

**Testimony by The Legal Aid Society and the
Association of Legal Aid Attorneys, UAW Local 2325**

Before the NYS Senate Standing Committee on Crime Victims,
Crime and Correction
NYS Senate Standing Committee Judiciary
NYS Senate Standing Committee on Codes
NYS Senate Standing Committee Veterans and Military Affairs

To Address the Funding Crisis of the NYS Interest on Lawyers Account Fund

Wednesday, December 9, 2009
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**TESTIMONY BEFORE THE NEW YORK STATE SENATE REGARDING IOLA
AND CIVIL LEGAL SERVICES IN NEW YORK STATE – December 9, 2009**

The Legal Aid Society welcomes this opportunity to testify at this special Senate hearing on IOLA and civil legal services in New York State. Our testimony focuses on the critical need for civil legal assistance for families and individuals who need legal help to maintain the basic necessities of life – shelter from the elements, family safety and integrity, access to health care, food, clothing, and subsistence income – in the midst of the most extreme economic conditions since the Great Depression of the 1930s.

As you know, with a staff of 1,450, including 850 lawyers and 600 social workers, paralegals, investigators, and support and administrative staff, the Legal Aid Society provides crucial civil, criminal, and juvenile rights legal assistance to low income families and individuals in literally every community in the five boroughs of New York City. During the past year, the Legal Aid Society provided civil, criminal, and juvenile rights legal services in more than 300,000 cases and legal matters for New Yorkers in desperate need of legal help. Many of these clients are referred to the Legal Aid Society by the constituent services staffs of State elected officials or by community-based organizations serving every district of the City. Indeed, since its founding in 1876, the Legal Aid Society has been a vital part of the social fabric of the City.

We are mindful of the extreme financial difficulties that the State is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low income New Yorkers and the need for the civil legal help for these struggling families and individuals is increasing exponentially. As described in our testimony, without ongoing substantial support for the provision of civil legal assistance in New York State,

the Society and other civil legal services programs across the State and in New York City will have to turn away more families and individuals who need legal aid to get unemployment and disability benefits, flee from domestic violence, and prevent evictions, foreclosures, and homelessness.

This increasing need for substantial support for civil legal services in New York State is coming at a time when a catastrophic drop in Interest on Lawyer Account funding for civil legal assistance in New York State is looming in 2010. The IOLA Board allocates civil legal services funding on a calendar year basis. In December 2008, IOLA made State-wide grants to civil legal services providers totaling over \$31 million covering a 15-month period. This 15-month funding level is equivalent to \$24.8 million annualized over 12 months, which is the approximate level of the 2008 calendar year IOLA funding. However, primarily as a result of the drop in interest rates as well as the drying up of economic activity when the downturn began, the IOLA Fund's program revenue is projected to drop to approximately \$6.5 million for the period April 1, 2010 through December 31, 2010. This \$6.5 million revenue level for the first 9 months of the State fiscal year that begins on April 1, 2010 and runs through March 31, 2011 is in comparison to \$18.6 million which had previously been the proportionate level for a 9-month period. These substantial losses are expected to continue during calendar year 2011 through the last quarter of the State's April 1, 2010 – March 31, 2011 fiscal year and thereafter into the April 1, 2011 – March 31, 2012 fiscal year. Based on these projected losses, the Society's \$4.5 million annual 12-month IOLA grant will be decimated. Other providers in New York City and in the rest of the State are facing similar deep cuts.

Against this background, we are extremely grateful for the Senate's strong support for a bailout of the IOLA Fund in the April 1, 2010 – March 31, 2011 fiscal year budget. The Senate's leadership on this issue – together with longstanding support for civil legal services in the Assembly – has now led to Chief Judge Jonathan Lippman's inclusion of \$15 million in the Judiciary's proposed budget in order to make the IOLA Fund whole for one year and thereby preserve current levels of civil legal services in New York State. This proposed funding will be reviewed by the Governor and the Legislature during the budget process and it will not become final until the 2010 – 2011 State budget is adopted on April 1, 2010. Continued support for this \$15 million IOLA bailout is therefore critical to ensure that this funding is included in the final 2010 – 2011 State budget. However, the proposed bailout for 2010 – 2011 simply preserves the current status quo in which there is a significant gap in available civil legal assistance and the increasing need for civil legal services. This one-year bailout also does not address the need to stabilize the IOLA Fund after March 31, 2011.

Every day, civil legal services programs like the Society provide for thousands of vulnerable New Yorkers a lifeline for basic survival. And the situations our clients are facing – loss of jobs, foreclosure, eviction, hunger – are the grim hallmarks of this current fiscal crisis. The work performed by civil legal services programs also saves New York State millions of dollars a year and is a proven, tested and wise investment. Last year, for example:

- millions of public dollars were saved by legal services programs because they were able to preserve homes, avert homelessness for New Yorkers, and keep families together;
- legal services programs obtained \$24,494,483 in retroactive federal disability awards for clients and \$131 million in total benefits for clients, bringing millions of dollars into the State annually;
- the monthly disability benefits, Earned Income Tax Credit refunds, and Unemployment Insurance benefits civil legal services programs obtained for New York residents were reinvested by them and stimulated the economies of their communities; and
- these community investments, in turn, sustained jobs and additional economic activity.

Based on the number of low income families and individuals seeking civil legal services at the Legal Aid Society and at other civil legal programs across the State and in the City, the looming IOLA cuts could not come at a worse time for vulnerable New Yorkers. Even at current funding levels before any IOLA reductions, national studies have found that at least 80 percent of the low income persons who need civil legal assistance are unable to obtain it

For example, the Society annually handles some 32,000 civil legal matters in literally every zip code in the City, consisting of 35.9% of our cases from Brooklyn, 26.7% from the Bronx, 16.5% from Queens, 14.4% from Manhattan, and 6.5% from Staten Island. However, we are able to help only one out of every nine New Yorkers who seek our help with civil legal problems because of lack of resources. The situation has become particularly dire since the economic downturn which is having such a harsh impact in our client communities, and the need for our civil legal services is more crucial than ever. Homelessness, for example, is at record levels in New York City, and unemployment, hunger, and foreclosures are on the rise.

In recent months, we have seen unprecedented increases in requests for help in core areas of need:

- a 29% increase in requests for help with unemployment benefits and employment problems;
- a 40% increase in requests for health law assistance and help obtaining Medicaid, Medicare, and other health care coverage;
- a 12% increase in requests for help to obtain food stamps, federal disability benefits, and public assistance;
- a 16% increase in requests for domestic violence and family law help;
- a 15% increase in requests for help from current or former low wage workers with earned income tax credit or other low income taxpayer problems;
- a 21% increase in requests for eviction prevention representation; and
- a stunning 800% increase in requests for foreclosure defense assistance.

The situation will become even more extreme in 2010 if the final 2010 – 2011 State budget does not include the \$15 million in the Judiciary's budget to bail out the IOLA Fund to address the dramatic drop in the Fund's revenue for civil legal services because of the economic downturn. In these severe economic times, civil legal assistance is needed now more than ever.

In fact, the sad truth is that even with the inclusion of \$15 million in IOLA bailout funds in the Judiciary's 2010 – 2011 budget, there is more that New York State can and should do to address the shocking gap in access to justice that our staff sees first-hand every day. For many years the Assembly has supported civil legal services with special legislative funding. With the leadership change in the Senate last year, the Senate has also supported civil legal services with special legislative funding during the current fiscal year. These levels of Senate and Assembly funding are essential to continue as part of efforts to preserve and expand access to justice through the provision of civil legal services. In other States, however, the Executive has become a partner with the legislative branch to provide far more significant funding for civil legal services. Beyond stabilizing the IOLA Fund this year, New York must commit substantial resources to bridge the access to justice gap. In the mid-1990s, then Chief Judge Judith Kaye's task force found that at least \$40 million in additional annual State funding would be needed to bridge the justice gap in New York State at that time. Regrettably, the situation has only gotten more dire since then as more and more New Yorkers need civil legal help in these difficult times.

California has recently recognized that even in these tough fiscal times investing in civil legal services is essential to both meet human needs and avert government expenditures for emergency shelter and other services. However, California's "right to counsel" pilot program does not go far enough for New York. In New York, government and civil legal services providers have already demonstrated that the provision of civil legal services works to benefit vulnerable New Yorkers and save government expenditures by preventing evictions and homelessness, obtaining federal disability benefits in place of State and local public assistance benefits, and securing child support for families with children. Accordingly, with the proven track record of civil legal services in New York State, the State Bar Association has called for the creation of an immediate right to counsel in eviction and foreclosure cases as well as in certain Unemployment Insurance Benefits cases. The State Bar has also supported moving toward an overall right to counsel in New York "to ensure that litigants are able to fully participate in civil cases concerning their basic human needs."

As New York moves forward to address the pressing need for increased support for civil legal services to bridge the access to justice gap, it is crucial to address the need for a "home" for civil legal services. A critical missing ingredient over the years in efforts to secure support for civil legal assistance has been the lack of a clearly identified State official with responsibility for focusing on the need for civil legal assistance funding in the State budget process.

Thank you for your consideration of these matters which are so critical for families and individuals in New York City and throughout the State who need civil legal help to

obtain the basic necessities of life. We stand ready to continue to work with you to eliminate the gap in access to justice in New York State that results from lack of adequate funding for civil legal services.

Submitted by,

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**Testimony of Deborah Wright, Esq.
President, Association of Legal Aid Attorneys, UAW Local 2325**

UAW Local 2325, the Association of Legal Aid Attorneys, welcomes this opportunity to testify at this special Senate hearing regarding IOLA and the future of Civil Legal Services in New York State. As you know, our union is comprised of members in the criminal, juvenile rights & civil practices at The Legal Aid Society. Today my testimony focuses on the work of our civil members and the devastating impact that the crisis in IOLA funding will have on our members and the low income families and individuals that they represent. The Civil Practice is the smallest part of The Legal Aid Society. Due to budget cuts, we are now down to 116 staff attorneys. Our Civil Practice members are in offices in every borough, in courthouses, even at Rikers Island. We partner with community organizations throughout the City and do on-site intake at many of them, including senior citizen centers, immigrants' organizations, public schools, and churches.

Due to extreme economic conditions, the Interest on Lawyer Account fund has been decimated. If the funds are not replaced, New Yorkers who need civil legal assistance to maintain the basic necessities of life – shelter from the elements, family safety and integrity, access to health care, food, clothing, and subsistence – will be turned away from our doors.

Equal access to justice is crucial issue for us in the labor movement. As lawyers, we see every day the adversity low-income people face when they confront the legal system on their own, without the aid of a trained legal advocate. We see this in the many forums in which we appear as Legal Aid staff attorneys for our civil clients: housing court, civil court, welfare centers, unemployment offices, administrative hearings for administrative benefits ranging from food stamps and federal disability benefits to welfare and Medicaid. We see this in State and Federal courts. We represent New Yorkers on matters involving housing, homelessness, benefits, disabilities, family law, domestic violence, prisoner's

rights, reentry, elder law, consumer law, foreclosure, immigration, employment, tax law and health law.

Equal access to justice for working families, individuals, and all who seek it should be the cornerstone of our legal system, but, sadly, it is not due to the constant underfunding of vital legal service programs like The Legal Aid Society. Without adequate funding, the rift that exists in our legal system between the rich and the poor continues to widen.

We can add more judges and court personnel, fix up court houses, distribute pamphlets and sample court papers to unrepresented litigants, but without advocates like the attorneys at Legal Aid, litigants will still not have full access to justice. Without proper funding, Legal Aid cannot be the presence we have been in the communities in every borough of New York City, especially at a time when the need for our services has skyrocketed due to the most extreme economic conditions seen since the Great Depression of the 1930s.

We are mindful of the extreme financial difficulties that the State is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low income New Yorkers. As legislators serving constituents – many of whom are our clients – you know that the need for the legal help that the Society provides to these struggling families and individuals is increasing exponentially. For every one person that we are able to help, we turn away eight.

This increasing need for substantial support for civil legal services in New York State is coming at a time when a catastrophic drop in Interest on Lawyer Account funding for civil legal assistance in New York State is looming in 2010. The IOLA Board allocates civil legal services funding on a calendar year basis. In December 2008, IOLA made State-wide grants to civil legal services providers totaling over \$31 million covering a 15-month period. This 15-month funding level is equivalent to \$24.8 million annualized over 12 months, which is the approximate level of the 2008 calendar year IOLA funding. However, primarily as a result of the drop in interest rates as well as the drying up of economic activity when the downturn began, the IOLA Fund's program revenue is projected to drop to approximately \$6.5 million for the period April 1, 2010 through December 31, 2010. This \$6.5 million revenue level for the first 9 months of the State fiscal year that begins on April 1, 2010 and runs through March 31, 2011 is in stark contrast to \$18.6 million which had previously been the proportionate level for a 9-month period. These substantial losses are expected to continue during calendar year 2011 through the last quarter of the State's April 1, 2010 – March 31, 2011 fiscal year and thereafter into the April 1, 2011 – March 31, 2012 fiscal year. Based on these projected losses, the Society's \$4.5 million annual 12-month IOLA grant will be decimated. Other providers in New York City and in the rest of the State are facing similar deep cuts.

Against this background, we are extremely grateful for the Senate's strong support for a bailout of the IOLA Fund in the April 1, 2010 – March 31, 2011 fiscal year that, together with support from the Assembly, has now led to Chief Judge Jonathan Lippmann's inclusion of \$15 million in the Judiciary's proposed budget in order to make the IOLA

Fund whole for one year and thereby preserve current levels of civil legal services in New York State. This proposed funding will be reviewed by the Governor and the Legislature during the budget process and it will not become final until the 2010 – 2011 State budget is adopted on April 1, 2010. Continued support for this \$15 million IOLA bailout is therefore critical to ensure that this funding is included in the final 2010 – 2011 State budget. However, the proposed bailout for 2010 – 2011 simply preserves the current status quo in which there is a significant gap in available civil legal assistance and the increasing need for civil legal services and it does not address the need to stabilize the IOLA Fund after March 31, 2011.

At times like these, government must act to strengthen the safety nets that are in place to help protect those who are in greatest need. The Legal Aid Society is a vital part of that safety net to the communities that we serve. But now, due to the constant chipping away of our funding, we can barely keep providing the same level of services. The same holds true for our sister local, L.S.S.A, also part of the UAW, representing our legal services colleagues at Legal Services for New York City.

In fact, the sad truth is that even with the inclusion of \$15 million in IOLA bailout funds in the Judiciary's 2010 – 2011 budget, there is more that New York State can and should do to address the shocking gap in access to justice that our staff sees first-hand every day. For many years the Assembly has supported civil legal services with special legislative funding. In the past year, the Senate has also supported civil legal services, providing special legislative funding for the current fiscal year. Those levels of funding are essential to continue as part of efforts to preserve and expand access to justice through the provision of civil legal services.

In other States, however, the Executive has become a partner with the legislative branch to provide far more significant funding for civil legal services. Beyond stabilizing the IOLA Fund this year, New York must commit substantial additional resources to bridge the access to justice gap. In the mid-1990s, a task force led by then Chief Judge Judith Kaye found that at least \$40 million in additional annual State funding was needed to bridge the justice gap in New York State. Since then, the situation has only gotten more dire since then as more and more New Yorkers need civil legal help in these difficult times.

The toughest part of a Legal Aid attorney's job is turning away families and individuals who desperately need our help because we don't have enough staff or resources. It's much harder than the long hours we spend doing legal research, drafting papers, making legal arguments in forums around the City, and advocating with governmental agencies, insurance bureaucracies, and adversaries to protect our clients' rights. Every day, our members have to turn away families facing eviction and homelessness, victims of domestic violence, elderly and disabled people struggling with the bureaucratic maze of Medicare and Medicaid, families fighting to support children, people living in uninhabitable apartments, disabled people unable to secure government benefits, and people who have just lost their jobs and need help to win hearings on their claims for unemployment insurance benefits. Our members bring skill, creativity, and fierce advocacy to all of these cases, but there is a limit to the number of cases that we can handle with fewer resources.

Our members who work in Civil offices of The Legal Aid Society dedicate themselves to serving these clients and winning these cases -- to turn these people away when we could have helped them win their case is heartbreaking to us.

Ultimately all New Yorkers will bear increased costs when our lack of funding prevents us from providing legal assistance. Housing lawyers in our eviction and homeless prevention program save the state and localities millions in emergency shelter costs. The family law work done by legal services programs stabilizes families and keeps children with their parents, avoiding costly foster care placement. When we help a displaced worker get unemployment insurance benefits, this saves the state additional public assistance expenditures and keeps a worker connected to the job market through services offered by the Department of Labor. The consequences of eliminating critical legal services funding will be dire because there will be fewer attorneys to challenge bureaucratic mistakes and ensure equal access to justice.

We are proud that we represent clients to effect systemic changes through law reform and class action litigation and advocacy. Even with the plummeting levels of unrestricted IOLA funding, we currently represent clients in twenty-one law reform cases on behalf of 2 million low income children and adults living in New York City.

One example of our Law Reform work that will have an impact on low-income New Yorkers is a class action lawsuit we filed related to the foreclosure crisis. As the economic crisis places record numbers of homeowners at risk of losing their homes, we filed one of the first federal class action lawsuits against a national mortgage servicer. That servicer is denying homeowners access to the Obama Administration's Home Affordable Modification Program (HAMP) for spurious reasons, and denied them the ability to contest such denials. Our clients include Ms. K., a mother of three employed as a registered nurse, who fell behind in payments on her mortgage as a result of a temporary loss of income. If her home is foreclosed on, Ms. K and her children would become homeless. Even though Ms. K meets the eligibility criteria to be considered for HAMP, her servicer claimed that she was only eligible for a plan that would not lower her payments and would require her to waive all of her legal rights. When Ms. K asked why she did not qualify under the President's plan, her servicer lied to her, telling her that the plan did not cover loans like hers. If our lawsuit is successful, Ms. K and others in her situation will be given the opportunity to save her home.

Another example is our work of our employment law practice, responding to a hugely increased demand for assistance from unemployed low-wage and immigrant workers. According to the NYS Department of Labor, the New York state unemployment rate edged up to 9 % in October 2009. In New York City, the unemployment rate officially hit 10.3%. However, according to the report of James Parrot, Deputy Director and Chief Economist for the Fiscal Policy Institute released on November 10, 2009, our "real unemployment rate" in New York City is 16 % when we factor in under-employed and discouraged workers -- and over 20% for blacks and Hispanics who make up half of the City's workforce.

We help displaced workers obtain unemployment insurance and other crucial benefits every day. For example, one of our clients, Ms. A, worked as a custodian. She struggled to make ends meet at her job where she worked 25 hours a week. Due to the economic crisis, Ms. A's hours were slashed to seven hours of week – not enough earnings to live on -- and thereafter she lost her job altogether. When she applied for unemployment benefits, her employer contested the application. Ms. A represented herself at the hearing and lost. She applied for public assistance benefits and was denied as well. When she came to us, she had no money and was on the verge of eviction from her home. We got her an expedited hearing and with our representation, Ms. A received unemployment benefits, was able to pay her back rent, and saved her home.

Ms. A's story is not unusual. Without representation, only 24% of claimants win unemployment benefits. With representation, 41% win benefits. When we represent claimants, 80% win their hearings.

Our Immigration Law Unit is the only free, citywide provider of comprehensive immigration legal services with intake or referral sites in all five boroughs of New York City. We represent low-income immigrants in obtaining lawful status, dealing with employment issues, and defending against deportation and removal proceedings. Despite the high stakes and the dire consequences of deportation, including separation from family, clients in immigration proceedings have no right to appointed counsel. Last year, more than 60% of immigrants whose cases were completed in immigration court had no attorney or legal representative. With our current limited funding and resources, the Legal Aid Society is only able to represent a small percentage of those detained and non-detained immigrants facing removal each year. Loss of IOLA funding would be devastating because the Society will not be able to continue to provide free legal representation to vulnerable low income immigrants.

These examples just give you a small picture of the work we do every day and the desperate straits of the people who seek our help. Many of you know our work because the people we assist are your constituents.

Finally, I would like to stress one crucial fact. Despite our size, we simply cannot absorb any further reductions in funding – we have been cut to the bone. This is our situation precisely when there is need for our services on a scale not seen since the Depression. Nor can these budget gaps be filled on the backs of our members. Legal Aid has already been running as lean as possible due to the budget cuts we have already sustained during the past several years – we have nothing left to cut.

Any further reduction in funding will not only result in a disruption of services, but will most likely result in layoffs of our members. This would not only hurt our clients, but it would create even more of a crisis in the courts and administrative forums where we appear.

Our members have been sacrificing for years due to the constant underfunding of civil legal services programs like Legal Aid. As you know, A.L.A.A. members work under

very stressful conditions for low wages in comparison to what they could earn in the private sector. The money saving policies that many companies have only now put in place this past year have been in effect at Legal Aid offices for years.

Our members began contributing to their healthcare plans years ago, only to face increasing costs during bargaining each year. Unlike many of our brothers and sisters in the public sector, we do not have a defined-benefit pension. We have given up many other wage incentive benefits over the years, and have been working under a wage freeze this past year. We have done all of this in an effort to help alleviate the harm done by the State's constant underfunding of our programs.

In these severe economic times, our clients need civil legal assistance more than ever. We thank you for the vital support that you have given to Legal Aid in the past, and we stand ready to work with you to address this extraordinary civil legal services crisis.

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Testimony of Ms. Amy M. Hong, Esq.
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Employment Law Unit

In the Employment Law Project at the Legal Aid Society, we represent claimants in unemployment insurance hearings, low-wage workers in unpaid minimum wage and overtime cases, and employees who have been subjected to discrimination in violation of federal, state and local laws. I am here today to talk a little bit about the reentry work that we do in our Employment Law Project. Our clients want to lead productive working lives, but are often stymied by employers who discriminate against ex-offenders.

Fortunately, we live in a state that prohibits employment discrimination against ex-offenders with criminal records. The anti-discrimination provisions of the NYS Correction Law Article 23-A prohibit New York public agencies and private employers from denying or terminating a person's employment on the basis of his or her previous criminal conviction unless (1) there is a direct relationship between the criminal conviction and the specific duties of the employment sought or held, or (2) the applicant's criminal history indicates that employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

The law establishes mandatory criteria to be considered in sorting out persons whose prior convictions may impinge on their suitability for employment from persons who are fit for employment in a particular job but are vulnerable to rejection because of unfair prejudice. Article 23-A requires rationality and individualized analysis, and not decision-making based on assumptions and stereotypes.

In considering whether to employ an applicant with a criminal conviction history, the Correction Law requires an employer to make an individualized determination that considers each of the following eight factors:

- A. New York's public policy to encourage employment of persons previously convicted of one or more criminal offenses;
- B. the specific duties and responsibilities related to the job sought;
- C. the bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities;
- D. the time which has elapsed since the occurrence of the criminal offense or offenses;
- E. the age of the person at the time of occurrence of the criminal offense or offenses;
- F. the seriousness of the offense or offenses;
- G. any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct; and

H. the legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

N.Y. Correct. Law § 753(1). Employers who evaluate job applicants with criminal conviction histories have a legal duty to elicit and obtain the information necessary to consider the eight factors set forth in Article 23-A and to make a rational and fair decision.

We advocate on behalf a range of clients with criminal records. Although confidentiality agreements prohibit our clients from testifying today about the successful resolution of their cases, I would like to generally share with you an example of a case in which we brought a lawsuit against an employer due to violations of Article 23 of the NYS Corrections law. Because of confidentiality restrictions, I will not be mentioning the names of the parties or the contents of the settlement agreement.

Not too long ago, we represented a client who was born and raised in the Bronx. As a young man, he ran into trouble with the law and developed a short history of criminal offenses. His last incident led him to spend a period of 12 months in state custody. However, while in custody, he participated in a rehabilitation program for young non-violent offenders, which included substance abuse treatment, academic education and reintegration skills.

Upon his release, this client was able to obtain employment with a small local company that was willing to take a chance on him. He diligently worked for two years without any further interactions with the criminal justice system, and continued to do the same work for another two years even after his employer was acquired by a bigger company.

We met this client one day when he came to us seeking advice on what to do because his employer had terminated him due to the results of a random criminal background check that his employer decided to conduct. We learned that he was terminated from his employment even though his conviction history bore no relationship to his fitness and ability to perform the job and that his continued employment would pose no risk to the safety or welfare of anyone. We learned that this employer did not make the reasoned and individualized analysis of the employee which the law requires.

At the time of his termination of employment, this client was living paycheck to paycheck, with a newborn child due at any moment. Losing his job caused this client a lot of stress because he had relied on his consistent and steady employment with the company to provide for his growing family. He had no money saved and could not afford an attorney. Although he was tempted to return to the ways of his past to survive, instead he sought our legal services for help.

We filed a lawsuit against this client's former employer seeking redress for the unlawful discrimination. The company's decision to terminate this client's employment solely on the basis of his conviction history violated Article 23-A of the New York State Correction Law because the company failed to conduct an individualized assessment of the employee's fitness for the job and reach a reasoned and fair decision, as the law requires. The company

looked solely at the conviction history, and not at the ample evidence of this client's rehabilitation found in his employment application, resume and other documents, or at the clear proof that he had direct, relevant experience that made him well-suited for his job.

No rational decision maker who assessed this client's suitability for the position using the legally-required criteria, and evaluating necessary documents and information, could have concluded that his criminal conviction history – which terminated in 2001 and resulted from a youthful addiction problem long since overcome – had any bearing on his current ability to perform the job safely and well. However, these issues would not have come to light if this client had not had the opportunity to make his case known through legal representation.

The matter was ultimately resolved after a year and a half of litigation. We were able to assist the client to obtain a certificate of relief of disabilities, so that he could avoid any future incidences of potential discrimination based on criminal records. He has now been able to start his own business.

As a result of our work at the Legal Aid Society, we are able to help clients return to productive working lives. Without civil legal services funding, we would be unable to do this work. The IOLA fund has been decimated. We urge you to ensure that the funding is replaced and that going forward there is a stable source for this funding. Our clients are relying on us to help them and without your leadership, we will be unable to do so.

**Client of The Legal Aid Society
Written Testimony of Karen Wright**

My name is Karen Wright and I am here to tell you why funding of civil legal services organizations such as The Legal Aid Society is crucial to me, and to people like me who have legal problems and lack the means to pay for the services of a lawyer. There is no doubt in my mind that but for the exemplary representation I have received from attorneys and support staff of The Legal Aid Society, I would be homeless, without any income and would have no chance of re-gaining custody of my daughter from her father who has a history of domestic abuse. My particular circumstances, I have learned, are not terribly different from those of many others who have not had the good fortune of obtaining legal representation from The Legal Aid Society. But because I am a Legal Aid client, I am well along the way to getting my life back on track.

In September 2007 I had been residing in a homeless shelter for three months. I was offered the opportunity to move to transitional housing – a three quarter house – in Bedford Stuyvesant. I accepted what I believed was an opportunity to improve my housing circumstances, but discovered that the transitional housing came with its own set of problems, some of them worse than the ones I already had. All of the tenants in this transitional housing were dealing with a multitude of problems such as recent homelessness, unemployment, domestic abuse, substance abuse, mental health issues and lack of income, when they arrived at this residence. In December 2007, the landlord told us we had to move by the end of that month and began trying to evict the tenants illegally by changing the locks, removing tenants' belongings, and threatening them with violence. One tenant was actually assaulted. The landlord intentionally cut off heating and hot water to the building and terminated the gas service so we could not cook our meals. In addition, I was trying to regain custody of my daughter from her father, and these were not the kind of living conditions I wanted to provide her with. I was in fear of becoming homeless again, and for my very safety.

I had tried to get assistance from other agencies but was unable to do so. Then I was referred to The Legal Aid Society where I met an attorney from the Housing Unit in the Brooklyn Neighborhood Office. The lawyer assigned to my case was not only supremely qualified as a lawyer – having experience in exactly this kind of complicated housing case – but she treated me with respect and showed me compassion. She took on the case not only for me, but for the five other residents of the building. Our lawyer enthusiastically represented us, despite the fact that each of us had our own set of problems and circumstances which made the task a challenge. We were always made to feel as if our case and our rights were important and worth defending, and that each of us was a person who deserved justice.

When our Legal Aid lawyer took on the case, the landlord had already illegally obtained a judgment of eviction against us, without ever having served us with the court papers. We were on the verge of being evicted. Our lawyer prevented that from happening and took the landlord to Supreme Court, where she obtained an order which resulted in stopping the eviction and more. The order also addressed the conditions in the building by requiring

that part of our public assistance grant be paid directly to Con Edison so that our electricity could stay on, and placing the rent portion of our public assistance grants in escrow so that the rent money might actually be used to provide required services such as heat and hot water. And most significantly, my lawyer convinced the court to recognize that our tenancies were protected by rent stabilization, thus ensuring that we could not be evicted as a result of the landlord's whim and that our rents would remain affordable.

As anyone who has ever needed public assistance knows, negotiating the bureaucracy that is the New York City Human Resources Administration can be very daunting. Learning your rights and enforcing them can be very difficult. Legal Aid understands this and also that people such as me with housing problems usually have other problems as well. So in addition to getting the representation of an expert housing attorney, I also saw and received the services of attorneys who are experts in the area of public benefits. Without them, I would never have known that there is a special meals allowance for people who do not have cooking facilities in their homes, and that I qualified for it because my landlord had cut off the gas and our ability to cook meals. In addition, on three occasions when HRA tried to improperly cut off my benefits because they said that I had missed certain appointments, when either I kept them or had not received notices of them, my other Legal Aid lawyer represented me at hearings which resulted in my retaining my public assistance. On one of those occasions, my lawyer accompanied me to my Job Center and negotiated a favorable resolution to the issue which I am convinced HRA would never have agreed to, had my lawyer not been there. Simply by accompanying me to the Job Center, my lawyer ensured that I was heard by the workers at HRA. For the first time, I was treated by an HRA worker with respect and courtesy and they actually heard what I was saying. The result was that I was able to keep my benefits and was not required to suffer humiliation in the process.

Legal Aid has been there in my life to make sure that I am treated with respect and has enabled me to move forward in my life on many levels. Not only has Legal Aid addressed my legal issues, but its lawyers and staff have made me feel like I have worth, that I am a person who, despite my problems, can still succeed.

I am honored that I have a chance to speak on behalf of the fine men and women who comprise this most worthy organization. Their dedication to their clients and to the law is unparalleled. And, the NY State Senate could find no better partner in the pursuit of justice for all than The Legal Aid Society. The downturn in the economy and exceedingly low interest rates have resulted in the loss of IOLA funding for Legal Aid. Replacement of this money is crucial if equal justice for all is to be more than something to which society aspires. Adequate funding is necessary to make the promise a reality.

**Client of The Legal Aid Society
Written Testimony of Mr. Juan Beltre**

My name is Juan Beltre. I am a citizen of the Dominican Republic and I have lived in New York City for almost 20 years. I have been a lawful permanent resident of the United States since 1987. I live in the Bronx, New York with my wife, Damiana, who is a U.S. citizen and our two U.S. citizen sons, Javier and Javy. Our two older children, Julio and Genesis, are attending college. My wife works full time and I am the primary caretaker of our children. I worked for many years but had to stop working because I got very ill with a brain tumor which still affects me and I have developed dementia and diabetes. I also had an accident at work that caused a spinal injury which affects my entire left side. Instead, I have taken responsibility for our home and our children – I cook, clean, take the children to school and help them with their homework.

In 2003, The Department of Homeland Security (“DHS”) brought removal proceedings against me in Immigration Court because I had one misdemeanor drug possession conviction in 1995. I was sentenced only to probation. It was a big mistake for me to have anything to do with drugs and I have always felt awful about it. I am especially ashamed that I did not set a better example for my children. I swore never to get in any trouble with the law again and I have never been arrested again. Many years later, I was questioned by the immigration authorities on my way back from a trip to the Dominican Republic to attend to details related to my mother’s death, and they decided to seek my removal because of that conviction.

When I found out that I was in deportation proceedings, I looked for someone to represent me and retained a representative who told me that he was an attorney and that he could represent me in Immigration Court. He was well known in my community and I trusted him. From the beginning, my representative did not give me very much information about my case and kept asking for more and more money. We struggled to make ends meet because we did not know what else to do. My representative failed to show up on my court dates, and instead sent others on his behalf who I had never met before. My representative told me that I was eligible for relief from deportation because I had been living in the United States for such a long time and he told me that he would submit an application for this relief. I gave him the application fee a month before the application was due but he did not file it until four days after the deadline the Immigration Judge had given us. The Immigration Judge would not accept the late application and ordered me deported.

I went to see my representative immediately and he told me not to worry because he was filing an appeal and everything would get cleared up. I trusted him and signed the papers he asked me to sign. Then, suddenly, in April of 2005, immigration authorities arrested me at home and detained me at the Bergen County Jail in Hackensack, New Jersey awaiting my deportation. My wife went to see my representative to ask how this could have happened and he told her not to worry because he was filing papers to re-open the case. At this point, my wife did not trust my representative and started to contact other lawyers and legal services organizations who might be able to help.

When my wife began talking to other legal services organizations, she learned that my representative was not authorized to practice law. I was shocked. I immediately filed a complaint against him with the disciplinary committee. More recently, I found out that many other people have also complained about him and that he is now being prosecuted by the Manhattan District Attorney's office for immigration fraud.

Finally, in May of 2005 my wife contacted the Legal Aid Society's Immigration Law Unit. When my wife met with the Legal Aid attorneys, I had been detained for almost a month and awaiting deportation to the Dominican Republic any day. Legal Aid staff agreed to take my case for free. Legal Aid staff helped me to file the papers to re-open my case based on ineffective assistance from my previous representative. Before the papers could be finalized and filed, though, the immigration authorities physically deported me to the Dominican Republic. The Legal Aid attorneys were able to file papers for me in federal court before the plane I was on left U.S. air space. This filing could not stop my physical deportation but it would eventually allow me to return to the United States.

I arrived in the Dominican Republic where I had to stay for over a year. It was the worst experience of my life being ripped away from my family. I stayed with my sister, her husband and their two children in a one bedroom house that my parents used to have before they passed away. They converted the living room into a makeshift bedroom for me. I was devastated and missed my family terribly. I was not able to get the medication I needed to control my blood sugar so I felt sick most of the time. My family in the United States was also devastated. My wife, was very worried and stressed and had to take care of the whole family with no help from me. Previously, I had been the primary caretaker for the children. She also had to send me money because I could not work. She lost a lot of weight and got down to 95 pounds because she was unable to eat. My older children, Julio and Genesis, had to take on a lot of responsibility for the younger boys so the family could get by. Both of them had been honor roll students before I was deported but their grades were very affected by my deportation. My son Javier, who was 3 years old at the time, has always been very attached to me and he broke down when I was deported. Eventually my wife arranged for him to join me in the Dominican Republic because he was so distraught and literally could not sleep. While he was there, he ended up getting a parasite and was very ill. We had to go to the emergency room twice and he lost a lot of weight over the course of the illness. We sent him back to the United States and thank goodness he recovered.

While I was in the Dominican Republic, Legal Aid was still working hard on my case. That at least was one relief. The attorney we worked with treated my wife with respect and we did not have to worry about legal fees because Legal Aid provides free legal services. Even though things were very difficult for my family, I felt at peace knowing that Legal Aid staff was going to handle things the right way. Legal Aid staff fought to get my case re-opened and returned to another Immigration Judge so that I could have a chance to present my application for relief and explain to the judge why I deserved a second chance to stay in the United States and remain a lawful permanent resident. Once the case was re-opened, Legal Aid helped me with the process of returning to the United States. I was so happy to be back with my family and all of our lives improved tremendously now that I could resume my role as primary caretaker for the children.

Legal Aid prepared me for my hearing before the Immigration Judge. There is no comparison between Legal Aid staff's careful preparation of my case and the shoddy representation I received from my paid representative. The attorneys at Legal Aid explained each part of the process and answered all of my questions. They took care in preparing my application and submitted all kinds of documents to show what my life in the United States was like and why I needed to stay here with my family. They spent a lot of time preparing me, my wife and my two older children to testify in court. They also found an expert who could talk about my dementia and how I would be affected if I was deported to the Dominican Republic again. I finally had my court case in March of 2009. Legal Aid represented me in court and the Immigration Judge decided that I should be allowed to stay in the United States. The attorney for the government agreed not to appeal the case. I was overjoyed and so relieved that I wouldn't be forced to leave my family again. I don't know how to express how good it felt to get the help I needed from Legal Aid and be able to stay here.

I understand that Legal Aid's funding may be cut. That would be very bad for so many people. I know that if I didn't have help from Legal Aid, we would not have been able to go forward with my case and I would still be in the Dominican Republic. My family would still be broken apart and devastated. My case was very long and complicated and Legal Aid stuck with me through all of it. We would never have been able to afford private legal representation for such a long case on our own. If Legal Aid's funding were cut, that would mean that other people in my situation wouldn't be able to get help and that would be terrible. Getting help from Legal Aid was absolutely necessary for me and I know it is necessary for many others with immigration cases like mine. In my experience, it is impossible to negotiate the proceedings in Immigration Court without good legal representation. I ask you to please consider my story and make sure that Legal Aid continues to get the funding it needs to help people like me. Thank you.

**Client of The Legal Aid Society
Written Testimony Ms. Samella Brown**

My name is Samella Brown. I live with my daughter at 90 Paladino Avenue in East Harlem.

Two years ago, I was living in a shelter in Brooklyn with my daughter. My aunt had met Ms. Horwitz when she needed help getting public assistance benefits for two of my young cousins, who had just moved in with her because their mom couldn't take care of them. My aunt kept telling me to call Legal Aid to get help with my situation, and finally I made an appointment.

One of the first things that I told Ms. Horwitz when we first met was that I wanted to finish high school. I didn't want a GED, I wanted a real Regents diploma. I had been a good student and had managed to do well. When I was pregnant, I became diabetic. The doctors thought it might go away after my daughter was born, but it didn't. Even so, I went back to school right after she was born.

In the middle of my senior year, I had some conflicts with my family in Staten Island where I was living and attending school, and I had to go live in a shelter. I got really sick and went to the emergency room all the time because of my diabetes, so I couldn't stay in school. Most of the time my brother or my aunt would pick up my daughter when I had to go to the hospital, but once they weren't available, so I had to check myself out against the doctor's advice.

The shelter where my daughter and I lived had mold, bedbugs and rats. Sometimes when I stayed in the hospital overnight, the shelter packed my things and tried to kick me out. It was really hard to take care of myself while I was living there, especially since my doctor was in Manhattan, I had no childcare, and I didn't have the money to get to the hospital.

At that time, my only income was public assistance, but I kept losing my benefits because I'd get sick, miss a welfare center appointment, and get sanctioned. I had to move and change my address a few times, but the welfare center kept sending letters to the wrong address, so I didn't get them.

I was always worried about what was going to happen to me and my daughter, and I didn't know how we were going to get out of the mess we were in.

The first day we met, Ms. Horwitz helped me apply for Supplemental Security Income. At that time, my public assistance benefits had been reduced because of the missed appointments. While we were waiting for the SSI results, Ms. Horwitz represented me at welfare fair hearings and helped keep my benefits coming. Every time I got a notice that something was going wrong, Ms. Horwitz fought it and won. She also made sure that my records had my correct address, so that I wouldn't miss any more appointments for that reason. I was so sick around that time that once, I went straight to the emergency room from the fair hearing office.

Ms. Horwitz handled my SSI case and she did such a great job that the judge said I won without having to even go to a hearing. I started getting benefits in August, 2007. There is no way I could have done this without Ms. Horwitz and Legal Aid.

Even though I had been approved for public housing for almost a year, I was still waiting for the New York City Housing Authority to offer me an apartment. Ms. Horwitz helped me file complaints to the Chairman of the New York City Housing Authority online. With Ms. Horowitz's help I finally got an apartment in East Harlem, and I was really happy that I got a lease just in time to register my daughter for kindergarten. Even though she had never gone to preschool, I made sure she learned her letters and numbers, so she wasn't even behind when she started school. She's now in second grade and is an excellent student.

After we moved in to our apartment and my daughter started school, I decided that it was time for me to go back to high school. I went to the high school enrollment office, but I was told that since I had just turned 21, I was too old to go back to school, and I should just get a GED. That's the same thing everyone had told me since I dropped out of school, that I could just get a GED someday. But I hadn't worked so hard to stay in school after my daughter was born, just to miss out on a Regent's diploma by a few credits.

Unlike all those other people, Ms. Horwitz knew how important a getting high school diploma was to me, and she knew that given a chance, I could do it. She also knew that what the enrollment office had told me was wrong: since I didn't turn 21 until after the school year started, I was still legally allowed to re-enroll in high school. But, if I didn't finish during that school year, it would be too late. She helped me fight for my rights. She contacted someone in the Department of Education who agreed to help me find a school. She also made sure that my old school sent me a copy of my transcript, which wasn't easy. It took a little while, but I started at Independence High School in February, 2008, passed my last required Regents examination, and graduated that June. I even got an award for achievement in art. Ms. Horwitz was there to watch me get my diploma.

Since I moved into my apartment, I have been able to get more regular medical care, and even though I still have diabetes complications, I haven't had to go to the emergency room a single time. Last year I took the Civil Service exam and got a very high score. I hope to start college classes as soon as I am healthier.

I have heard that Legal Aid might not have enough funding to help more people like me. I hope that it's not true. Without Legal Aid, I would never have been able to keep my public assistance benefits, or get SSI when I really needed it, and I might still be in a shelter, going to the emergency room all the time. And I know that there is no way I would have achieved the one thing that I wanted and needed most to get myself on track: my high school diploma. Thank you for listening to me today.

**Client of The Legal Aid Society
Written Testimony Ms. Terri Bush**

Good Morning. My name is Terri Bush. I am a former client of The Legal Aid Society and I am here to tell you my story. I heard from my lawyer, Mr. Lhewa, that Legal Aid's funding is in trouble. I told him that I wanted to tell my story so that you could get an idea of the kind of help they gave me and the huge difference it made to me and my family. And I know that there are lots and lots of other families like me who need this help. I live in Jamaica, Queens with my 11 year old son. My personal experience with The Legal Aid Society was when it represented me when I was sued by a company because of credit card debt.

My problems started when I became seriously ill in 2006. As a result of my illness I was hospitalized and was rapidly losing weight. It was also during this time that I was laid off from my job as a Teacher's assistant at a local school. On top of everything else, my son has his own serious medical needs. The combination of my illness, my son's medical needs, and my loss of employment, took a great toll on me both emotionally and financially. This was a challenging time period for me and my family as we faced numerous hurdles. I have always prided myself on being financially responsible and independent. I had one credit card at the time and did not have any debt until I fell ill and was hospitalized. In fact, I was so concerned about staying out of debt that when I got my credit card, I took insurance that was supposed to freeze my interest rates if I were to fall ill or lose my job. I had to pay extra for this insurance every month, but I signed up thinking the extra financial protection would be well worth it. But when I did fall ill and lose my job, the credit card company refused to provide me the promised coverage. I called the company and talked to them about it. I faxed them documents proving that they were supposed to freeze my payments. Instead, they refused to freeze the amounts they were charging me and increased my interest rate and added fees – nearly tripling the amount of money they said I owed to them. The next thing I knew, the credit card company sold my account to another company – I found out it was called a debt buyer. The debt buyer would not listen to me. They told me they had no ability to look into any insurance I signed with the original creditor. I could not believe it. I felt totally powerless to get anybody to fix this. The debt buyer then proceeded to file a lawsuit against me claiming that I had failed to pay the monthly payments, which were based on the illegally increased rates, interest, and late fees. The only problem was that I did not find out about the lawsuit because the debt buyer never served me with the court papers like they were supposed to under the law. Instead, they incorrectly served my mother at her residence with the court documents.

When I eventually found out about the case against me I attempted to look for an attorney to represent me in the lawsuit. I knew that I could not afford a private attorney because of my precarious financial situation. I was not able to work because of my medical condition and my son's special needs required him to have supervision. As an individual who lacks any knowledge about how the civil justice system works, I really needed legal representation. That is when I turned to The Legal Aid Society – they took my case and everything changed.

My attorney explained to me that what the debt buyer did was illegal and that my credit card insurance did protect me. He also explained that they were supposed to serve me with the court papers. The Legal Aid Society provided representation for me in my case. My attorney filed court papers showing where the original creditor and the debt buyer had violated my rights and that I did not owe the inflated amount of money the debt buyer said I did. As a result, we were able to get the case against me dismissed. Since then I have not been contacted by the debt buyer. The Legal Aid Society not only provided me with direct representation and advocated on my behalf, they provided me with information and education about laws and regulations that provide protection for consumers. Having a Legal Aid attorney to represent me, I felt like I had a voice against the debt buyer and credit card company in Court. Had The Legal Aid Society not been there to represent me, my family and I would be in a much more financially precarious situation --- the debt buyer company would have taken everything we had. I know I am not alone. I know lots of people in my neighborhood facing the same situation I was in.

I was informed that The Legal Aid Society's funding may be drastically reduced and is in dire need of assistance. Like everybody else, I was going through a difficult phase in my life and my family's life, and I know from my own experience that The Legal Aid Society provides crucial services in the civil justice system for those low income New Yorkers who are most in need of representation and who lack legal resources. I would ask you on behalf of myself, my family, and other low income New Yorkers who depend upon Legal Aid, to provide funding for The Legal Aid Society.