



STATEMENT REGARDING REDUCTIONS IN FEDERAL LEGAL SERVICES FUNDING

December 2011

The federal budget squeeze has taken an enormous toll on the provision of civil legal services in New York. The overall reduction in Legal Services Corporation (LSC) funding negotiated last month from \$398 million to \$348 million will cause dozens of layoffs to already understaffed legal services offices in New York. These losses will be exacerbated by the shift in funds that will be required due to the reallocation of the nation's population to faster-growing areas. The funding reallocation will result in a double-digit decrease in LSC funding for New York, to take place within the next two years.

As the available resources decrease, the need continues to grow. We are all familiar with the statistics showing 46 million Americans live in poverty, a figure that has been steadily rising and is now the largest number since the Census Bureau began tracking poverty 52 years ago. 22% of America's children live in poverty. Accessing legal assistance to address pressing legal problems has been elusive for those with low incomes. While nearly eight million Americans received assistance from LSC-funded organizations last year, fewer than one in five persons eligible for legal services received the legal help they needed.

The halting economy has generated an explosion of foreclosure and consumer debt cases. Foreclosure filings alone increased by more than 200% in New York city and surrounding counties over the period 2005-09. Other civil filings have increased as well, as would be expected in bad economic times. As an example, family offense cases increased 32% statewide since 2006. Nationwide, "[b]etween 2008 and 2010, unemployment compensation cases rose 80 percent, food stamp cases increased by about a third and bankruptcy and debt relief cases climbed by about a fourth." CQ Researcher, *Legal-Aid Crisis: Do the poor have adequate access to legal services?* (Oct. 7, 2011), p. 853.

The result is that more and more defendants in these cases have to navigate the court system alone. At least 98% of defendants in eviction and consumer credit cases statewide do not have lawyers; a similar percentage of litigants in child support cases are unrepresented; and, nearly half of homeowners appearing in foreclosure cases lack representation.

With the increased need, the explosion in court dockets and fewer lawyers to provide help, many more litigants will be unable to defend themselves properly. Studies repeatedly

show that litigants who have counsel fare better than similarly situated unrepresented litigants and are far less likely to be subject to an improper default judgment. Not only will this “justice gap” lead to fewer unrepresented persons being able to win meritorious cases, but the overall economy will suffer, as more homes and apartments are lost, more families face financial ruin, and fewer people are able to get back on their feet and contribute to society. The ramifications are easy to see: neighborhoods undermined, increased unresolved health problems, lost educational opportunity, more people becoming dependent on government benefits and a deepening of the cycle of poverty that deprives the country of productivity, creativity and vital human capital.

In addition, the burden on the New York judicial system of having 2.3 million unrepresented litigants pass through the courthouse doors each year makes the handling of all matters more difficult. Business leaders have testified to the difficulty of processing cases where litigants are unrepresented, and note that if there was more representation there would be greater opportunity to resolve disputes without resorting to litigation, thus conserving the resources of the business community. See Task Force to Expand Access to Civil Legal Services in New York, *Report to the Chief Judge of the State of New York* (November, 2010).

We are working to increase New York State funding for legal services and to encourage private giving to legal services providers. In addition, the New York City Bar Association, along with the State Bar and other bar associations in the State, are increasing our efforts to both encourage lawyers to volunteer their time and involve them in our own pro bono programs. Last year alone, the City Bar assigned cases to well over 1,000 of its volunteer lawyers, with even more volunteers involved in running workshops or providing other pro bono assistance to those in need. However, pro bono efforts can never replace a well-functioning system of legal services offices, with full time lawyers devoting themselves specifically to the needs of low-income families. And those offices cannot serve the purposes for which they were created without adequate federal funds.

We recognize that many difficult budget choices face Congress in the years ahead. However, decreasing federal legal services funding will have reverberations that will be felt throughout the country, particularly in the communities hardest hit by the recession. Ensuring that litigants have adequate civil legal services representation helps the litigants on both sides of the matter, the court system and the community-at-large. We believe the reduction in federal funding is counter-productive for all of us and effectively denies a large number of Americans access to justice that the court system is supposed to provide. For these reasons, we urge you to work to increase federal legal services funding.

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