



TESTIMONY FOR A PUBLIC HEARING ON:

**IMPLEMENTATION OF THE
STATE BUDGET ON THE JUDICIARY**

PRESENTED BEFORE:

THE NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON JUDICIARY
JEFFREY DINOWITZ, CHAIR

PRESENTED BY:

KEVIN M. CREMIN
DIRECTOR OF LITIGATION FOR DISABILITY AND AGING RIGHTS
MOBILIZATION FOR JUSTICE, INC.

DECEMBER 1, 2017

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I. Introduction

Mobilization for Justice envisions a society in which there is equal justice for all. Mobilization for Justice's mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this by providing the highest quality direct civil legal assistance, conducting community education and building partnerships, engaging in policy advocacy, and bringing impact litigation.

Mobilization for Justice began as the legal arm of Mobilization for Youth, a large community-based anti-poverty program founded in 1962. The legal unit was founded on the principle of equal access to justice through community-based legal representation of poor New Yorkers. In 1968, we began an independent organization, incorporated as MFY Legal Services, Inc. When the federal Office of Economic Opportunity began funding community-based legal services programs, our model became the prototype for hundreds of new programs. By our 25th anniversary in 1988, MFY Legal Services was recognized as a national leader in poverty law, having served tens of thousands of low-income New Yorkers and won numerous test cases. In 2017, we changed our name to Mobilization for Justice ("MFJ") to better reflect the expanded scope of our work while honoring our roots.

MFJ supports the allocation of \$100 million to advance the recommendation of the Office of Court Administration taskforce to expand civil legal services. MFJ recognizes and applauds Governor Cuomo, the New York State Assembly, as well as former Chief Judge Jonathan Lippman and current Chief Judge Janet DiFiore for their efforts to expand access to civil legal services. This funding is critical to ensure equal access to justice for the most vulnerable New Yorkers who, without legal representation, struggle to obtain and maintain the essentials of life: housing, family unity, healthcare, education and subsistence income. In this testimony, we will provide a brief summary of how New Yorkers have benefited from the work that MFJ has been able to do with Judiciary Civil Legal Services Funds, highlighting in particular how our work reduced the burden on the Judiciary by diverting matters from court by providing trainings, advice, brief services, advocacy services, and negotiating settlements outside of court.

II. What MFJ Has Achieved with Office of Court Administration Funding

MFJ began receiving funding from the Office of Court Administration in 2013. During those four years, we have served almost 35,000 clients. During the last fiscal year alone, MFJ handled 11,859 cases. Of those, the vast majority involved New Yorkers who were struggling to obtain or maintain housing (53 percent) or subsistence income (30 percent).

MFJ addresses pressing civil legal needs faced by New Yorkers. Most of MFJ's clients are racial and ethnic minorities living at or below the federal poverty level with more than 80 percent subsisting on public assistance, Social Security, and other government benefits. MFJ focuses on providing advice, counsel, and representation to highly vulnerable populations such as tenants facing imminent eviction, children with mental illness who are denied appropriately tailored Individual Education Plans, isolated seniors living in institutionalized settings, immigrants seeking naturalization and citizenship, children seeking Special Immigrant Juvenile Status,

undocumented workers who are denied earned wages by their employers, and families caring for children outside of the foster care system.

As a result of OCA funding, we have been able to broaden the geographic scope of our services. For example, during the past year, MFJ has expanded the number of Bronx residents we served by more than 40 percent. This was a priority because the Bronx is the borough with the highest percentage of low-income people, has a significant immigrant population, and is experiencing a significant loss of affordable housing.

MFJ has also used OCA funding to broaden the scope of the services that we offer to New Yorkers. Our goal is to provide holistic services for vulnerable New Yorkers. For example, during the past year MFJ has expanded its immigration practice. MFJ provides both family- and humanitarian-based legal assistance including change of status applications for lawful permanent residency and citizenship, representation in Family Court and Immigration Court for Special Immigrant Juvenile Status, Temporary Protected Status, and Deferred Action for Childhood Arrival cases. MFJ has also provided comprehensive trainings to attorneys and paralegals at law firms and non-profit organizations, hospitals, the New York Immigration Court, the Newark Asylum Office, and the New York City Bar Association. Similarly, based on strong evidence that there was an unmet legal need, MFJ recently launched a Low-Income Tax Clinic. This clinic assists clients with tax controversies before the IRS where the tax matters would result in penalties that would inhibit a person's ability to pay for rent and other basic needs.

MFJ has also used OCA funding to support and expand our services to people with disabilities. A large percentage of MFJ's clients are people with mental illness. MFJ operates the largest mental health law practice in the country and our attorneys have extensive training in working productively and sensitively with people with mental disabilities. We have an intake line dedicated for people with mental illness, and we welcome walk-in clients who are facing crises. Through a collaborative relationship with NYC Health + Hospitals, we operate a dedicated intake line for the psychiatric unit of each of the 11 city hospitals so that social workers and discharge planners can reach MFJ immediately when they have a patient who is in danger of losing his or her housing or public benefits or has another legal issue that might impede successful discharge planning. This work prevents people with mental illness from becoming homeless, and prevents costly institutionalization by preserving their community-based housing.

MFJ's mental health law practice has historically focused on adults with mental illness, but MFJ has used OCA funding to expand our services to children with mental illness. MFJ now has medical-legal partnerships with Bellevue, Kings County, and Harlem Hospital Centers' child and adolescent mental health programs. These partnerships address the health-harming legal needs that can impede a child's mental health recovery. We conduct on-site intake and rounds with the healthcare teams at Bellevue and Harlem Hospitals, and we conduct a monthly intake at Kings County Hospital. MFJ also conducts periodic trainings for the psychiatric healthcare teams on how to identify potential health-harming legal problems that can impede a child's recovery.

Providing community-based legal education is a component of all MFJ's practice areas. During the last fiscal year alone, MFJ attorneys and paralegals conducted 186 training sessions, attended by 5,220 people. Among those attending workshops were low-income tenants, people with

mental illness, seniors, SRO and three-quarter house residents, families with children with a mental illness, immigrant workers, families caring for relatives' children outside the foster care system, and workers with past criminal records seeking to re-enter the workforce.

MFJ leverages the funding it receives from OCA by working with pro bono attorneys and volunteers. MFJ has two externship programs in which associates from Cleary Gottlieb Steen & Hamilton LLP and Willkie Farr and Gallagher LLP serve four-month rotations in our housing unit. The externs are trained and supervised by MFJ.

MFJ brings litigation based on the systemic problems we identify as a result of serving thousands of people annually. We co-counsel with the major law firms and civil rights firms to bring impact litigation. The following are a few recent examples of that important work:

- **WASHINGTON ET AL. V. U.S. DEPT. HOUSING AND URBAN DEV. ET. AL.:** Represented by MFJ and co-counsel Emery, Celli, Brinckerhoff & Abady LLP, African-American homeowners whose government-guaranteed mortgages were auctioned by the U.S. Department of Housing & Urban Development (HUD) to the highest bidder without due process filed a class action lawsuit in federal court, exposing the discriminatory impact of HUD's Note Sale Program. Since the inception of the lawsuit, HUD has not initiated any new Note Sales. The lawsuit exposes the historic racism that has kept communities segregated, that has blocked African-Americans from sustainable homeownership, and that increases the racial wealth gap in the United States.
- **CALDWELL V. NYC TRANSIT AUTHORITY ET AL.:** Represented by MFJ and co-counsel, Pillsbury, Winthrop, Shaw Pittman LLP, five people with disabilities filed a class-action lawsuit in federal court against New York City Transit (NYCT) for failing to provide due process to people applying or recertifying for Access-A-Ride, the City's paratransit service for people with disabilities. A federal judge approved the settlement of the class action lawsuit. Under the settlement, NYC Transit may no longer simply send generic letters denying services but must provide specific information why an applicant is denied and provide the applicant's file to them for free within 30 days of a request for it. In addition, during the time an applicant pursues an administrative appeal, NYC Transit must continue to provide services until the appeal is decided. Tens of thousands of New Yorkers with disabilities will benefit from this settlement.
- **BERGER ET AL. V. PROSPECT PARK RESIDENCE LLC ET AL.:** Represented by MFJ and co-counsel from the Legal Aid Society and Fitzpatrick, Cella, Harper & Scinto, adult home residents filed a lawsuit to challenge the actions of the New York State Department of Health and Prospect Park Residence regarding the home's inadequate closure plan. In May 2016, the residents and the operator of the assisted living facility agreed to a \$3.35 million settlement, which allowed our clients the opportunity and the means to relocate to appropriate housing. MFJ continues to represent the residents in their case against the Department of Health, with the goal of strengthening the weak regulations that allowed the operator to close the facility with essentially no notice to the vulnerable elderly residents.

Pro bono attorneys and externs from law firms, as well as volunteer attorneys, law students and social work interns provide valuable assistance to MFJ and its clients. These volunteers enable MFJ to serve a greater number of clients and, in the case of the social work interns, to provide more holistic services.

III. Diversion from Litigation

In addition to improving the lives of low-income New Yorkers, OCA funding for civil legal services reduces the burden on the Judiciary. We estimate that, based on our work during the last fiscal year, thousands of cases that could have resulted in litigation were diverted from court. We divert these cases from court by conducting trainings, providing advice, brief services, and advocacy services, and negotiating settlements outside of court. MFJ operates 13 intake/hotlines, each corresponding to a particular practice area. These hotlines are an effective avenue to provide New Yorkers with advice and counsel on how to address a civil legal issue, often preventing the matter from reaching courts.

The following are typical examples of cases where we negotiated resolutions of potential cases, thereby preventing the unnecessary filing of litigation in state courts:

- Through extensive advocacy, MFJ prevented the eviction of an older woman with mental illness who lives in an adult home. Ms. W was served with a 30-day eviction notice for rent arrears. Ms. W had withheld the rent alleging that the adult home failed to provide case management services resulting in loss of government benefits to which she was entitled. MFJ wrote a letter on behalf of Ms. W to the Department of Health (DOH) to investigate Ms. W's complaint. The DOH substantiated Ms. W's complaint and ordered the adult home operator to provide case management services. The 30-day eviction notice was withdrawn, Ms. W continues to live peacefully in the adult home, and she is now receiving appropriate case management services. The matter, therefore, did not reach housing court.
- MFJ obtained a reasonable accommodation for its client, Ms. A, without taking the matter to court. Ms. A and her child, who uses a wheelchair, have Section 8 housing in the South Bronx. Before coming to MFJ for assistance, the building in which Ms. A lives did not have a ramp for use by persons with disabilities and she was dependent on the chance kindness of strangers to help lift the wheelchair when she needed to enter or exit her building to take her child to medical appointments. Ms. A thought that she had to file a lawsuit to fix this problem. Before initiating litigation, MFJ wrote a demand letter to the landlord who agreed to have an architect examine the feasibility of building a ramp. The architect concluded it was feasible and the landlord agreed to have a metal ramp installed. Ms. A can now easily bring her child into and out of their home. A lawsuit did not have to be filed.
- Ms. F, an immigrant worker, was sexually harassed by her supervisor and threatened with losing her job as a construction worker. Ms. F's supervisor made frequent comments about sex, told her she "needed a man," and told her she "should have sex with" one of

her co-workers. Ms. F sought MFJ's legal assistance even though she was afraid of retaliation from her supervisor and losing her job. MFJ advised her that her supervisor's actions constituted unlawful sexual harassment. MFJ explained that retaliation for reporting her supervisor for sexual harassment is equally illegal. With our encouragement, Ms. F spoke to her supervisor's boss who immediately acted to put an end to the harassment and the retaliatory threats. A lawsuit did not have to be filed.

In addition to negotiated agreements, MFJ's advice, brief services, extended advocacy and training often prevent the unnecessary filing of litigation. The following are some recent examples:

- Mr. R was the subject of an eviction case brought by his supportive housing provider. Mr. R resides in Level II housing and was discharged for alleged breach of program rules. MFJ filed an Office of Mental Health (OMH) appeal challenging the provider's termination notices. The OMH Director of Housing agreed with MFJ's argument and contacted the provider. As a result, the provider did not take the next steps of filing a court action, and the client remains housed.
- MFJ represented Mr. B to obtain a HAMP modification on his first mortgage. But, after obtaining that modification, Mr. B was still delinquent on his second mortgage. His second mortgage should have been automatically modified, but his second lien servicer repeatedly failed to evaluate Mr. B for a modification. The servicing of the loan was transferred to a subsidiary which also failed to evaluate for a modification. MFJ advocated with the second servicer and filed multiple Consumer Financial Protection Bureau complaints on Mr. B's behalf because he was not being evaluated for all available programs as required by law. MFJ obtained forgiveness of Mr. B's second mortgage without ending up in litigation.
- MFJ helped Ms. S, a widow who has dementia, get her Disability Rent Increase Exemption (DRIE) benefits reinstated retroactively. Prior to his death, Ms. S's husband had not recertified for the DRIE benefit, leaving her in a precarious position. MFJ worked with Ms. S's son, who had Power of Attorney for her, and we were able to save her tenancy by obtaining the DRIE reinstatement as well as avoiding an eviction proceeding that would have been brought against her.

IV. Conclusion

Mobilization for Justice thanks the Standing Committee on Judiciary and its Chair, Assemblyman Jeffrey Dinowitz, for holding a hearing on this important topic. We are committed to continuing to help New York State expand access to civil legal services. Even with the generous support of the Office of Court Administration, we still, too often, see strong evidence of unmet legal needs. There remains much work left to be done to ensure equal access to justice for the most vulnerable New Yorkers who, without legal representation, struggle to obtain and maintain the essentials of life.