

**NORTHERN MANHATTAN
IMPROVEMENT CORPORATION
(NMIC)**

TESTIMONY

Regarding

Oversight of the Family Court

PRESENTED TO:

THE STATE OF NEW YORK SENATE
Joint Committees on Judiciary and Children and Families
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SUBMITTED BY:

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My name is Cinthya Mendez, Coordinating Domestic Violence Attorney at Northern Manhattan Improvement Corporation (NMIC). On behalf of our agency and the communities we

serve, we thank you for providing us with the opportunity to present today. We want to share some of our concerns regarding the representation of victims and survivors of Domestic Violence in the New York Family Court system. We would like to focus on the dearth of interpreters, the critical shortage of 18B attorneys, the inadequate availability of resources for parents who need supervised visitations, and the lack of Family Court judges. These systemic issues have not only affected the due process rights of survivors in Family Court proceedings but have also caused unnecessary delays in the resolution of cases involving the safety of our clients and their children.

It is fundamental to our justice system that every individual, regardless of their language, should have access to the Courts. The shortage of interpreters has resulted in parties not understanding the proceedings, not communicating their needs and can leave them unable to make informed decisions regarding their safety and parental rights. In the absence of Court interpreters, I, as an attorney, have had to interpret on behalf of the Court for my own cases. This should not be acceptable and the duty to interpret should not be the role of an attorney, whose primary duty is safeguarding the rights and interests of their clients. The absence of professional interpreters is not only a breach of the individual's rights but can also cause revictimization, as survivors are effectively prevented from expressing themselves and reclaiming their autonomy following domestic violence.

A further concerning issue has been the scarcity of 18B attorneys, who play a crucial role in representing indigent survivors in Family Court. The shortage of these attorneys has consequences on the due process rights of the parties involved. It often results in extended delays in Court proceedings as the Court must adjourn the cases until an 18B attorney can be assigned. The scarcity of 18B attorneys leaves many individuals without proper legal representation, impeding their ability to resolve their Family Court matters and exposing them to further escalation of risk and abuse.

Additionally, I have found a lack of agencies or resources available to provide adequate supervision of parent visitations. Such agencies have social workers with knowledge of child development, family dynamics, and other social services. Social workers prioritize the child's welfare and safety, which ensures that visitations are conducted in the best manner. Social workers can also provide their assessments to the Family Court and can be a vital factor in the Court's determination of a child's best interests. The lack of agencies and resources impacts not only the parents seeking to maintain relationships with their children but also the welfare and well-being of the children themselves. If such resources do not exist, they not only delay the resolution of a case but potentially can pose significant risks to the safety and emotional health of children and survivors, leaving them vulnerable in situations where professional oversight is critical.

I would now like to share a harrowing experience of our immigrant client, Ofelia*, who was a survivor of domestic violence at the hands of her ex-boyfriend. Ofelia endured physical violence, such as beatings and strangulation, as well as psychological abuse by her ex-boyfriend. When Ofelia summoned the courage to break free from her abuser and ended their relationship, he

responded with threats to have her deported and separated from her only child. He then exploited the very system meant to protect individuals like Ofelia; he preemptively obtained an order of protection against her in Family Court, alleging falsely that she had attacked him. Her abuser further weaponized the legal system by falsely accusing my client of violating a temporary Family Court order, causing her to be wrongfully arrested.

It was in this moment of crisis that Ofelia sought NMIC's help. We understood the gravity of the situation, not only for her personal safety but also of the consequences an order of protection against her could have in obtaining immigration status or fighting deportation. Our team acted quickly by filing an order of protection on her behalf and moving to dismiss her abuser's frivolous petition. The then-ongoing pandemic created a backlog in the Court's docket, leading to an unusual situation where some judges from different Courts were substituted in to more quickly resolve matters. Ofelia's fact-finding hearing was presided over by a Criminal Court judge who was unfamiliar with Family Court proceedings. Although the judge did not find Ofelia guilty of violating the order, the judge did not make any finding of guilt regarding the family offenses alleged. Instead, the judge issued mutual orders of protection of one year for both parties. This order effectively and wrongfully treated my client and her abuser as equal aggressors and granted them the same relief. Critically, and against Family Court practice, the judge neglected to issue findings of fact at the conclusion of the hearing.

Recognizing the grave implications this outcome could have on my client's safety and on her immigration status, we decided to appeal the ruling. The appeals took over a year, leaving Ofelia uncertain of her future and the trauma she experienced still hanging over her. Thankfully, the appeal was successful and NMIC was able to obtain a new protective order that accurately captured the Court's findings and protected Ofelia's legal rights. My client's story serves as a reminder of the vital role that attorneys play in safeguarding the rights of vulnerable individuals, and especially those from our immigrant community. However, it is deeply troubling that the Court's mishandling of the case severely delayed and nearly prevented Ofelia from obtaining the relief she deserved.

The issues within our Family Court system, as I have witnessed and experienced, threaten the very principles upon which our justice system has been built and put at risk the rights and safety of our most vulnerable residents. We must strive to ensure that our Family Courts operate with uniform fairness, efficiency, and the utmost respect for the rights and well-being of all parties involved. Thank you.

**Name has been changed for confidentiality