

THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2014



TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

November 28, 2014

Honorable Jonathan Lippman
Chief Judge of the State of New York
230 Park Avenue, Suite 826
New York, NY 10169

Dear Chief Judge Lippman:

On behalf of the Task Force to Expand Access to Civil Legal Services in New York, I am pleased to forward our fifth Report for your consideration. The Task Force, once again, assisted in the preparation for four public hearings on civil legal services to assess the extent and nature of the current unmet civil legal needs of low-income New Yorkers throughout the State, and to identify the level of resources necessary to meet that need. While the Judiciary Civil Legal Services funding has made a difference and resulted in more low-income people being helped, there still remains a substantial access-to-justice gap.

The Report includes the Task Force's findings on the continuing access-to-justice gap, based on the hearing testimony, and our recommendation for additional funding. The Report again includes analysis of the substantial economic benefits to New York State from investing in civil legal services.

The Task Force continues to make non-monetary recommendations as part of a multi-faceted strategy for helping to close the justice gap. The Task Force convened its third annual Law School Conference involving representatives from the fifteen New York law schools, the private bar, legal services providers, and the courts, focusing on the role of law schools in helping to close the justice gap. In addition, the Task Force engaged in substantial study, research and analysis leading to a recommendation for adoption of a statement of principle that low-income individuals, facing legal problems affecting the essentials of life, have effective legal assistance.

The members of the Task Force are unanimous in supporting this Report. They represent diverse perspectives and bring to the Task Force a breadth of experience, special insights and a commitment to creative solutions. They have made significant contributions of time and energy to our work this year. The Task Force was ably assisted by its Counsel Jessica Klein, as well as by Lara Loyd, Chiansan Ma, and Madeline Jenks, all from Sullivan & Cromwell, as well as by Mary Mone and Lauren Kanfer from your office.

We continue to be inspired in our work by your unequivocal commitment to the need to provide civil legal assistance to the most vulnerable low-income New Yorkers, in matters that involve the very basic necessities of life and by your determination to bring us closer to the ideal of ensuring equal access to justice.

We look forward to continuing our work in the coming year.

Respectfully submitted,

A handwritten signature in blue ink that reads "Helaine M. Barnett".

Helaine M. Barnett
Chair, Task Force to Expand Access to
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TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

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NOTE: Appendices can be viewed on the Task Force’s website, <http://www.nycourts.gov/ip/access-civil-legal-services>

EXECUTIVE SUMMARY

The Continuing Urgent Need To Bridge The Access-To-Justice Gap In New York State

IN ITS INAUGURAL REPORT, the Task Force documented that in 2009 more than 2.3 million New Yorkers had tried to navigate our State’s complex civil justice system without a lawyer. In the wake of the Great Recession, the numbers were shocking: more than 98 percent of tenants were unrepresented in eviction cases; 99 percent of borrowers were unrepresented in consumer credit cases; and more than 95 percent of parents were unrepresented in child support matters.¹

In 2010, to address this crisis of the unrepresented in our State’s courts, Chief Judge Jonathan Lippman announced that he would conduct annual hearings to assess the unmet need for civil legal assistance, and appointed this Task Force to assist with the hearings and prepare an annual report and recommendations for expanding access to justice. As the Chief Judge rightly put it: “No issue is more fundamental to the Courts’ constitutional mission than ensuring equal justice for all. The availability of affordable legal representation for low-income New Yorkers is indispensable to our ability to carry out that mission.”²

Shortly after the Chief Judge’s announcement, the State Legislature passed a resolution requesting that the Chief Judge report annually to the Governor and Legislature on the findings of the hearings and work of the Task Force, with recommendations to address gaps in available resources to meet the need for civil legal services in the State of New York.³

Led by Helaine M. Barnett, the former President of the federal Legal Services Corporation, the Task Force includes representatives of the Judiciary, the business community, government, private law firms, bar associations, civil legal services and *pro bono* legal assistance providers, law schools, and funders.⁴ This annual Report describes the continuing crisis of the unrepresented in our State’s courts and the continuing unmet need for civil legal services, while offering recommendations to try to reduce the access-to-justice gap.

The Crisis of the Unrepresented

Beginning with its first Report in 2010, the Task Force found that the crisis of the unrepresented in our State’s courts was adversely impacting everyone in our State, from the most vulnerable families to the largest corporate litigants.⁵ The unrepresented, faced with the loss of a home, a job or even a child, were losing valid claims because they did not understand the law or how to present evidence. Because of their lack of knowledge of substantive law and procedure, their cases took much longer than needed. With judges and court staff spending tens of thousands of additional hours handling cases involving unrepresented litigants, the quality of justice had suffered for all New Yorkers, including represented parties.⁶ In addition, the State’s economy was losing many hundreds of millions of dollars, because unrepresented New Yorkers were not able to obtain federal funds, from disability payments to veterans’

benefits, thereby requiring the State and local governments (and, ultimately, taxpayers) to spend even more on problems like fighting homelessness and domestic violence and meeting other social services needs arising from poverty.

From the outset, the Task Force recognized that this crisis of the unrepresented would not be solved in a year or even five years. To begin to address the crisis, the Task Force proposed that, over a multi-year period, the Chief Judge allocate funds in the annual Judiciary budget for civil legal services funding.⁷ The Task Force found that the provision of civil legal services reduces the costs of litigation, increases court efficiency, saves taxpayers millions of dollars, and has a profound effect on the lives of low-income New Yorkers. Beyond proposing limited, new funding, the Task Force made a series of non-monetary recommendations to the Chief Judge to improve the functioning of our courts generally and the delivery of civil legal services in our State.

The Work of the Task Force

Since 2010, the Task Force has assisted the Chief Judge in holding annual hearings and has conducted its own research and formulated recommendations to the Chief Judge to begin to close the large access-to-justice gap for low-income children and adults throughout New York State in matters affecting the essentials of life. Acting on the Task Force's recommendations, the Chief Judge has increased funding for civil legal services through the Judiciary budget, and has implemented many non-monetary recommendations to improve access to justice for all New Yorkers.

These efforts have begun to bear fruit, but much more remains to be done. As shown by new Office of Court Administration data, some 1.8 million litigants in civil matters in courts in every region of New York State remain unrepresented, down from more than 2.3 million reported in 2010.⁸ Increased Judiciary Civil Legal Services (JCLS) funding has helped countless families and individuals to remain in their homes, to escape from domestic violence, to stabilize their families, to maintain or obtain subsistence income, or to secure access to health care or an education—truly the most basic essentials of life. Last year, civil legal services providers handled a remarkable 384,974 cases.

As numerous witnesses testified during this year's hearings, without access to legal representation, low-income families suffer devastating consequences. New York City Councilmember Deborah L. Rose put it well: "It is crucial to our well-being as a society that all people, regardless of their income, have efficacious access to the courts. When a significant portion of the population is denied access, a justice system—no matter how well structured—fails to achieve its most basic goal."⁹

The Task Force's Recommendations for Judiciary Civil Legal Services Funding to Address the Current Crisis

Based on the Task Force's recommendations, the Chief Judge allocated \$70 million for civil legal services in the Judiciary budget for 2014-2015. This funding consists of \$55 million in JCLS grants awarded through a competitive bidding process to civil legal services providers in every county in New York State, and \$15 million in funding to rescue and stabilize the Interest on Lawyers Account Fund of New York State (IOLA), which helps fund civil legal assistance for low-income New Yorkers. As a result of the decline in interest rates due to the economic environment during the past six years, annual IOLA revenue available for civil legal services providers plummeted from \$32 million annually in 2008 to \$7 million in recent years, increasing to only \$9 million in 2013.¹⁰

Notwithstanding the significant work of legal services providers throughout the State, there remains a substantial justice gap for low-income New Yorkers. To continue to try to close this justice gap, the Task Force recommends the continued implementation of the Chief Judge’s multi-year civil legal services funding initiative, specifically by increasing the annual allocation for the JCLS funding by \$15 million and maintaining the special \$15 million allocation to stabilize the IOLA Fund. This funding will allow New York State to continue its efforts to close the justice gap, remedy the crisis of the unrepresented in our courts, and materially improve the lives of low-income New Yorkers.

As in all of our previous Reports, the Task Force recommends that this JCLS funding continue: (1) to prioritize civil legal assistance in the core “essentials of life”—housing, family matters, access to health care and education, and subsistence income; (2) to focus on preventive legal assistance that can avert or reduce the need for litigation; (3) to target assistance for New Yorkers living at or below 200 percent of the federal poverty level in all counties of the State; (4) to recognize the need for a seasoned, well-trained civil legal services staff able to provide comprehensive service in often complex, interrelated legal matters; (5) to distribute funds according to the number of low-income New Yorkers in each county; and (6) to award funds through a competitive-bidding Request for Proposals (RFP) process under the oversight of a JCLS Oversight Board consisting of Chief Administrative Judge A. Gail Prudenti, the Task Force’s Chair, Helaine M. Barnett, and the Chair of the IOLA Board.

The Substantial Economic Benefits to New York State from Funding Civil Legal Services Programs

Since 2011, to evaluate the cost savings and economic benefits resulting from funding civil legal services programs in New York State, the Task Force received *pro bono* assistance from nationally recognized economic experts who have determined that investing in civil legal services provides a substantial economic benefit to New York State, and a return of more than six dollars for every one dollar of funding. This key finding is based on three independent economic studies.

As documented in our prior reports, Navigant Consulting found that investing in civil legal services to prevent domestic violence in New York State could achieve annual savings of \$85 million in the costs associated with assistance for survivors of domestic violence.¹¹ Using State and local data on the cost of providing shelter in New York State and IOLA data on eviction prevention cases, Cornerstone Consulting concluded that anti-eviction legal services programs that receive IOLA funding saved the government approximately \$116 million annually in averted shelter costs.¹² Updated analysis of eviction prevention data provided by IOLA demonstrates significantly increased annual savings of more than \$220 million.¹³ The data also show a Statewide average cost savings per successful eviction case of \$20,300, and an annual savings of \$40.7 million from brief representation in housing cases.

For this 2014 Report, NERA Economic Consulting updated its 2013 analysis and found that civil legal services provides significant increased benefits and savings for low-income New Yorkers and New York State. Specifically, NERA estimated that the total value of federal benefits received by low-income New Yorkers in 2013 was \$518.5 million, which is a \$60 million increase using data through 2012, and a \$140.5 million increase since 2011. The multiplier effect of those increased federal resources results in total economic benefits to the State of \$769 million in 2013.¹⁴

The Task Force’s Recommendations for Non-Monetary Action in 2015 To Help Close the Justice Gap

In its prior Reports, the Task Force recommended non-monetary actions to help expand access to civil legal help. This Report documents the achievements of these non-monetary initiatives over the past four years, including: (1) the extraordinary *pro bono* work of the private bar; (2) groundbreaking law school and law student efforts; (3) the continuing simplification of court forms; (4) the nonlawyer assistance initiative; (5) efforts to enhance training and support resources for the Town and Village Courts for summary proceedings in which many unrepresented low-income litigants appear; and (6) the ongoing development of alternative conflict resolution procedures.

Over the next year, the Task Force recommends additional non-monetary initiatives to increase access and to help close the access-to-justice gap by:

- Increasing access to technology for civil legal services providers to enhance their service delivery systems and to increase access for low-income families and individuals;
- Proposing rules to implement a pilot program to determine the feasibility, cost, and potential effectiveness of an online dispute resolution mechanism for certain categories of cases;
- Encouraging the expansion of limited scope/unbundled legal services; and
- Recommending that the State Legislature adopt a statement of principle that low-income New Yorkers facing legal matters concerning the essentials of life have effective legal assistance.



In making these recommendations, the Task Force recognizes that our courts cannot solve all of society’s ills, and that addressing the root causes of poverty go far beyond the competence of courts. As in the past, our objective remains to propose common sense, cost-effective recommendations that we believe will increase the availability of effective legal assistance when the most vulnerable New Yorkers face legal problems in matters involving the “essentials of life.” Since 2010, our State has made progress, but a significant justice gap remains.

PART A

The Chief Judge's Civil Legal Services Initiative For New York State

WITH THESE WORDS, the Chief Judge launched the New York State civil legal services initiative on Law Day in 2010:

No issue is more fundamental to our constitutional mandate of providing equal justice under law than ensuring adequate legal representation. . . . [T]o meet our constitutional and ethical mandates, the Judiciary of this State is determined to bring us closer to the ideal of equal access to civil justice. . . . [I]t is my fervent hope . . . that it will be an obvious truth to all that those litigants faced with losing the roof over their heads, suffering the breakup of their families, or having their very livelihood threatened cannot meaningfully pursue their rights in the courts of New York without legal counsel.¹⁵

Since that time, the Chief Judge's initiative has been recognized as a national model and template for action.¹⁶ As noted by Dean Martha Minow, the Morgan & Helen Chu Dean and Professor of Law at Harvard Law School, in her 2014 testimony at the Third Department Hearing at the Court of Appeals:

I honestly know of no better or more inspiring efforts than the work of this Task Force. You have named and studied the problem and you have built remedies that are already making a difference. Over the last five years your comprehensive, creative and fruitful work has included successfully pursuing funding through the judicial budget for civil legal assistance. Your research demonstrates the devastating effects on the most vulnerable people that results from the lack of counsel in eviction, domestic violence, consumer matters, and other cases involving essential needs for daily life.¹⁷

Through the establishment of this Task Force, annual hearings in each Judicial Department of New York State on the unmet need for civil legal help for low-income families and individuals, the submission of the annual Task Force Report to the Governor and Legislature with recommendations for monetary and non-monetary initiatives, and a diverse series of related civil legal services efforts, the Chief Judge's civil legal services initiative has made substantial progress in addressing the need for civil legal services. But much more needs to be done to bridge the continuing significant access-to-justice gap in New York State.

Introducing the commencement of the 2014 hearings in the First Department, the Chief Judge reflected:

The reason why we are here is because there is a justice gap in this city, in this state and this country between the . . . available resources and the desperate need for legal representation for the poor and people of limited means. . . . It is a difficult economic time and there are people fighting for the necessities of life, a roof over their heads, their physical safety, the well-being of their families and their livelihoods, who literally can fall off the cliff without legal representation helping them to fight these battles about the very essentials of life, which we are all entitled to.

This has such great consequences for our society, for our communities and it is at a tremendous

cost that we fail to provide legal representation for all, equal representation, equal justice for all.

In the judiciary, this is our constitutional mission to foster equal justice. It is not tangential to what we do—it is at the heart of what we do. That’s why we have taken the lead with the legal profession in our [S]tate to host these hearings, to assure that our message gets across and of why this is important.¹⁸

1. The Judiciary Civil Legal Services Funding Is Having An Impact

For the Fiscal Year 2014-15, the Judiciary Civil Legal Services (JCLS) Oversight Board allocated \$55 million in annual JCLS grants to a total of 75 civil legal services providers serving low-income New Yorkers in every county in the State. Of that total, \$40 million was distributed through renewals of contracts entered into pursuant to the 2012-13 and 2013-14 Request for Proposals (RFP), and \$15 million was distributed pursuant to a new RFP for 2014-15.¹⁹

The Oversight Board has informed the Task Force that in response to the 2014-15 RFP, it received and considered 431 applications from 71 applicants for the \$15 million in new funding, decided which to fund, and determined allocations. Included among the 71 applicants were six new providers who had not previously requested JCLS funding and four providers who had previously requested but were not awarded JCLS funding. The Oversight Board awarded grants to 62 of the 71 applicants, five of which were new and had not previously requested funding. One applicant was awarded funding after having previously requested funding but not receiving an award. The \$15 million in new grants ranged in size from \$6,900 to \$1,554,048 and the \$55 million in total grants ranged in size from \$15,082 to \$6,310,544.²⁰

The Oversight Board also informed the Task Force that, in accordance with the priorities articulated by the Chief Judge and recommended in the Task Force’s previous Reports, the Oversight Board’s grant awards targeted matters involving the “essentials of life”—legal problems in the areas of housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts).²¹ The Oversight Board further informed the Task Force that it treated as a priority the provision of direct legal services, while also encouraging collaboration among civil legal services providers as well as preventive and early-intervention legal assistance. As recommended by the Task Force, the Oversight Board allocated the new funding throughout the State—in rural, suburban and urban areas—in accordance with the distribution of persons living at or below 200 percent of the federal poverty level in each of the four Judicial Departments.²²

Data collected by the Office of Court Administration shows that the increased civil legal services funding allocated by the Chief Judge in the Judiciary annual budget has resulted in increasing numbers of low-income New Yorkers served with those funds. The number of low-income “individuals served” increased from 125,169 in 2011-12 to 267,965 in 2012-13. For 2013-14, using an improved measurement of “cases handled,” grantees reported that they handled 384,974 cases. This data is presented in the following table.²³

Judiciary Civil Legal Services Grantees Direct Legal Assistance

	2011-2012 CLIENTS SERVED	2012-2013 CLIENTS SERVED	2013-2014 CASES HANDLED
First Department	44,402	99,778	108,350
Second Department	57,975	135,387	169,631
Third Department	12,731	14,206	40,482
Fourth Department	10,061	18,594	66,511
STATEWIDE TOTAL	125,169	267,965	384,974

In an effort to ascertain the degree to which the need for civil legal services for low-income New Yorkers is being met, and acknowledging the limitations of available data, the Task Force began with the fact that JCLS funding grantees handled 384,974 cases last year, helping substantially more New Yorkers than the previous year. The Task Force also found that the number of individuals receiving indirect legal assistance and persons benefitting from direct legal assistance increased by more than 1.4 million over the previous year.²⁴ The Task Force also considered that last year the number of unrepresented litigants in civil cases was reduced from 2.3 million to 1.8 million, a 22 percent decrease, and an estimated 2.5 million hours of *pro bono* work were contributed. Combining that data and considering anecdotal feedback from civil legal services providers, the Task Force reached a preliminary estimate that, rather than meeting at best 20 percent of the civil legal needs of low-income New Yorkers in matters involving the essentials of life, New York may be meeting close to 30 percent of those needs.²⁵ The Task Force has asked Chief Administrative Judge A. Gail Prudenti and the Office of Court Administration to form a committee to refine that preliminary estimate in the coming year.

Tens of thousands of lives have been changed by civil legal services that provide access to the “essentials of life” for low-income children and adults. As the Chief Administrative Judge of the State of New York, the Honorable A. Gail Prudenti, noted in her testimony at the Third Department Hearing: “There are many examples of how the lives of individual New Yorkers have been helped by providers of civil legal services who are Judiciary Funding grantees. Many of the situations concern families in crisis with more than one legal problem.”²⁶ For example, as Judge Prudenti noted:

A Brooklyn woman with three children could no longer afford rent after her abusive husband moved out. Her livelihood depended on providing home-based day care, for which she was licensed. Her landlord delayed in acknowledging her Section 8 subsidy, and when she went into arrears, the landlord brought an eviction proceeding. Unrepresented in housing court, she signed an onerous stipulation requiring payments she would have great difficulty making. Another eviction action followed when the landlord challenged her right to provide day care from her apartment. A provider obtained agreement from the landlord that she could not be evicted for running the day care service and that the onerous stipulation should not be enforced. When the Section 8 subsidy came through, the provider negotiated a lower back rent amount and connected her with assistance from the City and charities to pay the back rent. Both eviction cases were dismissed.²⁷

Van Henri White, Esq., Chair of the Council of the Urban Boards of Education and President of the Rochester Board of Education of the Rochester City School District, listed additional ways in which civil legal services programs provide critical benefits to low-income families:

[T]here are other less direct, but equally impactful, legal efforts which make a real difference in our children's lives. Examples would be: [(i)] [t]he foreclosure prevention representation and tenant representation needed to keep families living in the same home and avoid kids from missing school or changing schools mid-year because the family is displaced, [(ii)] [t]he representation of victims of domestic violence that prevents kids from experiencing secondary trauma from seeing what happens to their homes, [(iii)] [t]he economic security work, whether obtaining public assistance, SSI or redressing wage theft, which results in families being economically better off and kids less stressed about their economic situation, and [(iv)] [t]he access to health care work that Law NY and Empire Justice do to make sure kids with health needs can get appropriate treatment and care.²⁸

2. Non-Monetary Initiatives Have Been Implemented To Bridge The Justice Gap

In its previous Reports, the Task Force proposed a series of non-monetary recommendations that have been implemented in conjunction with the Chief Judge's own civil legal services initiatives. All of these non-monetary initiatives have been aimed at expanding access to justice for low-income New Yorkers and mitigating the need for even greater levels of Judiciary funding than the Task Force has proposed. Many of these non-monetary initiatives could not have been accomplished without partnerships among the Judiciary, the providers, the private bar, and the 15 New York law schools. The key non-monetary recommendations that have been implemented since the Task Force's first Report in 2010 include:

- Establishing an annual Law School Conference and a Statewide Law School Access to Justice Council for the 15 New York law schools to promote civil legal services and access-to-justice involvement by law schools and law students;²⁹
- Increasing the recommended annual number of *pro bono* service hours for New York lawyers from 20 to 50 by amending New York Rule of Professional Conduct 6.1;³⁰
- Requiring reporting of *pro bono* activities and financial support for civil legal services as part of biennial attorney registration;³¹
- Encouraging *pro bono* work by registered in-house counsel in New York by revising a court rule to permit in-house counsel licensed out of state to register for purposes of performing *pro bono* work;³²
- Developing a process to create uniform simplified forms for statewide use in landlord/tenant, consumer debt, foreclosure, and child support matters, which has already resulted in the approval of several new uniform statewide forms;³³
- Enhancing training for Town and Village Justices and Clerks regarding summary proceedings, which typically involve unrepresented low-income tenants, including: distributing a reference guide for landlord/tenant cases prepared by the Task Force; preparing a training entitled "Summary Proceedings in Town and Village Courts" that was delivered at the NYS Magistrates Annual Conference on September 22, 2014 and will be offered to magistrate chapters around the State;

and, in cooperation with the Office of Justice Court Support, forming an Advisory Committee that will make recommendations for training regarding summary proceedings in Town and Village Courts;³²

- Forming an advisory committee to consider the contributions that non-lawyers can make to bridge the justice gap, leading to adoption of an Administrative Order and creation of Court Navigator pilots;³³
- Advancing the effective use of technology by providers by disseminating information about free technology resources, identifying areas of pressing need (including technology staffing, and the need for technology policies, training and increased use of social media), and identifying the potential availability of *pro bono* technology resources;³⁶ and
- Conducting research into the efficacy of an Online Dispute Resolution mechanism.³⁷

In conjunction with the implementation of these non-monetary recommendations, the Task Force also provided support for three additional major, non-monetary access-to-justice initiatives announced by the Chief Judge:

- A groundbreaking Attorney Emeritus program to encourage transitioning and retired attorneys to provide legal assistance to low-income New Yorkers;³⁸
- A first-in-the-nation 50-hour *pro bono* service requirement for law graduates seeking admission to the New York bar;³⁹ and
- Creation of the Pro Bono Scholars Program, which enables law students to spend their final semester of law school performing *pro bono* service for the poor and permits them to take the bar examination in February rather than July.⁴⁰

3. The 2014 Civil Legal Services Hearings Demonstrated Continuing Unmet Need

Following the posting of public notice on the Office of Court Administration's website,⁴¹ the Chief Judge conducted the annual civil legal services hearings in each Judicial Department: on September 22, 2014 in the First Department (Manhattan); on September 29, 2014 in the Fourth Department (Rochester); on September 30, 2014 in the Second Department (Staten Island); and on October 6, 2014 in the Third Department (Albany).⁴²

Joining the Chief Judge in conducting these four hearings were Chief Administrative Judge A. Gail Prudenti or First Deputy Chief Administrative Judge Lawrence K. Marks and the Presiding Justice of the Department in which each hearing was held: Presiding Justice Luis A. Gonzalez in the First Department, Presiding Justice Randall T. Eng in the Second Department, Presiding Justice Karen K. Peters in the Third Department, and Presiding Justice Henry J. Scudder in the Fourth Department. Each panel also included a leader of the New York State Bar Association: President Glenn Lau-Kee or President-Elect David P. Miranda.

For the 2014 hearings, 37 witnesses presented both oral and written testimony and nine submitted written testimony. The 2014 hearing testimony—both oral and written—builds on extensive hearing evidence from the previous hearings in each Judicial Department. At these and at prior hearings, business leaders, private and public residential property owners, bankers, State and local government officials,

District Attorneys, labor leaders, medical providers, educators, providers of domestic violence prevention services, religious leaders, judges, and clients all provided evidence of the need for JCLS funding to bridge the access-to-justice gap for low-income families and individuals in every part of New York State.

For example, in 2013 New York State Comptroller Thomas P. DiNapoli was the lead witness at the Third Department Hearing,⁴³ and District Attorney Cyrus R. Vance, Jr. testified in the First Department.⁴⁴ Merryl Tisch, Chancellor of the New York State Board of Regents; Michael A. Cardozo, New York City Corporation Counsel; Scott J. Mandel, the President of the Long Beach City Council; and the Hon. Richard Schaffer, Supervisor of the Town of Babylon, also testified at the 2013 hearings.⁴⁵

At the First Department Hearing in 2012, Timothy Cardinal Dolan, Archbishop of New York, was the opening witness.⁴⁶ New York State Attorney General Eric Schneiderman, City Council Speaker Christine Quinn, Kings County District Attorney Charles Hynes, and Nassau County District Attorney Kathleen Rice also testified at prior hearings.⁴⁷

In addition to leaders in State and local government and the Judiciary, key witnesses at previous hearings have included business, bar, and education or foundation leaders such as: Kathryn S. Wylde (President and CEO of the Partnership for New York City); Michael S. Helfer (former General Counsel of Citigroup); Michael P. Smith (President and CEO of the New York State Bankers Association); Joseph Strasburg (President of the Rent Stabilization Association); Kenneth E. Raske (President and CEO of the Greater New York Hospital Association); Steven T. Longo (Executive Director of the Albany Housing Authority); Buckmaster de Wolf (General Counsel of GE Global Research); William Savino (Board Member of the Long Island Association and Managing Partner of Rivkin Radler LLP); Donna Cirolia (Regional Vice-President of Coca-Cola Refreshments); Craig L. Reicher (Vice-Chairman of CB Richard Ellis); Deborah C. Wright (Chairman and CEO of Carver Federal Savings Bank); James J. Barba (President and CEO of Albany Medical Center); Joseph Fruscione (Vice President and Commercial Branch Manager of M&T Bank); Wendy Z. Goldstein (President and CEO of Lutheran Health Care); Penelope Andrews (Dean and President of Albany Law School); Carey R. Dunne (President of the New York City Bar Association); Seymour W. James, Jr. (Immediate Past President of the New York State Bar Association); Miriam A. Buhl (Pro Bono Counsel at Weil Gotshal & Manges LLP); David H.K. Nguyen (Director of the Disaster Legal Services Program at the American Bar Association's Young Lawyers Division); and Michael M. Weinstein (Chief Program Officer at the Robin Hood Foundation).⁴⁸

At the 2014 hearings, leading New Yorkers from throughout the State and clients of JCLS grantees provided new evidence of the urgent need for additional resources to bridge the justice gap in each Judicial Department.

The Testimony Of Elected Officials Highlighted The Economic Benefits Of Investing In Civil Legal Services To New York State As Well As The Benefit To People's Lives: New York City Councilmember Deborah L. Rose, Deputy Majority Leader, 49th District, Staten Island, emphasized the impact of civil legal services on local government and taxpayers:

As an elected official, I know that the provision of civil legal services not only saves lives but saves money, as well. When someone does not have representation in our complex legal system, they are often unsuccessful or give up out of frustration. Their unmet legal needs invariably take a toll on local government and on the taxpayers; from housing to medical care to education, the long-term costs of unrepresented individuals in our legal system touch all aspects of a community.⁴⁹

When asked by Chief Judge Lippman why the business community would care about legal services, Sandra Parker, President & CEO of the Rochester Business Alliance, answered:

[O]ne of the reasons is that by enabling people in the entire community to receive quality, fair legal representation, I think that's important for the community to be viewed as a place where businesses want to come and grow.⁵⁰

She prefaced those remarks by testifying that quality urban education was critical to create a strong workforce, and that civil legal services providers “do many things that help kids get a good education.”⁵¹

At the Second Department Hearing, New York City Councilmember Rory Lancman acknowledged his role as the Chair of the Council's new Committee on Courts and Legal Services and explained why investing in civil legal services is so important to our society and to the economy:

Providing counsel when basic human needs are at stake is both the hallmark of compassionate government and a sound investment of our money as taxpayers.

...

We have made significant, concentrated investments in keeping low-income New Yorkers in their homes to avoid having to rely on the costly shelter system, in stopping domestic violence through empowering women via legal representation, and in maintaining vibrant families and communities through immigration services and deportation defense. The millions we spend on these services saves tens, potentially hundreds of millions in shelter costs, incarceration and public benefits.

...

So ultimately, we view the justice gap as a surmountable challenge we in government owe to both indigent New Yorkers who rely on publicly funded civil legal services as well as to better-off New Yorkers whose tax funds the majority of the public services to make the requisite investment and to close the gap for dignity's and efficiency's sake.⁵²

Numerous Witnesses Vividly Described The Critical Importance Of Legal Services In Improving Educational Outcomes For Children: Stephanie A. Miner, Mayor of Syracuse, testified movingly about how family stability is essential to provide the foundation for success at school:

How is a child expected to do homework if they do not have a home? How can a child learn when they are worrying about where they are going to sleep that night? And as a parent, how can you help your child with their homework or read to them when you are worried about where your family will sleep or how you will navigate a court system which[,] frankly, may be very intimidating. With such a tumultuous home life, it is no wonder that only about 50% of our students graduate from high school.⁵³

Loretta Scott, Rochester City Council President, made clear that civil legal services help to ensure the essentials of life and success in school:

I know full well the connection between the lack of basic essentials of life and the effect that has on a child's ability to learn. Children that are hungry, homeless or victims of abuse cannot learn. Funding civil legal services helps ensure that these essentials are met for so many of our struggling families, and by their nature these services help our kids succeed.⁵⁴

Civil Legal Services Continue To Be An Essential Part Of The Recovery From Superstorm Sandy: Zachary W. Carter, New York City Corporation Counsel, described how legal services continue to be a critical part of the recovery efforts:

After September 11 and Superstorm Sandy, we saw the critical role legal services played to ensure access to needed benefits to get families back on their feet. Families are still struggling to recover from Superstorm Sandy even after two years. There will be other crises and we will need legal services to assist us.⁵⁵

As was pointed out by Scott Primiano, President of The Insurance Advocates, it is usually the most vulnerable who continue to suffer in the wake of natural disasters:

Most vulnerable and most likely to be victimized by “the system” and those who prey on it are the elderly, uneducated, disabled, and impoverished. Unlike those who have savings to fall back on, qualify for loans, have ample cash flow, and are savvy enough to advocate for proper settlements; these segments of our community haven’t the time, ability, or resources necessary to successfully represent and protect their interests.⁵⁶

Civil legal services, according to Thomas Cunsolo, Director of the Staten Island Alliance and former client of Legal Services NYC, continue to be the answer:

Based on my experience over the past two years, it seems clear that Sandy victims are going to need lots of legal help for a long time to come and we hope we can keep counting on Legal Services to be there. . . . Legal help in civil matters is desperately needed at all times, but after natural disasters the need intensifies but often cannot be met because of lack of resources.⁵⁷

The Chief Administrative Judge And Lawyers Testified About How Civil Legal Services Are A Vital Part Of Our Justice System: Chief Administrative Judge A. Gail Prudenti noted how important representation is for both those represented and for the justice system:

I have to tell you I don’t know a judge who has sat in the family court or in the housing court or in the matrimonial courts or in the medical malpractice courts or at the Appellate Division level that doesn’t realize the vital importance of civil legal services for individuals who can’t afford those services themselves. . . . [I]t is important to all New Yorkers.⁵⁸

The Kings County District Attorney, Kenneth Thompson, expounded on how important civil legal services is to the public perception of the fairness of the judicial system:

When a citizen cannot afford to retain an attorney and has to represent him or herself in Civil Court, they’re clearly at a disadvantage, and their experience in doing so may leave them with a negative view of the courts. What follows are negative perceptions of lawyers, judges and the legal profession as a whole. We must do all we can to make sure the public has faith in our judicial system, and guaranteeing representation in the civil area will go a long way toward fulfilling that goal.⁵⁹

Dean Martha Minow, Morgan and Helen Chu Dean and Professor of Law, Harvard Law School, testified powerfully about the impact of lack of counsel in civil proceedings on the justice system:

[L]ack of counsel for low-income people produces delays and inefficiencies for the courts, like a broken down car in the middle of a highway. National evidence shows the same situation. In a recent survey of trial judges from 37 states [and] Puerto Rico, more than 60% of the responding judges report that unrepresented litigants fail to present necessary evidence, committed procedural errors, performed ineffective cross-examination, and failed to proffer evidence enforceable in the courts. Unequal justice, falling heavily on the most vulnerable, damages justice for the entire society.⁶⁰

Witnesses Applauded The Expanded Use Of Law Students And Law School Resources To Address The Justice Gap: Numerous witnesses praised the various initiatives launched by the Task Force and the Chief Judge to expand civil legal services resources by developing programs that would expand opportunities for law students to provide civil legal services. New York City Council Speaker Melissa Mark-Viverito stated that:

The Council also supports your efforts to marshal additional attorney and law student *pro bono* hours—through both the Pro Bono Scholars program and 50-hour bar admission requirement—which will help low-income New Yorkers access the civil legal services they so desperately need.⁶¹

Pro Bono Services Are An Essential Part Of The Effort To Fill The Justice Gap, But They Are Not Enough: Jennifer L. Kroman, Director of Pro Bono Practice at Cleary Gottlieb Steen & Hamilton LLP, described her firm’s extensive success in providing *pro bono* legal services to low-income New Yorkers. She also made clear that the partnership with civil legal services providers was essential:

[P]ro bono work is a critical way to enable legal services organizations to leverage their resources. The private bar could not do *pro bono* work without the amazingly talented and committed attorneys and staff members at the organizations that we work with on a daily basis. . . . We rely upon our legal services colleagues for their expert advice, counsel, and guidance. For this reason, whenever there is discussion of expanding the *pro bono* work done by the private bar as a means of addressing the access to justice gap for low and moderate income New Yorkers, there must simultaneously be discussion of increasing the resources and capacity of the civil legal services organizations.⁶²

Debra Raskin, President of the New York City Bar Association, described the commitment of the Bar to engaging in *pro bono* work, but also the limitations of the resources: “We know the rest of the organized Bar is committed to undertaking *pro bono* activities. However, our combined commitment has not generated a sufficient amount of *pro bono* hours and support to come close to meeting the need.”⁶³ As she further noted: “The fact that over two million people continue to enter New York courthouses every year to fend for themselves without counsel is testimony to how much more we need to do.”⁶⁴

Low-Income New Yorkers Should Have Effective Legal Assistance When The Essentials Of Life Are Threatened: Several witnesses testified about the unfortunate truth that there is a right to legal representation in criminal matters but not in civil. When asked directly about this issue by the Chief Judge, Corporation Counsel Zachary Carter was particularly eloquent:

I could not imagine a criminal justice system that did not afford an accused individual legal representation at every stage of the process. After all, each criminal case implicates liberty interests, however nominal those interests may be in a given case. However, individuals seeking access to our courts of civil jurisdiction often have interests at stake nearly as dear as liberty or even life itself. Think of a family facing foreclosure or eviction, or a parent threatened with the loss of custody of a child, or the loss of access to health services or reasonable accommodations for a disability.⁶⁵

William Rahm, Senior Managing Director of Centerbridge Partners, made the point even more poignantly when he said:

As a new father, I can understand how the prospect of losing parental rights or not being able to provide shelter for your family could be as terrifying as a jail sentence.⁶⁶

Other Witnesses Testified About The Critical Need For Civil Legal Services: At all four hearings, and in written submissions, witnesses vividly described the need for civil legal services. Those witnesses included leading elected and government officials as well as bar and business leaders such as: Hon.

Katherine M. Sheehan, Mayor, City of Albany; Steven Banks, Commissioner, New York City Human Resources Administration; Rev. Dr. Demetrius S. Carolina, Sr., Executive Director, Central Family Life Center; Corinda Crossdale, Director of the New York State Office for the Aging; Steven G. Leventhal, Access to Justice Program Chair, Nassau County; Joellen R. Valentine, Director and Assistant General Counsel for Citigroup; and Commissioner M. Josh McCrossen, Wayne County Department of Social Services.⁶⁷

T. Andrew Brown, Corporation Counsel for the City of Rochester, made this powerful statement:

The stress of not knowing if you will be thrown out into the street with all your worldly possessions from night-to-night would make it almost impossible for students to concentrate on fractions, Shakespeare or anything else being taught in school. Or witnessing physical abuse or being themselves the victim of any kind of abuse or neglect, without recourse, would not be conducive to getting a good night's sleep and being ready to tackle school the next morning. To overcome and succeed in the face of such adversity . . . would be extremely difficult even for the most mentally stable person here in this room today. But yet, children are expected to do so. This is why removing all barriers to EQUAL JUSTICE for all New Yorkers is such a critical goal; it is equally critical for children and parents/guardians. Many parents and children navigate this complex legal system without the benefit of qualified, effective legal representation and are often adversely affected by not having the benefit of competent counsel.⁶⁸

The Testimony Of Legal Services Clients Demonstrates The Profound Impact Of The Need For Legal Assistance: Clients who testified at the hearings in each of the four Judicial Departments highlighted the life-changing impact of civil legal assistance and the profound consequences of the lack of such assistance.

In the First Department (including Bronx and New York Counties), clients described the critical legal help they received in challenging circumstances that often involved multiple or complex legal issues:

Wun Kuen Ng, a long-time resident of Manhattan's Chinatown, needed assistance to fight a new landlord who was harassing her and trying to evict her. With the assistance of a legal services lawyer, Ms. Ng discovered that this same landlord was buying rent-regulated apartment buildings on the Lower East Side and Chinatown, and illegally harassing other long-time tenants to force them out of their rent-regulated units in order to convert the units to market-rate luxury housing. Ms. Ng not only prevailed in her individual case to remain in her home, but caused the New York State Division of Housing and Community Renewal's Tenant Protection Unit to open an investigation on the landlord for alleged illegal tactics used to evict numerous tenants from their affordable apartments.⁶⁹

Karen Rivera, a single mother struggling to care for her young son with multiple severe disabilities, including autism, was also at risk of losing their apartment and Section 8 housing subsidy. Ms. Rivera needed, and received, the necessary legal assistance to obtain appropriate education and support services for her son as well as prevent their eviction from their home.⁷⁰

Yvette Walker, finding herself and her teenage daughter homeless last year when her landlord lost his house in a foreclosure proceeding, needed legal assistance initially to determine her eligibility for a safe and medically appropriate shelter that could accommodate her physical disability. She subsequently needed additional legal assistance when the City moved her to an adult family shelter at the time her daughter Jasmine turned 18 years old, placing her in housing that did not have an accessible bathroom or shower. Ms. Walker was forced to spend the day at her church in order to shower and have inde-

pendent access to the bathroom until her daughter returned from school to pick her up and assist her in navigating in the shelter. Once Ms. Walker received legal assistance again, she was immediately moved to a shelter equipped to accommodate her walker. Ms. Walker's application for supportive shelter has been approved and she is waiting for an appropriate apartment. Ms. Walker's daughter, who had been struggling to maintain regular high school attendance after becoming homeless, was able to finish high school and has been accepted into college where she will study pediatric nursing.⁷¹

In the Fourth Department (including Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Herkimer, Jefferson, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Wayne, Wyoming, and Yates Counties), clients described the crucial legal help they received in challenging circumstances:

Julie Longmore, a survivor of domestic violence, explained how critical legal services were to her personal safety and in pursuing a divorce from her abusive husband. She had been repeatedly abused, both physically and emotionally, and alienated from friends and family; she feared for her life. Because she was financially dependent on her husband, who controlled her access to resources, she could not afford a lawyer and turned to civil legal services for help. Legal services helped her secure safe housing, resolve custody arrangements, and ultimately divorce her husband. Ms. Longmore related that based on the pattern of physical abuse she endured, she believed she would not be alive today if she had not received the legal assistance when she did.⁷²

Michael Farnsworth, a veteran and retired heavy-equipment operator with work-related disabilities, needed legal help fighting a foreclosure action that was brought after he broke his back and his disability assistance was delayed. Before obtaining legal services, he and his wife, Dawn, repeatedly tried to deal with the lender on their own, but were treated poorly at every step. With legal help, the couple was finally able to qualify for a trial modification and ultimately a permanent modification of their loan. Mortgage payments were reduced by more than \$400, and they were able to stay in their home with their twin 14-year old daughters and twin ten-month old granddaughters.⁷³

Eileen Kleps is an elderly woman who suffers from memory issues related to dementia caused by HIV/AIDS. Although she regularly paid her mortgage without a problem, in 2012 she forgot to make payments due to her dementia. Her friend, who held a Power of Attorney, discovered the problem and contacted the lender to try to make the back payments, but was told that the matter had been referred to the foreclosure department, which would not accept payments for arrears. When the case got to court, Ms. Kleps was able to obtain free legal services that facilitated her payment of the arrears, secure a permanent loan modification that reduced her payments by nearly \$100 a month, and set up an automatic payment system to ensure her payments are timely.⁷⁴

In the Second Department (including Dutchess, Kings, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester Counties), compelling client testimony highlighted the potential harm averted when these individuals obtained needed civil legal aid to address challenges to the essentials of life:

Shaun Little was a home health worker who lived in Arverne, Queens, until her home was destroyed by Superstorm Sandy. The City moved her to a shelter, and then to a hotel in Times Square as part of the City Hotel Program. When she learned the City planned to force her and other storm survivors to leave the hotel, Ms. Little received legal help that stopped not only her eviction, but also the mass evictions of 488 other Superstorm Sandy families in the City Hotel Program. Ms. Little obtained a rent subsidy,

a new apartment in Staten Island, and furniture to replace all that had been lost. As class members in the litigation, the other families were also successfully transitioned from the hotels to permanent housing.⁷⁵

Taiwo Osinaike, a survivor of domestic violence, could not afford the rent after her husband left. She was employed as a daycare provider by operating a daycare business out of her apartment, yet she was still unable to satisfy the high rent. Two housing court actions were brought against Ms. Osinaike; one for nonpayment and one challenging her operation of a home based daycare program. After contacting legal services, both eviction cases against Ms. Osinaike were dismissed, and her rent was reduced to an affordable amount.⁷⁶

Diego Parra, a victim of domestic violence, faced a challenge to his immigration status and was threatened with deportation, which would have compromised his ability to be a father to his child. With critical help from legal services, he was able to become a citizen and, importantly, continue to be an active father for his child. Mr. Parra is currently enrolled as a student at Baruch College.⁷⁷

In the Third Department (including Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington Counties), clients described the life-changing impact of civil legal assistance and the profound consequences such assistance had in stabilizing lives:

Tajma Motley, a 41-year-old woman suffering from fibromyalgia, diabetes, and back pain, lost her job when her disabilities progressed. Ms. Motley needed and received civil legal services to obtain both public assistance once her unemployment insurance benefits ran out and emergency rental support to stay in her home.⁷⁸

Dideolu Olufunke Okediran, an immigrant survivor of domestic violence who, without family or friends to help her, fled her home and abusive husband. Once in a domestic violence safe house, she sought legal assistance and was able to obtain a divorce from her abuser. She is now able to live independently without the fear of physical and emotional abuse.⁷⁹

Cinnamin Schmitz, who lives with her husband, four children and disabled father, faced foreclosure despite repeated applications for a mortgage loan modification. With legal representation, she was able to secure a loan modification that resulted in a reduction in principal of nearly \$34,000, as well as a low, fixed interest rate that together nets a monthly reduction of roughly \$400 in mortgage payments.⁸⁰

PART B

Findings And Recommendations For Action

BASED ON THE CHIEF JUDGE'S HEARINGS in each of the four Judicial Departments in New York State during September and October 2014 and the work of the Task Force over the past year, the Task Force makes these key findings and recommendations for action:

1. An allocation of additional JCLS funding is needed to address the continuing access-to-justice gap for low-income New Yorkers;
2. The allocation of additional civil legal services funding will continue to generate more than six dollars in cost savings and economic activity for every one dollar invested in civil legal assistance, as reported by NERA;
3. Law school and law student involvement efforts at the 15 New York law schools should continue to expand to help increase access to justice;
4. Access to technology for civil legal services providers should be increased to enhance services and help bridge the justice gap for low-income families and individuals;
5. Rules should be adopted to implement an online dispute resolution pilot to determine the effectiveness of an online dispute resolution mechanism in consumer credit and other areas;
6. The use of limited scope/unbundled legal services should be encouraged;
7. The Chief Judge should convene a meeting of the managing partners of all the major law firms in New York City to urge them to adopt a policy that, when their partners reach the retirement age of the firm, they are strongly encouraged to do *pro bono* work on behalf of low-income New Yorkers in matters affecting the essentials of life;
8. The Code of Judicial Conduct should be amended to make it clear that judges may make reasonable accommodations for unrepresented litigants to have their matters fairly heard;
9. The development of simplified court forms should continue to be encouraged; and
10. The New York State Legislature should adopt a statement of principle that low-income New Yorkers facing legal matters concerning the essentials of life have effective legal assistance.

As described below, the combination of additional funding to bridge the access-to-justice gap and the Task Force's recommended non-monetary initiatives will enable New York State to continue to make progress on the multi-year plan implemented by the Chief Judge in 2010 to address the unprecedented need for civil legal assistance for low-income families and individuals living at or below 200 percent of the federal poverty level in New York State in matters affecting the essentials of life.

I. An Additional Civil Legal Services Funding Allocation In The Judiciary Budget Is Essential To Continue To Make Progress On Bridging The Substantial Access-To-Justice Gap For Low-Income New Yorkers In Every County In New York State

Evidence before the Task Force documents a vast, continuing unmet need for civil legal services for low-income New Yorkers. Although JCLS funding grantees handled 384,974 cases last year, helping substantially more New Yorkers than the previous year, numerous witnesses testified to the continuing unmet need. *Pro bono* programs still receive more requests for help than they can satisfy, despite the increase in *pro bono* sparked by the *pro bono* reporting requirement, the *pro bono* bar admission requirement, the Attorney Emeritus program, and the extraordinary efforts of the bar associations in our State.⁸¹ The unmet need is perhaps most clearly evident in the new data on unrepresented litigants that the Task Force requested from the Office of Court Administration, and which was the subject of Chief Administrative Judge Prudenti's testimony at the Third Department Hearing. While showing improvements in essential-needs case categories such as eviction, child support and consumer debt, the number of unrepresented litigants in such cases continues to be unacceptably high.⁸²

a. Continued Implementation Of The Multi-Year Judiciary Civil Legal Services Funding Initiative Is Necessary

In its previous Reports, the Task Force presented evidence that the access-to-justice gap hurts low-income New Yorkers, adversely impacts the functioning of the courts, and increases litigation and other costs for represented parties such as private businesses and local government. These prior Task Force Reports also presented independent analyses showing that funding civil legal services is a good investment that brings federal benefits into the State, stimulates the State and local economies when low-income families and individuals spend these additional federal benefits on goods and services, and saves government expenditures for State and local public assistance and emergency shelter.⁸³ Testimony throughout the 2014 hearings confirms that, although significant progress is being made, more must be done to close the access-to-justice gap.

Based on the findings and the documented substantial unmet need for civil legal services for low-income New Yorkers, the Task Force has previously recommended a multi-year plan to allocate Civil Legal Services funding in the Judiciary's budget and a series of non-monetary steps to reduce substantially the access-to-justice gap. Mindful of fiscal realities and budget constraints, in its previous Reports the Task Force recommended a substantial but graduated increase in funding to eliminate the access-to-justice gap.

In keeping with the multi-year plan, and for all the reasons set forth in this Report, together with the non-monetary recommendations detailed in this Report, the Task Force recommends allocation of an additional \$15 million for the Judiciary's Civil Legal Services funding to continue to make progress to narrow the substantial access-to-justice gap in New York State.

In recommending this increase, the Task Force adheres to its previous recommendation to gradually increase the annual JCLS funding over several years. The continued commitment of this permanent, stable civil legal services funding stream within the Judiciary's budget will significantly reduce the access-to-justice gap for low-income families and individuals all across the State.

Based on the evidence before it, the Task Force again concludes that the most urgent unmet legal needs

for which the proposed funding should be directed are civil legal services in matters involving “the essentials of life”—housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts). Moreover, the Task Force continues to find that well-trained and seasoned experts are necessary to address the complex legal problems that low-income clients frequently face and continues to recommend that prevention efforts and early intervention be priorities.

The Task Force recommends that the JCLS funding in the next fiscal year be distributed—as in the current and prior fiscal years—throughout the State’s urban, suburban, and rural areas in accordance with the distribution of low-income New Yorkers by county. Further, the most vulnerable families and individuals who receive funded civil legal assistance should continue to include both those living below the federal poverty level (\$23,850 for a family of four in 2014) and the “working poor” living at or below 200 percent of the federal poverty level (\$47,700 for a family of four in 2014).⁸⁴

In addition, the Task Force recommends that the designated Oversight Board should continue to oversee the grant-making process for the JCLS funding with the assistance of the Office of Court Administration.

b. New York State Poverty Data Documents High Need

Substantial numbers of New Yorkers continue to live at or below 200 percent of the federal poverty level. Federal data shows that 6,278,151 New Yorkers were living at or below 200 percent of the federal poverty level in 2013—32.8 percent of the residents of the State, only a slight improvement over the 2012 level of 33 percent.⁸⁵

For New York City, the percentage of residents living at or below 200 percent of the federal poverty level in 2013 is 40.5 percent, only slightly better than 41.3 percent in 2012.⁸⁶

The federal poverty level and 200 percent of that level for 2014 are calculated as follows:⁸⁷

2014 Poverty Guidelines for the 48 Contiguous States and the District of Columbia		
FAMILY SIZE	100%	200%
1	\$11,670	\$23,340
2	\$15,730	\$31,460
3	\$19,790	\$39,580
4	\$23,850	\$47,700

Lack of food security is a particularly telling aspect of poverty. The U.S. Department of Agriculture reports that as of 2013 the three-year-average percentage of New York residents who live in “food insecure” households has increased since 2005 and is now at 14 percent.⁸⁸ In New York City, an estimated one in six residents (approximately 16.6%) is “food insecure” or “living in homes where there is not enough money to put enough food on the table,” and the hunger crisis is the worst that it’s been in decades.⁸⁹ Throughout the State, the number of people who live in “very low food secure” households—

defined to include multiple indications of disrupted eating patterns and reduced food intake households—has increased and is now at 5.2 percent.⁹⁰ Another poverty indicator is the size and continued growth of the homeless population in New York City, recently reported to be 67,810, up from 64,060 in 2013, and 53,187 in 2010.⁹¹

c. Large Numbers Of Unrepresented Litigants Still Flood The Courts And Adversely Affect The Delivery Of Justice

Based on new data, more than 1.8 million litigants attempted to navigate the complex civil justice system without counsel last year.⁹² This represents a significant improvement from the last Statewide count of 2.3 million. Another more recent, positive development was just announced in the Chief Administrative Judge’s 2014 Report on Foreclosures, which is that in the period from October 7, 2013 through October 13, 2014, the number of unrepresented litigants in Foreclosure Settlement Conferences was reduced to 42% from 46% in the 2012-2013 reporting period.⁹³

However, while JCLS funding over the past four years has helped increase the percentage of New Yorkers whose legal needs are being met, the numbers of those who are not represented in court in all four Judicial Departments remain unacceptably high:

In New York City:

- 91% of petitioners and 92% of respondents do not have lawyers in child support matters in Family Court;
- 99% of tenants are unrepresented in eviction proceedings; and
- 96% of defendants are unrepresented in consumer credit cases.

Outside the City:

- 87% of petitioners and 86% of respondents do not have lawyers in child support matters in Family Court;
- 91% of tenants are unrepresented in eviction proceedings; and
- 97% of defendants are unrepresented in consumer credit cases.⁹⁴

Significantly, these statistics do not even include the many unrepresented litigants who appear in the nearly 1,300 Town and Village Justice Courts. At the Chief Judge’s hearings, business leaders, State and local government leaders, and representatives of the private bar testified to the adverse impact that large numbers of unrepresented litigants have on the justice system.

d. Decreased IOLA Funding Has A Continuing Adverse Impact On The Unmet Need For Civil Legal Assistance

As the Task Force has previously found, a sharp drop in interest rates due to the economic downturn has dramatically reduced the IOLA Fund’s revenue for civil legal services grant-making, thereby illustrating the need for stable, consistent and permanent State civil legal services funding in the Judiciary budget.

Annual IOLA revenue available for civil legal services providers plummeted from \$32 million annually in 2008 to only \$7 million in recent years, increasing slightly to \$9 million this past year.⁹⁵

With the support of the Legislature and the Governor, the Judiciary has created a \$15 million IOLA rescue fund to address at least part of the impact of this funding reduction in the current State fiscal year and the prior four fiscal years. In view of the continuing impact of the economic downturn on IOLA revenue and the continuing substantial unmet need for civil legal aid, the Task Force recommends that this \$15 million rescue fund be maintained in the Judiciary's budget for the coming fiscal year.

II. Judiciary Civil Legal Services Funding Provides Substantial Economic Benefits To New York State And A Return Of Approximately Six Dollars For Every One Dollar Of Funding

During the last four years, the Task Force has obtained *pro bono* assistance from three nationally recognized experts to analyze the cost savings and economic benefits resulting from funding civil legal services programs in New York State, and has reported on the rate of return on investment in civil legal services. In 2011, Navigant Consulting conservatively estimated from national and New York State data that investing in civil legal services to prevent domestic violence can achieve annual savings of \$85 million in costs associated with assistance for survivors of domestic violence.⁹⁶ Cornerstone Consulting also documented in the 2011 Report that anti-eviction legal services programs funded by IOLA save approximately \$116 million annually in averted shelter costs for government.⁹⁷ For this 2014 Report, IOLA provided an updated analysis that demonstrates significantly increased annual savings of more than \$220 million.⁹⁸ The data also show a Statewide average cost savings per successful eviction case of \$20,300, and equally significant, conservatively calculated an annual savings of \$40.7 million in brief representation housing assistance.⁹⁹

For both the 2013 and 2014 Reports, the Task Force obtained *pro bono* assistance from NERA Economic Consulting, another leading economic consulting firm, to update analysis on the amount and impact of federal benefits that civil legal services bring into New York State. In addition to updating this data, NERA assessed the value of benefits obtained by clients through the provision of civil legal services in two additional categories of service. The first, calculating Child and Spousal Support benefits obtained for clients through legal representation; and the second, calculating the value of advice and brief services in person or by telephone. NERA's full 2014 report to the Task Force sets forth in detail the data, assumptions, calculations and methodology underlying its analysis of the substantial economic benefits of providing civil legal assistance to gain access to these benefits, and the overall financial and economic impact to the State and local governments.¹⁰⁰

Federal Benefits For Vulnerable New Yorkers Result In Substantial Cost Savings For State And Local Governments To Whom These Needy Families Would Likely Turn Instead: The financial impact in 2013 of increased access to federal benefits on the recipients of those benefits and their families is conservatively estimated at \$518.5 million annually. This represents an increase of \$140.5 million in value relative to the analysis beginning in the 2012 Report.¹⁰¹ Those benefits include SSI/SSD, Unemployment Insurance compensation, Medicaid, Earned Income Tax Credits, and various other federal benefits such as Veteran's benefits and Medicare.

The Provision Of Civil Legal Assistance To Obtain Child Support And Spousal Support Payments Results In Additional Benefits For New Yorkers: In 2013, NERA estimates that the provision of civil legal services helped clients claim a total of \$4.8 million in Child Support and \$1.4 million in

Spousal Support, totaling \$6.2 million.¹⁰² NERA conservatively assumes that monthly Child Support and Spousal Support will continue to be received for the next 12 months; annualized monthly benefits thus equal an additional \$3.7 million in Child Support and \$1.2 million in Spousal Support.¹⁰³

The Expected Future Value Of These Benefits Is Extremely High: NERA notes that the estimation of both the SSI/SSD benefits and Child and Spousal Support payments are conservative. NERA captures the value of payments paid only in 2013. This is an understatement of financial impact because the expected duration of Child and/or Spousal Support as well as the expected on-going receipt of SSI/SSD is considerably longer than five years. Expected future benefits provide a more accurate picture of the value of civil legal services to low-income New Yorkers and the State.

For example, over five years the future value of SSI/SSD and Child Support/Spousal Support cases closed in 2013 is \$113 million. Over ten years the value would be approximately \$187 million. Considering cases closed between 2007 through 2012 for SSI/SSD only (Child Support/Spousal Support case closed information was not available) results in an estimated value of \$718 million for the five-year projection and \$851 million for the ten-year projection.¹⁰⁴

Similarly, recipients of other federal benefits such as veteran's benefits and Medicare often receive back awards and on-going benefits from these programs for more than one year.¹⁰⁵

Advice And Brief Services Cases Bring A Further Economic Stimulus To New York State: To approximate the additional benefits delivered through advice and brief services, NERA relied upon information gathered in Pennsylvania that was collected through a randomly selected sample of 400 program participants in 2011. Benefits gained from Advice and Brief services include additional SSI/SSD benefits and Medicaid benefits, as well as additional Child and Spousal Supports.¹⁰⁶

In total, utilizing the success rate of Advice and Brief services reported in the Pennsylvania survey and the average benefits per case documented in Extended Representation cases in New York, the aggregate value of additional SSI/SSD, Medicaid, and Child and Spousal Support benefits add up to \$36 million. Although this number is only an approximation of the potential value added from Advice and Brief Services in New York it may be regarded as conservative as New York has a greater low-income population, more SSI/SSD recipients, and provides more civil legal services than Pennsylvania.¹⁰⁷

Civil Legal Services Funding Provides An Overall Positive Economic Impact On The New York State Economy And Reduces Excess Tax Burden: The provision of federal benefits to eligible low-income New Yorkers provides essential subsistence benefits to them and their families. Recipients of increased federal benefits and other income supports spend money on housing, food, clothing and other support for their families. Thus, every extra dollar brought into the State results in a stimulus to the State economy overall and benefits all New Yorkers. The United States Department of Commerce reports that every dollar brought into the New York economy generates an extra 48 cents of value in stimulus to the economy overall. Applying this multiplier to the \$518.5 million in incremental benefits yields an overall positive impact on the State economy of \$769 million. The Department of Commerce also provides a "jobs factor" enabling estimation of overall job creation due to the stimulus to the economy. The average cost of a job supported by funds brought into the State is \$100,224. Thus, a stimulus of \$769 million creates about 7,675 jobs.¹⁰⁸

Finally, NERA calculated the value of federal benefits received from the provision of civil legal services as compared to the State's overall tax liability to the federal government. The Tax Foundation reports

that New York State receives only 79 cents for every dollar that it pays in federal tax. New York's total federal income tax liability is approximately \$104.5 billion, making this excess tax liability about \$22 billion. The \$518.5 million in incremental federal expenditures in New York from access to the federal benefits discussed above offsets about 2.4 percent of that excess federal tax liability.¹⁰⁹

III. The 15 Law Schools In New York State Should Continue The Progress That Is Being Made By The Law Schools And Law Students In The Multi-Faceted Effort To Bridge The Access-To-Justice Gap For Low-Income New Yorkers

Under the Task Force's leadership, new and previously recommended initiatives have increased the involvement of law schools and law students in the efforts to expand access to justice in New York State.

The Annual Law School Conference, convened by the Task Force since 2012, serves as the catalyst for moving these law school initiatives forward. The Annual Conference encourages and promotes communication and collaboration among New York's 15 law schools and legal services providers, law firm *pro bono* coordinators, bar associations and the courts on collective efforts to help meet the essential civil legal needs of low-income New Yorkers, and discussion of how to instill in new lawyers an awareness of the value and impact that their lifelong *pro bono* work will have in bridging the justice gap.¹¹⁰ This year, the Third Annual Law School Conference, entitled "The Conversation Continues: The Role of Law Schools in Helping Meet the Essential Civil Legal Needs of Low Income New Yorkers," was held on May 12, 2014 at CUNY School of Law.¹¹¹ The Conference was attended by more than 200 participants, including ten law school deans and 79 professors and administrative representatives from all 15 New York law schools and one State university. Representatives of the Judiciary and Office of Court Administration, the Board of Law Examiners, legal services providers, bar leaders and law firm *pro bono* counsel also attended.

Based upon the recommendations developed in the Conference Work Groups, the Task Force makes the following recommendations that focus on legal education and the identification of opportunities for law students, law graduates, and law faculty in New York State to address the access-to-justice gap for low-income New Yorkers.

1. Annual Law School Conference Will Continue To Be Convened

The Task Force will convene the Fourth Annual Law School Conference in the spring of 2015 to continue the dialogue that encourages and promotes communication and collaboration among New York's 15 law schools and legal services providers, law firm *pro bono* coordinators, bar associations and the courts; supports collective efforts to help meet the essential civil legal needs of low-income New Yorkers; and examines how best to instill in new lawyers an awareness of the value and impact that their *pro bono* work will have in bridging the justice gap.

2. Statewide Law School Access To Justice Council Is Continuing Its Work

The Statewide Law School Access to Justice Council, composed of deans, administrative deans and representatives from all 15 schools, several legal services providers and members of the Task Force and court system, should continue its collaborative work on student *pro bono* activities and matters of mutual interest that promote law school *pro bono* efforts to narrow the justice gap.

Since its inaugural meeting in 2013, the Access to Justice Council has worked to increase the law schools' involvement in responding to the justice gap by promoting coordination of law student initiatives, best practices and curricular and bar exam innovation. Specifically, the Access to Justice Council has (a) supported the establishment of best practices and implementation strategies for student compliance with the 50-hour *pro bono* bar admission rule; (b) previewed a proposed Statewide Consortium Website for Student *Pro Bono* Opportunities intended to facilitate or provide a “clearinghouse” for *pro bono* placements; and (c) begun developing a guidebook of best practices for supervising students performing *pro bono* work based on the outline developed by a work group session at the 2014 Conference.

3. Best Practices For Supervising Students Performing *Pro Bono* Work Should Be Developed

Law schools throughout the State engage their students in dozens of initiatives to improve access-to-justice in their communities, including public service projects, clinics, externships, centers and institutes.

Training and Supervision is Essential: Formal training, including professionalism and ethics, should be carried out before projects begin to introduce students to the skills, law and procedures that they will use, and to provide students with an understanding of the larger context in which the projects will take place. Direct supervision, including feedback and evaluation, is key not only to successful project results but also to whether the students have an experience that will lead them to perform *pro bono* service in the future, including after graduation.

A Guidebook on Best Practices for Supervising Students Performing *Pro Bono* Work Should Be Created: The Task Force recommends that a Guidebook on Best Practices for Supervising Students Performing *Pro Bono* Work should be created to foster well-structured programs and ensure productive *pro bono* experiences for students and clients alike. The Guidebook should be developed and disseminated under the auspices of the Statewide Law School Access to Justice Council. The Guidebook should cover, among other topics, issues raised in connection with *pro bono* services performed in satisfaction of the requirements of the 50-hour bar admission rule, the Pro Bono Scholars Program and student-led projects.

Technology Should Be Used to Help Bridge the Justice Gap: Technology can enhance access and support collaborative law school efforts. Online communities for law schools and legal services providers can enhance collaborations across the State. Interactive technologies, such as online interviewing and screening tools, provide new ways to assist unrepresented litigants through unbundled representation and assistance. Law students can provide help, either online or in person, to individuals involved in these processes, and can also participate in the development of the applications, including providing content and maintaining its currency and relevance.

4. Access-To-Justice Activities In The Law School Curriculum And Skills Training Should Continue To Be Expanded

Law schools should continue to expand the integration of access to justice across the curriculum and in clinical and experiential programs, with a focus on creating a continuum of learning that will equip graduating students with the skills and values to practice law, pursue public interest careers, and perform *pro bono* work. Although each law school may develop its own strategies, at a minimum, the strategies

should include (a) developing benchmarks for students that identify the knowledge, skills and values needed to perform access-to-justice work; (b) requiring all students to take a law course on what access-to-justice work means, including the impact of the law on poor clients; (c) consulting with legal services providers to ensure that overall cultural, language and professional competencies are properly included to prepare the students for practice; and (d) teaching the responsibility and ethical obligations of lawyers to clients (and the profession) through, for example, clinical and other experiential work. Particular attention should be given to enhancing the first-year curriculum's focus on access to justice and skills training. The Task Force recommends including transactional or other commercial/corporate work that contains transferable lessons. Law schools should also explore adding simulation courses to the core curriculum, which, among other things, are effective tools for increasing cultural and language competencies and socio-economic awareness.

5. Access-To-Justice Concepts And Principles Should Be Tested On The Bar Examination

The realities of the legal marketplace demand that new graduates be prepared for the challenges of law practice. Clinical and experiential programs, together with the rule mandating 50 hours of *pro bono* law student service for bar admission, ensure that students will gain practical skills, ranging from client relations to managing a law practice, and instill the value of performing *pro bono*. In addition to imbuing students with the ethic of public service, which is a hallmark of the New York bar, an underlying goal of the 50-hour *pro bono* bar admission requirement is to expand access to justice for people in need.

Under the jurisdiction of the Court of Appeals, the Board of Law Examiners' effort to revise the content outline and integrate access-to-justice issues and topics on the New York bar exam is a watershed event. The Task Force recommends access-to-justice issues be integrated into specific topic areas, rather than tested as separate "access-to-justice" topics. Access-to-justice issues could be integrated into bar examination questions testing torts and environmental impact; corporations and shareholder proxy voting rights; assessing and dealing with legal consequences of a family member with diminished capacity to make decisions involving housing, health care, government benefits, and other personal and property management needs; and criminal and civil issues relating to arrest, incarceration, and re-entry. Law schools should assess the impact of these changes to the bar examination and identify additional modifications and proposals related to the bar examination to promote access to justice. In addition, there is a heightened need to integrate cultural competence awareness and skills across the law school curriculum, factors which should be considered in such modifications and proposals related to the bar examination.

6. The Role Of Law Schools In Working With "Non-Lawyer Advocates" To Help Narrow The Justice Gap Should Be Considered

In its 2012 Report, the Task Force recommended that the Chief Judge appoint an advisory committee to examine the possibility of non-lawyers providing targeted assistance in limited areas. In May 2013, the Chief Judge appointed the Committee on Non-Lawyers and the Justice Gap to examine the role that "appropriately trained and qualified non-lawyer advocates can play in bridging the justice gap."¹²

The Task Force recognizes that it is appropriate to explore the expansion of the use of non-lawyer advocates because the needs of low-to-moderate-income litigants who lack access to legal assistance are

so great. Drawing on the Conference Work Group’s discussions, the Task Force recommends further study of the role of law schools in providing training and support to non-lawyers.

7. Law Schools Should Develop Curricular Pathways To Promote Participation In The Pro Bono Scholars Program (PBSP)

The Task Force recognizes that the PBSP is still under development and schools may adopt differing models to integrate the Scholars. The law schools have endeavored to introduce flexible and practical courses and practicums to properly prepare students to take the bar examination in February and then enter practice for their sixth semester. During the spring 2015 semester, 110 students from all 15 New York State law schools are participating in the PBSP’s inaugural year.

Drawing on the afternoon discussions held in the Conference Work Groups, the Task Force recommends the following:

- a. Law Schools should consider including fifth-semester course and clinical work to better prepare students for their full-time PBSP sixth semester. Consideration should also be given to offering a uniform classroom seminar that would enable all law schools to share materials and resources.
- b. Law schools and host organizations should share responsibility for providing training. The law schools could teach the subjects relevant to all of its Scholars, as is currently done in many externship seminars (e.g., ethics and professionalism, access to justice, poverty law overview). The providers could take primary responsibility for training Scholars on the substantive law and skills relevant to the Scholars’ specific projects.
- c. Given that a Scholar’s graduation from law school and eligibility for early admission to the bar depends on successful completion of both the academic and field components of the PBSP, the standards by which students are evaluated must be clear and appropriate. Host organizations should design their evaluation criteria and process in close consultation with the law schools, which have expertise in evaluating students.

IV. Effective Technology Initiatives Can Increase Access To Justice And Further Leverage Resources For Civil Legal Assistance For Low-Income New Yorkers

Technology can transform the delivery of civil legal services to low-income New Yorkers. Yet the lack of technology staff, coordination across programs and dedicated funding continue to act as barriers to the adoption of technology policies/programs that could dramatically enhance client services.

The 2013 Task Force Report recommended generally that the civil legal services community should “prioritize technology and cultivate support for it with their staff, Board, and funders” to improve access to justice for low-income New Yorkers.¹¹³ As a result of a comprehensive online technology survey for legal service providers conducted by the Task Force, the Task Force recommended that providers more actively assess their technology needs; increase the use of core technology supports (e.g., mobile devices, video-conferencing); improve training; develop policies to address privacy, security and availability of client information and attorney work product; and develop baselines for quality, resilience, capacity, and security.¹¹⁴

Based on these recommendations, the Task Force's Technology Working Group, with *pro bono* assistance from technology experts, including in-house private law firm technology staff, delved more deeply into how technology can support and advance the delivery of legal services to low-income New Yorkers. Based on that research, the Task Force makes four key findings and recommendations:

- a. **Online Screening and Intake Pilot:** The Task Force should assist the New York civil legal services community in developing a coordinated online screening and intake pilot project within the discrete area of consumer credit law, targeted at low-income New Yorkers in designated geographic regions.
- b. **Pro Bono Law Firm Information Technology (IT) Initiative:** The Task Force has commenced a pilot program through which private law firm IT staffs offer *pro bono* assistance to New York State civil legal services providers. This initiative includes the creation and piloting of a comprehensive, standardized IT assessment tool.
- c. **Statewide Technology Conference:** The Task Force should convene a New York State Technology Conference with the first-year goals of (a) educating civil legal services leaders across the State about how technology can improve the delivery of legal services and the efficiency their operations; and (b) promoting more collaborative use of technology among providers.
- d. **Technology Baselines:** New York civil legal services providers should, in conjunction with their technology planning and day-to-day operations, review and consider the Legal Services Corporation Technology Baselines Report, particularly the Working Group's annotations to the July 2014 Draft Baselines Report, which adds New York specific information and resources.

1. The Task Force and the Legal Services Community Should Develop An Online Screening And Intake Pilot In A Discrete Practice Area To Match Low-Income New York Residents With An Appropriate Level Of Information And Assistance From A Range Of Sources

Low-income people with legal problems need easy access to legal information and services that will help resolve their problems. New York is fortunate to have a large number of civil legal aid providers, but they may have overlapping service areas. Those in need of legal services may need guidance on which provider is most appropriate for their specific needs. Online information, screening, and referral-service delivery models can help low-income New Yorkers gain access to helpful services more efficiently. Collaboration among service providers will be key to the success of these models.

Accordingly, the Task Force recommends the creation of a coordinated screening, intake and referral project focused on a discrete practice area in designated geographic areas. This project should aim to match low-income New York residents with an appropriate level of information and assistance from a range of sources.

The Task Force has identified the area of consumer law as the substantive area for designing and implementing a pilot project to provide legal information, screening, intake and referral. There is a high volume of consumer cases and very few legal services providers that provide consumer representation. As a result, low-income respondents may benefit significantly from the legal information, advice, and referral assistance that this kind of coordinated intake system will be able to provide.

Two initial pilot projects with civil legal services providers will include one in Buffalo, Rochester and Syracuse, and another in New York City.¹¹⁵ The pilots will offer a cross-section of providers: those serving urban and rural communities both through traditional civil legal services offices, and volunteer lawyer programs under the auspices of local bar associations.

The Task Force expects that these pilots will encounter and raise for Statewide discussion the institutional and financial challenges that coordinated access presents. Technical collaborative tools, such as the automatic sharing and tagging of available services and content, may need attention for future projects of wider scope. This consumer law pilot initiative should inform other efforts to create a more comprehensive screening, intake and referral system coordinated across multiple practice areas and multiple service providers throughout New York State.

2. New York Should Develop A *Pro Bono* IT Assistance Initiative To Support The Civil Legal Services Community

The Task Force's 2013 Report identified the potential for *pro bono* technology assistance from private law firms.¹¹⁶ Based on that recommendation, the Technology Working Group has both studied existing efforts to provide *pro bono* technology assistance—primarily in Texas—and worked to assemble New York-based *pro bono* resources.

Particularly informative was the work of the Texas Access to Justice Commission's Technology Committee to improve the technology infrastructure of its legal aid providers through the *pro bono* assistance of IT department directors from major Texas law firms. The Texas Access to Justice Commission's Technology Committee provides services to the legal services community such as: 24/7 IT help desk services; training; a survey of the technology needs of the legal aid community; guidelines for minimum technology standards; and technology audits.¹¹⁷

The Task Force has commenced a similar IT Assistance Initiative in New York to provide *pro bono* IT assistance to the civil legal services community. The IT Assistance Initiative is being led by Michael Donnelly, Chief Information Officer (CIO) of Simpson Thatcher & Bartlett, who participated in the Technology Working Group's survey of legal services providers last year. Common themes included: aging server infrastructures that are unable to sustain the needs of the organizations; lack of mobile technology; weak or non-existent IT policies; and antiquated telephone systems. The IT Assistance Initiative proposes to address these challenges by utilizing resources from participating law firms throughout the State, soliciting help from outside vendors, and by developing core systems (e.g., cloud-based data storage) that can be shared by multiple providers.

In addition to Michael Donnelly, the IT Assistance Initiative includes senior IT leadership from Cravath, Swaine & Moore; Nixon Peabody; Proskauer Rose; Skadden, Arps, Slate, Meagher & Flom; Sullivan & Cromwell; and Wachtell, Lipton, Rosen & Katz.

The first task of the IT Assistance Initiative is to develop a comprehensive, standardized IT assessment tool that can be used by all legal services providers. In addition, the IT Assistance Initiative is developing a protocol for leveraging law firm *pro bono* IT support. The Initiative will begin with five mid-sized providers in the New York City area. The ultimate goal is to provide *pro bono* IT assistance to all JCLS grantees to ensure that all civil legal services providers are utilizing levels of technology sufficient to appropriately enhance their delivery of client services.

3. The Task Force Should Convene The First Statewide Technology Conference

Many New York State civil legal services providers utilize technology to deliver legal services to clients and provide legal information to the public. Indeed, a number of New York providers have:

- created significant technology innovations that have improved client access to information, self-help tools, referrals, as well as advice, brief service and full representation;
- improved language access for the State's diverse communities, reduced the impact of geographic barriers, increased *pro bono* attorney involvement, and empowered advocates to work more efficiently within and outside their offices; and
- made major improvements in their business operations through the application of new technologies.

At the same time, the existence of many providers spread across our geographically large and diverse State creates challenges in technology information-sharing and coordination that can inhibit the adoption of innovations and best practices.

To address these challenges, the Task Force will convene the first Statewide technology conference to engage the civil legal aid community, to be planned in collaboration with NYSTech.¹¹⁸ In developing the conference, the Task Force will draw upon resources from the private bar, corporations and the academy. The first conference should be held in the spring of 2015 and seek to educate leaders, technology-responsible staff, and practitioners from across the State on innovative technologies that can improve the delivery of legal services and the efficiency of provider operations. The CIOs of major law firms should also be invited to attend. The conference should promote collaborative and sustainable use and support of technology among civil legal services providers, and address the lack of dedicated funding to meet technology needs.

4. Legal Services Providers Should Use LSC Technology Baselines As A Guide In Technology Planning

In 2008, as part of its commitment to develop a strategic vision for technology, the Legal Services Corporation (LSC) released its first report on the technological capacities that a modern legal services program should have in place, or have available to it, known as the "LSC Technology Baselines Report."¹¹⁹ The technology capacities described in that report are intended for any legal aid office that provides a full range of legal services. These include technologies related to data management, intake and telephone advice, support for private attorneys, communication, security, training, social media, and grant management. In 2014, after receiving comments from LSC grantees, the NLADA Technology Section, and leaders from non-LSC legal aid programs, LSC released an updated draft revision to the LSC Technology Baselines Report.¹²⁰ A final version is expected to be issued in December 2014.

The Working Group reviewed the July 2014 draft revision to the LSC Technology Baselines Report and annotated it with comments and resources relevant to New York providers.¹²¹ Significant comments included:

- Adoption and implementation of technology policies is critical as they can protect client data and help ensure business continuity.

- Technology staffing/consulting levels generally need to be increased to maintain critical systems, support strategic technology planning, and support innovative technologies.
- Case management systems should be used to help automate more of providers' day-to-day case and grant management work.
- Providers should invest in more technology training to increase their productivity.
- Document assembly, ranging from simple letters to more complex pleadings, can save time and improve quality.
- Staff mobility is essential, and providers should plan for and manage how their staff will work from court houses, community partner sites and other remote locations.
- Management should join State and national conversations around technology, and take advantage of free and low-cost resources.
- Technology is becoming more powerful and in many cases more complex—providers can collaborate more to improve successful collaborations that involve shared VoIP telephone systems.

Based on the substantial work reflected in the LSC Technology Baselines Report, and the contributions of the Working Group, the Task Force strongly recommends that civil legal services providers in New York State review and consider the final LSC Technology Baselines Report in connection with their technology planning and day-to-day operations. New York providers should also consider and take advantage of the Working Group's annotations to the July 2014 draft revision to the LSC Technology Baselines Report, which includes New York specific resources.¹²²

V. The Administrative Board Of The Courts Should Publish For Public Comment Rules To Implement An Online Dispute Resolution (ODR) Pilot To Determine The Feasibility, Cost And Effectiveness Of This Mechanism In Helping To Bridge The Justice Gap In Appropriate Cases

In 2011, the Task Force conducted a comprehensive review of alternative conflict resolution initiatives aimed at averting or reducing litigation. Based on that evaluation, the Task Force recommended the increased use of alternative conflict resolution efforts in appropriate cases as another means to help bridge the access-to-justice gap.¹²³

In 2013, with *pro bono* assistance, the Task Force evaluated the use of new online dispute resolution (ODR) platforms in Europe.¹²⁴ As a result of this research, and as part of its 2013 Report, the Task Force recommended that the New York State Unified Court System consider developing an ODR platform that could be used in appropriate matters involving low-income unrepresented parties—not including matters involving domestic violence or similar situations where the imbalance in power is inextricably bound up in the legal problem.¹²⁵ Consumer credit was suggested as a litigation area that could be appropriate for such a pilot ODR.

The primary objectives of an ODR program would be to resolve cases involving unrepresented litigants and to lower the overall caseloads of judges by using ODR in matters where both parties are represented.

By use of an efficient, out-of-court ODR platform that utilizes a chat room and online filing, various types of civil matters could potentially be resolved in a fraction of the time and cost. Due to the low cost for litigants, the limited administrative costs of such a program, and the flexibility of remote access, there is potential for utilization of an online program to resolve a variety of types of disputes involving both unrepresented and represented litigants in consumer debt cases and perhaps other matters. The ODR platform could be staffed by volunteer mediators and perhaps law students through law school clinical programs.

In 2014, building on its 2013 research and Report, the Task Force has developed a recommendation to move this important initiative forward. Specifically, the Task Force recommends that the Administrative Board of the Courts develop and publish rules, initially for public comment, to implement an ODR pilot program for certain categories of court cases.¹²⁶

The rules should contain at least the following provisions:

- a statement of purpose: to create a pilot project to determine the feasibility, cost, and effectiveness of an ODR mechanism for consumer debt litigation and other categories of court cases;
- participation in the ODR program would be presumptive for represented parties and the parties would commence participation in the program upon joinder of issue—litigants would be able to opt-out upon a showing of good cause;
- unrepresented parties would participate only on a voluntary basis and no adverse action would result if a party elects not to participate;
- the court system would charge no fee for use of the ODR program;
- once a matter is initiated in the ODR program, a mediator would be appointed from a list of OCA-approved mediators and the parties would be notified of the procedures to be followed, including methods for uploading necessary documents;
- parties would be notified of access to a “chat room” in which they could discuss and attempt to resolve the matter (through counsel if both are represented); the submission and exchange of documents and proposals would be limited to thirty days; thereafter, the mediator would review the records (including the chat room record) and decide how to proceed to resolve the dispute;
- there will be three locations for the pilot program—New York County, the Fourth Judicial District, and Monroe County; the rules should specify the physical location where unrepresented parties could access a computer and obtain assistance;
- the same rules of confidentiality that apply to in-person alternative dispute resolution will apply to ODR;
- the rules will provide for privacy protection as needed, including redaction of Social Security numbers;
- OCA will maintain a record of the cases referred to ODR and the outcomes, and report that information to the Chief Administrative Judge.

VI. The Administrative Board Of The Courts Should Adopt An Administrative Policy Expressing The Board's Support Of Limited Scope Representation In Appropriate Cases

Given the large numbers of unrepresented litigants in our courts, the severe disadvantages they face in litigation, and the burden lack of representation places on the courts and other litigants, this year the Task Force's Limited Scope/Unbundled Representation Working Group studied the role that limited scope representation in litigation can play in helping to address this access-to-justice issue.¹²⁵

Limited Scope Representation Can Assist in Increasing Access to Justice: Full legal representation in litigation involves a bundle of legal services including fact gathering, advice, discovery, research, drafting documents, negotiation, settlement, motion practice and trial. In contrast, limited scope legal representation (also referred to interchangeably as unbundled legal assistance or discrete task representation or limited assistance representation, or the like) involves a relationship between an attorney and a person seeking legal assistance in which they both agree that the scope of the legal services provided will be limited to specified tasks.¹²⁸

Various published sources—while acknowledging that full representation for everyone is best and limited scope services are not appropriate in every case—have urged using unbundled services to further expand access to justice.¹²⁹

Unbundling would improve the [pro se] client's ability to obtain advice, help draft legal documents, provide limited representation, or otherwise obtain other legal services from an attorney in a more affordable fashion. Self-help litigants would more likely complete their matter successfully with limited help rather than none at all. Benefits also accrue to the legal system as a whole, since greater preparation and precision by self-help litigants results directly in a reduction of errors in documents and procedures, reduced demands on court personnel, and crowded dockets.¹³⁰

According to a survey conducted by the American Bar Association (ABA), the public is receptive to using unbundled legal services.¹³¹ The ABA has been advocating for an increase in the availability of limited scope representation for many years.¹³² Most recently, in August 2014, the ABA Standing Committee on the Delivery of Legal Services issued a White Paper for use as a resource for policymakers interested in developing appropriate rules to enable lawyers to provide limited assistance to unrepresented litigants.¹³³ The White Paper analyzes the approaches used by various states both to enable lawyers to provide limited scope representation to clients who would otherwise proceed unrepresented and to regulate their limited scope representation.

Legal services providers have historically provided unbundled services to clients through advice, coaching and ghostwriting of papers. Unbundling via limited appearance in New York has been advanced by court-approved *pro bono* programs. Judges agree in advance to accept the limited appearance retainers of volunteer attorneys. These programs have operated with success and have been well received by the recipients of the services and by judges.¹³⁴

New York has not had a public education effort to advance limited scope representation in litigation. Judges and attorneys are not sufficiently aware of the subject and the positive outcomes that ensue for courts, lawyers and clients. In addition, law students in most law schools are not exposed to the concept. An early introduction to the subject in law school can help create a new culture of practicing law that will include both full and limited scope representation.

Use of Limited Scope Representation in Other States: A large volume of research, analysis and commentary is already available on the practical and ethical considerations involved in limited scope representation.¹³⁵ Significantly, at least 24 states have adopted court rules and/or rules of civil procedure that make it easier for attorneys to take on limited scope representation.¹³⁶ Key among them are rules governing an attorney’s withdrawal from a case in which the attorney has made a limited appearance on the record.¹³⁷ The withdrawal rules, among these states, generally fall into five categories.

The first, and most popular approach, is for courts to allow withdrawal—without leave of court—upon the filing of a Notice of Withdrawal or Notice of Completion of the limited representation.

The second approach is a court rule allowing for withdrawal of the attorney upon the filing of a Notice of Withdrawal with Consent or the filing of a Notice of Withdrawal that allows for a period of objection. Where the client consents or makes no objection, withdrawal is effective without leave of court. Otherwise, procedures are set forth for court involvement in determining whether withdrawal is permitted.

The third approach is unique to California, where court rules require attorneys to submit both a form application to be relieved as counsel and a form order for court review; judicial approval of the withdrawal is necessary even if there is no objection.

A fourth approach, adopted in Maine, is a rule exempting attorneys engaged in limited representation from the rules generally applicable to attorneys seeking to withdraw as counsel. However, where an attorney is seeking to withdraw “from the limited appearance itself,” Maine’s general withdrawal rules apply.

Finally, the state of Wyoming adopted what appears to be the broadest approach. Its Uniform Rules for the District Court provide that “[a]n attorney who has entered a limited entry of appearance shall be deemed to have withdrawn when the attorney has fulfilled the duties of the limited appearance.”¹³⁸

Recommendations: The Working Group has concluded that the time is ripe to expand using limited services to help close the access-to-justice gap in New York. The support of the Task Force and the Administrative Board of the Courts for expansion of unbundling could advance acceptance of the concept.

Accordingly, the Task Force recommends that the Administrative Board support limited scope representation by adopting an administrative policy expressing the Board’s support. In addition, consideration should be given to developing more court-partnered or court-approved limited representation programs; to encouraging bar associations to embrace limited scope representation, especially insofar as it enhances access to justice for unrepresented litigants; to educating judges, lawyers and the public about the subject; and to encouraging law schools to include the concept of limited scope representation/unbundling in law school curricula.

VII. Additional Recommendations To Increase Access To Justice

The Task Force makes three additional recommendations.

First, the Task Force recommends that the Chief Judge convene a meeting of the managing partners of all the major law firms in New York City to urge them to adopt a policy to the effect that partners who reach the firm’s retirement age are strongly encouraged to do *pro bono* work on behalf of low-income New Yorkers on matters affecting the essentials of life.

Second, the Task Force renews its recommendation that the Administrative Board of the Courts consider how to offer additional guidance to judges in exercising discretion, in furtherance of the fair administration of justice, in cases involving unrepresented litigants.¹³⁹

Third, the Task Force encourages the continued development of uniform, simplified Statewide forms.¹⁴⁰

VIII. The New York State Legislature Should Adopt A Statement Of Principle That Low-Income New Yorkers Facing Legal Matters Concerning The Essentials Of Life Have Effective Legal Assistance

“The inability of low-income Americans to get legal assistance, and in that way to vindicate their legal entitlements, undermines the legitimacy of courts, the legitimacy of our entire legal system and runs counter to our national commitment to the rule of law.” *Remarks of United States Supreme Court Justice Elena Kagan on the 40th Anniversary of the Legal Services Corporation, September 2014.*

“[D]enial of access to professional legal assistance is denial of equal justice. . . . [T]he American ideal is not for some justice, it is, as the pledge of allegiance says, ‘liberty and justice for all,’ or as the Supreme Court pediment has it, ‘equal justice.’ . . . Can there be justice if it is not equal, can there be a just society when some do not have justice?” *Remarks of United States Supreme Court Justice Antonin Scalia on the 40th Anniversary of the Legal Services Corporation, September 2014.*

The Task Force has extensively studied the need for legal assistance in civil proceedings. The Task Force recommends adoption by the New York State Legislature of a formal resolution embracing an aspirational goal that anyone in the State living at or under 200 percent of poverty who confronts legal matters that impact the essentials of life have effective legal assistance in such matters. To advance this goal, the Task Force recommends in this year’s Report a number of critical and concrete steps that can be taken by the courts, the legal services community, the law schools within our State, and the private bar that will lay the foundation for providing effective legal assistance in New York State.

Since 2010, the Task Force has worked to highlight the unmet need for civil legal services in matters involving the essentials of life, matters which “most often involve legal problems in the areas of housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts). . . . [S]uch matters are often interrelated with other legal problems that must be addressed in order to remedy the presenting legal issue.”¹⁴¹ As documented in this Task Force Report, the continuing need for civil legal services is substantial.

a. The Status Of Current Efforts To Expand Access To Civil Legal Services

In trying to determine the best approach New York State could take in meeting this documented unmet need for legal assistance, this year the Task Force undertook a number of research efforts. This included a review of the current statutory and common law framework for access to legal assistance in New York, efforts in other states and the approaches being taken in other countries to address unmet civil legal needs.

New York State Has Created a Right to Counsel in Certain Civil Matters: New York State has established—through statute and through the courts—the right to counsel in a number of civil contexts,

including cases concerning housing, family, health and employment.¹⁴² Under New York law, courts have discretion to appoint legal counsel for indigent civil litigants.¹⁴³ Courts have been hesitant to assign counsel under this statutory authority because of the lack of public funding, so it is only when “liberty interests” are at stake that courts are more likely to assign counsel in civil cases.¹⁴⁴

The courts have established a right to counsel in eviction proceedings involving military personnel.¹⁴⁵ Under New York law, the courts may appoint counsel for mental health patients in cases concerning mental health facilities and issues of abuse and mistreatment, which could involve challenges to living conditions.¹⁴⁶

In the family law context, Section 261 of the Family Court Act recognizes the fundamental interests implicated in family court proceedings and the concomitant role that counsel plays in protecting those interests.¹⁴⁷ Section 262 (“Assignment of Counsel for Indigent Persons”) implements this legislative purpose by creating a menu of proceedings for which the right to counsel is guaranteed.¹⁴⁸ Aside from the mandatory Section 262(a) categories, judges have discretion to assign counsel under Section 262(b) where the court determines that either the federal or the State constitution requires assignment.¹⁴⁹

In cases involving minors, Section 249 of the Family Court Act governs the appointment of counsel (called “attorney for the child” post-2010) to safeguard minors’ interests in family court proceedings.¹⁵⁰ Under this provision, courts are required to appoint counsel to represent a minor in certain cases “if independent legal representation is not available to such minor.”¹⁵¹ These cases include: Juvenile Delinquency Proceedings; Person in Need of Supervision Proceedings; Child Abuse and Neglect Proceedings; Child Permanency and Placement Proceedings; Social Services Proceedings; and Proceedings Involving Destitute Children.¹⁵² New York has also established a statutory right to counsel in cases involving “Allegedly Incapacitated Individuals” whose liberty is at stake or who, by virtue of their mental incapacity, are unable to make significant medical decisions. Accordingly, statutory and common law mandate a right to counsel in cases involving the involuntary commitment, medical treatment, and remedial care of statutorily incapacitated persons.¹⁵³ In addition, New York common law expressly provides a right to counsel for individuals facing involuntary commitment.¹⁵⁴

In the area of wages and income, a statutory right to counsel exists for unemployment insurance claimants who have received a favorable decision from the Unemployment Insurance Appeal Board and who are defending that decision in an appeal brought by another party.¹⁵⁵

Efforts in Other States to Expand Access to Legal Assistance in Civil Matters: Of the states reviewed by the Task Force, California’s Sargent Shriver Civil Counsel Act, which was adopted in 2009, is instructive.¹⁵⁶ A comprehensive article about the Shriver Act noted:

[A]lthough widely misreported as a ‘right to counsel’ statute, the Shriver Act does not create any rights or guarantee counsel to anyone. Instead, it identifies six key areas of the law (housing, domestic violence and restraining orders, elder abuse, guardianship of the person, probate conservatorship, and child custody). It then establishes a structure under which legal services agencies, courts, other service providers, and *pro bono* attorneys can partner to experiment with increased representation, innovations in court procedures, improved self-help, and other best practices to better serve indigent litigants with cases in those fields, and to measure the effects of increasing representation and providing other services.”¹⁵⁷

As the article explains, the Shriver Act provided public funding for seven pilot projects to operate over three years. The pilot projects were established after a competitive bidding process and are now oper-

ating in areas throughout the State. The pilots provide legal representation in targeted civil matters taking into account a number of factors and using a variety of approaches, ranging from self-help to alternative dispute resolution to the use of *pro bono* assistance to full representation.¹⁵⁸

Approaches Taken in Other Countries: Public funding of counsel to provide meaningful legal assistance in matters involving the essentials of life has worked well internationally for decades. The Task Force reviewed a paper that explored the operation of local programs that provide civil legal services in France, Germany, the Netherlands, the United Kingdom, Ireland, China, South Africa, Brazil and India. The paper found that many jurisdictions (both common law and civil law) have programs providing broad rights of representation to indigent persons in many types of civil matters. In some jurisdictions, the representation is guaranteed by constitution or statute and in others it is a matter of government policy. The nature of the programs varies as well but includes civil legal assistance provided by an entity created by the government, arrangements between the government and bar associations, or direct funding from the government to individual lawyers.¹⁵⁹

According to the World Justice Project, an independent, multi-disciplinary project working to advance the rule of law around the world, the United States received a score in “accessibility and affordability” of its civil justice system that places it behind more than 60 other countries.¹⁶⁰

b. Recommendations For Building On New York’s Current Efforts

To build on the recommendations advanced in its prior reports, the Task Force now outlines a framework for identifying, in cases involving the essentials of life for those living on incomes at or below 200 percent of poverty, the factors that should be taken into account in determining the effective level of legal assistance. These factors include an individual’s age, literacy level, physical or mental impairments; case-specific factors such as the complexity of the legal matter, the severity of the issues involved and the risk of loss to the client; the impact and cost and benefits of the issues involved; and the level of judicial involvement, from administrative actions through court hearings. Based on an analysis of these factors, effective legal assistance may range from informational assistance to unrepresented individuals through full representation in court by an attorney.

This Report does not recommend any statutory changes or statutory expansions of current legal rights in providing counsel in civil matters. Rather the Task Force is urging the State Legislature to articulate and embrace an aspirational goal of effective legal assistance in matters affecting the essentials of life.

c. Expanding Access To Effective Legal Assistance In New York

In essence, the Task Force recommends the adoption of a framework within which each person in need of legal assistance in matters involving the essentials of life have effective legal assistance.

The Task Force proposes the framework outlined below, which includes, broadly: Client Characteristics, Essential Legal Matters, Legal Issues and Case Dynamics, and Level of Assistance and Range of Services.

Client Characteristics: The Task Force recommends that clients whose income is at or below 200 percent of poverty have effective legal assistance in civil matters. In fulfilling this priority, consideration should be given to certain vulnerable age groups, such as seniors or children; the client’s ability to speak English at a level sufficient to navigate our complex legal system; the client’s level of education, whether the client has a physical or mental disability; the client’s level of technology skills, the size of

the client's household; and the client's ability to represent himself or herself in a legal proceeding. Other kinds of particular vulnerabilities, such as whether the client is a victim of domestic violence or human trafficking, might also be considered.

Essential Legal Matters in Which Effective Legal Assistance Should be Provided: In keeping with the Chief Judge's priority that legal assistance be provided in matters that impact the "essentials of life," the Task Force recommends that effective legal assistance be provided in these targeted areas:

- Housing and foreclosures matters, including eviction prevention, homelessness assistance and shelter placements. Such matters would include housing eviction proceedings, especially eviction from public housing, matters involving housing subsidies, terminations and grievances involving public housing, New York State Homes & Community Renewal proceedings and access to shelter placements in order to avoid homelessness.
- Family law issues, particularly in matters involving domestic violence and in those matters where a right to counsel does not currently exist in New York or where additional legal assistance is needed to provide continuity in cases where access to legal assistance begins and ends within the same case (e.g., legal assistance is provided with respect to custody issues but not child support).
- Legal issues involving health coverage and access to health care, including inappropriate denials of health coverage or the refusal or failure to provide necessary care and services.
- Economic security and subsistence income, including matters involving wages, disability assistance and other benefits and legal issues involving consumer debt. These matters include unemployment insurance benefits, social security disability and public assistance issues.
- Education, including legal matters involving special education and access to appropriate and needed educational supports and services.

Legal Issues and Case Dynamics to be Considered: The Task Force recommends that in determining effective assistance, factors involving the case itself should be considered. These include the magnitude of the harm or the risk at issue should the client proceed without assistance; the complexity of the legal matter, the strength of the legal position of the client, the novelty of the issue and whether it could be precedential; the level of judicial involvement required; and whether the client is confronting a State or federal administrative hearing, a matter in Town or Village Court or a matter before a State or federal court.

The Task Force further recommends that the stage of intervention (assisting in an initial matter or appealing a denial of benefits, for example) should be considered, along with a determination of what level of assistance would be most effective. Such factors should include whether the client is the plaintiff or defendant in a particular matter; whether or not the opposing party is represented by counsel; and whether the opposing party is a government entity or private entity.

A further level of analysis would include the benefit to client and family in terms of safety, stability and security; the cost of providing the assistance and any savings to the State or the economic benefit to the State's taxpayers.

Level or Type of Legal Assistance to be Provided: The Task Force notes that there is a range of legal assistance that could be effective and appropriate depending on the client's characteristics, the substantive law issues in question and the dynamics of the case as outlined above. For some, access to

self-help materials may offer the needed assistance; others will need full representation by an attorney. A variety of approaches could be taken to provide the needed assistance; for example, offering clinics and legal education sessions at one end of the spectrum, to providing representation in complex appeals on the other end of the spectrum. Likewise, a range of methods can be used to meet these needs: from web-based pro se assistance to assistance by non-lawyers to one-on-one attorney representation.

Depending on the client's characteristics (educational level, language capacity and other factors as noted above) and given the type and level of assistance needed, technology-assisted or web-based help may be effective for those clients who can self-advocate under certain circumstances. This could include information (substantive legal information or referral to additional resources); informational videos; do-it-yourself ("DIY") forms; court-developed access-to-justice forms; resources that help people fill out and file court papers, such as petitions or answers, or income tax filings on their own. Web-assisted help in New York is sometimes provided through "LiveHelp," a contemporaneous "chat" that helps clients navigate through websites to find the most helpful materials. LiveHelp can also provide non-contemporaneous assistance by responding to posted questions.¹⁶¹

Some limited assistance outside the courtroom could be provided by law students or non-lawyers. Limited assistance could include help given in person or by phone (for example, via hotline); brief service, such as assisting unrepresented litigants to fill out forms; advocacy letters; preparation for hearings (for example, by gathering essential documents and educating clients about the relevant procedures); ghost-writing pleadings (such as answers and motions); and navigator assistance (in and out of court).

In February 2014, the Unified Court System launched a Court Navigator Program with pilot projects in nonpayment proceedings in Brooklyn Housing Court and consumer debt cases in Bronx Civil Court.¹⁶² "Navigators" are non-lawyers who provide assistance in helping unrepresented litigants have a more productive experience in court.

Limited representation could include an attorney's limited scope representation or provision of "unbundled" services—an attorney would provide representation limited to a particular portion of a litigated case. Around the State, for example in New York City, Buffalo, Albany and Long Island, "Attorney For the Day" programs provide volunteer attorneys or legal aid staff to provide representation at a tenant's first appearance.¹⁶³ "Unbundled" or limited representation could include: preparation of answers (in housing court in a landlord-tenant matter or in Supreme Court in a foreclosure matter); discovery assistance (answering discovery received from an adversary or developing discovery demands to serve on an adversary); or negotiation or mediation assistance (for example at settlement conferences in foreclosure actions).

Unbundled services could also include motion practice (such as filing and appearing on a motion to vacate a default or in opposition to a motion for summary judgment). Hearing representation, either in court or in an administrative proceeding or on appeal, could be provided and could be limited to the particular level in court (such as trial or appeal). Finally, assistance post judgment (such as an order to show cause) or post settlement (such as getting rent grants from New York City's Human Resources Administration, or federal Section 8 voucher modifications, or scheduling repairs with a landlord) could also be provided on a limited service basis.

Finally, effective legal assistance may require full attorney representation from an initial intake to trial and/or appeal.

In determining what level of assistance would be effective, consideration should be given to the type of case, the client’s characteristics and vulnerabilities, the benefit to the client, the benefit to the client community, the client’s ability to advocate or self-represent, and the amount of time the level of assistance to be considered would take.

d. Proposed Statement Of Principle

New York has witnessed the enormous benefit to low-income people from the provision of legal assistance. From ensuring a low-income child a free and appropriate education to obtaining income and health care for a person with a disability, providing effective assistance changes clients’ lives. The provision of effective legal assistance also provides significant and long-lasting economic benefits to all of New York.

The Task Force accordingly recommends the adoption of a statement of principle by the New York State Legislature that low-income New Yorkers facing matters involving the essentials of life have effective legal assistance, and proposes the following “resolved” clauses:

RESOLVED, that it is the sense of this Legislative Body that the state must continue its effort to achieve the ideal of equal access to civil justice for all; and be it further

RESOLVED, that, to accomplish this end, the policy of the State of New York is that every New Yorker who lives in poverty, defined by living at or below 200 percent of the Federal poverty guidelines, have effective legal assistance in matters involving the essentials of life (housing, family matters, access to health care, education and subsistence income).¹⁶⁴



For the foregoing reasons, the Task Force respectfully requests that the Chief Judge adopt the funding and non-monetary recommendations for action set forth in this Report to continue to implement the multi-year plan to bridge the access-to-justice gap for low-income families and individuals in New York State. The need to address this justice gap continues to be urgent.

ENDNOTES

- ¹ See TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 1 (2010) [hereinafter 2010 TASK FORCE REPORT], available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>. The 2010, 2011, 2012, and 2013 Reports of the Task Force, and the Appendices to each Report are available from the Task Force's website, <http://www.nycourts.gov/ip/access-civil-legal-services/>.
- ² TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 1, at 3 (2010), available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-Appendices.pdf>.
- ³ See TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 3 (2010), available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-Appendices.pdf>.
- ⁴ A list of the current members of the Chief Judge's Task Force to Expand Access to Civil Legal Services is set forth at the beginning of this Report. In addition, the Task Force received extensive assistance from Jessica Klein, Special Counsel for Pro Bono and Director of Professional Development at Sullivan & Cromwell LLP, who served as Counsel to the Task Force; Lara J. Loyd, Chiansan Ma and Inbar Gal, Associates at Sullivan & Cromwell LLP, and Madeline B. Jenks, a legal assistant at the firm; Mary C. Mone, Special Counsel to the Chief Judge; and Lauren Kanfer, Assistant Deputy Counsel to the Chief Judge. Sullivan & Cromwell LLP, which has a partner serving on the Task Force, hosted meetings of the Task Force and provides crucial *pro bono* assistance. Three other leading law firms with partners who serve on the Task Force also provided invaluable *pro bono* assistance: Proskauer Rose LLP; Simpson Thacher & Bartlett LLP; and Skadden, Arps, Slate, Meagher & Flom LLP. A full listing of those who provided *pro bono* assistance is annexed as Appendix 1.
- ⁵ The Task Force reported on unrepresented litigants in each of its previous reports. See 2010 TASK FORCE REPORT, *supra* note 1, at 26–28 (2010); TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 15 (2011) [hereinafter 2011 TASK FORCE REPORT], available at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf; TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 14–15 (2012) [hereinafter 2012 TASK FORCE REPORT], available at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT_Nov-2012.pdf; TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 19–20 (2013) [hereinafter 2013 TASK FORCE REPORT], available at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceReport_2013.pdf.
- ⁶ See, e.g., 2011 TASK FORCE REPORT, *supra* note 5, at 18–19.
- ⁷ 2010 TASK FORCE REPORT, *supra* note 1, at 4–5.
- ⁸ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 6, 2014 (testimony of Hon. A. Gail Prudenti, Chief Administrative Judge, New York State Unified Court System, at 50:13–14); The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 6, 2014 (statement of Hon. A. Gail Prudenti, Chief Administrative Judge, New York State Unified Court System, at 6).*
- ⁹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 30, 2014 (testimony of Hon. Deborah L. Rose, Deputy Majority Leader, 49th District, Staten Island, at 58:12–17).*
- ¹⁰ Based on figures made available to the Task Force by IOLA. For further information, see IOLA FUND OF THE STATE OF NEW YORK, <http://www.iola.org> (last visited Nov. 10, 2014).
- ¹¹ 2011 TASK FORCE REPORT, *supra* note 5, at 23–24; 2012 TASK FORCE REPORT, *supra* note 5, at 18–19; 2013 TASK FORCE REPORT, *supra* note 5, at 23–24.
- ¹² 2011 TASK FORCE REPORT, *supra* note 5, at 25–26.
- ¹³ Updated analysis prepared for IOLA by Ken Smith of The Resource for Great Programs, Inc. (on file with the Task Force).
- ¹⁴ See *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 6, 2014 (statement of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting).*
- ¹⁵ The full text of Chief Judge Lippman's 2010 Law Day speech is annexed to the 2010 Task Force Report as Appendix 1. TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 1 (2010), available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-Appendices.pdf>.
- ¹⁶ See, e.g., STATE BAR OF CAL. TASK FORCE ON ADMISSIONS REGULATION REFORM, PHASE I FINAL REPORT 11, 25 (2013)

- [hereinafter CAL. TASK FORCE REPORT], available at http://www.calbar.ca.gov/Portals/0/documents/publicComment/2013/2013_StateBarTaskForceReportFINALAPPROVED6-11-13.pdf (describing New York’s 50-hour *pro bono* requirement for bar admission as “a path-breaking way to enhance the competency skills training of new lawyers and address the access to justice crisis,” and recommending that California bar applicants be required to contribute 50 hours of legal services in the *pro bono* or modest means areas); REPORT OF THE WORKING GROUP ON THE PROPOSED PREADMISSION *PRO BONO* REQUIREMENT 1, 6 (2013), available at <http://www.judiciary.state.nj.us/notices/2013/n130516aREPORT.pdf> (report commissioned by the New Jersey Supreme Court, recommending that New Jersey bar applicants be required to perform 50 hours of *pro bono* service prior to admission, and noting that the establishment of New York’s *pro bono* requirement for bar admission was one of the factors in the Supreme Court’s consideration of such a requirement).
- ¹⁷ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (testimony of Dean Martha Minow, Morgan & Helen Chu Dean & Professor of Law, Harvard Law School, at 12:16–13:02).*
- ¹⁸ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 22, 2014 (remarks of Hon. Chief Judge Jonathan Lippman, at 2:21–25; 3:06–22).*
- ¹⁹ See Appendix 2.
- ²⁰ See Appendix 4.
- ²¹ See Appendix 2.
- ²² *Id.*
- ²³ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (statement of Hon. A. Gail Prudenti, Chief Administrative Judge, New York State Unified Court System, at 2, and Exhibit A).*
- ²⁴ *Id.*
- ²⁵ Data from the IOLA Fund supports the range of this preliminary estimate. In the 2010 Task Force Report, the percentage of legal needs being met was calculated using findings from the Lake Research Partners survey of the civil legal needs of low-income New Yorkers coupled with IOLA data on “cases closed.” 2010 TASK FORCE REPORT, *supra* note 1, at 27-28. Updating the calculation using IOLA data from 2013 on “cases closed” (which is less inclusive than the OCA “cases handled” data) indicates a significant increase of 25 percent in legal services to low-income New Yorkers.
- ²⁶ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (statement of Hon. A. Gail Prudenti, Chief Administrative Judge, New York State Unified Court System, at 2).*
- ²⁷ *Id. at 4.*
- ²⁸ *The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Sept. 29, 2014 (statement of Van Henri White, Esq., Chair, Council of the Urban Boards of Education; President and Commissioner, Rochester City School District Board of Education, at 3).*
- ²⁹ See *infra* Part B.III; 2011 TASK FORCE REPORT, *supra* note 5, at 34–35.
- ³⁰ Joint Order of the Supreme Court, Appellate Division, N.Y. ORDER 13-0013 (West) (Apr. 23, 2013) (amending Rule 6.1 of the New York Rules of Professional Conduct to provide that each lawyer should aspire to provide at least 50 hours of *pro bono* legal services each year to poor persons), available at <http://www.nycourts.gov/attorneys/probono/1200-6.1.pdf>.
- ³¹ Administrative Order of the Chief Administrative Judge of the Courts AO/135a/13, N.Y. ORDER 13-0012 (West) (April 22, 2013) (amending section 118.1(e) of the Rules of the Chief Administrator to require reporting of *pro bono* services and financial contributions to organizations providing legal services to the poor and underserved), available at www.nycourts.gov/ATTORNEYS/probono/AO-135a-13.pdf. Recommendations have been made to amend the rule as a result of productive discussions between the leadership of the New York State Bar Association and the Office of Court Administration. The Indiana Supreme Court has recently approved a rule requiring annual reporting of *pro bono* services. Marilyn Odenhahl, *Supreme Court approves requirement for attorneys to report pro bono hours*, THE INDIANA LAWYER, September 8, 2014, available at <http://www.theindianalawyer.com/supreme-court-approves-requirement-for-attorneys-to-report-pro-bono-hours/PARAMS/article/35091>.
- ³² See ADVISORY COMMITTEE ON PRO BONO SERVICE BY IN-HOUSE COUNSEL IN NEW YORK STATE, REPORT TO THE CHIEF JUDGE OF THE STATE OF THE NEW YORK AND THE PRESIDING JUSTICES OF THE FOUR APPELLATE DIVISION DEPARTMENTS (2013), available at <http://www.nycourts.gov/rules/comments/PDF/PC-Packet-IHC-ProBono.pdf> (as Exhibit A to Memorandum from John W. McConnell, Counsel, Office of Court Admin., N.Y. State Unified Court Sys.). The amended rule is Rule 522.8 of the Rules of the Court of Appeals for the Registration of In-House Counsel, N.Y.

COMP. CODES R. & REGS. tit. 22, § 522.8 (2014).

- ³³ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 3, 2013 (testimony of Hon. Michael V. Coccoma, Deputy Chief Administrative Judge for Courts Outside New York City and Supreme Court Justice, Sixth Judicial District, at 96:10–97:03).*
- ³⁴ Information obtained by the Task Force Working Group on Town and Village Justice Courts. *See also The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 3, 2013 (statement of Hon. Michael V. Coccoma, Deputy Chief Administrative Judge for Courts Outside New York City and Supreme Court Justice, Sixth Judicial District, at 4–5).*
- ³⁵ See Press Release, N.Y. State Unified Court Sys., Chief Judge Names Committee Charged with Examining How Non-Lawyer Advocates Can Help Narrow New York's Justice Gap (May 28, 2013), available at http://www.nycourts.gov/press/PDFs/PR13_07.pdf; Joel Stashenko, *Non-Lawyers May Get Role in Closing the New York 'Justice Gap'*, N.Y. L.J., May 29, 2013, at 1. The resulting order is the Administrative Order of the Chief Administrative Judge of the Courts AO/42/14 (Feb. 10, 2014), available at <http://www.nycourts.gov/COURTS/nyc/SSI/pdfs/AO-42-14.pdf>. For information regarding the Court Navigator program, see *New York City Housing Court: Court Navigator Program*, N.Y. STATE UNIFIED COURTS SYS., <http://www.nycourts.gov/Courts/nyc/housing/rap.shtml> (last visited Nov. 19, 2014).
- ³⁶ 2013 TASK FORCE REPORT, *supra* note 5, at 32–36.
- ³⁷ 2013 TASK FORCE REPORT, *supra* note 5, at 36–37.
- ³⁸ See N.Y. COMP. CODES R. & REGS. tit. 22, § 118.1(g) (2014) (allowing an attorney meeting certain requirements to participate in an approved *pro bono* legal services program as an “attorney emeritus”). *See also Attorney Emeritus Program*, N.Y. STATE UNIFIED COURTS SYS., <http://www.nycourts.gov/attorneys/volunteer/emmeritus/rsaa/> (last visited Nov. 18, 2014).
- ³⁹ See N.Y. COMP. CODES R. & REGS. tit. 22, § 520.16 (2014).
- ⁴⁰ The Pro Bono Scholars Program was announced by Chief Judge Lippman in his 2014 State of the Judiciary address. *See Pro Bono Scholars Program*, N.Y. STATE UNIFIED COURTS SYS., <http://www.nycourts.gov/attorneys/probonoscholars/index.shtml> (last visited Nov. 18, 2014).
- ⁴¹ *See Appendix 5.*
- ⁴² A witness list for each of the Chief Judge's four hearings is annexed as Appendix 6. Transcripts of the oral testimony at the four hearings are annexed as Appendix 7 (for the First Department Hearing held September 22, 2014), Appendix 8 (for the Fourth Department Hearing held September 29, 2014), Appendix 9 (for the Second Department Hearing held September 30, 2014), and Appendix 10 (for the Third Department hearing held October 6, 2014). Written statements submitted for the four hearings are annexed as Appendix 11 (for the First Department Hearing), Appendix 12 (for the Fourth Department Hearing), Appendix 13 (for the Second Department Hearing), and Appendix 14 (for the Third Department Hearing).
- ⁴³ *See The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 17, 2013 (testimony of Hon. Thomas P. DiNapoli, New York State Comptroller, at 7:14–28:14).*
- ⁴⁴ *See The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 19, 2013 (testimony of Cyrus R. Vance, Jr., District Attorney, New York County, 40:08–59:04).*
- ⁴⁵ *See The Chief Judge's Hearing on Civil Legal Services, First Dept, Sept. 19, 2013 (testimony of Merryl H. Tisch, Chancellor, New York State Board of Regents); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of Michael A. Cardozo, New York City Corporation Council); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of Scott J. Mandel, City Council President, City of Long Beach, Nassau County); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of Hon. Richard Schaffer, Supervisor, Town of Babylon, Suffolk County).*
- ⁴⁶ *See The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of His Eminence Timothy Cardinal Dolan, Archbishop of New York, 8:02–18:09).*
- ⁴⁷ *See, e.g., The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Hon. Eric Schneiderman, Attorney General of the State of New York); The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Hon. Christine C. Quinn, Speaker, New York City Council); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Charles Hynes, District Attorney, Kings County); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Hon. Kathleen M. Rice, Nassau County District Attorney).*
- ⁴⁸ *See The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Kathryn S. Wylde,*

- President and CEO, Partnership for New York City*); *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Michael S. Helfer, General Counsel, Citigroup)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Michael P. Smith, President and CEO, New York State Bankers Assoc.)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Joseph Strasburg, President, Rent Stabilization Association)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Kenneth E. Raske, President, Greater New York Hospital Association)*; *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Steven T. Longo, Executive Director, Albany Housing Authority)*; *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 3, 2011 (testimony of Buckmaster de Wolf, General Counsel, GE Global Research)*; *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 20, 2011 (testimony of William M. Savino, Managing Partner, Rivkin Radler LLP; Member of the Board, Long Island Association)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 26, 2011 (testimony of Donna Cirolia, Regional Vice President for Public Affairs and Communications, Coca-Cola Refreshments USA, Inc.)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 26, 2011 (testimony of Craig L. Reicher, Vice Chairman, CB Richard Ellis, Inc.)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 26, 2011 (testimony of Deborah C. Wright, Chairman and CEO, Carver Federal Savings Bank)*; *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 3, 2011 (testimony of James J. Barba, President and CEO, Albany Medical Center)*; *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 3, 2013 (statement of Joseph Fruscione, Vice President and Commercial Branch Manager, M&T Bank)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 19, 2013 (testimony of Wendy Z. Goldstein, President and CEO, Lutheran HealthCare)*; *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 17, 2013 (testimony of Penelope Andrews, Dean and President, Albany Law School)*; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 19, 2013 (testimony of Carey R. Dunne, President, New York City Bar Association; Partner, Davis Polk & Wardwell LLP)*; *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of Seymour W. James, Jr., Immediate Past President, New York State Bar Association; Attorney-in-Charge of the Criminal Practice, The Legal Aid Society)*; *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of Miriam A. Buhl, Pro Bono Counsel, Weil Gotshal & Manges LLP)*; *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of David H.K. Nguyen, Director, Disaster Legal Services Program, Young Lawyers Division, American Bar Association)*; *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 1, 2013 (testimony of Michael M. Weinstein, Chief Program Officer, Robin Hood Foundation)*.
- ⁴⁹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 30, 2014 (statement of Hon. Deborah L. Rose, New York City Council Member, Deputy Majority Leader, 49th District, Staten Island, at 2)*.
- ⁵⁰ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2014 (testimony of Sandra A. Parker, President & CEO, Rochester Business Alliance, at 11:01-05)*.
- ⁵¹ *Id.* at 9:05-06.
- ⁵² *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 30, 2014 (testimony of Rory I. Lancman, New York City Council Member, 24th District, Queens, at 30:10-13; 32:03-16; 36:10-16)*.
- ⁵³ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2014 (testimony of Stephanie A. Miner, Mayor, City of Syracuse, at 17:07-16)*.
- ⁵⁴ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2014 (statement of Loretta C. Scott, President and Councilmember At-Large, Rochester City Council, at 1)*.
- ⁵⁵ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 22, 2014 (testimony of Zachary W. Carter, Corporation Counsel, City of New York, at 27:08-14)*.
- ⁵⁶ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 30, 2014 (testimony of Scott Primiano, President, The Insurance Advocates, at 79:08-15)*.
- ⁵⁷ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 30, 2014 (statement of Thomas Cunsolo, President, Staten Island Alliance, at 3)*.
- ⁵⁸ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, October 6, 2014 (testimony of Hon. A. Gail Prudenti, Chief Administrative Judge, NYS Unified Court System, at 43:24-44:05)*.
- ⁵⁹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Sept. 30, 2014 (testimony of Hon. Kenneth P. Thompson, Kings County District Attorney, presented by Leroy Frazer, Jr., Chief of Staff to the Kings County District Attorney Office, at 27:04-13)*.
- ⁶⁰ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, October 6, 2014 (testimony of Dean Martha Minow, Morgan & Helen Chu Dean and Professor of Law, Harvard Law School, at 13:03-14)*.

- ⁶¹ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, September 22, 2014 (statement of Hon. Melissa Mark-Viverito, Speaker, New York City Council, at 2).*
- ⁶² *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, September 22, 2014 (statement of Jennifer L. Kroman, Director of Pro Bono Practice, Cleary Gottlieb Steen & Hamilton LLP, at 3–4).*
- ⁶³ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, September 22, 2014 (testimony of Debra Raskin, President, New York City Bar Association, at 36:15–19).*
- ⁶⁴ *Id.* at 35:06–09.
- ⁶⁵ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, September 22, 2014 (testimony of Zachary W. Carter, Corporation Counsel, City of New York, at 25:26–26:15).*
- ⁶⁶ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, September 22, 2014 (testimony of William D. Rahm, Senior Managing Director, Centerbridge Partners, at 50:22–25).*
- ⁶⁷ *See, e.g., The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (testimony of Hon. Katherine M. Sheehan, Mayor, City of Albany); The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 29, 2014 (testimony of Steven Banks, Commissioner, New York City Human Resources Administration); The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 29, 2014 (testimony of Rev. Dr. Demetrius S. Carolina, Sr., Executive Director, Central Family Life Center); The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (testimony of Corinda Crossdale, Director, New York State Office for the Aging); The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 29, 2014 (testimony of Steven G. Leventhal, Esq., Access to Justice Program Chair, Nassau County Bar Association; Leventhal, Cursio, Mullaney & Sliney, LLP); The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 22, 2014 (testimony of Joellen R. Valentine, Director and Assistant General Counsel for Citigroup, Inc.); The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Sept. 29, 2014 (testimony of M. Josh McCrossen, Commissioner, Wayne County Department of Social Services).*
- ⁶⁸ *The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Sept. 29, 2014 (statement of T. Andrew Brown, Corporation Counsel, City of Rochester, at 4–5).*
- ⁶⁹ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 22, 2014 (testimony of Wun Kuen Ng, client of MFY Legal Services, Inc., at 69:06–73:07).*
- ⁷⁰ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 22, 2014 (testimony of Karen Rivera, client of Legal Services NYC, at 77:21–81:02).*
- ⁷¹ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 22, 2014 (testimony of Yvette Walker, client of The Legal Aid Society, at 73:20–77:08).*
- ⁷² *The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Sept. 29, 2014 (testimony of Julie Longmore, client of Hiscock Legal Aid Society, at 49:22–53:04).*
- ⁷³ *The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Sept. 29, 2014 (testimony of Dawn and Michael Farnsworth, client of Western New York Law Center, at 53:20–59:22).*
- ⁷⁴ *The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Sept. 29, 2014 (testimony of Mary Ellen Wilber on behalf of Eileen Kleps, client of Western New York Law Center, at 60:01–65:11 and 66:08–67:06).*
- ⁷⁵ *The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 30, 2014 (testimony of Shaun Little, client of The Legal Aid Society, at 95:12–97:16).*
- ⁷⁶ *The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 30, 2014 (testimony of Taiwo Osinaike, client of Legal Services NYC, at 98:03–100:21).*
- ⁷⁷ *The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 30, 2014 (testimony of Diego Parra, client of Legal Services NYC, at 101:04–104:03).*
- ⁷⁸ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (testimony of Tajma Motley, client of Legal Aid Society of Northeastern New York, at 66:18–69:16).*
- ⁷⁹ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (testimony of Dideolu Olufunke Okediran, client of The Legal Project, at 70:01–75:16).*
- ⁸⁰ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (testimony of Cinnamin Schmitz, client of Legal Aid Society of Mid-New York, at 75:25–79:19).*
- ⁸¹ Hon. A. Gail Prudenti noted that: “Although some of these unrepresented litigants may have received limited representation through court-based *pro bono* programs or other legal information and assistance available at the courthouse or through Judiciary Funding grantees, the number of unrepresented litigants in these important cases remains extremely high.” *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (statement of Hon. A.*

- Gail Prudenti, Chief Administrative Judge, NYS Unified Court System, at 6*). Steven G. Leventhal stated that: “It appears now that the need will continue indefinitely—and so will our free legal clinics. However, many difficult legal problems are unresolvable through clinic consultations. Legal service providers are essential partners in the relief process, working to meet the enormous need, and handling litigation for eligible clients, among other things.” *The Chief Judge’s Hearing on Civil Legal Services, Second Dep’t, Sept. 30, 2014 (statement of Steven G. Leventhal, Esq., Access to Justice Program Chair, Nassau County Bar Association; Leventhal, Cursio, Mullaney & Sliney, LLP, at 5)*.
- ⁸² See *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (statement of Hon. A. Gail Prudenti, Chief Administrative Judge, NYS Unified Court System, at 6)* (reporting that more than 90 percent of litigants are unrepresented in cases in these categories).
- ⁸³ See 2010 TASK FORCE REPORT, *supra* note 1, at 20–26; 2011 TASK FORCE REPORT, *supra* note 5, at 23–29; 2012 TASK FORCE REPORT, *supra* note 5, at 18–25; 2013 TASK FORCE REPORT, *supra* note 5, at 23–27.
- ⁸⁴ See Annual Update of the HHS Poverty Guidelines, 79 Fed. Reg. 3593 (Jan. 22, 2014) (annual notice of poverty guidelines released by the Department of Health and Human Services) [hereinafter 2014 HHS Poverty Guidelines], available at <https://www.federalregister.gov/articles/2014/01/22/2014-01303/annual-update-of-the-hhs-poverty-guidelines>.
- ⁸⁵ See *Poverty Status in the Past 12 Months: 2013 American Community Survey 1-Year Estimates*, UNITED STATES CENSUS BUREAU, http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/13_1YR/S1701 (last visited Nov. 12, 2014); *Poverty Status in the Past 12 Months: 2012 American Community Survey 1-Year Estimates*, UNITED STATES CENSUS BUREAU, http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12_1YR/S1701 (last visited Nov. 12, 2014).
- ⁸⁶ See *Poverty Status in the Past 12 Months, 2013 American Community Survey 1-Year Estimates, New York City and Boroughs*, NYC.GOV, http://www.nyc.gov/html/dcp/pdf/census/poverty_persons_boro_nyc_2013.pdf (last visited Nov. 12, 2014) (compilation of U.S. Census Bureau survey data on New York City for the year 2013); See *Poverty Status in the Past 12 Months, 2013 American Community Survey 1-Year Estimates, New York City and Boroughs*, NYC.GOV, http://www.nyc.gov/html/dcp/pdf/census/poverty_persons_nyc_boro_2012.pdf (last visited Nov. 12, 2014) (compilation of U.S. Census Bureau survey data on New York City for the year 2012).
- ⁸⁷ This table is based on 2014 HHS Poverty Guidelines, *supra* note 84.
- ⁸⁸ See *State Fact Sheets: New York*, U.S. DEP’T OF AGRIC., Sept. 12, 2014, <http://www.ers.usda.gov/data-products/state-fact-sheets/state-data.aspx?StateFIPS=36&StateName=New%20York#.VFKfyaVYnJ> (last visited November 19, 2014) [hereinafter *USDA New York Fact Sheets*].
- ⁸⁹ Winnie Hu, *Rations Reduced as Demand Grows for Soup Kitchens*, N.Y. TIMES, June 27, 2014, at A17, available at <http://www.nytimes.com/2014/06/28/nyregion/rations-reduced-as-demand-grows-for-soup-kitchens.html>.
- ⁹⁰ See *USDA New York Fact Sheets, supra* note 88. According to the USDA, “low food security” refers to reports of reduced quality, variety, or desirability of diet; little or no indication of reduced food intake. *Definitions of Food Security*, U.S. DEP’T OF AGRIC., <http://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/definitions-of-food-security.aspx> (last visited Nov. 19, 2014).
- ⁹¹ Tatiana Schlossberg, *Homelessness Rose in New York*, N.Y. TIMES, Oct. 30, 2014, at A28, available at <http://www.nytimes.com/2014/10/31/nyregion/homelessness-rose-in-new-york.html>.
- ⁹² *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (statement of Hon. A. Gail Prudenti, Chief Administrative Judge, NYS Unified Court System, at 6)*.
- ⁹³ HON. A. GAIL PRUDENTI, 2014 REPORT OF THE CHIEF ADMINISTRATOR OF THE COURTS PURSUANT TO CHAPTER 507 OF THE LAWS OF 2009, at 4–5 (2014).
- ⁹⁴ *The Chief Judge’s Hearing on Civil Legal Services, Third Dep’t, Oct. 6, 2014 (statement of Hon. A. Gail Prudenti, Chief Administrative Judge, NYS Unified Court System, at 6)*.
- ⁹⁵ Based on figures made available to the Task Force by IOLA. For further information, see IOLA FUND OF THE STATE OF NEW YORK, <http://www.iola.org> (last visited Nov. 1, 2014).
- ⁹⁶ *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 26, 2011 (statement of Jeffrey L. Baliban, Managing Director, Navigant Consulting, Inc., at 4–5)*.
- ⁹⁷ See 2011 TASK FORCE REPORT, *supra* note 5, at 25; *The Chief Judge’s Hearing on Civil Legal Services, First Dep’t, Sept. 26, 2011 (statement of Geeta Singh, Ph.D., Principal, Cornerstone Research, at 6)*.
- ⁹⁸ Updated analysis prepared for IOLA by Ken Smith of The Resource for Great Programs, Inc. (on file with the Task Force).
- ⁹⁹ This analysis applied the independent Cornerstone analysis of the cost savings resulting from providing legal assis-

tance to prevent evictions to the most recent eviction prevention data for civil legal services providers, as reported by IOLA with respect to IOLA grantees.

¹⁰⁰ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 6, 2014 (statement of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting).*

¹⁰¹ NERA documented \$378 million in federal benefits in 2011; \$457.7 million in federal benefits in 2012. See 2012 TASK FORCE REPORT, *supra* note 5, at 24; 2013 TASK FORCE REPORT, *supra* note 5, at 24.

¹⁰² *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 6, 2014 (statement of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting, at 5).*

¹⁰³ *Id.* at 5.

¹⁰⁴ *Id.* at 6–7.

¹⁰⁵ *Id.* at 7.

¹⁰⁶ *Id.* at 8–10.

¹⁰⁷ *Id.* at 9–10.

¹⁰⁸ *Id.* at 11.

¹⁰⁸ *Id.* at 11.

¹¹⁰ See TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 15 (2012) (report of the 2012 Law School Conference); TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 15 (2013) (report of the 2013 Law School Conference, including the history of the Law School Conference).

¹¹¹ The Report of the Law School Involvement Working Group on the May 12, 2014 Third Annual Law School Conference is contained in Appendix 15 to this Report. The Conference Program is annexed as Exhibit 1 thereto.

¹¹² Press Release, N.Y. Unified Court Sys., Chief Judge Names Members of Committee Charged With Examining How Non-Lawyer Advocates Can Help Narrow New York's Justice Gap (May 28, 2013), *available at* http://www.nycourts.gov/press/PDFs/PR13_07.pdf.

¹¹³ 2013 TASK FORCE REPORT, *supra* note 5, at 33.

¹¹⁴ 2013 TASK FORCE REPORT, *supra* note 5, at 32–35.

¹¹⁵ The following providers have agreed to discuss participation in this proposed Online Screening and Intake pilot project: Western New York Law Center, Inc.; Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc.; Neighborhood Legal Services, Inc.; Legal Aid Bureau of Buffalo, Inc.; Erie County Bar Association Volunteer Lawyers Project; Legal Assistance of Western New York, Inc.; The Legal Aid Society of Rochester; Volunteer Legal Services Project of Monroe County, Inc.; Legal Services of Central New York, Inc.; The Legal Aid Society of Mid-New York, Inc.; and The Volunteer Lawyers Project of Onondaga County, Inc. The following have agreed to participate in the New York City pilot: CAMBA, the Feerick Center for Social Justice at Fordham Law School, MFY Legal Services, The Legal Aid Society, Legal Services NYC, and Pro Bono Net.

¹¹⁶ 2013 TASK FORCE REPORT, *supra* note 5, at 36.

¹¹⁷ See Appendix 16, Exhibit 1.

¹¹⁸ NYSTech is a voluntary collaboration of legal services providers from across New York that convenes technology leaders regularly for information sharing and training.

¹¹⁹ LEGAL SERVICES CORPORATION, TECHNOLOGIES THAT SHOULD BE IN PLACE IN A LEGAL AID OFFICE TODAY (2008), *available at* <http://lsntap.org/sites/all/files/Baseline%20Technologies.pdf>.

¹²⁰ LEGAL SERVICES CORPORATION, LEGAL SERVICES CORPORATION BASELINES: TECHNOLOGIES THAT SHOULD BE IN PLACE IN A LEGAL AID OFFICE TODAY (2014 Draft for Public Comment), *available at* <http://bit.ly/LSCBaselines2014>.

¹²¹ Appendix 16, Exhibit 2.

¹²² *Id.*

¹²³ 2011 TASK FORCE REPORT, *supra* note 5, at 36.

¹²⁴ For the complete 2013 Report of the Task Force's Working Group on Alternative Dispute Resolution, see TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 17, at 7 (2013).

¹²⁵ 2013 TASK FORCE REPORT, *supra* note 5, at 36.

¹²⁶ The full text of the recommendation is in Appendix 17 to this Report.

¹²⁷ The complete report of the Task Force's Working Group on Limited Scope/Unbundled Representation is annexed as

Appendix 18. Regarding testimony at the Chief Judge’s hearings about the effects of lack of representation, *see, e.g.*, 2011 TASK FORCE REPORT, *supra* note 5, at 18–23.

- ¹²⁸ *See* Forrest S. Mosten, *Unbundling of Legal Services and the Family Lawyer*, 28 FAM. L.Q. 421, 423 (1994).
- ¹²⁹ *See* Appendix 18, Exhibit A at 2.
- ¹³⁰ Bradley A. Vauter, *Unbundling: Filling the Gap*, 79 MICH. B.J. 1688, 1689 (2000), available at <http://www.michbar.org/journal/article.cfm?articleID=159&volumeID=14&viewType=archive>.
- ¹³¹ AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES, PERSPECTIVES ON FINDING PERSONAL LEGAL SERVICES: THE RESULTS OF A PUBLIC OPINION POLL 19 (2011), available at http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/20110228_aba_harris_survey_report.pdf.
- ¹³² American Bar Association House of Delegates Resolution 108, Feb. 11, 2013, included as Exhibit A to Appendix 18 of this Report. The Resolution is available at http://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2013/05/nat_l_mtg_of_accesstojusticecmmnchairs/ls_sclaid_atj_adopted_unbundling_resolution_108.pdf. Additionally, countless reports and commentary about limited scope representation have pointed out that it has benefits for practicing attorneys, and that attorneys report satisfaction when their practices encompass limited scope representation. *See* Appendix 18, Exhibit A at 3.
- ¹³³ *See* AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES, AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE SELF-REPRESENTED LITIGANTS (2014), included as Exhibit B to Appendix 18 to this Report. This ABA report is also available at http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_white_paper_2014.pdf.
- ¹³⁴ *See, e.g.*, OFFICE OF THE ADMINISTRATIVE JUDGE OF THE CIVIL COURT OF THE CITY OF NEW YORK, OFFICE OF THE DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES AND THE NYC BAR ASSOCIATION’S COMMITTEE ON LEGAL SERVICES, VOLUNTEER LAWYER FOR A DAY PROJECT REPORT: A TEST OF UNBUNDLED LEGAL SERVICES IN THE NEW YORK CITY HOUSING COURT (2008), available at http://www.nycourts.gov/courts/nyc/housing/pdfs/vlfdreport_0208.pdf (study of a “Volunteer Lawyer for a Day” pilot project conducted by the Civil Court of the City of New York in 2007).
- ¹³⁵ The ABA website includes a limited appearances “bibliography” of articles, books and report, case law references, court rules and ethics opinions. *See Standing Committee on the Delivery of Legal Services: Pro Se Unbundling Resource Center—Limited Appearances*, AM. BAR ASS’N, http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/limited_appearances.html.
- ¹³⁶ *See* Appendix 18, at 6.
- ¹³⁷ A significant issue for private practitioners and legal service providers who are not in court-sanctioned programs in New York concerns withdrawing from cases at the completion of the agreed-to limited representation. CPLR 321(b) requires court approval for an attorney’s withdrawal from a case. N.Y. C.P.L.R. 321(b) (MCKINNEY 2014). Attorneys are reluctant to appear in cases on a limited basis without assurance that the court will release them when the limited-appearance duties have been fulfilled. For a discussion of this and other attorney concerns relating to limited scope services, *see* Fern Fisher-Brandveen & Rochelle Klemptner, *Unbundled Legal Services: Untying the Bundle in New York State*, 29 FORDHAM URB. L.J. 1107, 1114–21 (2002).
- ¹³⁸ *See* Appendix 18, at 6–8, and sources cited therein.
- ¹³⁹ In 2012, the Task Force recommended to Chief Judge Lippman a revision to Section 100.3 of the New York Code of Judicial Conduct, regarding a judge’s duty of impartiality and diligence, to provide that a judge does not violate Section 100.3 by making reasonable efforts to facilitate the ability of unrepresented litigants to have their matters fairly heard. *See* Memorandum from John W. McConnell, Counsel, Office of Court Admin., N.Y. State Unified Court Sys., regarding proposed amendment of New York’s Code of Judicial Conduct (22 NYCRR 100.3(B)(12)), relating to a judge’s role in facilitating the ability of unrepresented litigants to have their matters fairly heard (January 24, 2013), Exhibit B, available at <http://www.nycourts.gov/RULES/comments/PDF/Rule100-3B12PC-Packet.pdf> (letter to Chief Judge Lippman from the Task Force regarding recommended changes to Rule 100.3).
- ¹⁴⁰ This recommendation was first made in the Task Force’s 2011 Report. *See* 2011 TASK FORCE REPORT, *supra* note 5, at 30–34. Significant progress has been made; *see, e.g.*, *The Chief Judge’s Hearing on Civil Legal Services, Fourth Dep’t, Oct. 3, 2013 (testimony of Hon. Michael V. Coccoma, Deputy Chief Administrative Judge for Courts Outside New York City and Supreme Court Justice, Sixth Judicial District, at 96:10–97:03)* (discussing the Judiciary’s form simplification efforts and related challenges in implementation), but more should be done.

- ¹⁴¹ 2010 TASK FORCE REPORT, *supra* note 1, at 40.
- ¹⁴² See Appendix 19, Exhibit A.
- ¹⁴³ N.Y. C.P.L.R. § 1102(a) (McKINNEY 2011).
- ¹⁴⁴ See *Planck v. Cnty. of Schenectady*, 858 N.Y.S.2d 824 (App. Div. 3d Dep’t 2008).
- ¹⁴⁵ See *444 W. 54th Street Tenants Ass’n v. Costello*, 523 N.Y.S.2d 374 (Civ. Ct. 1987) (holding that constitutional due process concerns necessitated the appointment of counsel in cases involving evictions of military personnel). See also N.Y. MIL. LAW § 303 (McKINNEY 2014) (providing that the court may appoint an attorney to represent a person in military service in any action or proceeding).
- ¹⁴⁶ See N.Y. MENTAL HYG. LAW §§ 47.03(c), (e) (McKINNEY 2014) (requiring the mental hygiene legal service in each judicial department to provide legal assistance to patients or residents and their families related to the admissions, retention and care and treatment of such persons, and to take any legal action deemed necessary to protect any patient or resident from abuse or mistreatment).
- ¹⁴⁷ N.Y. FAM. CT. ACT § 261 (McKINNEY 2014) (“Persons involved in certain family court proceedings may face the infringements of fundamental interests and rights, including the loss of a child’s society and the possibility of criminal charges, and therefore have a constitutional right to counsel in such proceedings.”)
- ¹⁴⁸ N.Y. FAM. CT. ACT § 262(a) (McKINNEY 2014).
- ¹⁴⁹ N.Y. FAM. CT. ACT § 262(b) (McKINNEY 2014).
- ¹⁵⁰ See N.Y. FAM. CT. ACT § 242 (McKINNEY 2014) (“As used in this act, ‘attorney for the child’ refers to an attorney admitted to practice law in the state of New York and designated under this part to represent minors pursuant to section two hundred forty-nine of this act.”); see also N.Y. CT. R. §§ 7.1, 7.2 (McKINNEY 2014) (setting forth standards for the designation of law guardians to represent minors in Family Court proceedings, and functions of the “attorney for the child”).
- ¹⁵¹ N.Y. FAM. CT. ACT § 249(a) (McKINNEY 2014).
- ¹⁵² See N.Y. FAM. CT. ACT § 249(a) (McKINNEY 2014).
- ¹⁵³ See N.Y. MENTAL HYG. LAW § 47.03(c) (McKINNEY 2014).
- ¹⁵⁴ See *In re Rapaport v. G.M.*, 657 N.Y.S.2d 748 (App. Div. 2d Dep’t 1997) (establishing a constitutional right to counsel in cases involving the involuntary hospitalization of a person with a communicable disease); *People ex rel. Rogers v. Stanley*, 17 N.Y.2d 256 (Ct. App. 1966) (establishing a constitutional right to counsel for individuals facing commitment to a mental institution).
- ¹⁵⁵ See N.Y. LAB. LAW 538(1)(e) (McKINNEY 2014).
- ¹⁵⁶ See Appendix 19, Exhibit B.
- ¹⁵⁷ Clare Pastore, Gideon *Is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs*, 17 UDC/DCSL L. REV. 75, 91 (2014), available at <http://www.udclawreview.com/wp-content/uploads/2014/08/GIDEON-IS-MY-CO-PILOT-THE-PROMISE-OF-CIVIL-RIGHT-TO-COUNSEL-PILOT-PROGRAMS.pdf>.
- ¹⁵⁸ *Id.* at 100–22.
- ¹⁵⁹ See Appendix 19, Exhibit C.
- ¹⁶⁰ See THE WORLD JUSTICE PROJECT, RULE OF LAW INDEX 2014 at 184 (2014), available at http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf (calculated using Column 7.1, Accessibility and Affordability). See also 3 EARL JOHNSON, JR., TO ESTABLISH JUSTICE FOR ALL 881–95 (2014).
- ¹⁶¹ For general information regarding LiveHelp, see *What is LiveHelp?*, LAWHELPNY.ORG, <http://www.lawhelpny.org/resource/what-is-livehelp> (last visited Nov. 19, 2014).
- ¹⁶² See Administrative Order of the Chief Administrative Judge of the Courts AO/42/14 (Feb. 10, 2014), available at <http://www.nycourts.gov/COURTS/nyc/SSI/pdfs/AO-42-14.pdf>.
- ¹⁶³ See, e.g., *Court-Sponsored Volunteer Attorney Program: Volunteer Program Descriptions*, N.Y. STATE UNIFIED COURTS SYS., http://www.nycourts.gov/attorneys/volunteer/vap/program_descriptions.shtml (last visited Nov. 19, 2014) (information regarding Volunteer Lawyer for a Day programs in housing and consumer matters in New York City); *Pro Bono*, ALBANY CNTY. BAR ASS’N, <http://www.albanycountybar.com/?page=40> (last visited Nov. 19, 2014) (referring to its “Attorney for a Day” program).
- ¹⁶⁴ A complete draft of the proposed legislative resolution is included as Exhibit D to Appendix 19.

