

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

**NEW YORK
CITY BAR**

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**REPORT IN SUPPORT OF
THE JUDICIARY'S 2011-2012 BUDGET REQUEST**

The New York City Bar Association (“City Bar”)¹ urges the Legislature to adopt in its entirety the Judiciary’s 2011-2012 Budget Request (the “Judiciary Budget”). The Judiciary Budget allocates the resources necessary for the Judiciary to fulfill its constitutional duty to afford meaningful access to justice to the increasing numbers of litigants appearing in courthouses across New York State, while reducing costs whenever possible to help address the State’s fiscal crisis.

The Judiciary Budget acknowledges the basic fact that the court system cannot turn away those seeking access; the economic downturn only exacerbates the need. The Office of Court Administration (“OCA”) reports that the total caseload of the courts Statewide has risen dramatically, with more than double the number of foreclosure filings in 2010 than there were in 2005, and with the caseload in New York City Civil Court and city courts outside of New York City nearly doubling in the past decade, mostly due to the growth in consumer debt filings. In addition, the number of family offense cases Statewide increased 32% from 2006. Not only does the growth in caseload place added pressure on the courts, but many of the parties facing economic and family-related crises do not have legal representation. This not only increases the burden on judges and staff, but also represents a fundamental imbalance in the justice system.

¹ This report was co-authored by the City Bar’s Council on Judicial Administration and the City Bar’s Pro Bono and Legal Services Committee.

In May 2010, Chief Judge Jonathan Lippman convened the Task Force to Expand Access to Civil Legal Services in New York (the “Task Force”). In its November 2010 report, the Task Force sets forth the following alarming statistics regarding litigants appearing in the courts of New York State:

- Ninety-nine percent of tenants appearing in eviction proceedings in New York City are unrepresented, as are 98% of such litigants outside of New York City;
- Ninety-nine percent of borrowers are unrepresented in the hundreds of thousands of consumer credit cases filed each year in New York City;
- Ninety-nine percent of parents appearing in child support matters in New York City are unrepresented, as are 95% of such litigants in the rest of the State; and
- Forty-four percent of homeowners appearing in foreclosure cases throughout New York State are unrepresented.

The Task Force also estimates that New York State’s economy loses hundreds of millions of dollars each year because unrepresented New York State residents fail to retain or obtain federal funds for which they are eligible from programs benefitting veterans, persons with disabilities and others. Further, the Task Force reports that more than 2.3 million New Yorkers currently are unrepresented in civil legal proceedings in New York State courts, and that civil legal services providers - at best - are meeting only 20% of need because of a lack of resources. Many of these unrepresented civil litigants (and their families) are forced to become consumers of state funded social services for their food, housing and medical care. There are also educational and juvenile justice costs and outcomes arising from families stressed by the absence of legal representation in civil proceedings.

The Task Force, therefore, has determined that the current level of funding available to civil legal services programs is inadequate to meet the critical need for civil legal assistance for nearly 20 million New York State residents and that such unmet need is increasing

homelessness, failing to prevent domestic violence, increasing poverty and costing taxpayers millions of dollars. The Task Force findings concerning the need for and benefits of providing civil legal services representation are consistent with the conclusions reached by the City Bar and on which the City Bar has previously testified.²

Accordingly, the Judiciary Budget not only continues the \$15 million allocation to civil legal services programs through the IOLA Fund as in last year's budget, but also allocates an additional \$25 million to fund these programs to begin to address the urgent need for expanded civil legal assistance to residents across New York State.

The City Bar wholeheartedly agrees with the Chief Judge Lippman's eloquent call to action to provide meaningful access to justice to all persons who appear in New York State's courts, regardless of their economic status:

[I]t is my fervent hope, first, 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 - and second... that we together will have taken major steps forward in providing such representation to those who need it most, making equal justice for all not just an ideal, but truly a reality in our great State.

Chief Judge Jonathan Lippman, Law Day Address, May 3, 2010 (emphasis in original).

In addition to providing for meaningful access to justice, the Judiciary Budget achieves operational savings. The Budget states that approximately 1,800 non-judicial employees participated in the Judiciary's Early Retirement Incentive programs this year. The City Bar

² See, e.g., <http://www.nycbar.org/pdf/report/uploads/20072003-OralTestimonyattheChiefJudgesHearingonCivilLegalServices.pdf> (September 2010 testimony of City Bar President Samuel Seymour); <http://www.nycbar.org/pdf/report/uploads/20071839-TestimonyreIOLAandtheFutureofCivilLegalServicesinNY.pdf> (September 2009 testimony of Stacey O'Haire Fahey, Chair of City Bar Pro Bono and Legal Services Committee); <http://www.nycbar.org/pdf/report/uploads/20071899-LettertoGovernorPatersonreIOLAandCivilLegalServicesFunding.pdf> (March 2010 letter to former Governor Paterson from former City Bar President Patricia Hynes).

supports the Judiciary's determination to refill as soon as possible many of the current vacant positions in courthouses and judges' chambers. This is imperative in light of crushing caseloads and the accompanying burden placed on court personnel and litigants. The City Bar recognizes, however, that the Judiciary has taken advantage of the opportunity to leave some vacancies unfilled, especially at the higher salary ranges. By filling certain – but not all - vacancies with new hires who would necessarily receive lower compensation, the Judiciary will achieve cost-saving efficiencies, while continuing to address the needs of litigants appearing in the 4.7 million cases filed Statewide each year. The City Bar applauds the Judiciary for including in the Budget cost-saving mechanisms that serve to actually decrease that portion of the Budget dedicated to operation of the Judiciary.

The City Bar, therefore, urges the Legislature to approve the Judiciary Budget intact and as proposed, thus permitting the Judiciary to meet its fundamental obligation to ensure that each New Yorker's most basic right to justice is met, even – indeed, especially – in these most difficult economic times.

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