

New York State Bar Association

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Memorandum in Support

NYSBA Memorandum #4-A

March 25, 2013

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By: BUDGET
By: BUDGET
Senate Committee: Finance
Assembly Committee: Ways and Means
Effective Date: Immediately

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

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 insuring that New York continues to be the business, financial and legal center of the world. The effective operation of the court system is crucial to maintaining an orderly society.

The Judiciary is one of the three, co-equal branches of our state's government. And, the Judiciary is comprised of relatively few judges, given the caseloads that confront them. Nevertheless, New York's judges resolve a substantial number of cases equitably and efficiently. Similarly, our court administrators face significant challenges, given the size of the court system and the number of courts they oversee. Chief Judge Jonathan Lippman and Chief Administrative Judge Gail Prudenti are outstanding leaders who continue to address the issues facing our court system, while recognizing the need for fiscal restraint.

2013-14 JUDICIARY BUDGET REQUEST

New York's Unified Court System is recognized as one of the largest and busiest court systems, not only in the United States, but in the world. The Judiciary's budget request reflects a balancing between the constitutional duty to ensure access to justice for all New Yorkers and the obligation to reduce costs wherever possible. Despite high workloads, the Judiciary has implemented an aggressive cost control program. Consequently, the Judiciary's General Fund State Operations and Aid to Localities request for fiscal year 2013-14 is \$1.76 billion, a decrease of \$212,013 or .012%. The All Funds budget request, excluding General State Charges, totals \$1.97 billion, an increase of \$1.2 million or .06%. As expressed in his Commentary on the proposal, the Governor stated: "The budget submitted by the Chief Judge recognizes the ongoing budgetary pressures the State faces, especially as the State recovers from Superstorm Sandy. This budget holds the line on spending, yet ensures the courts have the resources necessary to uphold their constitutional duty. I commend the Judiciary for their continuing efforts to meet the State's fiscal goals by rethinking how the courts do business, and for their continuing partnership with the Executive Branch."

We endorse the Governor's statement and request that the Legislature approve the proposed Judiciary Budget. While it is clear that judicial leaders are working hard to keep courthouse doors open, we will continue to urge that the courts be adequately funded so as to serve the public fairly, efficiently, and effectively.

THE CRISIS AT IOLA

The State Bar was one of the original advocates for the formation of the Interest on Lawyer Account ("IOLA") Fund. The IOLA Fund, which was created by the Legislature in 1983, 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 has had on the Fund.

For the past three years the State Bar applauded the Legislature's 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 again applaud the Judiciary for including this item in its current proposal and we thank you and your colleagues in the Legislature for your recognition of the importance of this funding. **We strongly urge you to continue your support for this \$15-million appropriation that is specifically for IOLA.**

TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES

Chief Judge Lippman established the Task Force to Expand Access to Civil Legal Services in New York as part of his efforts to ensure that the courts can meet their constitutional mission of ensuring equal justice for all citizens. The Task Force included judges, lawyers, business executives, and labor leaders from all parts of the state. During the fall, for the third consecutive year, the Chief Judge presided over a set of public hearings in each of the state's four Judicial Departments. Members of the State Bar Association assisted in presiding over these hearings. The hearings assessed the extent and nature of unmet need for civil legal services throughout the State in order to help formulate recommendations to the Governor and the Legislature on the appropriate level and source of public resources to meet those needs.

Last November the Task Force released its comprehensive report, which provides a roadmap with common sense recommendations to address the critical need to provide counsel to low-income New Yorkers in civil cases. The findings of the Task Force are overwhelming. 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 2.3 million litigants still attempt to navigate the complex civil justice system without a lawyer each year. Representation by counsel is still unavailable for all but a very small fraction of tenants in eviction cases in all four Judicial Departments, borrowers in thousands of consumer credit cases filed in New York City, and parents in child support matters in rural, suburban, and urban areas.

Among the findings of the 2012 Report of Chief Judge’s Task Force are the following:

- a. A continuing unmet need exists for civil legal services for lowincome 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. Analyses demonstrate that civil legal services in New York State can save money. The Task Force commissioned two independent studies from leading financial analysis firms, which found that civil legal services can generate some \$200 million in annual savings:
 - i. -\$85 million by providing legal assistance to avert the immediate expenses resulting from domestic violence (Firm: Navigant Consulting); and,
 - ii. -\$116.1 million by preventing evictions and resulting shelter costs (Firm: Cornerstone).

The State Bar applauds Chief Judge Lippman and the Task Force for providing a sensible roadmap that will help address the crisis faced by our court system because of the unmet civil legal needs of New Yorkers. Lawyers are committed to doing their share. The bar contributes many hours a year in voluntary pro bono legal services to the indigent. Pro bono efforts by the bar have been conservatively calculated to be more than 2 million hours annually. 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 to do so.

New York must be able to provide a steady source of funding targeted to the “essentials of life” – housing, preventing or escaping from domestic violence, access to health care – reliably and quickly. Accordingly, the Judiciary’s proposed budget includes a \$40-million appropriation to implement the Task Force’s recommendations to address the crisis in civil legal services.

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. **The New York State Bar Association strongly supports the Judiciary’s \$40 million request for civil legal services.**

CONCLUSION

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