

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

**NEW YORK  
CITY BAR**

**The Chief Judge's 2017 Hearing on Civil Legal Services in New York**

**September 18, 2017  
Court of Appeals  
20 Eagle Street  
Albany, N.Y.**

**Oral Testimony of the New York City Bar Association  
By: John S. Kiernan, President**

Good afternoon, and thank you to the members of this Panel and the Permanent Commission for this opportunity to testify on behalf of the New York City Bar Association. As in prior years, we at the City Bar want to start by applauding with gratitude the Judiciary's allocation of \$100 million of its budget to funding of civil legal services for low income New Yorkers who face threatened loss of essentials of life. We appreciate what a commitment this allocation reflects. This year, we are also celebrating New York City's passage of the path-breaking law 214-b, providing for free legal services to low income tenants facing eviction. New York City's example is already inspiring discussions in other cities, and it suddenly no longer feels naïve to anticipate the day when Americans broadly consider it unthinkable that a person could be evicted from his or her home by court order without a lawyer.

Even with these great allocations of government funds, and all of the pro bono generosity of the private bar, we all know that the available resources remain far short of what is needed. These shortfalls make it especially important to pursue efficiency in identifying what help clients need, calibrating the scope of services to be provided given particular client needs and the competing demands for limited free resources, and protecting clients against the grinding experience of repeated rejections of their requests for help. My testimony today will focus on one component of the effort to improve efficiency in the delivery of services that may have some resonance with comments made by others today – the creation of “communities” of providers who use technology and organizational planning to pursue efficiency and cost-effectiveness and to pursue some of the connections that today's first panel correctly identified as so important.

The communities and portals directed to this purpose range from low-tech versions that have been around for years, to high-tech versions using increasingly sophisticated forms of artificial intelligence to promote more efficient communication and allocations of resources. At the City Bar Justice Center, for example, our legal services hotline provides many of the benefits that more technologically sophisticated efforts can provide, just using lots of human input and significant resource cost. Experienced hotline attorneys determine, through escalating sets of questions adapted to callers' particular circumstances, whether the caller is eligible for free legal services, whether the caller's problem can be handled through brief legal advice or referral to self-help resources or forms, and, if the matter requires more sophisticated assistance, which

legal services provider should handle it. This centralized information processing and triage is far more efficient than establishing the same infrastructure at lots of individual providers.

On the more sophisticated side, the City Bar Justice Center will be sponsoring in the next few weeks the rollout of a consumer internet portal – the New York City Consumer Health Finder – that we hope will show what can be achieved when providers work with each other using modern technology. Starting from a recommendation by the Permanent Commission on Access to Justice, and working with a grant from New York Community Trust and with technology developed by a case management software company known as Legal Server, the consumer law practice groups at the City Bar Justice Center, CAMBA Legal Services, Mobilization for Justice, CLARO and Urban Justice Center have combined to develop a common portal that operates like a decision tree to confirm clients’ eligibility, determine their needs, categorize the kind of assistance to provide them and allocate them to the most appropriate source of further legal services through a so-called Automated Routing Tool. Like a hotline, this portal will feature tiers of questions with particular client answers electronically triggering either the provision of responsive information or the appropriate next set of questions. The process should be easy to use and effective at getting clients what they need. And the routing tool will be designed to take advantage of the participating providers’ different locations and areas of expertise, while reducing the searching burden on low-income clients.

While this Consumer Help Finder shows promise to be particularly cutting-edge and productive, and possibly a model for other efforts, other examples of legal services providers pooling intake or resources in the interest of greater efficiency abound – usually having the common feature that the participants were brought together by the government, by a private sponsor or funder or by the demands of a disaster. On the government front, New York City’s Office of the Civil Justice Coordinator devotes enormous resources and skill to allocating funding and responsibilities to a wide range of legal services providers. This work includes calling for cooperation, splitting work and developing synergies between different organizations. Most prominently, the hugely challenging infrastructure for providing the free tenant representations funded by new law 214-b is being hammered out right now. As another example, until recently the provision of pro bono and other legal services to microentrepreneurs in New York City was primarily concentrated in a small number of organizations – whose joint conduct has largely been limited to knowing about and avoiding redundancy with each other’s areas of coverage. But a recent Small Business Administration grant to Volunteers of Legal Services has fostered a new joint effort among providers.

Private pro bono has also made big strides in recent years to evolve from projects by individual lawyers, in-house counsel and firms to a more collective “community” effort. As Kevin McCarthy and Beth Essig have demonstrated today, corporate in-house lawyers have formed joint pro bono efforts with their outside lawyers and with legal service providers – and sometimes with both of them triangulated on a single effort. Legal services organizations trying to enlist pro bono support have seen the advantages of helping firms to benefit from work product developed by other firms. ProBono.Net, essentially a crowd-sourced resource to which many contributors provide content for other pro bono providers to use, is an impressive application of technology to improving volunteer lawyers’ capacity to provide free legal services. And the Association of Pro Bono Counsel coordinates efforts by volunteer lawyers at firms all over the country to improve efficiency, enhance communications and avoid duplication of effort.

Disasters have stimulated similar coordination of efforts, simply because the sprawl of need is so vast and the demands for organization among well-intentioned volunteers seem so essential. We saw the coordination of efforts among legal services and pro bono providers in response to 9/11, Superstorm Sandy, and the President's travel ban this past January, and we are most recently seeing it in response to Hurricanes Harvey and Irma. Volunteers for disaster relief tend to embrace the roll-up-the sleeves, barn-raising sense of collective effort to help that gets stimulated by seeing large numbers of people in need. That sensibility seems to be an important ingredient for making these relief efforts effective.

Another major source of organized collective effort to leverage legal services efficiently has been the expanding use of non-lawyers along with lawyers in addressing issues for low income clients. Sometimes this collective action has been of the "one stop" variety, combining legal services with social services that seem essential to providing fully effective assistance. Other times, the collective action has also included non-lawyers assisting lawyers who supervise them in the delivery of legal or paralegal services. I was planning to describe Legal Hand as a shining example of constructive collaboration between non-lawyers and lawyers, but defer to Sirrah Harris and Jose Torres of Legal Hand who will be speaking to you shortly.

So, does it work? At this point, virtually no data yet available answers whether community-supported portals for delivery of legal services from multiple sources actually enhance efficiency. But intuition suggests that if well managed, they should. That intuition presents the questions why coordination is not more universal, and why portal structures seem so dependent for development on external earmarked funding or the imperatives of a disaster.

Two practical constraints may be in play. First, if a pooling of capabilities means that individual legal services providers might end up with more clients and more matters, that is almost never something they really want or can readily absorb. They are already turning away clients or providing clients more limited services than they would like. As a practical matter, arrangements like the consumer portal's Automatic Routing Tool will work only if the entities to which the matters are referred are generally able to take on those matters. Embracing synergies that yield more matters may have appeal to a provider only if those synergies at least equally let it lay off matters to other providers better suited to handle them. This is part of the big challenge attached generally to providers' outreach to identify more needy clients that Justice Whelan addressed in his question a few minutes ago.

A second major impediment is that organizing efforts often require a lot of unglamorous work on logistics and technical detail. Many legal services staff are not naturally equipped for or disposed toward this kind of work. Providers tend to think of resources directed to managing themselves as an allocation away from the compelling alternative of serving needy clients. These logistical arrangements don't come naturally; it has taken nearly 18 months of work to get the consumer portal to its current state of near-readiness, and another entity's recent efforts to erect a similar portal for veteran-related matters essentially fizzled following a loss of momentum in setting it up and working through its bugs.

Earmarked external funding tends to negate these problems and stimulate the efforts needed to make these portals work. Once in place, they really do seem capable of providing the benefits they are designed to achieve. With increasing technological capacity, expanded roles of artificial intelligence and growing ability of poor clients to access this technology over the internet, future expansion of these kinds of offerings seems both desirable and likely.

Many thanks.