



**NEW YORK
CITY BAR**

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**JOINT LEGISLATIVE PUBLIC HEARING ON
2011-2012 EXECUTIVE BUDGET PROPOSAL:
“PUBLIC PROTECTION”**

**Testimony of Samuel W. Seymour
President of the New York City Bar Association
February 9, 2011**

Thank you for the opportunity to testify today. My name is Sam Seymour and I am the President of the New York City Bar Association. The City Bar is an organization of over 23,000 lawyers and judges dedicated to improving the administration of justice and insuring access to justice. The City Bar also has a public service affiliate - the City Bar Justice Center - whose mission is to leverage the resources of the City’s legal community to provide legal assistance for low-income individuals in need. The Justice Center assists more than 20,000 clients a year by using a small staff to administer a program matching pro bono lawyers with hundreds of clients, training them and supervising their work.

The New York court system is caught in a vise not of its own making. Its caseload is growing enormously, yet it has a constitutional responsibility to handle all matters that pass through the courthouse doors. In addition, millions of litigants are forced to go into court each year without representation. Both of these trends are exacerbated by the current economic climate. These twin crises not only further burden the court system, but make it even more difficult for the courts to fulfill their basic mission of doing justice.

Because the court system is under such strain, the City Bar urges the Legislature to adopt in its entirety the Judiciary’s 2011-2012 Budget Request. The Judiciary Budget is sensitive to the State’s fiscal situation, reducing costs where possible, yet allocating the resources necessary for the Judiciary to fulfill its constitutional duty to afford meaningful access to justice.

The Judiciary Budget acknowledges the basic fact that the court system cannot turn away those seeking access. 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 leads to an increasing burden on judges and staff, and represents a fundamental imbalance in the justice system.

As with all legal services providers, the demand for the City Bar Justice Center's services is increasing, notably in the areas of consumer credit and foreclosures, reflecting the desperation in the community as people continue to fall behind in their bills and in paying their mortgages. Legal services programs throughout the state representing clients facing housing code violations, wage and hour violations, mental illness, food and shelter assistance needs, and domestic violence are all reporting a large increase in demand. This is not surprising in an economic downturn. However, the caseload of these programs reveals only a glimmer of what the courts are facing, as so many of those facing these critical legal problems have no lawyer to assist them.

The statistics regarding the number of unrepresented litigations are startling. As documented by the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York (the "Task Force"), over 95% of litigants are unrepresented in eviction, consumer credit and child support cases statewide and 44% of homeowners appearing in foreclosure cases throughout New York State are unrepresented. In total, more than 2.3 million New Yorkers currently are unrepresented in civil legal proceedings in New York State courts, and 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.

In addition, there are lost economic opportunities when there is a lack of representation. New York 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. Furthermore, the need for legal services representation in these cases is critical to the function of the courts – it facilitates a quicker resolution, lessens the burdens on overworked court personnel and avoids improper default judgments. 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 we have previously testified.

For these reasons, the City Bar supports the Judiciary budget's inclusion of a \$15 million allocation to civil legal services programs through the IOLA Fund and 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.

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 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. We applaud the Judiciary for including in the Budget these cost-saving mechanisms.

In closing, the City Bar recognizes the difficult choices you face, but urges the Legislature to approve the Judiciary Budget intact so that the courts can fulfill their basic functions, functions they cannot shirk. I thank you again for the opportunity to testify.