil Proceedings Involving Fundamental Human Needs (June 9, 2010), available at: https://www.nycourts.gov/legacypdfs/press/pdfs/pr2010_09.pdf. The Task Force is now known as the Permanent Commission on Access to Justice. *See* New York Rules of the Chief Judge § 51.1 (June 3, 2015), available at: <https://ww2.nycourts.gov/rules/chiefjudge/51.shtml#01>.

⁸ A list of the members of the Commission is set forth at the beginning of this Report. In addition, several leading law firms provide invaluable pro bono assistance. A full listing is annexed as Appendix 2.

⁹ N.Y. Legis. Assemb. Res. K1621. Sess. 2009–2010 (2010), available at: <https://www.nysenate.gov/legislation/resolutions/2009/k1621>; N.Y. Legis. Assemb. Res. J6368. Sess. 2009–2010 (2010), available at: <https://www.nysenate.gov/legislation/resolutions/2009/j6368>. The Joint Resolution was adopted by the State Assembly on June 29, 2010, and the State Senate on July 1, 2010.

¹⁰ *See* CPLR 2106, as amended by L. 2023, ch. 559, § 1.

¹¹ *See* Rules of the Court of Appeals (22 NYCRR) § 520.17, available at: <https://www.nycourts.gov/ctapps/520rules10.htm#10>.

¹² Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 41 (2021), available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/21_ATJ-Comission_Report.pdf.

¹³ *See* L. 2022, ch. 51 [Judiciary Budget]; L. 2023, ch. 51 [Judiciary Budget].

¹⁴ N.Y. Legis. Assemb. Res. C776, Sess. 2015–2016 (2015), available at: <http://legislation.nysenate.gov/pdf/bills/2015/C776>. The Concurrent Resolution was adopted by the State Senate and State Assembly on June 18, 2015.

¹⁵ *See* Rules Governing Jud Conduct (22 NYCRR) § 100.3(B)(12), available at: <https://ww2.nycourts.gov/rules/chiefadmin/100.shtml#03>; *see also* The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York 8 n 19 (Nov. 2013), available at: https://ww2.nycourts.gov/sites/default/files/document/files/2018-04/CLS-TaskForceReport_2013.pdf.

¹⁶ See Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 31 (2015) [hereinafter 2015 Annual Report], available at: [https://ww2.nycourts.gov/sites/default/files/document/files/2018-04/2015 Access to Justice-Report-V5.pdf](https://ww2.nycourts.gov/sites/default/files/document/files/2018-04/2015%20Access%20to%20Justice%20Report%20V5.pdf).

¹⁷ See Administrative Order of the Chief Administrative Judge of the Courts AO/285/16 (Dec. 16, 2016), contained in Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York, Appendix 11 (Nov. 2017), available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2018-03/2017-ATJ-Appendices-Final.pdf>.

¹⁸ Press Release, NYS Unified Court System, Chief Judge Appoints Council of Business Leaders to Boost Access to Justice Efforts, Address Intensified Civil Legal Services Needs of Low-Income New Yorkers in COVID Era (Sept. 21, 2020), available at: https://www.nycourts.gov/LegacyPDFS/press/pdfs/PR20_41.pdf.

¹⁹ See Rules of the Chief Judge (22 NYCRR) § 36.1(b)(2)(ii), available at: <https://ww2.nycourts.gov/rules/chiefjudge/36.shtml>.

²⁰ See Westchester County Landlord-Tenant Guardian Ad Litem Program, available at: <https://ww2.nycourts.gov/courts/9jd/GAL.shtml>.

²¹ See Rules of Prof Conduct (22 NYCRR 1200.0) rule 6.1, available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2018-11/Rule6.1.pdf>.

²² See Rules of the Chief Administrative Judge (22 NYCRR) § 118.1(e)(14), available at: <https://ww2.nycourts.gov/rules/chiefadmin/118.shtml>.

²³ See Rules of the Court of Appeals (22 NYCRR) § 522.8, available at: <https://www.nycourts.gov/ctapps/522rules11.htm>; see also Advisory Committee on Pro Bono Service by In-House Counsel in New York State, Report to the Chief Judge of the State of New York and the Presiding Justices of the Four Appellate Division Departments (Sept. 2013), available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2018-03/IHC-ProBonoReport.pdf>.

²⁴ See Rules of the Court of Appeals (22 NYCRR) § 520.16, available at: <https://nycourts.gov/ctapps/520rules10.htm#B16>.

²⁵ See Rules of the Court of Appeals (22 NYCRR) § 520.17, available at: <https://www.nycourts.gov/ctapps/520rules10.htm#B17>; see also Pro Bono Scholars Program – A Legal Education Initiative, NYS Unified Court System, available at: <https://ww2.nycourts.gov/attorneys/probonoscholars/index.shtml>.

²⁶ See Rules of the Chief Administrative Judge (22 NYCRR) § 118.1(g), available at: <https://ww2.nycourts.gov/rules/chiefadmin/118.shtml>; see also Attorney Emeritus Program, NYS Unified Court System, available at: <https://www.nysattorneyemeritus.law/>.

²⁷ The Law School Involvement Working Group's Reports from the Annual Law School Conferences are available at: <https://ww2.nycourts.gov/accesstojusticecommission/lc>.

²⁸ Information about the annual Technology Conferences is available at: <https://ww2.nycourts.gov/accesstojusticecommission/tc.shtml>; see also The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York 29 (Nov. 2014) [hereinafter 2014 Annual Report], available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2018-05/CLS%20TaskForce%20Report%202014.pdf>.

²⁹ See 2014 Annual Report, *supra* note 28, at 27-28; see also 2015 Annual Report, *supra* note 16, at 29 & Appendix 16.

³⁰ See 2015 Annual Report, *supra* note 16, at 30.

³¹ Administrative Order of the Chief Administrative Judge of the Courts AO/42/14 (Feb. 10, 2014), available at: <https://www.nycourts.gov/courts/nyc/SSI/pdfs/AO-42-14.pdf>.

³² See Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 36-37 (2017) [hereinafter 2017 Annual Report], available at: <https://ww2.nycourts.gov/sites/default/files/>

[document/files/2018-03/2017-ATJ-Commission-Report.pdf](https://www.nycourts.gov/sites/default/files/document/files/2018-03/2017-ATJ-Commission-Report.pdf); Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 30-31 (2016) [hereinafter 2016 Annual Report], available at: https://ww2.nycourts.gov/sites/default/files/document/files/2018-03/2016_Access_to_Justice_Report.pdf; 2015 Annual Report, *supra* note 16, at 35-36.

³³ Permanent Commission on Access to Justice, Justice for All Strategic Action Plan (Dec. 2017) [hereinafter Strategic Action Plan], available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2018-04/JFA-Report-122217.pdf>; *see also* Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 20-24 (2018) [hereinafter 2018 Annual Report], available at: https://ww2.nycourts.gov/sites/default/files/document/files/2019-10/18_ATJ-Commission_Report.pdf; 2017 Annual Report, *supra* note 32, at 28-31; 2016 Annual Report, *supra* note 32, at 23-24.

³⁴ Information about the annual Stakeholders Meetings is available at: <https://ww2.nycourts.gov/accesstojusticecommission/ss.shtml>.

³⁵ *See* Hearing Transcript, *supra* note 1, at 2:15-7:1 (opening remarks of Chief Judge Rowan D. Wilson).

³⁶ *See* Notice of Public Hearing, The Chief Judge’s 2023 Hearing on Civil Legal Services in New York, available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/23_CLS-Hearing_Notice.pdf.

³⁷ *See* Hearing Transcript, *supra* note 1, at 3:25-4:11 (opening remarks of Chief Judge Rowan D. Wilson).

³⁸ *See id.* at 4:12-17.

³⁹ *Id.* at 5:1-25.

⁴⁰ *See id.* at 6:1-9.

⁴¹ *Id.* at 6:10-17.

⁴² *See* List of Presenters, The Chief Judge’s 2023 Hearing on Civil Legal Services in New York, available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/23_CLS_Hearing-Presenter_List-v2.pdf; Written Statements from Presenters, The Chief Judge’s 2023 Hearing on Civil Legal Services in New York [hereinafter Written Statements] (Appendix 3 to this Report).

⁴³ *See* Written Submissions from Non-Presenters, Chief Judge’s Hearing on Civil Legal Services in New York [hereinafter Non-Presenter Written Statements] (Appendix 4 to this Report).

⁴⁴ *See* Hearing Video, The Chief Judge’s 2023 Hearing on Civil Legal Services in New York, available at: <https://nycourts.gov/ctapps/civil.html>.

⁴⁵ *See* Hearing Transcript, *supra* note 1, at 7:6-11, 15-17 (remarks of Ronald S. Flagg, Esq.)

⁴⁶ *Id.* at 7:17-19, 13:22-24.

⁴⁷ *Id.* at 7:22-23.

⁴⁸ *Id.* at 7:22-8:2.

⁴⁹ *Id.* at 8:3-8.

⁵⁰ *Id.* at 8:8-13.

⁵¹ *Id.* at 8:16-23.

⁵² *Id.* at 9:3-7.

⁵³ *Id.* at 9:7-14.

⁵⁴ *Id.* at 9:15-24.

⁵⁵ *Id.* at 11:15-19.

⁵⁶ *Id.* at 11:1-12.

⁵⁷ *Id.* at 13:1-13.

⁵⁸ *Id.* at 10:2-12.

⁵⁹ *Id.* at 10:18-25.

⁶⁰ *Id.* at 12:1-4, 14:11-16.

⁶¹ *Id.* at 14:3-5.

⁶² Judge Rivera was appointed Statewide Coordinating Judge for Family Court Matters in October 2023. Press Release, NYS Unified Court System, Statewide Coordinating Judge for Family Court Matters Named (Oct. 4, 2023), available at: https://www.nycourts.gov/LegacyPDFS/press/pdfs/PR23_35.pdf.

⁶³ See Hearing Transcript, *supra* note 1, at 17:6-8, 18:3-17 (remarks of Hon. Richard Rivera).

⁶⁴ See *id.* at 18:17-19:5.

⁶⁵ *Id.* at 19:6-25.

⁶⁶ Written Statements, *supra* note 42, Statement of Hon. Richard Rivera, 5.

⁶⁷ See *id.* at 5.

⁶⁸ *Id.* at 3-5.

⁶⁹ *Id.* at 4.

⁷⁰ *Id.* at 4-5.

⁷¹ See Hearing Transcript, *supra* note 1, at 31:17-20, 32:8-15 (remarks of Matthew R. Dornauer, Esq.).

⁷² *Id.* at 30:16-23.

⁷³ *Id.* at 31:17-20.

⁷⁴ *Id.* at 32:16-20.

⁷⁵ *Id.* at 31:4-8.

⁷⁶ *Id.* at 31:11-16.

⁷⁷ *Id.* at 32:21-23.

⁷⁸ Written Statements, *supra* note 42, Statement of Hon. Fern A. Fisher, 1.

⁷⁹ *Id.* at 1-2.

⁸⁰ Hearing Transcript, *supra* note 1, at 40:9-18 (remarks of Hon. Fern A. Fisher).

⁸¹ See *id.* at 40:22-41:10.

⁸² *Id.* at 42:1-4.

⁸³ *Id.* at 42:8-14.

⁸⁴ *Id.* at 42:15-20.

⁸⁵ Written Statements, *supra* note 42, Statement of Hon. Fern A. Fisher, 3-4. Suggested legislative changes include legislation that increases free legal representation in eviction cases; good cause legislation requiring a landlord to provide a reason for seeking the eviction of a tenant when that tenant does not have a lease and lives in an unregulated premises; changes that would enable judges outside New York City to address claims for repairs and violations within cases started by owners; and legislation that would permit tenants outside New York City to commence actions in the lower courts to obtain a habitable home.

⁸⁶ *Id.* at 4-5. Judge Fisher outlined key disparities across jurisdictions, including whether tenants' oral answers are recorded, whether unrepresented litigants can deliver orders to show cause themselves, practices regarding the provision of Notices to Quit and Notices to Terminate, and the degree to which regional judges ordinarily comply with the New York Civil Practice Law and Rules regarding the appointment of a guardian ad litem in housing cases where a litigant is unable to adequately protect their rights.

⁸⁷ *Id.* at 4-5.

⁸⁸ Hearing Transcript, *supra* note 1, at 48:25-49:23 (remarks of Hon. Fern A. Fisher). Judge Fisher urged that additional funding be directed towards standardizing housing forms and increasing the availability of plain language forms in all the most common languages throughout the State; that DIY (Do-It-Yourself) Housing Programs be created, such as illegal eviction programs, housing part action programs, or programs for submitting answers in nonpayment cases; and, that the court system's website pages on housing be updated; see also Written Statements, *supra* note 42, Statement of Hon. Fern A. Fisher, 6.

⁸⁹ Hearing Transcript, *supra* note 1, at 50:21-51:10 (remarks of Hon. Fern A. Fisher).

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- [90](#) *Id.* at 50:21-51:3, 51:11-17.
- [91](#) *Id.* at 51:24-52:10.
- [92](#) *Id.* at 61:7-23 (remarks of Dede Hill, Esq.).
- [93](#) *Id.* at 62:4-6, 64:17-18
- [94](#) *Id.* at 62:4-63:16.
- [95](#) *Id.* at 62:6-17, 62:22-63:1.
- [96](#) *Id.* at 62:20-21.
- [97](#) *Id.* at 62:18-19.
- [98](#) *Id.* at 63:7-16.
- [99](#) *Id.* at 64:6-11.
- [100](#) *Id.* at 69:1-4, 69:20-70:5 (remarks of Neil Steinkamp).
- [101](#) *Id.* at 69:5-10.
- [102](#) *See id.* at 69:10-11.
- [103](#) *See id.* at 69:12-19.
- [104](#) *See id.* at 69:17-19.
- [105](#) *Id.* at 71:1-2.
- [106](#) *Id.* at 70:8-11.
- [107](#) *Id.* at 71:15-72:1.
- [108](#) *See id.* at 73:5-11.
- [109](#) *See id.* at 73:15-19.
- [110](#) *See id.* at 73:19-24.
- [111](#) *Id.* at 72:16-73:1-4.
- [112](#) *Id.* at 73:25-74:2. The Permanent Commission subsequently approved the Funding Working Group Report.
- [113](#) *See id.* at 81:3-24 (remarks of Vernell Robinson).
- [114](#) *See id.* at 81:19-24, 82:6-7 (remarks of Vernell Robinson).
- [115](#) *Id.* at 82:14-19.
- [116](#) *Id.* at 82:18-19.
- [117](#) *Id.* at 83:5-12.
- [118](#) *See id.* at 83:18-84:6.
- [119](#) *See id.* at 84:18-85:18.
- [120](#) *Id.* at 84:24-85:1, 85:13-18.
- [121](#) *Id.* at 87:22-88:2 (remarks of Raun Rasmussen, Esq.).
- [122](#) *Id.* at 91:13-17.
- [123](#) *Id.* at 87:2-8, 89:20-90:6.
- [124](#) *Id.* at 88:13-23.
- [125](#) *Id.* at 88:24-89:4.
- [126](#) *See id.* at 88:25-89:6.
- [127](#) *Id.* at 89:22-25.
- [128](#) *Id.* at 90:7-16.
- [129](#) Written Statements, *supra* note 42, Statement of Lionel Harvey, 1.
- [130](#) *Id.* at 1-2.
- [131](#) *Id.* at 1-3; *see also* Hearing Transcript, *supra* note 1, at 95:9-96:18 (remarks of Lionel Harvey).
- [132](#) *See* Written Statements, *supra* note 42, Statement of Lionel Harvey, 3; *see also* Hearing Transcript, *supra* note 1, at 96:25-97:5 (remarks of Lionel Harvey).
- [133](#) Hearing Transcript, *supra* note 1, at 98:21-99:16 (remarks of Lori M. O'Brien, Esq.).

[134](#) *Id.* at 99:1-3.

[135](#) *See id.* at 99:17-100:6.

[136](#) *See id.* at 100:13-20.

[137](#) *Id.* at 101:13-102:20.

[138](#) Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 3.

[139](#) *Id.* at 4.

[140](#) Hearing Transcript, *supra* note 1, at 106:21-24 (remarks of Terri Tupper).

[141](#) *Id.* at 107:1-6.

[142](#) *Id.* at 107:7-13.

[143](#) *Id.* at 107:14-20.

[144](#) *Id.* at 107:18-108:4.

[145](#) *See id.* at 108:20-24.

[146](#) *Id.* at 108:12-20.

[147](#) *See id.* at 108:25-109:2.

[148](#) *See id.* at 109:2-4.

[149](#) *Id.* at 109:5-14.

[150](#) *Id.* at 109:15-110:2.

[151](#) *Id.* at 110:12-111:2.

[152](#) *Id.* at 114:2-8 (remarks of Kristin Brown).

[153](#) Written Statements, *supra* note 42, Statement of Kristin Brown, 1; *see also* Hearing Transcript, *supra* note 1, at 114:9-16 (remarks of Kristin Brown).

[154](#) Hearing Transcript, *supra* note 1, 115:2-3 (remarks of Kristin Brown).

[155](#) *See id.* at 115:8-9.

[156](#) *See id.* at 115:9-10.

[157](#) *Id.* at 115:19-24.

[158](#) *See id.* at 116:9-13.

[159](#) *See id.* at 116:17-19.

[160](#) *Id.* at 117:2-5.

[161](#) Written Statements, *supra* note 42, Statement of Bobbie Dafoe, 1.

[162](#) *Id.*

[163](#) Hearing Transcript, *supra* note 1, at 120:13-14 (remarks of Bobbie Dafoe).

[164](#) *Id.* at 120:16-23.

[165](#) *Id.* at 122:1-13. Notably, Ms. Dafoe first contacted the Legal Aid Society, which was not able to assist with her litigation due to a lack of resources. Written Statements, *supra* note 42, Statement of Bobbie Dafoe, 1.

[166](#) Hearing Transcript, *supra* note 1, at 127:18-25 (remarks of Sal Curran, Esq.).

[167](#) *Id.* at 125:8-12.

[168](#) Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 3.

[169](#) Hearing Transcript, *supra* note 1, at 125:13-19 (remarks of Sal Curran, Esq.).

[170](#) *Id.* at 125:22-126:2.

[171](#) *Id.* at 128:18-129:13.

[172](#) *Id.* at 133:8-14.

[173](#) Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 3.

[174](#) *Id.*

[175](#) *Id.*

[176](#) Hearing Transcript, *supra* note 1, at 130:6-15 (remarks of Sal Curran, Esq.).

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- ¹⁷⁷ Written Statements, *supra* note 42, Statement of Robert Burek, 1-2.
- ¹⁷⁸ Hearing Transcript, *supra* note 1, at 135:13-16 (remarks of Robert Burek).
- ¹⁷⁹ *Id.* at 135:19-22.
- ¹⁸⁰ *Id.* at 135:22-23.
- ¹⁸¹ *Id.* at 136:2-3.
- ¹⁸² *Id.* at 136:4-5.
- ¹⁸³ *Id.* at 136:5-10.
- ¹⁸⁴ *Id.* at 136:10-14.
- ¹⁸⁵ *Id.* at 136:15-23.
- ¹⁸⁶ *Id.* at 136:24-137:14.
- ¹⁸⁷ *Id.* at 137:15-19.
- ¹⁸⁸ *Id.* at 137:20-24.
- ¹⁸⁹ Written Statements, *supra* note 42, Statement of Mary C. Hanson, Esq., 4.
- ¹⁹⁰ Hearing Transcript, *supra* note 1, at 140:4-10 (remarks of Mary C. Hanson, Esq.).
- ¹⁹¹ *Id.* at 4-5.
- ¹⁹² *Id.* at 141:2-6.
- ¹⁹³ *Id.* at 141:24-142:1.
- ¹⁹⁴ *Id.* at 142:1-5.
- ¹⁹⁵ *Id.* at 142:21-143:2.
- ¹⁹⁶ *Id.* at 147:6-8 (remarks of Christine Rivera on behalf of Rosemary Rodriguez).
- ¹⁹⁷ *Id.* at 150:13-16.
- ¹⁹⁸ *Id.* at 147:18-148:6.
- ¹⁹⁹ *Id.* at 149:19-150:9.
- ²⁰⁰ *Id.* at 150:14-16.
- ²⁰¹ Written Statements, *supra* note 42, Statement of Rosemary Rodriguez, 2.
- ²⁰² Hearing Transcript, *supra* note 1, at 152:1-6 (remarks of Christine Rivera on behalf of Rosemary Rodriguez).
- ²⁰³ *Id.* at 152:6-8.
- ²⁰⁴ *Id.* at 152:10-15.
- ²⁰⁵ Written Statements, *supra* note 42, Statement of Adriene Holder, Esq., 1.
- ²⁰⁶ *Id.* at 2.
- ²⁰⁷ *Id.* at 2-3.
- ²⁰⁸ *Id.* at 2.
- ²⁰⁹ Hearing Transcript, *supra* note 1, at 160:21-25 (remarks of Adriene Holder, Esq.).
- ²¹⁰ *Id.* at 160:25-161:4.
- ²¹¹ *Id.* at 163:8-11.
- ²¹² *Id.* at 162:24-163:10.
- ²¹³ *Id.* at 164:2-10.
- ²¹⁴ See 2023 New York Statewide Civil Legal Aid Technology Conference [hereinafter 2023 Technology Conference], available at: <https://ww2.nycourts.gov/accesstojusticecommission/tc/2023conf.shtml>.
- ²¹⁵ See 2023 Technology Conference Day One Agenda, available at: <https://ww2.nycourts.gov/accesstojusticecommission/tc/2023confDay1.shtml>; 2023 Technology Conference Day Two Agenda, available at: <https://ww2.nycourts.gov/accesstojusticecommission/tc/2023confDay2.shtml>.

²¹⁶ See Opening and Welcome Remarks, 2023 Technology Conference, available at: <https://cni.nycourts.gov/vod/WowzaPlayer/TechConference/20230418-2023TechnologyConference-OpeningAndWelcomeRemarks>.

²¹⁷ See 2023 Technology Conference, *supra* note 214.

²¹⁸ Based on 86 responses. See Post-2023 Technology Conference Survey Results, on file with the Commission [hereinafter Technology Conference Survey Results].

²¹⁹ Effective assistance encompasses a continuum of services—from providing legal information, to limited scope representation, to full legal representation—that meets the needs of low-income individuals facing legal matters involving the essentials of life. The appropriate effective assistance to be provided in a given situation depends on, among other factors, the nature and complexity of the matter and the capabilities of the individual.

²²⁰ See 2023 Statewide Stakeholders Meeting Agenda (June 12, 2023), available at: <https://ww2.nycourts.gov/accesstojusticecommission/ss2023.shtml>.

²²¹ 2023 Statewide Stakeholders Meeting, Welcome Remarks Transcript, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Vid1transcript-Welcome-Remarks.pdf>.

²²² *Id.* at 1.

²²³ *Id.* at 2-3.

²²⁴ 2023 Statewide Stakeholders Meeting, Opening Plenary Transcript, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Vid2transcript-Issues-at-Forefront.pdf>.

²²⁵ *Id.* at 1.

²²⁶ *Id.*

²²⁷ *Id.* at 2.

²²⁸ *Id.* at 2-5.

²²⁹ *Id.* at 5-6.

²³⁰ *Id.* at 8-10; see *infra* section IV.A.2.

²³¹ 2023 Statewide Stakeholders Meeting, Opening Plenary Transcript, *supra* note 224, at 10-12.

²³² 2023 Statewide Stakeholders Meeting, Plenary Session Transcript, Importance of Community Engagement to Identify and Address Unmet Local Needs, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Vid3transcript-Community-Engagement.pdf>.

²³³ *Id.* at 1-5.

²³⁴ *Id.* at 5-7.

²³⁵ *Id.* at 10-11.

²³⁶ *Id.* at 9-10.

²³⁷ *Id.* at 8.

²³⁸ *Id.* at 8-9.

²³⁹ 2023 Statewide Stakeholders Meeting, Plenary Session Transcript, Nuts and Bolts of a Successful Program or Initiative (Funding, User Testing, Outreach and Feedback), available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Vid4transcript-Nuts-and-Bolts-SuccessfulProgram.pdf>.

²⁴⁰ *Id.*

²⁴¹ *Id.* at 10-11.

²⁴² *Id.* at 9-10.

²⁴³ *Id.* at 11-13.

²⁴⁴ *Id.* at 13-14.

²⁴⁵ See *supra* note 220.

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- ²⁴⁶ See 2023 Law School Conference Agenda, available at: <https://ww2.nycourts.gov/accesstojusticecommission/ls/2023agenda.shtml>.
- ²⁴⁷ See 2023 Law School Conference, Welcome and Conference Introduction Transcript, available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Opening_2023%20New%20York%20Law%20School%20Access%20to%20Justice%20Conference_posting.pdf.
- ²⁴⁸ 2023 Law School Conference, Keynote Roundtable Transcript, Cultivating Civil Legal Justice Leaders to Address the Structural Challenges of Poverty, Injustice and Inequality, available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Roundtable_2023%20New%20York%20Law%20School%20Access%20to%20Justice%20Conference_posting.pdf.
- ²⁴⁹ See *id.* at 5, 12-14.
- ²⁵⁰ 2023 Law School Conference, Call to Action Transcript, available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Call%20to%20Action_2023%20New%20York%20Law%20School%20Access%20to%20Justice%20Conference_posting.pdf.
- ²⁵¹ See *id.*
- ²⁵² 2023 Law School Conference, Artificial Intelligence and Access to Justice—Challenges, Opportunities and Ethics Video, available at: https://www.law.buffalo.edu/news/access-to-justice-2023.html#title_1670340985.
- ²⁵³ See Permanent Commission on Access to Justice, Report of the Working Group on Law School Involvement 10-20 (2023) [hereinafter Law School Conference Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2023-WorkingGrpReport.pdf>.
- ²⁵⁴ *Id.* at 2-4.
- ²⁵⁵ See 2023 Law School Conference, available at: <https://ww2.nycourts.gov/accesstojusticecommission/ls/2023>.
- ²⁵⁶ Acknowledgment of Working Group Members, Permanent Commission on Access to Justice, 2023 (Appendix 5 to this Report).
- ²⁵⁷ Funding Working Group Report, *supra* note 3 (Appendix 1 to this Report); see *infra* section III.A.
- ²⁵⁸ See CPLR 2106, as amended by L. 2023, ch. 559, § 1.
- ²⁵⁹ These experts included: Anna Anderson, Esq., National Consumer Law Center.; Elisabeth Benjamin, Esq., Community Service Society; Sharon Campo, Esq., Nassau/Suffolk Law Services; Sidney Cherubin, Esq., Access Justice Brooklyn; Maria DeGennaro, Esq., Nassau/Suffolk Law Services; Karen Nicolson, Esq., Center for Elder Law & Justice; Kevin Quinn, Esq., Center for Elder Law & Justice; Nina Lea Oishi, Esq., New York Legal Assistance Group; Jessica Rinichi, Esq., New York Legal Assistance Group; Kelly Barrett Sarama, Esq., Center for Elder Law & Justice; Daphne Schlick, Esq., New York Legal Assistance Group; Danielle Tarantolo, Esq., New York Legal Assistance Group; and Helen Wrobel, Esq., Nassau/Suffolk Law Services.
- ²⁶⁰ See *supra* section II.B.
- ²⁶¹ The Task Force to Expand Access to Civil Legal Services in New York, Report of the Task Force’s Working Group on Technology (Nov. 2013) [hereinafter 2013 Technology Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2013TechnologyReport.pdf>.
- ²⁶² Permanent Commission on Access to Justice, Report of the Permanent Commission’s Working Group on Technology (Nov. 2018) [hereinafter 2018 Technology Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2018TechnologyReport.pdf>.
- ²⁶³ See 2013 Technology Report, Technology Report *supra* note 261; 2018 Technology Report *supra* note 262.
- ²⁶⁴ See 2023 Technology Survey, available at: <https://ww2.nycourts.gov/accesstojusticecommission/tsurvey2023.shtml>.

²⁶⁵ New York State Permanent Commission on Access to Justice, 2023 Civil Legal Aid Technology Survey, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2023CivilLegalAidTechnologySurvey.pdf>.

²⁶⁶ Compare 2023 Technology Survey, *supra* note 265, with Task Force to Expand Access to Civil Legal Services in New York, 2013 Civil Legal Service Providers Technology Survey, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2013-Survey-Questions.pdf>, and New York State Permanent Commission on Access to Justice, 2018 NYS Civil Legal Aid Technology Survey, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2018-Survey-Questions.pdf>.

²⁶⁷ Initial data on file with the Permanent Commission [hereinafter Technology Survey Data].

²⁶⁸ See *supra* section II.D.

²⁶⁹ The PBS Program was created in 2014 to establish a pipeline of public service attorneys and inspire a culture of pro bono among graduates who go into private practice. Program highlights include a steady increase in the number of student participants since its 2014 launch, increasing from approximately 100 Pro Bono Scholars from New York law schools in 2014 to approximately 140 annually, including scholars from law schools outside the State.

²⁷⁰ See New York State Permanent Commission on Access to Justice, Report on the June 8, 2022 Law School Access to Justice Virtual Conference 7 [hereinafter 2022 Law School Conference Report], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2022-WorkingGrpReport.pdf>. In the PBS Program Breakout Session, there was discussion of the challenges presented by the compressed time frame of the program, which starts immediately after the February bar exam, and its impact on student wellness. *Id.* at 17-18.

²⁷¹ Law School Conference Report, *supra* note 253, at 4.

²⁷² The request to the Court of Appeals referenced the recommendations regarding the PBS Program contained in the 2022 Law School Conference Report (see *supra* note 271) and attached a copy of the Report.

²⁷³ Rules of the Court of Appeals (22 NYCRR) § 520.17. While Scholars are permitted to complete their work in the fall semester, credit for the work may not be awarded until the entire program is completed. *Id.*

²⁷⁴ Law School Conference Report, *supra* note 253, at 12-16.

²⁷⁵ *Id.* at 15.

²⁷⁶ See OCA Pro Bono Rule Staff Response, on file with the Permanent Commission. The ultimate decision about whether the pro bono requirement is satisfied is made by the Character and Fitness Committee of the Appellate Division in each applicant's case. *Id.*

²⁷⁷ This amount includes \$98.6 million for the court system's Civil Legal Services (CLS) Local Assistance Program (commonly known as Judiciary Civil Legal Services or JCLS funding) and \$17.4 million for the court system's suballocation to the New York State Interest on Lawyer Account Fund (IOLA). See NYS Unified Court System, Budget Fiscal Year 2024, 137-138, available at: https://ww2.nycourts.gov/sites/default/files/document/files/2022-11/FY2024_FINAL_JudiciaryBudget.pdf.

²⁷⁸ See Funding Working Group Report, *supra* note 3.

²⁷⁹ See *id.* Full implementation refers to the time when the services necessary to provide the assistance now needed by unrepresented or unassisted individuals have been fully implemented. See *id.* at 7.

²⁸⁰ See *id.* at 3.

²⁸¹ *Id.* The eligibility requirements exclude those: (1) whose income exceeds 200% of the Federal Poverty Guidelines; (2) who may need assistance in matters not involving the essentials of life; and (3) who need assistance in matters involving the essentials of life, but do not have a court case; and/or (4) who do not know they have a civil legal problem for which they can seek legal assistance.

²⁸² *Id.* at 5.

²⁸³ *Id.* at 4.

²⁸⁴ *Id.* at 5.

²⁸⁵ *Id.*

²⁸⁶ *Id.*

²⁸⁷ *Id.* at 3-4.

²⁸⁸ *See id.* at 9-10.

²⁸⁹ *Id.* at 12.

²⁹⁰ *See id.* at 7.

²⁹¹ *Id.* at 3.

²⁹² The New York City Administrative Code mandates the provision of legal services for covered proceedings in New York City Housing Court through the New York City Universal Access Program. *See* New York City Administrative Code Title 26, Chapter 13: Provision of Legal Services in Eviction Proceedings. In the Funding Working Group Report, the additional funding required to fund and sustain the Universal Access Program was estimated using a weighted average case rate developed by legal services providers, applied to an estimated number of summary eviction nonpayment and holdover proceedings that may require assistance each year. This preliminary estimate is subject to change based on further analysis by the Working Group and/or legal services providers. *Id.* at 11 n 17.

²⁹³ The range presented here differs from the range presented by Stout in its March 2022 study of the potential funding required for an eviction right to counsel outside New York City (\$144M–\$200M), available at: <https://www.stout.com/-/media/pdf/evictions/cost-rtc-onyc-stout-report-march-2022.pdf>. The difference is due to the use of updated eviction filing data supplied by OCA for eviction filings outside New York City and the use of an eligibility criteria of 200% of the Federal Poverty Guidelines. This analysis reflects variation in staffing models, caseloads, and practices of legal services organizations outside New York City. The inputs of this analysis, as with that for other matter types the Working Group analyzed, may require revision in the future as legal services organizations implement additional funding and respond to various local and statewide changes. *See* Funding Working Group Report, *supra* note 3, at 11.

²⁹⁴ This type of assistance includes administrative advocacy and administrative hearings.

²⁹⁵ Discussions with stakeholders indicated the availability of ways other than funding to close the justice gap in foreclosure matters.

²⁹⁶ The Funding Working Group identified a justice gap in kinship care matters, particularly for kinship caregivers. A coalition has been working to develop an estimate of the expected costs to provide legal representation in these matters statewide and will share their estimate with the Funding Working Group to incorporate it into the estimated amount. *See* Funding Working Group Report, *supra* note 3, at 22.

²⁹⁷ *See id.*, at 12.

²⁹⁸ *Id.* at 12.

²⁹⁹ *Id.*

³⁰⁰ *Id.* at 13.

³⁰¹ Data on file with the Permanent Commission.

³⁰² *Id.*; *see also infra* section II.B.4.

³⁰³ *See* Transcripts of Civil Legal Services Hearings, available at:

<https://ww2.nycourts.gov/accesstojusticecommission/public-hearings.shtml>.

³⁰⁴ Hearing Transcript, *supra* note 1, at 3:19-24, 80:6-9 (remarks of Chief Judge Rowan D. Wilson).

³⁰⁵ *Id.* at 164:22-165:6.

³⁰⁶ *Id.* at 80:25-85:24 (remarks of Vernell Robinson).

³⁰⁷ *Id.* at 94:15-97:5 (remarks of Lionel Harvey).

³⁰⁸ *Id.* at 106:21-111:22 (remarks of Terri Tupper).

³⁰⁹ *Id.* at 120:5-125:2 (remarks of Bobbie Dafoe).

³¹⁰ *Id.* at 135:13-137:25 (remarks of Robert Burek).

³¹¹ *Id.* at 146:15-152:25 (remarks of Rosemary Rodriguez).

³¹² Statements from Client Presenters from Prior Chief Judge’s Civil Legal Services Hearings [hereinafter Client Statements] (Appendix 6 to this Report).

³¹³ Hearing Transcript, The Chief Judge’s Hearing on Civil Legal Services, at 143:21-147:10 (remarks of Rasan Kellam) (Third Department, Oct. 3, 2011), available at: https://ww2.nycourts.gov/sites/default/files/document/files/2018-04/3dDept2011-Hearing-Transcript_0.pdf.

³¹⁴ *Id.*

³¹⁵ Client Statements, *supra* note 312, Statement of Rasan Kellam, 1.

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ Hearing Transcript, The Chief Judge’s 2018 Hearing on Civil Legal Services in New York State, at 90:15-93:13 (remarks of Corinna Carrillo) (Court of Appeals, Sept. 24, 2018), available at: <https://ww2.nycourts.gov/sites/default/files/document/files/2019-09/2018transcript.pdf>.

³¹⁹ *Id.* at 90:24-91:1.

³²⁰ Client Statements, *supra* note 312, Statement of Corinna Carrillo, 2.

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*, Statement of Evelicia Rodriguez, 3.

³²⁴ Hearing Transcript, The Chief Judge’s 2020 Hearing on Civil Legal Services in New York, at 113:13-117:12 (remarks of Evelicia Rodriguez) (Court of Appeals, Sept. 21, 2020) [hereinafter 2020 Hearing Transcript], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/092120-CLS%20Hearing-Transcript.pdf>.

³²⁵ Client Statements, *supra* note 312, Statement of Evelicia Rodriguez, 3.

³²⁶ 2020 Hearing Transcript, *supra* note 324, at 123:5-126:3 (remarks of Joy Wefum).

³²⁷ *Id.* at 123:9-13.

³²⁸ *Id.* at 124:4-126:3.

³²⁹ *Id.* at 124:13-16.

³³⁰ *Id.* at 125:17-18.

³³¹ Client Statements, *supra* note 312, Statement of Joy Wefum, 4.

³³² *Id.*

³³³ Written Statements, *supra* note 42, Statement of Matthew R. Dornauer, Esq., 2.

³³⁴ *Id.*

³³⁵ *Id.*; *see also* Press Release, Legal Services Corporation, 208 General Counsel and Chief Legal Officers from the Largest U.S. Corporations Signed a Letter Urging Congress to Increase Legal Aid Funding (May 4, 2023), available at: <https://www.lsc.gov/press-release/208-general-counsel-and-chief-legal-officers-largest-us-corporations-signed-letter-urging-congress>.

³³⁶ Written Statements, *supra* note 42, Statement of Matthew R. Dornauer, Esq., 2.

³³⁷ Hearing Transcript, *supra* note 1, at 33:10-11 (remarks of Chief Judge Rowan D. Wilson).

³³⁸ *Id.* at 33:11-16.

³³⁹ *Id.* at 33:19-21.

³⁴⁰ Value derived by the IOLA Fund in 2023 using the US Dept of Commerce RIMS II regional economic multiplier model.

³⁴¹ For this analysis, IOLA estimated that 51% of clients were female, based on data found in Furtuny et al., *The Characteristics of Unauthorized Immigrants in California, Los Angeles County, and the United States* table 9 (2007) [hereinafter Furtuny]. This table shows the characteristics of foreign-born citizens, legal non-citizens, and unauthorized immigrants.

³⁴² For this analysis, IOLA assumed that 87% of VAWA clients were female, based on program statistics contained in the 2018 Biennial Report to Congress on the Effectiveness of the Grant Programs under VAWA), available at: <https://www.justice.gov/ovw/page/file/1292636/download>.

³⁴³ For this analysis, IOLA estimated that 51% of clients were female, based on data found in Furtuny, *supra* note 341, at table 9. This table shows the characteristics of foreign-born citizens, legal non-citizens, and unauthorized immigrants.

³⁴⁴ The estimated duration of child and spousal support is the average time elapsed from the average age of children at divorce (nine years) to the age of majority (18 years). *See* Shirley H. Liu, *The Effect Parental Divorce and Its Timing on Child Educational Attainment: A Dynamic Approach*, Dept of Economics, Univ of Miami 17 (Aug. 28, 2007).

³⁴⁵ *See supra* note 340.

³⁴⁶ Hearing Transcript, *supra* note 1, at 5:14-19 (opening remarks of Chief Judge Rowan D. Wilson).

³⁴⁷ *Id.* at 13:1-3 (remarks of Ronald S. Flagg, Esq.); Written Statements, *supra* note 42, Statement of Ronald S. Flagg, Esq., 3.

³⁴⁸ Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4; New York State Bar Association, Report & Recommendations of the Task Force on Rural Justice 2 (April 2020) [hereinafter Rural Justice Report], available at: <https://nysba.org/app/uploads/2020/03/Report-and-Recommendations-of-the-Task-Force-on-Rural-Justice-as-of-3.18.2020.pdf>.

³⁴⁹ Non-Presenter Written Statements, *supra* note 43, Written Submission of Cornell University ILR Buffalo Co-Lab (ILR Co-Lab), 3; Rural Justice Report, *supra* note 348, at 6.

³⁵⁰ *Id.* at 8-9; Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4.

³⁵¹ Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4.

³⁵² Technology Conference, Session 2B, Rural Justice and Remote Proceedings, at 3 [hereinafter Technology Conference, Session 2B], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/2B-Rural-Justice-CLE-Resources-ts.pdf>; Hon. Elizabeth Garry, *The Rural Representation Crisis*, NYLJ (Jan. 17, 2023), available at: <https://www.law.com/newyorklawjournal/2023/01/17/the-rural-representation-crisis/>.

³⁵³ Technology Conference, Session 2B, *supra* note 352, at 3.

³⁵⁴ *Id.* at 5.

³⁵⁵ Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4.

³⁵⁶ Hearing Transcript, *supra* note 1, at 143:20-25 (remarks of Mary C. Hanson, Esq.).

³⁵⁷ Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4; *see also* Hearing Transcript, *supra* note 1, at 115:16-116:19 (remarks of Kristin Brown).

³⁵⁸ Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4

³⁵⁹ Hearing Transcript, *supra* note 1, at 101:25-102:1 (remarks of Lori M. O'Brien, Esq.); Written Statements, *supra* note 42, Statement of Ronald S. Flagg, Esq., 4.

³⁶⁰ Hearing Transcript, *supra* note 1, at 14:4-5 (remarks of Ronald S. Flagg, Esq.); *id.* at 102:21-103:2 (remarks of Lori M. O'Brien, Esq.); Written Statements, *supra* note 42, Statement of Ronald S. Flagg, Esq., 4; *id.*, Statement of Lori M. O'Brien, Esq., 4.

³⁶¹ Written Statements, *supra* note 42, Statement of Adriene Holder, Esq., 4; Hearing Transcript, *supra* note 1, at 130:6-15 (remarks of Sal Curran, Esq.); Non-Presenter Written Statements, *supra* note 43, Written Submission of NYLSC, 1-2; *id.*, Written Submission of NSLS, 1.

³⁶² Non-Presenter Written Statements, *supra* note 43, Written Submission of NYLSC, 1-2. The study found that legal services attorneys earn significantly less than their counterparts working directly for the government.

³⁶³ *Id.*

³⁶⁴ *Id.*

³⁶⁵ *Id.*

³⁶⁶ *Id.*, Written Submission of NSLS, 1.

³⁶⁷ Hearing Transcript, *supra* note 1, at 130:6-15 (remarks of Sal Curran, Esq.).

³⁶⁸ Written Statements, *supra* note 42, Statement of Adriene Holder, Esq., 4.

³⁶⁹ Non-Presenter Written Statements, *supra* note 43, Written Submission of NSLS, 1.

³⁷⁰ *Id.*, Written Submission of NYLSC, 1.

³⁷¹ Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 4.

³⁷² Hearing Transcript, *supra* note 1, at 130:6-15 (remarks of Sal Curran, Esq.).

³⁷³ *Id.* at 118:1-8 (remarks of Chief Judge Rowan D. Wilson).

³⁷⁴ Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 5 (“[W]e renew our call for a significant increase in JCLS funding so that we may come closer to meeting the overwhelming need.”); Hearing Transcript, *supra* note 1, at 11:13-17 (remarks of Ronald S. Flagg, Esq.).

³⁷⁵ *Id.* at 38:24-39:1 (remarks of Hon. Fern A. Fisher).

³⁷⁶ *Id.* at 39:25-40:8.

³⁷⁷ Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 4 (“Funding is needed not only to create and expand programs, but also to ensure that civil legal aid programs are sustainable and are able to attract and retain the experienced attorneys that are needed to supervise pro bono volunteers and litigate the most difficult cases.”).

³⁷⁸ Hearing Transcript, *supra* note 1, at 11:6-12 (remarks of Ronald S. Flagg, Esq.).

³⁷⁹ Non-Presenter Written Statements, *supra* note 43, Written Submission of ILR Co-Lab, 6 (“That lack of capacity might be actively contributing to greater housing insecurity across NYS.”).

³⁸⁰ Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 4.

³⁸¹ *See supra* note 292. Pursuant to the statute, New York City plays a significant role in bridging the funding gap for eviction matters.

³⁸² Hearing Transcript, *supra* note 1, at 88:24-89:6 (remarks of Raun Rasmussen, Esq.).

³⁸³ Non-Presenter Written Statements, *supra* note 43, Written Submission of Cornell University ILR Buffalo Co-Lab, 3, 5.

³⁸⁴ Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 4-5; Hearing Transcript, *supra* note 1, at 42:15-42:20 (remarks of Hon. Fern A. Fisher) (“Additional funding must be devoted to evictions for low-income individuals until 100 percent are served. We are unlikely to reach the 100 percent mark in the near future.”); *id.* at 89:20-90:6 (remarks of Raun Rasmussen, Esq.).

³⁸⁵ Hearing Transcript, *supra* note 1, at 41:11-21 (remarks of Hon. Fern A. Fisher).

³⁸⁶ *Id.* at 142:19-143:2 (remarks of Mary C. Hanson, Esq.); *id.* at 11:15-19 (remarks of Ronald S. Flagg, Esq.).

³⁸⁷ *Id.* at 89:12-13 (remarks of Raun Rasmussen, Esq.).

³⁸⁸ Non-Presenter Written Statements, *supra* note 43, Written Submission of Cornell University ILR Buffalo Co-Lab, 2.

³⁸⁹ *Id.* (citing Russell Weaver, Cornell University ILR Buffalo Co-Lab, No Shelter, No Safety: How Rising Evictions in New York Could Pose a Risk to Public Safety – And How Eviction Prevention is Violence Prevention (2023), available at: <https://blogs.cornell.edu/nysevictions/no-shelter-no-safety/>).

³⁹⁰ Hearing Transcript, *supra* note 1, at 144:3-7 (remarks of Mary C. Hanson, Esq.).

³⁹¹ Non-Presenter Written Statements, *supra* note 43, Written Submission of Cornell University ILR Buffalo Co-Lab, 3, 5.

³⁹² Hearing Transcript, *supra* note 1, at 145:12-22 (remarks of Chief Judge Rowan D. Wilson) (“It’s a very modest investment . . . to avoid that kind of a catastrophe, you can see how the return on that investment is much greater than the investment.”); Non-Presenter Written Statements, *supra* note 43, Written Submission of the Right to Counsel NYC Coalition, 2 (“Passing Statewide Right to Counsel will enable New York State to realize staggering fiscal and social cost savings: millions of public dollars (over and above the cost of providing the Right) that would otherwise be spent on shelter, emergency room costs, homelessness services, and more.”).

³⁹³ Hearing Transcript, *supra* note 1, at 40:9-21 (remarks of Hon. Fern A. Fisher).

³⁹⁴ *Id.* at 45:9-46:9.

³⁹⁵ *Id.*

³⁹⁶ *Id.* at 50:21-24.

³⁹⁷ *Id.* at 56:13-57:7.

³⁹⁸ *Id.*

³⁹⁹ *Id.* at 9:16-18 (remarks of Ronald S. Flagg, Esq.).

⁴⁰⁰ *Id.* at 142:19-25 (remarks of Mary C. Hanson, Esq.).

⁴⁰¹ Written Statements, *supra* note 42, Statement of Sal Curran, Esq., 4 (citing N.Y. City Off. of Civ. Just., N.Y. City Dep’t of Soc. Servs., Universal Access to Legal Services: A Report on Year Five of Implementation in New York City (2022), available at: https://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2022.pdf).

⁴⁰² Hearing Transcript, *supra* note 1, at 81:7-84:23 (remarks of Vernell Robinson).

⁴⁰³ *Id.* at 82:20-83:12.

⁴⁰⁴ *Id.* at 84:7-17; see Noah Goldberg, *Judge Calls Lack of Hot Water in Queens NYCHA Building Since November ‘a Crime*, NY Daily News (Feb. 5, 2022), available at: <https://www.nydailynews.com/2022/02/05/judge-calls-lack-of-hot-water-in-queens-nycha-building-since-november-a-crime/>.

⁴⁰⁵ Hearing Transcript, *supra* note 1, at 84:18-85:18 (remarks of Vernell Robinson) (“[W]e would not have been able to live in decency without our attorney and other legal services staff who pushed NYCHA from many different directions to treat us with [the] dignity and respect we deserved.”).

⁴⁰⁶ Non-Presenter Written Statements, *supra* note 43, Written Submission of American Association of Retired Persons (AARP) New York, 3; *id.*, Written Submission of Catholic Migration Services, 1; *id.*, Written Submission of Center for Independence of the Disabled, New York, 1; *id.*, Written Submission of Central Park Gardens Tenants’ Association, 1; *id.*, Written Submission of Church Avenue Merchants Block Association (CAMBA), Inc., 2; *id.*, Written Submission of Community Service Society, 1; *id.*, Written Submission of District Council 37 Municipal Employees Legal Services, 2; *id.*, Written Submission of For the Many, 1; *id.*, Written Submission of Housing Conservation Coordinators, 1; *id.*, Written Submission of Housing Court Answers, Inc., 1; *id.*, Written Submission of Housing Opportunities Made Equal (HOME), 1; *id.*, Written Submission of Long Island Activists, 1; *id.*, Written Submission of NYCLU, 2-3; *id.*, Written Submission of People United for Sustainable Housing (PUSH) Buffalo, 1; *id.*, Written Submission of The Right to Counsel NYC Coalition, 1; *id.*, Written Submission of United Tenants of Albany, 1; *id.*, Written Submission of Westchester Residential Opportunities, Inc., 2.

⁴⁰⁷ See, e.g., *id.*, Written Submission of AARP New York, 3; *id.*, Written Submission of CAMBA, 2; *id.*, Written Submission of The Right to Counsel NYC Coalition, 2.

⁴⁰⁸ *Id.*, Written Submission of AARP New York, 3.

⁴⁰⁹ *Id.*, Written Submission of NYCLU, 2 (“Despite the fact that [the NYC Right to Counsel initiative] has not been adequately funded, where tenants have counsel in eviction proceedings there are overwhelming positive results.” [citation omitted]).

⁴¹⁰ *Id.* at 3.

⁴¹¹ Hearing Transcript, *supra* note 1, at 139:11-141:1 (remarks of Mary C. Hanson, Esq.). Such homes may not offer as clear a remedy in practice as their proponents suggest. According to Ms. Hanson, new manufactured homes are selling for an average of \$108,000, which covers only the home and not the land on which the home is located. Once the price of the underlying land is factored in, the combined rent for tenants in these types of properties can be over \$1,000 per month.

⁴¹² *Id.* at 141:2-15.

⁴¹³ *Id.*

⁴¹⁴ *Id.* at 141:16-142:5.

⁴¹⁵ See Real Property Law § 233.

⁴¹⁶ Hearing Transcript, *supra* note 1, at 142:6-18 (remarks of Mary C. Hanson, Esq.); Written Statements, *supra* note 42, Statement of Mary C. Hanson, Esq., 3 (citing Rural Housing Coalition, *The Role of Manufactured Housing in New York’s Affordable Housing Crisis* (June 2023), available at: <https://ruralhousing.org/wp-content/uploads/FINAL-RHC-Manufactured-Housing-Community-Report.pdf>).

⁴¹⁷ Non-Presenter Written Statements, *supra* note 43, Written Submission of New York Veterans Law Working Group, 2.

⁴¹⁸ *Id.* at 3.

⁴¹⁹ *Id.* at 5.

⁴²⁰ Hearing Transcript, *supra* note 1, at 20:1-22:10 (remarks of Hon. Richard Rivera).

⁴²¹ *Id.* at 21:17-22:4.

⁴²² Written Statements, *supra* note 42, Statement of Hon. Richard Rivera, 1.

⁴²³ *Id.* at 63:2-64:11 (remarks of Dede Hill, Esq.).

⁴²⁴ A similar recommendation has previously been put forth by the court system’s Commission on Parental Legal Representation. See Commission on Parental Legal Representation, *NYS Unified Court System, Interim Report to Chief Judge DiFiore 16-23* (Feb. 2019), available at: <https://www.nycourts.gov/ip/Parental-Legal-Rep/PDFs/InterimReport-FINAL.pdf>.

⁴²⁵ Jesse Bedayn, *States Confront Medical Debt That’s Bankrupting Millions*, Assoc. Press (Apr. 12, 2023), available at: <https://apnews.com/article/medical-debt-legislation-2a4f2fab7e2c58a68ac4541b8309c7aa>; see also Consumer Fin. Prot. Bureau, *Medical Debt Burden in the United States* (Feb. 2022), available at: https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

⁴²⁶ Michael Karpman et al., *Urban Inst., Medical Debt in New York State and Its Unequal Burden Across Communities* (July 2023), available at: <https://www.urban.org/research/publication/medical-debt-new-york-state-and-its-unequal-burden-across-communities>.

⁴²⁷ Amanda Dunker & Elisabeth Ryden Benjamin, Cmty. Serv. Soc’y, *Financial Hardship, Avoiding Care: Results from a Statewide Survey* (Mar. 10, 2022), available at: <https://www.cssny.org/news/entry/financial-hardship-avoiding-care-healthcare-affordability-survey>.

⁴²⁸ *Id.*

⁴²⁹ See *infra* section IV.A.

⁴³⁰ Hearing Transcript, *The Chief Judge’s 2022 Statewide Hearing on Civil Legal Services*, 46:7-10 (remarks of Elisabeth Benjamin) (Court of Appeals, Sept. 19, 2022) [hereinafter 2022 Hearing Transcript], available

at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Transcript-Statewide-Hearing-on-Civil-Legal-Services.pdf>.

⁴³¹ Hearing Transcript, *supra* note 1, at 125:13-21 (remarks of Sal Curran, Esq.).

⁴³² *Id.* at 125:8-12.

⁴³³ *Id.* at 120:5-122:15 (remarks of Bobbie Dafoe).

⁴³⁴ *Id.* at 146:25-152:25 (remarks of Christine Rivera on behalf of Rosemary Rodriguez).

⁴³⁵ Non-Presenter Written Statements, *supra* note 43, Written Submission of Center for Elder Law & Justice, 2 (citing Justice in Aging, *45% of Americans Over 65 Have Trouble Meeting their Basic Needs*, available at: <https://justiceinaging.org>).

⁴³⁶ *Id.*

⁴³⁷ *Id.*, Written Submission of AARP New York, 1.

⁴³⁸ *Id.*, Written Submission of Center for Elder Law & Justice, 2.

⁴³⁹ Hearing Transcript, *supra* note 1, at 8:5-8 (remarks of Ronald S. Flagg, Esq.).

⁴⁴⁰ Non-Presenter Written Statements, *supra* note 43, Written Submission of National Consumer Law Center, 2 (citing Lunna Lopes et al., KFF, *Health Care Debt In The U.S.: The Broad Consequences of Medical and Dental Bills* (June 2022), available at: <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>).

⁴⁴¹ Non-Presenter Written Statements, *supra* note 43, Written Submission of New York Veteran Law Working Group, 4.

⁴⁴² Non-Presenter Written Statements, *supra* note 43, Written Submission of AARP New York, 1 (citing AARP New York, *Disrupting Disparities 3.0*, available at: <https://online.flippingbook.com/view/301219/16/>).

⁴⁴³ Non-Presenter Written Statements, *supra* note 43, Written Submission of the Center for Elder Law & Justice, 4, (citing Justice in Aging, *Issue Brief: Racial Disparities in Nursing Facilities—and How to Address Them*, available at: <https://justiceinaging.org/issue-brief-racial-disparities-in-nursing-facilities-and-how-to-address-them/>).

⁴⁴⁴ Non-Presenter Written Statements, *supra* note 43, Written Submission of the National Consumer Law Center, 2 (citing Berneta L. Haynes, Nat'l Consumer Law Ctr., *The Racial Health and Wealth Gap, Impact of Medical Debt on Black Families* (Mar. 2022), available at: <https://www.nclc.org/wp-content/uploads/2022/09/RacialHealth-Rpt-2022.pdf>).

⁴⁴⁵ Amanda Dunker & Elisabeth Ryden Benjamin, Cmty. Serv. Soc'y, *Discharged into Debt: New York's Nonprofit Hospitals are Suing Patients* (Mar. 2020) [hereinafter *Discharged into Debt 2020*], available at: <https://www.cssny.org/publications/entry/discharged-into-debt>.

⁴⁴⁶ Remarks of Chief Judge Rowan D. Wilson, 2023 Statewide Stakeholders Meeting, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/Vid1transcript-Welcome-Remarks.pdf>.

⁴⁴⁷ Hearing Transcript, *supra* note 1, at 9:7-14 (remarks of Ronald S. Flagg, Esq.).

⁴⁴⁸ *Id.* at 104:13-13 (remarks of Lori M. O'Brien, Esq.).

⁴⁴⁹ *Id.* at 133:23-134:7 (remarks of Sal Curran, Esq.).

⁴⁵⁰ Non-Presenter Written Statements, *supra* note 43, Written Submission of New York City Bar Association, 12.

⁴⁵¹ *Id.*

⁴⁵² *Id.*

⁴⁵³ Hearing Transcript, *supra* note 1, at 118:9-12 (remarks of Chief Judge Rowan D. Wilson).

⁴⁵⁴ Non-Presenter Written Statements, *supra* note 43, Written Submission of New York Health Foundation, 1.

⁴⁵⁵ *Id.*

⁴⁵⁶ *Id.*

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- ⁴⁵⁷ Technology Survey Data, *supra* note 267.
- ⁴⁵⁸ Technology Conference, Session 3D, Beyond Zoom: Building Long-Term Legal Help Programs to Expand Legal Services to Patients, at 8, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/3D-Beyond-Zoom-ts.pdf>.
- ⁴⁵⁹ Technology Conference, Session 1C, Operationalizing “Change Management” Through Staff-Management Technology Committees, at 3, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/1C-Operationalizing-Change-Management-Through-Staff-Management-Technology-Committees-ts.pdf>.
- ⁴⁶⁰ *Id.*
- ⁴⁶¹ Technology Survey Data, *supra* note 267.
- ⁴⁶² Technology Conference, Session 3C, Cybersecurity: Practical Considerations and Best Practices, at 1-2, [hereinafter Technology Conference, Session 3C], available at: <https://nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/3C-Cybersecurity-ts.pdf>; *see also* Technology Conference, LSC Baselines, at 6-7 [hereinafter Technology Conference, LSC Baselines], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/LSC-Baselines-ts.pdf>.
- ⁴⁶³ *See* Technology Conference, Session 3C, *supra* note 462, at 2.
- ⁴⁶⁴ *See* Technology Conference, LSC Baselines, *supra* note 462, at 6.
- ⁴⁶⁵ *Id.* at 7.
- ⁴⁶⁶ *Id.* at 6-7.
- ⁴⁶⁷ Technology Conference, Session 2A, Agents of the Shield: Data Privacy and Security, at 2 [hereinafter Technology Conference, Session 2A], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/2A-Agents-of-SHIELD-ts.pdf>.
- ⁴⁶⁸ *Id.*
- ⁴⁶⁹ *Id.* at 5.
- ⁴⁷⁰ Technology Survey Data, *supra* note 267.
- ⁴⁷¹ Technology Conference, Session 2A, *supra* note 467, at 5.
- ⁴⁷² Technology Conference, LSC Baselines, *supra* note 462, at 3.
- ⁴⁷³ Technology Conference, Session 2A, *supra* note 467, at 5.
- ⁴⁷⁴ *Id.*
- ⁴⁷⁵ Funding Working Group Report, *supra* note 3, at 2.
- ⁴⁷⁶ *Id.* at 15.
- ⁴⁷⁷ *Id.*
- ⁴⁷⁸ Hearing Transcript, *supra* note 1, at 13:8-21 (remarks of Ronald S. Flagg, Esq.).
- ⁴⁷⁹ Technology Conference, Session 2D, Case Studies of Effective Tech Collaborations, at 1 [hereinafter Technology Conference, Session 2D], available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/2D-Case-Studies-of-Effective-Tech-Collaborations-ts.pdf>.
- ⁴⁸⁰ Hearing Transcript, *supra* note 1, at 13:13-21 (remarks of Ronald S. Flagg, Esq.).
- ⁴⁸¹ Technology Conference, Session 2D, *supra* note 479, at 1-2.
- ⁴⁸² *Id.* at 1.
- ⁴⁸³ Funding Working Group Report, *supra* note 3, at 15.
- ⁴⁸⁴ Technology Conference, Session 2D, *supra* note 479, at 12.
- ⁴⁸⁵ Technology Conference, Session 1A, Legal Aid Data and Evaluation Toolkit, at 11, available at: <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/tc/2023/1A-Legal-Aid-Data-and-Evaluation-Toolkit-CLE-Resources-ts.pdf>.

[486](#) *Id.*

[487](#) *Id.*

[488](#) *Id.*

[489](#) *Id.*

[490](#) Hearing Transcript, *supra* note 1, at 13:8-21 (remarks of Ronald S. Flagg, Esq.); Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York City Bar Association, 10.

[491](#) Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York City Bar Association, 10.

[492](#) *Id.*

[493](#) *See id.* at 12.

[494](#) Technology Conference, LSC Baselines, *supra* note 462, at 3.

[495](#) *Id.*

[496](#) Hearing Transcript, *supra* note 1, at 106:21-25 (remarks of Terri Tupper).

[497](#) *Id.* at 114:2-8 (remarks of Kristin Brown).

[498](#) *Id.* at 88:13-18 (remarks of Raun Rasmussen, Esq.).

[499](#) Written Statements, *supra* note 42, Statement of Lori M. O'Brien, Esq., 4.

[500](#) *Id.*

[501](#) *Id.*

[502](#) *Id.*

[503](#) *Id.*, Statement of Matthew R. Dornauer, Esq., 1; *id.*, Statement of Sal Curran, Esq., 1.

[504](#) Hearing Transcript, *supra* note 1, at 131:17-25-132-1 (remarks of Sal Curran, Esq.).

[505](#) *Id.* at 18:22-25-19:1-11 (remarks of Judge Richard Rivera).

[506](#) *Id.* at 19:20-25.

[507](#) *Id.* at 22:5-10.

[508](#) *Id.* at 12:1-15 (remarks of Ronald S. Flagg, Esq.).

[509](#) Funding Working Group Report, *supra* note 3, at 2.

[510](#) Hearing Transcript, *supra* note 1, at 81:16-19 (remarks of Vernell Robinson).

[511](#) *Id.* at 83:18-84:6.

[512](#) *Id.* at 84:18-23.

[513](#) *Id.* at 87:22-24 (remarks of Raun Rasmussen, Esq.).

[514](#) *Id.* at 90:17-91:3 (remarks of Chief Judge Rowan D. Wilson).

[515](#) *Id.*

[516](#) Written Statements, *supra* note 42, Statement of Ronald S. Flagg, Esq., 4.

[517](#) *Id.*

[518](#) Technology Conference, LSC Baselines, *supra* note 462, at 6.

[519](#) *See supra* section III.F.

[520](#) 2022 Hearing Transcript, *supra* note 430, at 44:14-48:19 (Remarks of Elisabeth Benjamin); *id.* at 72:23-76:11 (Remarks of Barbara Robinson).

[521](#) Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 56 (Nov. 2022) [hereinafter 2022 Annual Report], available at: https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/22_ATJ-Comission_Report.pdf.

[522](#) Hearing Transcript, *supra* note 1, at 120:5-122:15 (remarks of Bobbie Dafoe); *id.* at 146:25-152:25 (remarks of Christine Rivera on behalf of Rosemary Rodriguez); *see also id.* at 126:3-10 (remarks of Sal Curran, Esq.); *id.* at 159:6-24 (remarks of Adriene Holder, Esq.); Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York Health Foundation, 1; *id.*, Written Submission of the National Consumer Law Center, 2.

⁵²³ See Public Health Law § 2807-k (9-a).

⁵²⁴ Non-Presenter Written Statements, *supra* note 43, Written Submission of the National Consumer Law Center, 2.

⁵²⁵ *Id.* (citing Office for Older Americans, Consumer Fin. Prot. Bureau, *Issue Spotlight: Medical Billing and Collections Among Older Americans* (May 2023), available at: <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report>).

⁵²⁶ *Id.* at 3.

⁵²⁷ Hearing Transcript, *supra* note 1, at 152:1-15 (remarks of Christine Rivera on behalf of Rosemary Rodriguez).

⁵²⁸ *Id.* at 127:7-17 (remarks of Sal Curran, Esq.).

⁵²⁹ *Id.*

⁵³⁰ See Public Health Law § 2801-a. Three provisions specifically establish the basis for the non-profit status of New York's hospitals: (1) Section 2801-a(3), which requires anyone seeking to own a hospital to undergo a review of "character, competence, and standing in the community" by the state's Public Health and Health Planning Council, a branch of the Health Department, including a mandatory background check; (2) Section 2801-a(4), which provides that all owners of a for-profit hospital must be "natural persons"; and (3) Section 2801-a(4)(b), which mandates that any sale or transfer involving 10 percent or more of a hospital's value must be approved in advance by the State; for smaller transactions, the State must be given 90 days' advance notice.

⁵³¹ See Public Health Law § 2807-k.

⁵³² Internal Revenue Code Section 501(r)(6); *see also* Internal Revenue Service, Billing and Collections—Section 501(r)(6), available at: <https://www.irs.gov/charities-non-profits/billing-and-collections-section-501r6>.

⁵³³ See Elisabeth Ryden Benjamin & Amanda Dunker, Cmty. Serv. Soc'y, Discharged Into Debt: New York's Nonprofit Hospitals Garnish Patients' Wages 5 (July 2022) [hereinafter Discharged into Debt 2022], available at: https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/Wage_Garnishment_Report_V6.pdf; *see also* Discharged into Debt 2020, *supra* note 445.

⁵³⁴ 2022 Hearing Transcript, *supra* note 430, at 46:7 (remarks of Elisabeth Benjamin).

⁵³⁵ See Discharged into Debt 2022, *supra* note 533, at 5.

⁵³⁶ Amanda Dunker & Elisabeth Ryden Benjamin, Cmty. Serv. Soc'y, Discharged Into Debt: Nonprofit Hospitals File Liens On Patients' Homes 4-5 (Nov. 2021), available at: <https://www.cssny.org/publications/entry/discharged-into-debt-nonprofit-hospitals-file-liens-on-patients-homes>; Discharged into Debt 2022, *supra* note 533, at 6-7; *see also* Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York Health Foundation, 3.

⁵³⁷ 42 U.S.C. § 1395i-3(c)(5)(A)(ii).

⁵³⁸ 42 U.S.C. § 1395i-3(c)(5)(B)(ii).

⁵³⁹ See Anna Anderson, Nat'l Consumer Law Ctr., *Defending Nursing Home Collection Lawsuits* (Nov. 15, 2021), available at: <https://library.nclc.org/article/defending-nursing-home-collection-lawsuits>; Noam Levey, *Nursing Homes Are Suing Friends and Family to Collect on Patients' Bills*, Nat'l Pub. Radio (July 28, 2022), available at: <https://www.npr.org/sections/health-shots/2022/07/28/1113134049/nursing-homes-are-suing-friends-and-family-to-collect-on-patients-bills>.

⁵⁴⁰ *Id.*

⁵⁴¹ *Id.*

⁵⁴² Non-Presenter Written Statements, *supra* note 43, Written Submission of the National Consumer Law Center, 6.

⁵⁴³ See April Kuehnhoff & Chi Chi Wu, Nat'l Consumer Law Ctr., Health Care Plastic: The Risks of Medical Credit Cards 10 (April 2023), available at: <https://www.nclc.org/wp-content/uploads/2023/04/Report-Health-Care-Plastic.pdf>.

⁵⁴⁴ *Id.* at 9-10.

⁵⁴⁵ *Id.* at 8-10.

⁵⁴⁶ Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York Health Foundation, 2 (citing Discharged into Debt 2022, *supra* note 533).

⁵⁴⁷ *Id.*

⁵⁴⁸ Hearing Transcript, *supra* note 1, at 126:3-6 (remarks of Sal Curran, Esq.); see also Andrew Denney, *New York Attorney General Files to Join Appeal by Debtor Who Says She Is Victim of 'Sewer Service,'* Law.com (July 31, 2023), available at: <https://www.law.com/newyorklawjournal/2023/07/31/new-york-attorney-general-files-to-join-appeal-by-debtor-who-says-she-is-victim-of-sewer-service/>.

⁵⁴⁹ Hearing Transcript, *supra* note 1, at 121:16-19 (remarks of Bobbie Dafoe).

⁵⁵⁰ *Id.* at 127:18-128:17 (remarks of Sal Curran, Esq.) (sharing the story of a single mother of a disabled child who took her own life because she was too overwhelmed to follow through with a no-fault Medicaid application in the narrow 30-day window required).

⁵⁵¹ Written Statements, *supra* note 42, Statement of Adriene Holder, Esq., 2.

⁵⁵² Non-Presenter Written Statements, *supra* note 43, Written Submission of the National Consumer Law Center, 7.

⁵⁵³ *Id.* at 5 (citing Office for Older Americans, Consumer Fin. Prot. Bureau, *Issue Spotlight: Nursing Home Debt Collection* (Sept. 2022), available at: <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-nursing-home-debt-collection/full-report/>) ("I ended up getting sued for my Dad's nursing home bill, even with the [multiple] insurances . . . I signed [a settlement agreement] under duress because of a threat of garnishment for the entire amount.").

⁵⁵⁴ Hearing Transcript, *supra* note 1, at 128:20-25 (remarks of Sal Curran, Esq.). An additional notice is mandated in all other types of consumer debt matters pursuant to the Consumer Credit Fairness Act. See *infra* note 567.

⁵⁵⁵ *Id.*

⁵⁵⁶ Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York Health Foundation, 1 (recognizing it is critical for defendants to understand the proceedings and their rights).

⁵⁵⁷ Sal Curran expressed that a form answer would enable unrepresented litigants to make an appearance. See Hearing Transcript, *supra* note 1, at 129:6-8 (remarks of Sal Curran, Esq.).

⁵⁵⁸ *Id.* at 129:9-10; Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York Health Foundation, 4.

⁵⁵⁹ *Id.*

⁵⁶⁰ See, e.g., NYSCEF Listing of Case Types, available at: <https://iapps.courts.state.ny.us/nyscef/CaseSearch>; Request for Judicial Intervention Form, available at: <https://www.nycourts.gov/LegacyPDFS/FORMS/rji/UCS-840.pdf>.

⁵⁶¹ Hearing Transcript, *supra* note 1, at 129:1-5 (remarks of Sal Curran, Esq.).

⁵⁶² Public Health Law 2807-k (9-a).

⁵⁶³ Non-Presenter Written Statements, *supra* note 43, Written Submission of the New York Health Foundation, 4.

⁵⁶⁴ *Id.*, Statement of the National Consumer Law Center, 7 (citing Nat'l Ctr. for State Cts., *Tiny Chat Companion Piece: Nursing Home Debt* [Sept. 2023]), available at: https://www.ncsc.org/data/assets/pdf_file/0024/94038/CFPB-TC-Companion-Sheet-1.pdf.

⁵⁶⁵ In fact, New York has the fourth largest population of older adults in the nation. Non-Presenter Written Statements, *supra* note 43, Written Submission of the Center for Elder Law & Justice, 8.

⁵⁶⁶ See *supra* section IV.A.3; Hearing Transcript, *supra* note 1, at 159:1-19 (remarks of Adriene Holder, Esq.); *id.* at 147:23-148:5, 150:14-16 (remarks of Christine Rivera on behalf of Rosemary Rodriguez).

⁵⁶⁷ See 2023 NY Senate Bill S1366A/NY Assembly Bill A6027 (requires hospitals to use a uniform financial assistance policy and application as a condition of participation in the indigent care pool fund [ICP] and to expand the eligibility and protections available through financial assistance); Fair Medical Debt Reporting Act, 2023 NY Senate Bill S4907/NY Assembly Bill A6275A (prohibits medical debt from being collected by a consumer reporting agency or included in a consumer report and prohibits medical service providers from reporting medical debt directly or indirectly to a consumer reporting agency); CPLR 5201, as amended by L. 2022, ch. 648, § 1 (prohibits property liens to be entered or enforced against a debtor's primary residence in an action arising from a medical debt and brought by a hospital licensed under article twenty-eight of the Public Health Law or a health care professional authorized under title eight of the Education Law); CPLR 5231, as amended by L. 2022, ch. 648, § 1 (prohibits wage garnishments in judgments arising from a medical debt action brought by a hospital licensed under article twenty-eight of the Public Health Law or a health care professional authorized under title eight of the Education Law); CPLR 5004, as amended by L. 2021, ch. 831 (sets the interest rate at 2% on money judgments in consumer debt actions where the defendant is a natural person); Consumer Credit Fairness Act (CCFA), L. 2021, ch. 593 (extends reforms for consumer credit transactions to all consumer debt matters, including requiring a notice to be mailed to the defendants by the clerk of the court, requiring court filings to include more information about the debt sought in a lawsuit, lowering the statute of limitations for consumer credit transactions from six years to three years, and protecting consumers from excessive interest charges and late fees).

⁵⁶⁸ See sources cited *supra* note 567.

