



**WRITTEN TESTIMONY OF THE NEW YORK CITY BAR ASSOCIATION AND
THE CITY BAR JUSTICE CENTER**

**ASSEMBLY STANDING COMMITTEE ON JUDICIARY
“IMPLEMENTATION OF THE STATE BUDGET ON THE JUDICIARY”**

**Assembly Hearing Room 1923, 19th Floor
250 Broadway, New York, New York
December 1, 2017**

Thank you for the opportunity to testify today on behalf of the New York City Bar Association and its sister organization, the City Bar Justice Center, and to welcome Assembly Member Dinowitz as Chair of the Judiciary Committee. Our testimony today is focused on that part of the Judiciary Budget that provides funding for civil legal services. We anticipate that our testimony submitted after release of the 2018-19 Judiciary Budget will address issues such as court operations and judicial vacancies.

First let me start by thanking the Assembly Judiciary Committee, Chief Judge Janet DiFiore, former Chief Judge Jonathan Lippman and the Permanent Commission on Access to Legal Services for their unwavering commitment over many years to the cause of providing funding for civil legal services. It has been truly transformative, improving thousands of lives and providing support for our courts. Please know that you have the gratitude of the Bar, as well as our commitment to this issue going forward.

The City Bar has long been committed to protecting and enhancing access to justice in New York’s courts. We demonstrate this commitment through our policy and advocacy

initiatives in support of civil legal services, adequate court funding, a right to counsel in Housing Court and detained immigrant removal cases, and the fair and effective administration of justice, and through direct legal assistance provided by our public service affiliate, the City Bar Fund. Within the City Bar Fund, our City Bar Justice Center leverages the efforts and resources of the City's legal community to increase access to justice for low-income individuals in New York City through in-house and pro bono representation.

Through the leadership of many, the Judiciary Budget now includes \$100 million for civil legal services. We urge that that allocation stay in place – it has become a vital element of any effort to provide civil legal assistance to those who cannot afford it. There are still far too many unrepresented people facing threats to their basic needs every day in our courthouses. In addition to direct legal services offered by providers, we deeply understand the importance of pro bono representation, as well as the need to find innovative ways to leverage the volunteer efforts of New York's legal community. The City Bar has supported pro bono reporting, the 50-hour pro bono requirement for new lawyers, and the innovative Pro Bono Scholars Program.

Through the City Bar Justice Center programs, we've engaged volunteer lawyers to assist homeless families, cancer survivors, immigrant women and children who have been trafficked or abused, families facing foreclosure and veterans, among others. In addition, our Legal Hotline is the largest free general civil legal services hotline in New York City.

The Justice Center helps about 20,000 New Yorkers annually with civil legal problems. Last year, we closed approximately 13,000 cases and engaged approximately 1,400 pro bono attorneys to work on cases and conduct community trainings. Included in those numbers are the thousands of New Yorkers who rely on the Legal Hotline, which we've expanded to include

limited scope or unbundled legal services to callers. Unbundled or limited scope services refers to the attorney agreeing to provide only one part of the legal services that a client may need. This has become less controversial over the last decade and is no longer questionable ethically provided that the client is informed that they are receiving limited scope assistance in a clearly worded retainer letter.

Since November 2014, the Justice Center has handled thousands of limited scope service cases. Representation in these cases varies depending on the needs of the individual and can include providing legal answers over the phone, sending callers know-your-rights information, reviewing a caller's faxed documents and providing advice, and setting up an in-person appointment with the caller so that a more extensive legal issue can be resolved. Limited scope representation often results in the avoidance or settlement of litigation or it empowers a pro se litigant to effectively move forward with a pending case. Quick, brief representation in these sorts of cases can result in credits and refunds issued to clients as well as end the threat of litigation. Rules 1.2(c) and more specifically 6.5 of New York's Rules of Professional Conduct expressly authorize arrangements for delivery of this full range of limited legal services, so long as clients give informed consent.

Realizing that we cannot give full legal representation to most of the people seeking our assistance, we view unbundling as a pragmatic, efficient and valuable mechanism for providing clients with the best tools possible to complete their legal case on their own. Our Legal Hotline attorneys continuously make judgments based on extensive experience about how to help callers effectively while retaining the nimbleness to identify particular representations that require more than brief advice and may even ultimately require extensive attorney involvement. For many callers, attorneys are able to provide significant (even though brief and limited) assistance in the

form of describing the legal process they are experiencing, pointing them to relevant forms, and if necessary creating court papers for pro se litigants and assisting with filling out forms.

To give a sense of what we can accomplish through unbundled representations, here are three examples:

- Helping a mother with a severe learning disability and her school-age children obtain extensive apartment repairs by coordinating inspections and access with the landlord.
- Assisting a low-income woman in obtaining guardianship of her developmentally-delayed sister by helping her draft an Article 17a petition in the Queens Surrogate Court when the client could not navigate the court-generated DIY form on her own, and by obtaining the medical evidence needed to establish the ward's disability.
- Assisting a senior citizen through successful direct advocacy with a furniture store to renegotiate a payment plan that she didn't understand and couldn't afford.

Another area of assistance that the City Bar Justice Center provides to the courts and low income New Yorkers is through our Planning and Estates Law Project. PELP provides low-income New Yorkers with free legal assistance by preparing documents (wills, health care proxies, powers of attorney, standby guardianships, and other end-of-life planning), providing assistance with probating wills and administering estates, and offering guidance on related matters.

PELP's panel of experienced volunteer Trust & Estates attorneys are available to provide immediate legal services to help with the estates of New Yorkers who have unexpectedly died in a mass disaster, natural disaster, or other crisis situation. PELP volunteers are available

to assist with obtaining or correcting a death certificate, completing the necessary paperwork for the filing of New York probate petitions or administration petitions, making claims with a life insurance company, the New York City Employees' Retirement System (NYCERS), or the New York State and Local Retirement System (NYSLRS), and related matters.

Finally, the City Bar tries to respond to needs as they occur and to be an available resource for lawyers, volunteers, the Judiciary, and the public. Right before Thanksgiving, we hosted an in-person and online training on how to file FEMA Appeals to assist victims of the devastating 2017 hurricane season. The training was sponsored by several entities including the Chief Judge's Task Force on Hurricane Disaster Relief, which is co-chaired by City Bar President John Kiernan, along with Sharon Katz at Davis Polk. Representatives from FEMA and legal services organizations helped to train 173 lawyers who wish to help hurricane victims. We anticipate that more individuals and families will continue to arrive to stay with relatives in New York, something discussed by Jordan Dressler, the New York City Civil Justice Coordinator. That training was live streamed for another 87 attorneys statewide and is now available on YouTube for other New York attorneys who may wish to volunteer in their local community. Over the winter we will be expanding to include a FEMA Appeals Clinic at the City Bar using volunteers on Monday nights. This will efficiently use pro bono attorneys to assist victims to file FEMA Appeals pro se online.

There is much that can continue to be done with technology to increase access to legal services but the important funding provided by the judiciary for legal services must be viewed as an essential component of any future judiciary budgets. An example of recent innovations includes the City Bar Justice Center's work leading a collaboration of legal services organizations to create a unified online consumer intake portal for low-income New Yorkers.

Our Veterans Assistance Project and Consumer Bankruptcy Project have produced legal educational videos for clients on specific areas of law. We continue to identify new ways to leverage the pro bono volunteer efforts of New York's vibrant legal community, including through our Monday Night Law program in which pro bono attorneys provide one-on-one consultations with clients at City Bar clinics every Monday night.

We look forward to working with the new Chair of the Judiciary Committee to increase access to justice in New York. It is a responsibility that is shared by all members of the New York City Bar and we pledge our continued support for initiatives to close the justice gap.