

Testimony of Lara Kasper-Buckareff
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Legal Services of the Hudson Valley
Senate Standing Committees Hearing – The Unified Court System and COVID-19

Your Honors,

My name is Lara Kasper-Buckareff. I am the Program Director at Legal Services of the Hudson Valley (“LSHV”). LSHV is a non-profit law firm which provides free, high-quality counsel in civil matters where basic human needs are at stake for low-income individuals and families who cannot afford an attorney. In 2019, we handled 14,653 cases for 33,523 clients—47% of those cases concerned eviction and foreclosure prevention.

Over 535,000 individuals are eligible for our services in our seven counties. We operate a lean and efficient program so that we can provide critical legal services to as many Hudson Valley residents as possible, but the fact is that we have always been underfunded. It is axiomatic that the right to counsel where you and your family may lose the roof over your head and the ability to put food on your table is essential. Now, at a time when going to court can result in infection with COVID-19, having an attorney to represent and appear virtually for you can be a matter of preserving your health and life. Many of our clients are essential workers, and most of our clients identify as black, indigenous, and/or people of color, a cohort disproportionately affected by COVID-19. We must at the very least maintain, if not increase, funding for civil legal services.

A client story to help illustrate what eviction prevention looks like during this pandemic. Tenant, Esther Viera¹, contracted COVID-19 and has since suffered with serious medical conditions. Several of her household members also contracted COVID-19, including her children with special needs. We conducted an intake after she appeared in court and are now representing her in her eviction case. Simultaneous with developing and implementing a legal strategy to defend her, we are assisting Ms. Viera in applying for assistance in paying rent arrears. Since Ms. Viera has a Section 8 Housing Choice Voucher, by saving her tenancy, we also ensure her continued eligibility under the Section 8 program. Additionally, preventing her eviction will

¹ Pseudonym

provide her household with the stability that they need, resulting in better health, education, child development, and economic outcomes.

As housing courts reopen in our catchment area, we are seeing divergent approaches in how local courts are implementing the court system's administrative orders. Some new local best practices have emerged that are consistent with these orders and safeguard public health. Our busiest court, Yonkers City Court, is now staggering return dates on new filings, e.g., three cases returnable every fifteen minutes. In this way, large numbers of tenants are not all appearing at 9 o'clock in the morning.

In justice courts, where proceedings are commenced by service of a notice of petition, as opposed to filing of a notice of petition in city courts, we encourage the court system to ascertain what directives are required to ensure staggered return dates, thereby ensuring that adequate physical distancing is possible. The justice courts are often smaller in terms of physical space and may not have access to the same technology, so the same guidelines may not be effective.

Housing courts continue to hold virtual conferences in two attorney cases, consistent with administrative orders. Continuation of virtual two attorney conferences is critical in minimizing the number of people entering our courthouses.

Another best practice is reflected in the City of Poughkeepsie Court where, notably, the court formulated and notified the bar of its plan implementing the administrative orders. This has not occurred in other city and justice courts in our region, to our knowledge. Such plans are helpful in clarifying how the local court is applying certain aspects of the administrative orders as they relate to practice. For example, the Poughkeepsie City Court plan is clear that landlords and landlords' attorneys must acquire a return date from the court before service, a necessary and prudent directive given physical distancing requirements.

In three of our highest volume city courts, we have observed local practices that are inconsistent with the court system's administrative orders. Continuation of these practices is misguided given the significant backlog of cases. Let me explain. Under AO/127/20 which was effective June 20th through August 12th, all eviction cases were suspended, excepting those in which a tenant was represented. Under the current administrative order, AO/160A/20, effective August 13th, eviction cases filed after March 16th are suspended, excepting those in which a

tenant is represented. Nevertheless, inconsistent with these administrative orders, notices of petition with return dates have been filed and served on tenants in cases which are supposed to be suspended. In these supposed to be suspended cases, courts are unnecessarily holding appearances with pro se tenants and landlords or landlords' attorneys—at that, in person appearances. This practice unnecessarily brings additional people into court and provides landlords' attorneys an opportunity to put undue pressure on unrepresented tenants during a time when these proceedings should be suspended. Tenants who may not be aware of their rights and the current suspension of proceedings are more likely to enter into ill-advised agreements with their landlords without speaking to an attorney.

Additionally, we are aware that some judges have entered judgments, including default judgments, against *pro se* tenants in July and August that violate the unified court system and Ninth Judicial District's administrative orders and Executive Order 202.55.

The courts should be singularly focused on hearing those cases filed before March 17th and resolving the backlog which is what the previous and current administrative orders contemplate. This is most efficient and has the effect of limiting foot traffic in our courthouses and on the public transportation systems leading to those courthouses.

Thank you.