

Foreclosure Help For Homeowners

by Debra Willsey, LASNNY Foreclosure Attorney

our mission

The Legal Aid Society of Northeastern New York provides effective, free civil legal services and education to and advocacy for people with low income or other barriers to accessing the legal system. We secure basic needs, protect and preserve legal rights, provide equal access to justice and seek fairness and dignity for our clients.

Serving the low-income and needy residents of Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, St. Lawrence, Schoenectady, Schoharie, Warren and Washington Counties, and the St. Regis Reservation.

executive director

Lillian M. Moy

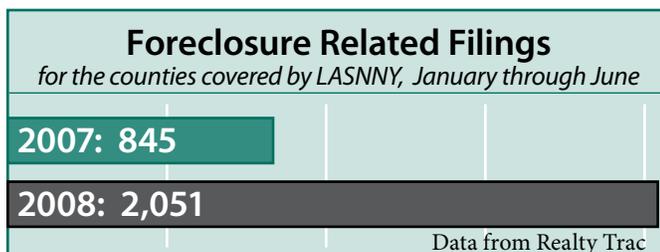
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The Legal Aid Society of Northeastern New York (LASNNY) has established a Foreclosure Prevention Project to serve low and moderate income homeowners at risk of foreclosure. The program will serve homeowners in all 16 counties served by LASNNY, covering most of the Third and Fourth Judicial Districts, including Albany, Schenectady, Rensselaer, Columbia, Green, Fulton, Montgomery, Schoharie, Saratoga, Warren, Washington, and further north, Clinton, Essex, Franklin, Hamilton and St. Lawrence Counties.



The Legal Aid Society will serve as the single point of entry for the project, so that clients will have one number to call when seeking legal services in a foreclosure matter. In the Capital Region, initial intake, triage and case assignment will take place through the Albany office, through Debra J. Willsey, Supervising Attorney for the Foreclosure Prevention Project. Cases in the northern counties will be handled through Legal Aid's Plattsburgh and Canton offices. Cases in Fulton, Montgomery and Schoharie Counties will be handled through Legal Aid's Amsterdam office.

In the Capital Region, Legal Aid is collaborating with The Legal Project and Empire Justice Center, who, together with Legal Aid and their own in-

house staff, will assist with developing a pro-bono and reduced fee panel of attorneys to assist with providing legal representation and providing training to lawyers willing to assist homeowners at risk of losing their homes to foreclosure. The Legal Aid Society is also working with local county bar association lawyer referral services for legal assistance as needed.

Additionally, over the last several years, the Legal Aid Society has developed a very close working relationship with various HUD certified housing counseling agencies, including the

Affordable Housing Partnership, Albany County Rural Housing, Better Neighborhoods, Inc., and TRIP, through a collaborative effort known as Home-Save. These agencies have been in the

trenches, working with homeowners to help them remain in their homes, long before the current "foreclosure crisis" became apparent. The participation and assistance of the housing counselors in the foreclosure process is critical to developing options to assist homeowners out of foreclosure, and the Legal Aid Society will work closely with its housing counseling partners.

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The 2008
JUSTICE FOR ALL CAMPAIGN
 ends on February 28
 donate on line at www.lasny.org
 or use the enclosed envelope

Do Justice Today, Not Tomorrow

Once again we face financial uncertainty as the legislative session begins. I am heartened by Gov. Paterson's restoration of \$1 million for civil legal services into the Executive budget. But we all know this is far from adequate funding to meet the needs of our clients – even in these difficult times we look to the state to restore at least \$5.2 million in funding for civil legal services. At a time when the economy turns downward and social services are forced to retrench, the Legal Aid Society's clients will be hardest hit. With no cushion and no safety net, we anticipate that our services will be more needed—by even more low income residents—than ever before.

Recently I was asked if the demand for legal services is on the rise? The answer is unequivocally, yes. Three years ago when the Legal Services Corporation asked us to count the number of applicants for legal services who had to be turned away at the door due to limited resources, we estimated that we were unable to serve over 9,000 people. In the last year, based on two separate sam-

plings we conducted for the Interest on Lawyers Account Fund, we estimate that we will turn away over 9000 people due to insufficient resources. Given that we have more staff than ever before, I can only attribute this significant change to the increased demand for our services.

With the Unified Court System, the NYS Department of Banking and NYS Division of Housing and Community Renewal, the Legal Aid Society is preparing to address the need for representation at mortgage foreclosure conferences and in foreclosure proceedings. Partnering with local housing counseling agencies, The Legal Project and the Empire Justice Center, the Legal Aid Society will serve as the single point of entry for representation of borrowers facing foreclosure of subprime and high cost loans. We will also work closely with local bar associations, including the Albany County and Schenectady County Bar Associations. You'll hear from us about upcoming trainings for private attorney volunteers—I hope you'll consider assisting those in our community who face the imminent loss of their homes. Homeownership is one of the only ways a low income person can hope to improve their family's future in our country—saving a family's only asset helps the family and helps preserve the stability of our low income neighborhoods.

In closing, if you know me even a little, you know that the personal and professional often merge for me. I become close friends with my colleagues and talk about work every chance I get. One such dear friend and colleague, Shari Zimble (pictured above), died on October 23rd after a long battle with cancer. An outstanding lawyer, Shari embod-



Shari Zimble

ied the passion for justice, empathy for clients, and zealous advocacy I hope to see in every Legal Aid attorney. After practicing law in Worcester, Mass., Shari went on to teach and mentor many other legal aid lawyers at Harvard Law School's Clinical Program and the

Center for Legal Aid Education. She was a wonderful mother and wife and leaves her children, Risa and Davin Paley-Zimble and husband, Mark Paley. Shari's untimely death at age 49 is a heartbreaking reminder to live life fully and do justice today, not tomorrow. As Anne Frank said, "How wonderful it is that nobody need wait a single moment before starting to improve the world."

May you live your life fully and join with me and all my wonderful colleagues at the Legal Aid Society to do justice in the year to come. I wish you and yours a happy, healthy, hopeful and prosperous new year.

Legal Aid matters

Winter 2009

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Offices:

55 Colvin Avenue, Albany, NY 12206
(518) 462-6765, (800) 462-2922

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Client Programs:

- Children's Law Project
- Community Legal Education and Training
- Disability Advocacy Project
- Domestic Violence Legal Assistance Project
- Foreclosure Prevention Project
- HIV/AIDS Legal Consortium
- Homelessness Intervention Project
- Legal Aid Society Homelessness Project
- Nutrition Outreach & Education
- Owning is Power
- Protection & Advocacy for the Developmentally Disabled
- Protection & Advocacy for the Mentally Ill
- Saratoga Springs Homelessness Prevention Program
- Senior Legal Services Program
- Upstate New York Immigration Law Project

Volunteer & Donor Programs:

- Java and Justice
- Justice for All Campaign, Annual Appeal
- Law Day Celebration
- Legal Aid Endowment Fund
- Private Attorney Involvement Program (PAI)

JUSTICE FOR ALL



Dear Friends and Colleagues:

As co-chairs of the Justice for All Campaign we are writing to tell you what LASNNY accomplished, thanks to your firm's support, and to ask you to renew this commitment by contributing again to the 2008 Justice For All Campaign at the leadership level of \$225 per attorney.

Founded in 2004 the Justice for All Campaign replicates a national model of law firm giving to aid in the provision of legal services to the poor and helps fulfill our professional obligation as attorneys.

LASNNY has two significant challenges:

- serving more clients in an economy which has profoundly impacted low income people -- LASNNY already turns away approximately 50% of those people who seek its service.
- attracting and retaining attorneys by increasing salaries that are currently below that of the public sector

In 2007 the Justice for All campaign enabled LASNNY to do the following:

- LASNNY provided legal assistance to a remarkable number of poor and low income families and individuals — 33,000.
- LASNNY closed 6,222 cases at a cost of \$650 per case.
- LASNNY is adding more than new attorney positions to serve more clients; and
- LASNNY has not only increased its starting attorney salaries to \$40,000 but instituted a loan forgiveness program to help alleviate the burden of law school debt.

In short, the response to the 2007 Justice for All Campaign made it possible for LASNNY to progress towards its goal of justice for all.

We now ask your firm to donate \$225 per attorney in order to maintain this momentum.

As lawyers we know how important it is for a client to have a skilled advocate. We also have a special duty to lead the way in making legal assistance available regardless of income. In fact the generous support that LASNNY receives from the legal community has a significant impact in leveraging funding from the state legislature, foundations and philanthropic individuals.

LASNNY would be pleased to have your firm listed as a leadership donor in this year's advertisement in the 2009 Business Review Book of Lists. Thank you again for your firm's support of LASNNY.

Please send your tax-deductible gift directly to LASNNY in the enclosed envelope. Do not hesitate to contact us if you have any questions or need more information.

Sincerely,


E. Stewart Jones
Co-Chair


Thomas J. O'Connor
Co-chair

P.S. LASNNY staff would welcome the opportunity to present its new video: Legal Aid Matters at your law firm. It is also available at www.lasnnny.org and on www.youtube.com.

**Donate NOW to our
Justice for All Campaign
online at www.lasnnny.org
or use the enclosed envelope
Deadline Feb. 28**

Now It's Her Turn

I remember my very first conversation with Angela Mackowski. Angela, who lives in rural Clinton County, contacted our Plattsburgh office to ask for assistance with a guardianship matter. Angela stated she was trying to obtain guardianship over her sister Kimmy, whom she cares for in her home. She explained that Kimmy was severely mentally disabled, in critical need of extensive dental work and in a lot of pain. However, when Angela tried to bring Kimmy to the dentist, she was told the dentist could not work on her sister's teeth unless Angela had guardianship over her. Angela contacted the Plattsburgh Legal Aid

shouldn't have to suffer while "waiting her turn."

office for help, and the staff there sent her file to the Albany office, to place with a private attorney. Eventually, I called Angela to follow up on the request. When asked why she hadn't contacted me before I called her, I was not expecting the response Angela gave. She felt that since she was getting something for free, she should just wait her turn. At that point I had two goals: one, find an attorney who would assist Angela and, two, prove to her that she deserves good legal help and her sister shouldn't have to suffer while "waiting her turn."

I found William E. Russell of Russell and McCormick in Keeseville,

NY. Mr. Russell started out as a solo practitioner in Keeseville in 1973, sat on the Board of Directors for North Country Legal Services, is a recipient of the President's Pro Bono Award, and was a former Bar President for both Essex and Clinton Counties. In 1996, Michael D. McCormick partnered with him to form their current practice, located at 101 Clinton Street. Their growing practice now includes Bill Russell's son Andrew J. Russell. You can hear the pride in Bill's voice as he speaks of Andrew's accomplishments. Andrew graduated from Albany Law School May 16, 2008 and was sworn into practice January 22, 2009. Under his father's supervision, Andrew accepted the Mackowski case as his first pro bono case, and is working on securing guardianship of Kimmy for Angela. Andrew and Bill Russell can add helping Angela Mackowski and her sister Kimmy to their many accomplishments. Angela won't have to worry again about bringing her sister to the doctor for a check-up, only

PROFILE: PAI volunteer



Andrew Russell from Russell & McCormick. Heroes aren't found only in big cities.

to be turned away—and Kimmy can now get the care she deserves from her doctors. As Angela said, Kimmy is a person too.

Angela recently said the dentist agreed to do Kimmy's dental work since Angela is in the process of gaining guardianship. The dental work is completed and Kimmy is now out of pain. When I asked Angela and Mr. Russell what they thought about their pro bono experience, they both responded with the same answer—they wished more people could be helped.

— Tiffani Thomas, LAS Paralegal

Thanks to the following attorneys who have accepted cases

From August through December 2008:

Albany County:

Albany Law School (27)
 Christopher Amato
 Jerrold Bartman (5)
 David Blabey
 Adam Breault
 Daniel Centi
 Vincent Chen
 Guy Criscione (6)
 Michael Figgsganter
 Leigh Hoffman
 Robert Knightly
 Michael J. O'Connor (11)
 Anne Reynolds-Copps
 Jena Rotheim
 Joy Samson-David
 Jeffrey Sherrin
 Richard Weiskopf

Clinton:

Keith Bruno
 Heidi Dennis (2)
 Cheryl Maxwell (4)
 William Russell
 Marc Schneider (2)

Columbia:

Jonathan Cohen
 Carl Whitbeck
 Franklin County:
 Stephen Vanier

Greene:

Eugenia Brennan (2)
 John Kinglsey

Montgomery:

Sherri Vertucci

Rensselaer:

Tony Arcodia & Marc Ehrlich (2)
 Robert William Johnson, III (2)
 Geri Pomerantz

St. Lawrence:

Alice Carrothers (2)
 Michael Crowe
 Richard Gardner (13)
 Natasha Hill
 Verner Ingram
 Charles Nash
 Cathleen O'Horo
 Daniel Pease
 Thomas Wheeler

Saratoga:

John Cromie
 David Devall
 Rodriguez & Doern
 Robert Katzman
 Laura Lin (2)
 Emily Muller
 Martin Pozefsky
 Kevin Wheatley

Schenectady:

Peter Coffey
 Peter McHugh (3)
 Schenectady County Bar Association (13)
 Greg Schaaf
 Laura Silva

Warren:

Lewis Roth
 Michael Toomey

Legal Aid matters

"...if the personal liberties enshrined in our Constitution are real and not rhetoric, **Legal Aid matters.**"

—James Barba

Save The Date:

Ethics for the Domestic Violence Practitioner

3.0 CLE hours in Ethics

March 6, 2009

Johnstown Moose Family Center, 109 S. Comrie Ave.

The final of four trainings, co-sponsored with the Rural Law Center, concerning ethical considerations in assisting victims of domestic violence.

For information or to register, contact the Rural Law Center, (518) 561-5460 or (866) 324-1183



Law student helps people stay in their homes

Albany Law School student **Audrey Kim** was LASNNY's Real Property Law Section Fellow last summer. The New York Bar Foundation awarded a grant to Legal Aid for the fellowship. Ms. Kim focused her time on housing matters where she assisted staff attorneys Ricja D. Rice and Malcom A. McPherson. Ms. Kim worked with the Homelessness Intervention Program, helping people who were in danger of losing their homes.

As a third-year law student, Kim feels that this experience has helped her to make the decision to pursue a career in public service.

News from the North Country

Happy New Year! I hope you all included taking more pro bono cases this year as part of your new year's resolutions. Thanks to all the dedicated attorneys who assisted clients last year. It was especially busy due to the recent boom in consumer issues. A very special thanks to all of the attorneys who assisted people with their legal issues in the North Country:

Keith Bruno, Esq.
James W. Clute, Esq.
Heidi Dennis, Esq.
Cheryl Maxwell, Esq.
Judith Pareira, Esq.
William E. Russell, Esq.
Mark A. Schneider, Esq.
Stephen Vanier, Esq.

It was nice to see many familiar faces



at the "Ethics for the Domestic Violence Practitioner" training on November 21, 2008 in Plattsburgh. For information on future trainings and upcoming events please visit our website at www.lasnny.org. These trainings are offered free to attorneys who are PAI volunteers.

I encourage you to become a PAI volunteer. The Legal Aid Society offers many volunteer opportunities to choose from. One of those is our Pro Se Divorce Clinic, wherein the attorney assists clients in a group setting on how to complete their uncontested divorce. Please contact me (518) 689-6334 or e-mail me at tthomas@lasnny.org.

— Tiffani Thomas
LAS North Country PAI Paralegal



Holiday Revelry



LAS honored Guy Criscione with the Distinguished Service Award at the annual Holiday Party on December 11. Pictured here, with his assistant Wendy Reidy

(left) and on the right, sister-in-law Eileen Criscione and Lillian M. Moy, LASNNY's Executive Director.

Also joining in the festivities were Theresa Marangas, Partner at Wilson Elser; Kristie Cinelli of LASNNY, and Wilson Elser Associates Doug Kemp and Elizabeth J. Grogan.



Smiles + Service = Satisfaction

PROFILE: *board member*

Gracious and smiling, Ellie DeCoursey ushers you into her office. Immediately apparent are the determination and compassion that have resulted in her association with the Legal Aid Society. As a Board Member for LASNNY, Eleanor M. DeCoursey has a strong commitment to its mission. She is a leading family law attorney with the law firm of Gordon, Tepper & DeCoursey, advocating on behalf of

involved in the Private Attorney Involvement (PAI) Referrals Program. Through her firm, she also began to take part in the Justice For All Campaign in 2002, when invited by Peter Coffey, her board member predecessor. DeCoursey credits the infectious enthusiasm of Peter Coffey and other colleagues from the Schenectady Bar Association, as spurring her now deep commitment to the Legal Aid Society's work. Eventually, she joined the LAS Board of Directors.



towards the Legal Aid Society mission of providing assistance, representation, advocacy and justice to people who otherwise couldn't afford it.

Lillian Moy says, "As a PAI volunteer, Ellie is both familiar with and committed to the Legal Aid Society. She's a hard working board member and a huge asset to us."

DeCoursey's impressive list of professional community involvement includes: the Character and Fitness Admissions Committee for the Fourth Judicial District, the NYS Unified Court System Family Violence Task Force and the Statewide Matrimonial Commission, the NYS Bar Association Family Law Section Executive Committee and Legislative Committee, the Schenectady County Bar Association, and The Legal Project of the Capital District Women's Bar Association. She has also lectured on divorce, custody, and family law.

Legal Aid Society Board of Directors

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clients who are going through very difficult times. She gains her greatest satisfaction from having a direct and profound effect upon the lives of her clients. Quality of service is the most rewarding aspect of her profession; this standard carries over into her support for the Legal Aid Society and its commitment to providing equal justice for all.

Born in Brooklyn, DeCoursey saw "that lawyers had the ability to challenge everything and protect individual freedoms." She earned her B.A. in 1980 from Marist College; in 1984 she completed her Juris Doctor degree from New York Law School and was admitted to the New York Bar. She arrived in the Capital District in 1987, and was pleased with the quality and vibrancy of her inspiring colleagues in the area's professional legal community.

While a member of the Schenectady County Bar Association, DeCoursey met LASNNY's Executive Director Lillian M. Moy, whose passionate advocacy for the Legal Aid Society compelled DeCoursey to become

DeCoursey resides in Niskayuna, NY with her husband of 26 years, attorney Brian Lawlor. She recently received the Stanley A. Rosen Memorial Award for Service to Victims of Domestic Violence from The Legal Project, which is presented to an attorney who has litigated with professionalism and integrity on behalf of domestic violence victims.

DeCoursey firmly believes "in safeguarding the legal rights of individuals who cannot afford representation." With increased layoffs and mortgage foreclosures, the need has never been more pressing. She is happy to devote time and support

Funding:

The Legal Aid Society of Northeastern New York is funded by grants from the Legal Services Corporation, the U.S. Department of Justice, the Interest on Lawyer Account Fund of the State of New York, U.S. Department of Housing & Urban Development, New York State Legislature, NYS Office of Temporary & Disability Assistance, NYS Division of Criminal Justice Services, NYS Department of Health, NYS Commission on Quality of Care and Advocacy for Persons with Disabilities, Albany County Department for Aging, Fulton County Office for Aging, St. Lawrence County Office for the Aging, Washington County Office for the Aging, St. Regis Mohawk Tribe Office for the Aging, City of Saratoga Springs, City of Albany, Bank of America as trustee for the Frederick McDonald Trust, New York State Bar Foundation, United Way of the Greater Capital Region, Legal Aid Society of Rochester, Albany Law School, Nutrition Consortium of the State of New York, The Community Foundation for the Capital Region's Sara Huntington Catlin Memorial Fund, Greenberg Traurig Fellowship Foundation, Assemblyman Robert Reilly Salary Fund, Equal Justice Works, NYS Unified Court System, Office of Court Administration, NYS Division of Housing and Community Renewal, NYS Division of Banking, Law Firms and private contributors through the Justice for All Campaign.

Foreclosure Crisis

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New York's Program Re Subprime Mortgage Foreclosures and Homeowners

While the Federal Government and individual lenders continue to weigh options to assist in the current crisis, New York State took the initiative to develop a program and provide funding for legal services and housing counseling services for those facing foreclosure in connection with various forms of subprime loans, including high cost loans, certain variable interest rate loans, and alternative mortgage products, including those that allow for an interest only option. The protections of the statutes in connection with this program apply to the designated types of loans originated between 2003 and 2008.

Under the sub-prime program the homeowner has the right to request a settlement conference with the Court and lender, for all covered foreclosure actions started before September 1, 2008. Homeowners in foreclosure in connection with the specified mortgage loan types, are notified by OCA or the assigned judge of their entitlement to such a conference, and must advise the Court if they wish to participate in such a conference. In connection with the notice provided by the Court, homeowners are given information about legal services and housing counseling services available, including agency names, addresses, and phone numbers, to assist them in connection with the conference. The Legal Aid Society of Northeastern NY should be the contact for legal services assistance.

For any covered loans for which a foreclosure action has not been commenced by September 1, 2008, the lender must provide the homeowner with a 90 day notice before commencing the action. The 90-day period is intended to give the parties an opportunity to discuss various options to resolve the issues, prior to initiation of legal proceedings. The

notice is to provide homeowners with information in connection with various housing counseling agencies and legal services providers available to help them with the mortgage default issues they are dealing with.

Once a foreclosure lawsuit related to one of the specified types of subprime mortgages is commenced, after September 1, 2008, the lender must file, with the affidavit of service, a new Request for Judicial Intervention developed by OCA, which contains a place for indicating whether the subject mortgage is covered under the new law. If so, the filing of the RJI will trigger not only the assignment of a judge to the matter, but the scheduling by the assigned judge of a mandatory settlement conference within 60 days of the RJI filing.

Again, homeowners will be advised of the scheduling of the mandatory conferences, and of the availability of legal and housing counseling service providers to assist them. It is the hope and goal of those serving homeowners through this subprime program and through the general foreclosure prevention program, that homeowners facing the loss of their

homes through foreclosure will make use of these services, and actively participate in the conferences and other opportunities to work with the Court, counselors and lenders to try to save their homes.

The Foreclosure Prevention Project, through the Legal Aid Society of Northeastern New York, remains ready, through its in-house staff and its collaborators and partners, to assist homeowners facing foreclosure at every step in the process, including defending foreclosure litigation and representing clients at the settlement conferences.

In the Capital District, contact the Foreclosure Prevention Project at the Legal Aid Society of Northeastern NY at 1-800-462-2922.

The Legal Aid Society is honored to be at the forefront of providing desperately needed legal services to those facing one of the most devastating losses possible, loss of the family home.



*Debra Willsey, LASNNY
Foreclosure Attorney*

Rising Food Costs and the Thrifty Food Plan

While the cost of food rose by 7.5 percent from October 2007 to September 2008, the cost of the Thrifty Food Plan (the mix of food items on which low-income people rely) rose even faster. Over the same time period, the cost of the Thrifty Food Plan rose by 9.4 percent.

This increase in the Thrifty Food Plan is a more accurate indicator of how low-income households are suffering from rising food costs, because the Thrifty Food Plan is USDA's estimate of what it would cost to purchase a minimally ade-

quate diet. The Thrifty Food Plan is the least expensive market basket of food the government prices—and recommends for short-term use.

The especially rapidly rising cost of the Thrifty Food Plan means that low-income families are struggling even harder to keep hunger at bay.

The Legal Aid Society has a nutrition outreach program. For more information visit our website (under "Special Programs") or contact (800) 462-2922 ext 327

**There's still time to
be part of the 2008**

**JUSTICE
FOR ALL**

CAMPAIGN

Closes Feb. 28, 2009

donate online at
www.lasnny.org
or use the enclosed envelope



The Legal Aid Society mourns the passing of our friend **Lorraine Power Tharp** on October 28, 2008. A dedicated member of the Board to Fund Equal Justice, she will be missed.



Legal Aid matters because...

each attorney has the ability to be a miracle worker...small steps leading to incredible results

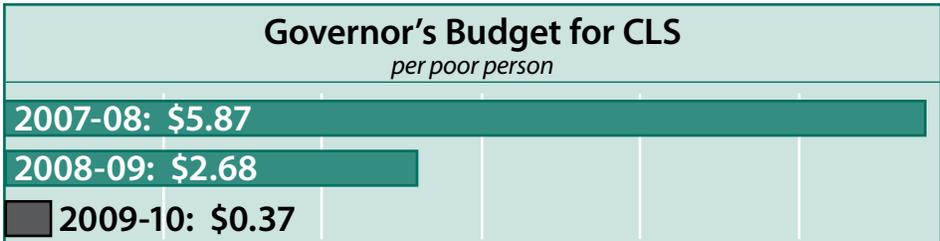
—Lorraine Power Tharp, Esq.

Funding for CLS in Dire Straits

Proposed funding for Civil Legal Services (CLS) has taken a steep dive in Governor Paterson's 2009–10 executive budget proposal. Compared with a rate of \$5.87 per poor person in the 2007–08 budget, the current proposed \$0.37 per poor person is a 84% drop. The decrease in expected Interest On Lawyer Account (IOLA) revenue will be another severe hit to CLS funding. Due to the latest cuts to the federal funds rate and the continued erosion of the principal balances in IOLA accounts, IOLA now anticipates earning well under \$15 million, a 70% reduction in earnings from 2008–09 levels.

Legal assistance is core to the fabric of any safety net, and is often the last line of defense for poor and low income families at the very edge. The need for civil legal services is expected to increase exponentially as a result of the economic downturn. Gov. Paterson said, "no state has been more severely impacted by this crisis" than New York.

Given the expected decrease in revenues and increase in need for Legal Aid Society services, it is even more critical for the legal community to join the Justice for All Campaign this year.



Thanks to Kristin Brown Lilley at the Empire Justice Center for statistics and assistance