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Jonathan Lippman

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## A Conversation with Chief Judge Jonathan Lippman

### Acknowledgements

The editors of the CUNY Law Review gratefully acknowledge the assistance of Linda Fisher and the Southern District of New York court reporter for the transcription of Judge Lippman's remarks.

**THE CITY UNIVERSITY OF NEW YORK LAW  
REVIEW AND CUNY SCHOOL OF LAW PRESENT  
A CONVERSATION WITH CHIEF JUDGE  
JONATHAN LIPPMAN  
FEBRUARY 3, 2011**

*Dean Michele Anderson welcomed New York Court of Appeals Chief Judge Jonathan Lippman to the City University of New York School of Law on February 3, 2011 to discuss his vision of what fully-realized justice for poor people can look like in the state of New York. The Chief Judge was introduced, first, by CUNY Law Review Editor-in-Chief Natasha Lycia Ora Bannan who commended him for his commitment to fully-funded legal services. The Chief Judge was then introduced by Dean Michelle Anderson who lauded him for his leadership with the Launch Pad for Justice Program, and Professor Natalie Gomez-Velez who discussed the Chief Judge's biography.*

MS. BANNAN: Good afternoon. I would like to welcome everyone on behalf of the City University of New York Law Review. We are thrilled to have our state's highest judge, New York State Court of Appeals Judge Jonathan Lippman, join us as he shares his vision for what fully-realized access to justice can look like for poor people in our state. As the country's public interest law school with a legacy of training poverty lawyers, we obviously thank the Judge for coming here and recognizing that this audience is intimately familiar with how poor people access legal systems. We know this because this is a reality that many of us have lived. We come from families and communities where hiring a lawyer to go into court with you is a luxury. Many of us have helped our parents and our neighbors and even ourselves figure out how to navigate the legal system, how to request a temporary restraining order for a woman who has been beaten, how to fight an abusive landlord, and how to respond to tactics and notices from city agencies about your children. Our own frustrating interactions on behalf of our communities are what led many of us to come to law school and particularly to come to CUNY. We are grateful that our Chief Judge recognizes the imperative for fully funding civil legal services and for leading an honest and open discussion statewide on this issue.

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The Law Review thanks you for your leadership on this significant issue

(Applause)

MS. BANNAN: As you saw when you came in through the doors, we have a succinct but very impressive program for you. Our very own Dean Michelle Anderson will be giving opening remarks to welcome everyone including our guests and VIP's this afternoon, followed by Professor Natalie Gomez-Velez. Now, Professor Gomez-Velez has actually worked with Chief Judge Lippman for several years, so she will be introducing him to us through her eyes, and the Judge's remarks will be followed by a question and answer session moderated by our very own poverty lawyer extraordinaire, Professor Steve Loffredo—constitutional law professor and director of our Economic Justice Project clinic.

I encourage you to write down your questions in preparation for the question and answer session. Law Review staff and board members will be distributing index cards to use for questions. They will also be gathering them, so if you have a question you want to write down, just raise your hand and they will come to you. Those cards will be given to Professor Loffredo who will moderate the question and answer session.

Thank you all for coming. With that I turn it over to our dean, Michelle Anderson.

(Applause)

DEAN ANDERSON: Thanks Natasha. I want to begin by thanking members of the Borough President's office and legislative representatives and the office of Queens Legal Services for joining us today. I also want to thank Assembly Member Rory Lancman who is here and Judge Verna Saunders, an alumnus of the law school. All of these people are terrific CUNY Law supporters and it is great that you could come out to see us today.

In terms of Chief Judge Lippman, I want to begin by noting what is perhaps the obvious, which is that across the United States there are very few of the state's highest-ranking judges who have taken it upon themselves to tackle issues of equity in our courts, poverty and access to justice. Chief Judge Jonathan Lippman here in New York has. It would no doubt be easier as Chief Judge to focus on the ministerial aspects of the job rather than following the seemingly intractable problem of the dearth of lawyers to serve the

indigent and low income clients throughout the system, but Chief Judge Jonathan Lippman is a principled and courageous man.

Newspapers report these days that there are not enough high-paying jobs for law school graduates. Much less reported is the story that there are too many low income and impoverished people with real legal needs facing discrimination, lack of child support, eviction and job loss who are unable to pay attorneys to help them obtain the justice they deserve. Chief Judge Jonathan Lippman is trying to tell that story and it is an honor to welcome him to CUNY School of Law.

CUNY's mission is to graduate outstanding public interest and public service attorneys who will serve law in the interest of human needs. We are focused as well on finding ways to use the law to make the world a more just place, not just for the privileged few, but for everyone; as a result, of course, we share the Chief Judge's passion for improving civil legal services to underserved communities.

We are also partners with the Chief Judge on innovative projects to try to enhance access. The Launch Pad for Justice Program is the brainchild of CUNY Law's Community Legal Resource Network director, Fred Rooney, and Judge Fern Fisher. This program allows recent CUNY Law graduates awaiting admission to the Bar to provide legal representation to low income people in housing court, people who otherwise would not have access to attorneys. The Launch Pad is delivered under the leadership of Chief Judge Lippman. This program has made a huge difference in the lives of many of our graduates and really has helped them pave the way to a public interest career. But much more importantly, it has served hundreds of low income families in Brooklyn and Manhattan facing eviction and foreclosure.

Chief Judge Lippman stood with us at the first Launch Pad to Justice press conference announcing a joint venture with the New York State courts and we want you to know that we have a commitment to find, discover, and implement innovative ways to provide access to justice to communities that are underserved.

Thank you, Judge.  
(Applause)

DEAN GOMEZ-VELEZ: Thank you, Dean Anderson. Thank you, Natasha Bannan and the CUNY Law Review.

Welcome honored guests and our CUNY Law family and good afternoon to all of you. I have to say it is difficult to overstate what a

great honor it is to introduce New York State's Chief Judge Jonathan Lippman. As was mentioned and as some of you already know, just before I came to CUNY Law, I had the privilege to work as special counsel to Judge Lippman while he was New York State's Chief Administrative Judge, so I have known him for a number of years. During that time and since, I've learned what an extraordinary judge, administrator, social justice lawyer and human being Chief Judge Lippman is. You have a short biography of our Chief Judge in your programs. I encourage you to read it. I know you'll be inspired.

Through his career in law and in the courts, Chief Judge Lippman exemplifies what it means to practice CUNY Law's motto, law in the service of human needs. Chief Judge Lippman is a native New Yorker. He grew up on the Lower East Side. His career with the New York State Unified Court System is quite long for someone so young, spanning four decades. He started as a court attorney and worked his way through the ranks to the very top, Chief Judge of the State of New York—what a journey.

Perhaps because of that journey and certainly because of who he is, Chief Judge Lippman is a wonderful example for all of us of what it means to be an excellent public interest lawyer, judge and leader. Chief Judge Lippman's Court of Appeals decisions reflect not only his broad and deep knowledge of the law from a sophisticated, intellectual, technical, and historical perspective, they also reflect his deep understanding and appreciation of the law as an instrument of justice, affecting the lives of real people.

The Chief Judge is also the head of the New York State Unified Court System. In that capacity, Chief Judge Lippman has shaped both the court system and the law to better serve justice in so many ways it is difficult to keep track. Let me just list a few.

You already heard, for example, about Launch Pad to Justice. That is part of a broader effort to improve access to justice giving structural support from the courts so volunteer lawyers, including Launch Pad, can provide assistance—urgently needed assistance—to unrepresented litigants. He has increased the profile and the practice of pro bono service, most recently through the establishment of the Attorney Emeritus Program that recruits senior and retired attorneys to help assist unrepresented litigants with urgent legal needs. He has stepped in to stem the tide of foreclosure abuses by requiring attorneys to meet their obligations to the Court, stopping robo-signing and other abuses of which we have all heard. He has responded in so many ways: emergency prepared-

ness, access to courts, and use of technology. I have a long list here, but I will not go through all of it. Suffice it to say, Chief Judge Lippman has already accomplished more than many people could imagine in one lifetime and, as you will hear today, he is not yet done.

But I have to say perhaps what is most outstanding is that with all these accomplishments to his credit, Chief Judge Lippman is always a warm, welcoming, wonderful presence—a shining example of innovative, effective, savvy, caring, compassionate leadership. As a lawyer, a judge, administrator, public figure and private human being, Chief Judge Lippman is an example for us all. He knows what it means to practice law in the service of human needs, and he is an important member of the social justice family. Thank you, CUNY Law Review, for inviting him and please join me in giving a warm CUNY Law welcome to our Chief Judge, Jonathan Lippman.

(Applause)

CHIEF JUDGE LIPPMAN: Thank you so much. It really is a delight to be here. It feels like a homecoming being here at this great law school. I want to thank my dear friend, Natalie Gomez-Velez, for that wonderful introduction. I want to thank Dean Anderson for having me, and Natasha Bannan who absolutely made me come here. I could not refuse Natasha's invitation. I want to thank Assemblyman Lancman for being here, my good friend Roberto Ramirez and some of the other judges and people from the community who are here today.

This really is a great law school and I am particularly pleased to be here with all of you to talk about things that I so deeply care about and I know you all care about too. Certainly, public service, public interest, and social justice are at the top of my list of concerns as I know they are for all of you at this wonderful place.

I thought today I would talk about a few things that fit into that category, and then I would love to talk to you about whatever you want to talk about. I would first say that you know I feel very fortunate as the Chief Judge—Natalie was too kind about how young I am, but I spent 40 years of my life serving the public in the best way that I can—to have the opportunity every day to do justice and to do good deeds. What are we here for if not that?

What I am particularly pleased with in my present role is that my only agenda is the public agenda because I don't have to be elected or appointed by anybody anymore. I say that in total sincer-

ity. There is no mission that drives me other than to try to do good things. Some of you may or may not have the opportunity to become the Chief Judge of the state, but it's not all it's cracked up to be. It's pretty good, don't get me wrong, but as lawyers you will all have the opportunity to do good deeds. That is the beauty of this profession; there is such a wide berth and there are so many different things you can do, particularly if you care more about serving the public, the most vulnerable in our society, rather than only being concerned about making money. Making money is important, but I think more important when you go into the world is to see how you can make things better for the greater community.

So let me tell you about what takes up my days and what concerns me aside from sitting on all those great cases we have in the Court of Appeals. We are going back up on Monday and for me it's kind of a balance of being able to totally immerse myself in the cases that we have in the court, and yet be able to focus on my other role of being the head of the judicial system in this state as the Chief Judge.

So at the top of my list, and I can't imagine it's not at the top of each and every one of your lists, is the issue of equal justice for all. First and foremost on that list are certainly civil legal services for the poor. It is mind-boggling that in a state like New York 99 percent of the people who go into landlord-tenant court in eviction proceedings are unrepresented. Ninety-nine percent of debtors in consumer credit actions in the state are unrepresented. Ninety-seven percent of people in child support proceedings in this state are unrepresented. Almost half the people who come into court in foreclosure proceedings are unrepresented. Those numbers are staggering. It really boggles the mind that in the year 2011 in the State of New York—the progressive center of this country—this is where we are in terms of representing the poor, the indigent, and the vulnerable in our state.

I think this was all brought home to us by the IOLA crisis last year. IOLA, as you know, is the main way we fund legal services in the state and it is funded from the interest rates from lawyers' accounts. When lawyers put things into escrow, the interest that comes out of that goes to fund legal service providers. Because of the terrible economy and the reduction in those interest rates, IOLA went from \$36 million in its budget to \$8 million in one year. Last year we put a rescue appropriation into the judiciary budget of \$15 million in order to try to save IOLA and keep the doors of our legal service providers open, and we were successful in doing that.

However, we know now that was just a band-aid on a gaping wound, and merely touches the very tip of the iceberg of what we are talking about.

In New York City, for every person accepted for legal representation in civil cases by the Legal Aid Society, eight or nine are turned away. For every person who gets representation, eight or nine are turned back. It's almost incomprehensible. In this last year, 2.3 million people came into the courts of the State of New York unrepresented. Three million people in this state, poor people, had legal problems for which they could not hire a lawyer—could not afford to hire a lawyer. That is why last fall we held four hearings around the state, over which I personally presided, in Manhattan, Brooklyn, Albany and Rochester, to determine the unmet civil legal service needs in this state. I appointed a task force headed by Helaine Barnett, a former head of the Legal Services Corporation in Washington, to support the efforts that we are making at these hearings, to digest what we found out at the hearings and to put together a task force report with some recommendations as to what we could do to close the gap in civil legal services in the state.

Presiding with me at those hearings were the leadership—the entire leadership of the New York State Court System and of the legal profession in this state. The testimony given was eye-opening. We heard from victims whose lives were destroyed by not having attorneys, from people whose lives were salvaged by getting an attorney from one of our legal service providers, and from business people, banks, hospitals, and landlords themselves who testified that the worst thing in the world for them is that people come in to court unrepresented because not only is it wrong, but it hurts their bottom line in terms of what they are trying to accomplish in their institutions.

What the hearings demonstrated unequivocally, is that we cannot let the poor, the indigent, the working poor, the most vulnerable in our society fall off a cliff at the time they most need us. This is absolutely at the core of the issue; morally and ethically in every way going back to Biblical times. The Old Testament says, “Justice, justice shall you pursue for rich and poor, high and low alike.” And every civilized society is judged by how it treats its most vulnerable citizens.

This profession, which you're all joining, and this judiciary, can and should be judged by whether we provide meaningful legal representation to the poor where the necessities of life are in-

volved; the roof over people's heads, their personal security and safety, their livelihood, and the well-being of their families. It is inconceivable that no one would lend a helping hand in this current economic climate, when the ones who are hurt the most are the poor, and the lives being destroyed belong to people who can least afford this kind of terrible economy.

The task force's report showed that at most we are meeting 20 percent of the civil legal service needs in this state, and I think that is a generous estimate. Their recommendation, and what I have implemented, is to put \$25 million into the judiciary budget this year as the first installment over a four-year period of \$100 million going to civil legal services in this state. The total amount now provided to civil legal services from federal, state, local and private sources is \$200 million. And as I said, with that \$200 million, we are meeting at most only 20 percent of the need.

So, over these next four years, we want to increase the amount of funding for civil legal services by 50 percent, starting with \$25 million this year. This is the most ambitious program of its kind in the country, as it should be here in New York. But make no mistake about it; we are going into the teeth of this terrible economy. You read every day in the paper about the Governor, and rightfully so, wanting to cut down on government spending, wanting us to live within our means. I commend him for that. But we also have to stand for something. Yes, we have to live within our means. Yes, we have to eliminate wasteful spending. But this state, and particularly this profession that you are joining, and this judiciary, has to stand for something. There have to be rays of light in this effort to keep government spending under control.

The bottom line is that we have to get across to our political leaders that this issue is as important as all the other priorities that we have in this state, that we don't stop funding our schools, our hospitals or any of the other things that we think important simply because times are bad. This is equally important as everything else that is dear to us in our society. I say this in total sincerity. If we in the profession and we in the judiciary don't stand up for those who cannot help themselves in terms of legal representation in this state, no one will. I guarantee you that fact; no one will. It is up to us to do it.

I have come to the conclusion that those monies for civil legal services belong in the judiciary budget. That is why we put them there. It is our responsibility, all of ours; if we do not take it on, nobody will.

Almost 50 years ago in *Gideon v. Wainwright*, the Supreme Court of the United States said to us that defendants who are haled into court in criminal matters cannot get their day in court without a lawyer. That constitutional right is now enshrined and is an essential part of our justice system. Certainly it is an equally obvious truth to me that when you're dealing with the necessities of life and you have a civil litigant who comes into court without a lawyer to deal with, again, their most basic human needs—the roof over their heads, their families—they cannot get their day in court without having a lawyer. And whether or not there is a constitutional right, there is certainly an obligation on all of our parts.

The Old Testament doesn't talk about rights, it talks about obligations, and access to justice without any doubt is the obligation of the legal profession and the judiciary. This is our mission. This is our reason for being. There is no existence for us without being dedicated to equal justice for all in this state and in this city.

I spoke about *Gideon* and about civil legal services, but I have to tell you, in certain parts of the state even now, the dream of *Gideon* is not being met. In some of our local courts, there are grave issues about whether representation can be provided for all defendants at arraignments, and this is almost 50 years after *Gideon*.

I authored the majority opinion in a case we had last year in the Court of Appeals called *Hurrell-Haring*, which is a systemic challenge to the indigent defense system in this state, and we allowed that proceeding to go forward challenging the very viability of our indigent defense system. However, we all recognize that the answer in the end is not on the legal side, the answer is on the policy side with our elected officials and representatives. I am pleased to say that at least as to indigent defense in criminal matters there is some reason to be hopeful.

This past year, the Legislature passed a bill, creating a new Indigent Defense Board in this state, which I, as the Chief Judge, chair, and the Office of Indigent Defense, of which we will soon announce a director. This office and the Indigent Defense Board will oversee indigent defense and monitor representation in all the different parts of the state with the goal of providing additional incentives to localities to upgrade and improve their representation of criminal defendants, along the lines of what we have been able to do in New York City where legislation was passed setting caps on the number of cases that a criminal defense attorney can handle at any given time. We have too many cases and not enough attorneys, because we can't pay for the attorneys. And when the

caseloads are large, we cannot have the quality of representation that *Gideon* was supposed to guarantee.

So I am very pleased about that. In the end the answer there, too, is going to be additional state funding, because again, this is something that is a priority in this state, and in this particular case, a constitutional right.

Another area I thought I would mention to you in relation to access issues is wrongful convictions. In the twenty years that DNA technology has really come to the fore in this state and around the country, 266 human beings nationally have been exonerated based on DNA evidence, 27 of those in New York alone, with scores of others exonerated on the basis of non-DNA information. So, I appointed a group called the Justice Task Force—headed by a colleague of mine at the Court of Appeals, Theodore Jones, and the D.A. of Westchester County, Janet DiFiore—to examine with a blue ribbon group, which includes prosecutors, defense attorneys, police, scientists, and social scientists, the systemic reasons behind why we have even one wrongful conviction in our state. It is a two-fold tragedy when someone is wrongfully convicted of a crime. You have the tragedy of an innocent human being and his or her family being punished, and that of a guilty person who is on the streets free to commit more crimes.

What we have to do is get answers to all these questions. What went wrong, systemically? Why did the police and prosecution believe they had the right person? What went wrong in the court system in hearing that case? Was their representation what it should have been? Why is it that 60 percent of the people wrongfully convicted of crimes in this country are African-American? Why are all those things the case? We are systematically examining over 50 cases in New York to try and determine the causes and how to cure them. Many of the causes known to us include wrongful identifications, false confessions, failure to preserve evidence and issues of DNA testing—forensic science tells us a lot. Within the upcoming weeks, the justice task force will present recommendations based on their findings as to what systemically is wrong with our justice system, because even one innocent person convicted is one too many.

Juvenile justice is another area that is a crime in this state. It is scandalous that we send our kids to these horrible detention facilities upstate where they go in as kids and they come out as hardened criminals. These are high schools for crime. A federal report published this year indicated that juvenile detention centers have

to be closed and reformed. To Governor Cuomo's credit, in his State of the State Address, he advocated closing these facilities. The last thing our family court judges want to do is to send young people to these detention centers. There is a 90 percent recidivism rate for kids who go to these detention facilities. And their crimes, about half the time, are not even equivalent to felonies on the juvenile level; they are mostly misdemeanors. What we need are more community-based and alternative programs, rather than sending our children to these horrible places. What we propose, what I propose, is that the Court system take over juvenile probation so that we can put into place alternative programs that focus on the well-being of our children and not on making them criminals before they even reach adulthood.

(Applause)

CHIEF JUDGE LIPPMAN: And the last area I want to talk to you about before you talk to me is the foreclosure crisis in this state. It is really frightening when you read the newspaper every day and you see that the people bringing the foreclosures, the big banks, very often cannot vouch for the legitimacy of these proceedings. In order to address this, I have tried to turn it back on the lawyers and require them to give us a written affirmation that they have spoken to their client and are vouching for the fact that the present proceeding is real and not one that comes from some kind of robo-signing mill putting people at the risk of losing their homes when there's nothing to back up the proceeding. Of course, if it is real, we treat it on the merits when it comes in. However, it is the integrity of the court process that is at stake, and I think it is the least we can ask of our Bar, of lawyers, to take their professional obligations seriously, to understand that they are officers of the Court subject to professional discipline and that it is unacceptable that they do not know what their client's proceeding is about. It is their job as lawyers, to talk to the people they represent.

Interestingly enough, when we put this affirmation into place, the number of foreclosure proceedings in this state plummeted overnight. Why do you think that is? 80,000 foreclosure proceedings pending in the State of New York and every one of them has to be legitimate. That is what we are trying to accomplish by, again, taking it upon ourselves as lawyers to say is there real substance here.

So those are just a few of the things that I get to deal with every day, and I can only tell you and reaffirm to you that to me the only

thing that matters is having the opportunity as the Chief Judge to do good deeds every day for the world that we live in and make sure that the court system is responsive to the society around us. I encourage all of you to do the same; you are at a great place. This really is a place that drums into you what is important and what is not important about our profession and about the justice system. Again, it is okay if you want to make a buck along the way, that is not a terrible thing, but take this license that you're going to have as a lawyer to do good deeds, to serve the public, and to serve your community. I can only tell you as someone who has not earned a buck—you may have noticed what a judge's pay is in this state—for all his professional career, that I wouldn't give it back, not one second of it, for anything in the world, because being a lawyer, being a judge, being a part of this great community that you're going to join, is satisfaction in and of itself—the satisfaction that you get from helping people.

It is just a delight and a pleasure to be here, to be with all of you at this great place.

So now I'd love to hear from you. Thank you.

(Applause)

PROF. LOFFREDO: What do you see as the role of the private bar and pro bono in addressing these issues?

CHIEF JUDGE LIPPMAN: I should have mentioned that. I think it is an important piece of the puzzle. I do not think that any amount of money in the world is going to solve the problem of legal services for the poor. It is just that the need is too great. So there really is a need for pro bono efforts, and court system programs to help the poor. Lawyers in this state contribute over 2 million hours a year to pro bono. It is really not enough, but we do not think we have to do it by shackling lawyers and mandating them to perform pro bono. I think in this Bar all of you recognize the need for pro bono services.

Natalie Gomez-Velez mentioned our Attorney Emeritus Program. We try to get attorneys who are about to retire or are retired to offer pro bono services. Many of them want to do something meaningful but do not know how to do it. So, when the attorney is going through the registration process, there is a box they can check if they want to be an attorney emeritus and we immediately put them in touch with the legal service providers. We think this is an extremely untapped resource.

What we are told is that in the next decade 40 percent of the lawyers presently practicing law will either be retired or will be on the verge of retiring. Forty percent—this is the silver tsunami; the baby boomers are all coming to that point in their lives. We think this is a great resource, but let me tell you, we want the younger folks, too, and pro bono is absolutely a part of this equation. Again, the need is overwhelming and we hope to be building a systemic way to get money for civil legal services by holding these hearings every year to figure out what the unmet needs are, putting them in the judiciary budget and hopefully getting some results.

PROF. LOFFREDO: Thank you. Here is a question asking you to speak about your view on the effect that federal restrictions on Legal Services Corporation offices have had on the administration of justice and access to justice for the poor.

CHIEF JUDGE LIPPMAN: Terrible. It is terrible what is going on at the national level and the bill in Congress that I believe is part of the agenda, the new agenda particularly in the House, to do away with the Legal Services Corporation's funding in its entirety. So, the effect has been devastating. Again, when you look at all of the sources of legal service funding in the state, you can see that we used to be able to depend on the federal government for a decent amount of that, but I do not think that we can depend upon them at all anymore. This is why we are saying that in New York we have to take it upon ourselves; our state government has to take it upon itself to meet this urgent need.

PROF. LOFFREDO: According to the numbers you quoted in your talk, it appears that in order to meet the unmet legal needs of the poor in New York State you would need about \$1 billion?

JUDGE LIPPMAN: I would say that is a conservative number.

PROF. LOFFREDO: Do you believe that is attainable and are there not better ways to structure the court system for pro se litigants?

CHIEF JUDGE LIPPMAN: I believe we have to build the plumbing to adequate funding for civil legal services. We live in the real world, and certainly right now one of the things that the task force report took into account was the economic situation in the state. That is why we asked for \$100 million over four years and not

a billion dollars. But I think that if we can systemically build a process, over time it is attainable. In the meantime, not only do we need whatever funding we can get, not only do we need pro bono services, but we are also trying to make the court more accessible. We have self-help centers where the unrepresented can come into the court and get the assistance that they need, and pro se clerks in the court who can assist pro se litigants.

But you know what? They need lawyers. Certain areas of the law, it is very, very technical. That is why you are all going to school for three years. Forget going into court, just dealing with the bureaucracy, it is a job and a half, particularly accessing the federal government in terms of benefits for people of all different kinds. They need a lawyer. People who may be poor or uneducated cannot do it on their own.

What was most interesting about the hearings that were held was that the poor in this state are not limited to the undereducated or immigrants. We have testimony from plenty of people with college degrees and PhDs who could not afford legal representation. So I think this cuts across all the lines.

I would also say to you that the working poor are probably the worst off. Our task force proposed the cutoff level for civil legal services for the poor be set at 200 percent of poverty level. This includes very much the working poor. For instance, if you have a family of four that earns \$44,000 a year, that is 200 percent of the poverty level. Now add any significant legal problem in a family of four with \$44,000 in income, and see if they can afford to hire a lawyer. Not going to happen. You need a legal service provider; you need someone who is going to give you some help. So these are people who are going out every day, paying their taxes, trying to do what they are supposed to do, and yet they cannot get legal representation to meet their very basic needs.

PROF. LOFFREDO: Here's a question of whether your vision of civil representation includes representation for prisoners in disciplinary hearings and other prisoner legal issues.

CHIEF JUDGE LIPPMAN: Yes, I think it is a good issue.

PROF. LOFFREDO: And your position on the defunding of Prisoners Legal Services and their loss of funding.

CHIEF JUDGE LIPPMAN: They have been in touch with us and I have very much indicated that I see this within the spectrum

of what we are talking about in terms of providing meaningful representation. Prisoners Legal Services are facing these same problems and are on life support, so we very much see that as one of the areas that we would like to address as part of the systemic gap in providing meaningful representation in judicial settings in this state. The more funding we can get, the more we can spread it around, which is the whole issue. However, I cannot impress upon you enough what a tremendous impact it would have on legal service providers in this state if we can get \$25 million this year, particularly given what is going on.

And those of you who are looking to go into that area of the law, in a lot of our rural areas in the state, the lawyers for the legal service providers are the working poor themselves. Starting salaries are really low and simply ridiculous. What are the values that we place in our society that these people are running around in rural areas where transportation is so difficult giving their professional lives to these issues in the community and they cannot support their own families?

PROF. LOFFREDO: What role do you see mediation and alternative dispute resolution playing in addressing these issues?

CHIEF JUDGE LIPPMAN: A significant one. One of the recommendations made in the report was to explore greater efficiencies so that the money that we already have goes further, and implementing mediation alternatives is one way of increasing efficiency; it is all part of attacking this whole problem in a holistic way.

PROF. LOFFREDO: Here's one a little further afield. The recent Supreme Court decision in *Citizens United* has greatly hurt poor people's access to the political process. What do you view as the Court's role in undoing that structural harm?

CHIEF JUDGE LIPPMAN: Well, we don't comment on U.S. Supreme Court decisions. However, I will say that I think we have a real problem in this country and this state in terms of campaign contributions, not only in national races, but in judicial campaigns here in New York. We have lawyers who contribute to the judges' campaigns and these same judges sit on the very cases involving these same lawyers. This is a real issue for us, and I can tell you that we are looking at this issue very carefully, based on a lot of the decisions, but particularly *White v. Minnesota* and certainly, *Citizens*

*United*. I thought the *Caperton* case, which I know you are all familiar with, is one that resonates most with us in the courts. Again, we don't make the policy as to McCain-Feingold and campaign contributions, but *Caperton* was a case where the Chief Justice of West Virginia was elected and the major contributor was a mining company owner who contributed a significant amount of money towards his campaign. The judge then sat on the very case that was of great importance for this mining company and cast the deciding vote in favor of that contributor. In its decision, the Supreme Court of the United States said that the perception of impartiality of the Courts is destroyed by this kind of situation where it was so obvious that this contribution was disproportionate in terms of the money that the judge raised.

So it is a very serious issue. And again, while I am not permitted by our canons to comment on those kinds of cases, I think I am permitted to say this is a very serious problem, particularly within our field.

PROF. LOFFREDO: Lastly, you have a question about the prospects for a state constitutional right to counsel in civil matters.

CHIEF JUDGE LIPPMAN: Every time I speak about this subject I get this question and I do not know the answer—the Chief Judge does not know everything, right? It has not really bubbled up in that form. I believe the most logical forum where it might arise is in (or through) housing court, where you are dealing with the fundamental issue of having a place to live. What can be more basic? But it really has not manifested itself in that way, though I would not be surprised if it does. Can anyone ever have imagined in 1953 that there was ever enough money and logistics to say that every person in the United States who has a criminal case and does not have the money to pay for a lawyer is entitled to one? Could we ever have envisioned that possibility?

What we have tried to do as a very important distinction, recognizing that at this point there is no constitutional right, is not to bite off more than we can chew. That is why the way we have framed this issue as one where, when dealing with the necessities of life, you must have a lawyer. If you were to take the position that every person in the United States in every civil case should be entitled to a lawyer at public expense, well, there just would not be enough CUNY Law schools in the world to find these lawyers.

So, we are focusing on saying that when a fundamental human right is at stake, you need to have a lawyer. That is exactly the fun-

damental principle we are asking the legislature to fund and to recognize. Again, now is the time above all when the poor, the indigent, the elderly and the disabled need this funding, because they are the people who are most impacted by this economic downturn.

(Applause)

MS. BANNAN: I would like to thank everyone for coming, particularly the law school staff for making this the best event ever, and to thank you, the court reporter, who has been here writing down everybody's every word. Could we have a round of applause for Ms. Fisher, please? Thank you again.

(Applause)

