

# New York State Bar Association

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## Memorandum in Support

NYSBA Memorandum #4

March 17, 2015

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By: BUDGET  
By: BUDGET

Senate Committee: Finance  
Assembly Committee: Ways and Means

### **THE NEW YORK STATE BAR ASSOCIATION SUPPORTS APPROVAL OF THE JUDICIARY BUDGET**

#### **BUDGET OF THE UNIFIED COURT SYSTEM**

New York's courts adjudicate millions of disputes, both great and small, and guarantee a "day in court" to all people, including the weak, the poor and the unpopular, as well as those who rely on our courts to resolve their business and commercial disputes, which is important to the state's economy and to ensuring that New York continues to be the business, financial and legal center of the world. The courts are also central to our criminal justice system and matters involving family relationships. In short, the effective operation of the court system is crucial to maintaining an orderly society.

#### **2015-16 JUDICIARY BUDGET REQUEST**

The Judiciary budget currently seeks cash funding of \$1.86 billion for General Fund State Operations to support court operations.

The State Bar supports funding that would provide for the newly created Family and City Court judges, maintain full operation of courthouses, and allow the courts to fill critical positions needed to provide service to the public, including clerks and court officers.

A primary concern of the State Bar in recent years has been the budget cuts that have resulted in the Judiciary's inability to keep courtrooms open beyond 4:30 pm.

We recognize that keeping courtrooms open later necessarily requires some overtime costs. However, during trials and other courtroom proceedings, there are significant and detrimental costs, especially to those participating in these proceedings resulting from closing the courtroom at 4:30 pm. According to the Office of Court Administration, the budget requested by the Judiciary would provide the resources necessary to ensure that appropriate proceedings will not have to be disrupted due to the need to avoid overtime costs.

In addition, the Judiciary's proposal is intended to maintain, and modestly add, to the workforce of the courts to address the impact of recent budget cuts on the operations.

Practitioners have often commented on the difficulties in recent years of getting their matters heard because of delays in such routine functions as moving papers and calendaring cases.

In sum, we urge funding that addresses the severe impact of previous budget cuts on New York's courts and that ensures adequate access for all to the justice system.

### SUPPORT FOR IOLA

The State Bar was one of the original advocates for the formation of the Interest on Lawyer Account ("IOLA") Fund. The IOLA Fund is funded by the interest earned on moneys held by attorneys for clients and deposited in interest-bearing accounts at the discretion of attorneys and law firms. The accumulated interest is transferred to the IOLA Fund, where it is used to provide grants to legal service providers around the state. Naturally, we have a great concern over the impact that the weak economy and low interest rates have had on the Fund.

The State Bar has applauded the Legislature's past approval of the Judiciary's \$15-million allocation for the IOLA Fund, to help offset declining IOLA revenue due to low interest rates and the decline in the number of real estate transactions. **We strongly urge you to continue your support for this appropriation.**

### TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES

Chief Judge Jonathan Lippman established the Task Force to Expand Access to Civil Legal Services in New York as part of his efforts to ensure equal justice for all citizens. The Task Force includes judges, lawyers, business executives, and labor leaders from all parts of the state. During the fall the Chief Judge, for the fifth consecutive year, presided over a set of public hearings in each of the state's four Judicial Departments. Members of the State Bar Association participated in these hearings. These hearings continued to assess the extent and nature of the unmet need for civil legal services throughout the state in order to help formulate recommendations to bridge the access to justice gap.

At the end of last year, the Task Force released its fifth report on this issue, which, as with the first four reports, provides recommendations to address the need to provide counsel to low-income New Yorkers in civil cases. The findings of the Task Force are clear. The quality of justice in New York's courts is diminished and the rule of law undermined when so many New Yorkers go without legal representation in matters that involve day-to-day life. More than 1.8 million litigants still attempt to navigate the complex civil justice system without a lawyer each year. Representation by counsel is still unavailable for most low-income tenants in eviction cases, parents in child support matters across the state, and borrowers in thousands of consumer credit cases filed in New York City.

Based on preliminary data, the Task Force reports that the funding previously provided is making an impact on the civil legal needs of low-income New Yorkers. In its 2014 report, the Task Force report recites the following:

The Task Force also considered that last year the number of unrepresented litigants in civil cases was reduced from 2.3 million to 1.8 million, a 22 percent decrease, and an estimated 2.5 million hours of pro bono work were contributed. Combining that data and considering anecdotal feedback from civil legal services providers, the Task Force reached a preliminary estimate that, rather than meeting at best 20 percent of the civil legal needs of low-income New Yorkers in matters involving the essentials of life, New York may be meeting close to 30 percent of those needs.

Among the findings of the 2014 Report of Task Force are the following:

- a. A continuing unmet need exists for civil legal services for low-income families and individuals in all areas of the state.
- b. The continuing unmet need for civil legal assistance in all areas of the state has a negative impact on the functioning of the courts, businesses and government, and a profound impact on vulnerable families and individuals.
- c. New initiatives can streamline and enhance client service delivery, help limit the costs of providing civil legal services, and reduce court expenditures and litigation costs for represented parties.
- d. Judiciary civil legal services funding provides substantial economic benefits to New York State and a return of approximately six dollars for every one dollar of funding.

The State Bar applauds the Task Force for continuing the important work to help address the crisis faced by New Yorkers and our court system because of unmet civil legal needs.

Lawyers are committed to doing their share. Pro bono efforts by the bar have been extensive. The bar contributes an estimated two and one-half million hours a year in voluntary pro bono legal services to the indigent. However, these voluntary efforts alone are insufficient to meet the needs of the indigent. Ultimately, society as a whole, acting through its elected leaders, must provide adequate public funding.

In an era when some members of Congress continue to call for the elimination of the Legal Services Corporation, the need for responsible action in New York State is all the more critical. New York must provide a steady source of funding targeted to ensuring legal representation to protect the “essentials of life” – housing, preventing or escaping from domestic violence, access to health care – reliably and quickly. **The New York State Bar Association strongly supports the Judiciary’s \$70 million request for civil legal services.**

### CONCLUSION

Based on the foregoing, the New York State Bar Association **SUPPORTS** approval of the Judiciary Budget.