



New York State  
**Legal Services Initiative**

September 13, 2012

A statewide program was webcast announcing the launch of New York State's *Legal Services Initiative*. From that webcast, following are remarks by three of the *Initiative's* collaborating partners and an overview (slides) of the *Initiative*:

- Greg Olsen, Acting Director, NY State Office for the Aging
- A. Gail Prudenti, Chief Administrative Judge, NY State Office of Court Administration
- Seymour W. James, Jr., Esq., 2012 President, NY State Bar Association

## **Greg Olsen**

Welcome to today's webcast.

My name is Greg Olsen. I am the Acting Director of the NY State Office for the Aging.

Let me introduce the sponsors of today's webcast—Gail Prudenti, Chief Administrative Judge of the NY State Office of Court Administration; Seymour W. James, the 2012 President of the NY State Bar Association; and Robert Abrams, of the Law Offices of Abrams, Fensterman, Fensterman, Eisman, Ferrara, Formato and Einiger.

The *Legal Services Initiative* is a very important effort we are undertaking . . . and a very important public/private partnership that includes many dedicated individuals to make a reality—that want to work to make a difference and want to do the right thing.

This *Initiative* could not have been possible without the leadership and direction of Governor Cuomo, who has set in motion an historic effort to transform government, to break down silos, to expand partnerships so that our State government is more modern, accountable, and efficient . . . and works for the people.

This effort would not be possible had it not been for the hard work of Robert Abrams, who has been central in cementing this partnership, generating excitement behind it, and bringing diverse people to the table. And I must thank Linda Abrams, Bob's wife, for her patience as this project has taken much of Bob's time.

This partnership would not be possible without Vera Prosper and Laura Beck of the State Office for the Aging. Dr. Prosper has spent an enormous amount of time thinking, developing, planning, and strategizing on how to take the legal services initiative concept and plot its course to make it a reality; and Laura Beck, our legal services

developer, who has single handedly begun the process of re-energizing and rethinking the way our agency operates our legal services programs.

I would like to thank our esteemed panelists who are here today – Helene Bergman, Nancy Burner, Timothy Casserly, Ellyn Kravitz, and Peter Strauss. And, I would like to welcome Patricia Salkin, Dean of the Touro Law School, Tuoro’s law students, and the diverse group of interested individuals in the audience and on the webcast . . . and say that this is the start of something exciting, something that will require all of us, working together, borrowing the best that we each have to offer, to promote justice by providing access to affordable legal services, particularly for older citizens and residents with disabilities.

This collaborative effort understands that no one agency or entity, public or private, can do it alone. This collaborative understands that we each have a stake in its outcomes, it understands that we don’t have all the answers and that a successful venture will require widening the net and building-in at the foundation a process to understand what individuals are experiencing, what they believe are the priorities, what gaps they identify, and to work together to develop a strategic plan to address those needs. We will get that information by directly engaging older adults, persons with disabilities, and the public as well as judges, lawyers, courts, and legal service providers.

It is not just demographics that motivates this partnership . . . it is the individual experiences we have, the cases we have seen, the anecdotes we have heard and the recognition that life is complex, that systems are complex and that many times navigating those systems requires access to legal services.

The State Office for the Aging administers a statewide legal assistance program, and it continues to be clear that access to affordable legal services can be a critical factor in an older person’s ability to continue to live in their homes and communities of choice. Financial, health care, and family problems can also pose complicated legal issues. This innovative partnership will determine the adequacy of existing programs, will identify the legal needs and barriers to justice faced by older adults and individuals with disabilities, and we will develop a plan to more effectively use existing resources, including attorney pro bono programs, to target areas of greatest need.

A “Think Group”—composed of attorneys, judges, health care professionals, experts on aging and disabilities, and others—will devise a blueprint for enhancing access to affordable legal services by the targeted populations and their caregivers. Together we are a force—thousands of lawyers, judges, court employees, human services personnel—with a goal to increase the amount of, and access to, legal services; but also important is paying attention to the need to raise our skill sets on the unique needs of older persons and persons with disabilities and caregivers. We will look at our different systems and ask questions about how we can do better, map existing programs and gaps, understand who pays for what service, etc.

There will also be important products that come out of this partnership. Part II of today's program focuses on one such tool, The Elder Preparedness Self-Assessment Tool (TEPSAT), a tool that is important regardless of one's age—designed to keep us all thinking and, more importantly, planning. Planning will continue to be an important theme because planning and evaluation is ongoing.

My office is extremely pleased to be able to join with the State Office of Court Administration and the New York State Bar Association to implement the Legal Services Initiative. Their leadership and staff have been tremendous. At this time, I would like to introduce:

Gail Prudenti, who is the Chief Administrative Judge of the NY State Office of Court Administration, which is the administrative arm of NY State's Court Systems; and

Seymour W. James, Jr., who is President of the NY State Bar Association, which is the oldest and largest voluntary state bar association in the nation, with a membership of 77,000 attorneys.

#### **A. Gail Prudenti**

Good afternoon . . . and thank you, Greg, for that very kind introduction. I am delighted to take part in today's webcast introducing a dynamic multi-agency partnership and launching an initiative that is so important to each and every one of us—improving legal access for vulnerable New Yorkers.

Before I begin, I would like to take a moment to thank Governor Andrew Cuomo for his tremendous leadership in this critical area. This effort is yet another outgrowth of his dedicated efforts to re-engineer government and to ensure the best quality of life for all New Yorkers.

As the Chief Administrative Judge of the New York State Court System, I can assure you that ensuring meaningful access to justice for all New Yorkers is fundamental to our mission, and a top priority for our Chief Judge Jonathan Lippman. But we also recognize that certain populations in our state have special needs that warrant even closer attention and a collaborative, multi-faceted approach to ensure that they receive the same legal access that is available to others.

Older New Yorkers and individuals with disabilities are just such a group. I am sure that we have all witnessed someone in our lives—perhaps an elderly family member or a disabled friend or colleague—attempt to navigate the court system and unravel complex legal issues, from housing and long-term care to guardianship and employment. And we know very well just how challenging that can be.

I personally experienced an incredibly difficult and overwhelming situation when my Father—the invincible patriarch of our family—suffered a massive stroke at the age of 60, which rendered him a quadriplegic—able to breathe only with the aid of a ventilator.

Shortly thereafter, my 59-year-old Mother was diagnosed with pancreatic cancer. My parents passed away within three months of each other. They had no wills and no health care proxies—although we had discussed the drafting of such documents on numerous occasions. Like so many others their age, my parents truly believed that they would live long lives, and had not confronted the challenges of proper planning. Even as a lawyer, of course with much less experience than I have today, I did not know where to turn for assistance.

Recognizing these challenges facing our elderly and disabled citizens is not enough—we have an obligation as a society, and as a judiciary, to ensure that this critical population receives the support and access they require to achieve meaningful justice. And that is why I am absolutely thrilled that a partnership among three statewide organizations with statewide reach and responsibilities has been formed to take on this challenge.

Over the next several months, the Office of Court Administration will work together with the State Office for the Aging and the New York State Bar Association to identify the legal needs and barriers to justice particularly facing older and disabled individuals. With a better understanding, we can then develop a strategic plan to effectively target areas of greatest need. I could not think of a better trio, more equipped and more dedicated, to take on this task. Our collaborative effort will enable a broad-based research scope, foster innovative solutions, and enhance our ability to pool existing resources to accomplish our shared goal.

From the judiciary's standpoint in particular, we recognize that these already-vulnerable individuals often come into the court system at some of the most difficult times in their lives. And we are determined to ensure that when they do, they are treated with the dignity and respect that they deserve, and that their case is not treated as a passing matter.

Through this joint effort, we hope to learn more about the particular challenges faced by the elderly, the disabled, and their caregivers once they enter the court system, and how we can make changes to help them through the process and to achieve more just outcomes. We plan to explore the issues that bring them into court, determine how many of these individuals are appearing without counsel, and study the effects of not being represented. By surveying judges, attorneys and the general public, we will also assess whether additional training for members of the judiciary and other accommodations would help provide for a better experience and improve the way justice is delivered.

Affordable legal services is so often a critical factor for these members of our society—it can mean the difference between having shelter and becoming homeless, and securing or losing access to health care and other basic needs. And in today's economic climate, these legal services needs have become even more pronounced. To address this serious issue, a joint effort is truly needed. Through our partnership, we will work to develop an inventory of legal resources to assess where we stand today and determine

what needs must still be met. By grouping together knowledgeable individuals from across disciplines—from attorneys and judges to health care professionals and experts on aging and disabilities—we will devise a blueprint for enhancing access to affordable legal services for these targeted populations and their caregivers. Because, as Chief Judge Lippman has repeatedly said, delivering justice means not only that our doors must be open to all, but that we provide justice that is meaningful, fair, and equal for all; and this mandate is impossible to fulfill when so many unrepresented litigants come into our courts without the benefit of an attorney in cases addressing the basic necessities of life.

Throughout this process, we also hope to raise awareness among attorneys and all members of the court system about the particular legal issues and challenges faced by this important subset of our population. A better understanding can lead to a more sensitive process and improved outcomes, while also encouraging volunteer efforts.

Our task is truly a worthy one. Every society is ultimately judged—and should be judged—by how it treats its most vulnerable citizens. I want to thank Governor Cuomo, President of the New York State Bar Association, Seymour James, Jr., Acting Director of the New York State Office for the Aging, Greg Olsen, and all who have been involved in creating this partnership, for their vision and their willingness to take the steps necessary to confront this issue of critical importance. And, special thanks is due to my good friend, Bob Abrams, a recognized leader in the field of elder law, for his invaluable work in facilitating this partnership, and for inspiring us all with his great passion for this cause.

I know that I speak on behalf of the Office of Court Administration and the Chief Judge when I say that we greatly look forward to working with you in the days ahead to make a real difference in the well-being of older adults and individuals with disabilities in our State. Thank you very much.

**Seymour W. James, Jr.**

Good afternoon. Thank you for that kind introduction.

On behalf of the New York State Bar Association, I'm pleased to join our partners at the New York State Office for the Aging and the Office of Court Administration to kick off this important initiative designed to assist vulnerable New Yorkers. I would especially like to thank Chief Administrative Judge Prudenti, Greg Olsen, and Bob Abrams for all of their work in developing this partnership and planning this initiative. And, of course, we have to thank Governor Cuomo for his vision in recognizing the need for this important project.

As Greg Olsen discussed, we have joined together to examine how we can provide more access to quality legal services for senior citizens and people of all ages with disabilities. The Office for the Aging does terrific work advocating for and providing services to older adults in New York State, and we are proud to be involved in this initiative, to contribute the perspective and expertise of our attorney members and to get the legal community involved in this effort. With an aging population and persistent economic challenges that have hit many seniors especially hard, it is more important than ever that we undertake this type of initiative.

At the State Bar (NYSBA), improving access to civil legal services continues to be an ongoing top priority. We know that the availability of civil legal services not only has an enormous impact on the lives of individuals, but it also improves the efficiency of our courts and reduces the need for other costly public benefits.

We are also aware of the unique challenges facing seniors. Last year, we devoted an entire issue of the *New York State Bar Journal* to elder law issues facing attorneys, their families, and their clients. Bob Abrams did a tremendous job serving as editor of that issue – it is available on the NSYBA website for state bar members, and it provides a wealth of information. Chief Administrative Judge Prudenti also wrote an excellent piece for that issue of the *Bar Journal*, encouraging attorneys and judges to plan for the future and to make arrangements for our financial and healthcare needs, as well as our legal practices.

As we learn more about how we can help our clients and improve access to legal services for seniors, I hope this program will also provide an opportunity to evaluate our own plans for the future. Judge Prudenti has been an outstanding advocate in this area. We at the State Bar are so grateful for the support that she, Chief Judge Jonathan Lippman, and the Office of Court Administration consistently offer to the providers and recipients of civil legal services for all underserved populations. We appreciate that we are able to work with the courts once again in this important area.

For the past two years, the State Bar has been privileged to participate in Chief Judge Lippman's Task Force to Expand Access to Civil Legal Services. We look forward to taking part in those hearings again this year when they kick off in a couple of weeks. Last year, I had the honor of joining the Chief Judge, as well as Chief Administrative Judge Prudenti and her predecessor, the honorable Ann Pfau, in presiding over the hearing for the Second Department. We heard from judges, district attorneys, and practitioners who discussed the various unmet legal needs and concerns facing seniors, ranging from elder abuse and other crimes often perpetrated against older adults, to the need for assistance with financial planning and accessing public benefits.

The Task Force found that, among the many New Yorkers with unmet needs for civil legal representation, the elderly and people with disabilities are particularly likely to face legal issues. Sadly, too many are unable to get the legal help they need and they are left to navigate complex and life-changing legal problems alone – often seeking basic necessities like sustenance, housing, and healthcare. And, as Greg Olsen stated, even where legal services are available, many seniors may not know that they exist, or may have trouble accessing these resources.

This initiative will place a specific focus on the unmet legal needs of seniors and people with disabilities – two populations that, as Judge Prudenti said, often have special needs. They face unique accessibility barriers and are sometimes particularly likely to need assistance navigating various administrative and judicial processes. It will also provide an opportunity to examine the wide variety of legal issues older adults and people with disabilities face.

Many older adults have common legal concerns: they may need help with financial planning and preparing for retirement, naming a power of attorney, executing advance directives, naming a healthcare agent, and making other arrangements for the possibility of mental or physical incapacity. As Greg pointed out, our aging population is facing more and more complex legal issues that may involve diverse areas of the law. Some seniors may need assistance with trusts and estates issues or family law matters, while many others may need help obtaining basic necessities such as housing, sustenance and healthcare.

Throughout my career at The Legal Aid Society, I have seen firsthand the impact of a growing need and shrinking resources for legal services. In 2011, New York was one of only 10 states with poverty rates over 10 per cent for the elderly. At the same time, senior services agencies are experiencing increases in costs and decreases in funding; and, as a result, many have had to cut their staff, hours, and programming and place seniors on waitlists for basic services like homecare, meals on wheels, transportation, and caregiver support.

I have also seen the challenges facing seniors and people with disabilities who take advantage of the services available from the Legal Aid Society's civil practice, and the challenges facing the providers themselves. It is important for us not only to ensure that direct representation and counsel is available to these older adults and people with disabilities – which is critical – but we must also empower them to recognize the legal issues in their lives and plan for the future. Tools and resources like the TEPSAT evaluation developed by Bob Abrams are invaluable in that effort.

I am confident that this initiative will shed light on the legal needs of seniors and people with disabilities and help to close the gap in accessibility to legal services.

I would once again like to thank Chief Administrative Judge Prudenti, Greg Olsen, and Bob Abrams for their fabulous work on this project, and all of you for being here today and taking part in this campaign. I am proud that the New York State Bar Association will be able to assist in this effort and look forward to working with you to make a difference in the lives of our seniors and individuals with disabilities.

**Greg Olsen**

The Legal Services Initiative is a public/private partnership among the:

- NY State Office for the Aging,
  - The NY State Office of Court Administration, and
  - The NY State Bar Association
- with facilitation assistance by Robert Abrams.

The collaborative net for this *Initiative* will be cast wider, and the partnership will grow over time



Many anecdotal comments from across our State indicate that there is a **gap** in available, affordable legal assistance among various vulnerable population groups ... and, in many cases, there is a lack of **access** to whatever legal assistance does exist.

The *Initiative* will focus on three population groups:

- Older adults
- People with disabilities of all ages, and
- The caregivers of both groups.

The intent of the Legal Services Initiative is to measure and document this gap and the need for legal services ... and to put some steps and strategies in place to address this need and reduce the gap.



WHY we are initiating this project at this time:  
A variety of trends is changing where and how we live, and those changes are increasing the importance of an initiative such as this one.

For example, all population groups are **living longer**. Increasing numbers of people are **living alone** ... at all stages in their lives.

Our health and long-term care systems are being reorganized, focusing on providing services and care to people at home.

As people of all ages, abilities, and functional status are living longer, family members are assuming caregiving tasks that are increasing in amount and intensity.

Resources are limited and often siloed, dictating a need for public and private organizations to rethink the way they do business and to better coordinate existing resources and efforts to improve outcomes.

Those trends ... and others ... have resulted in older adults, people of all ages with disabilities, and the growing numbers of caregivers of both these population groups encountering more issues ... and more *types* of issues ... that have a legal basis for their solutions. However, in the face of this growing need, the *gap* in availability—and in access—is growing.



As individuals of all ages, abilities, and functional status continue to “age-in-place” in conventional housing and in community settings, they face increasing types of issues and situations that have a legal basis for resolution.

However, not just more issues, but more *complex* issues.



In addition to the various trends that are changing the profile of our communities . . . and, as a result, changing the types and number of needs experienced by individuals and families, members of the Partnership continue to receive anecdotal reports about the limitations in the provision of legal assistance and services, as well as the limitations in the legal community's understanding of the aging process, what it means to live with disabilities, and the responsibilities of caregiving ... and the impact of these elements on both communication with older adults and persons with disabilities and the ability of these individuals to successfully navigate the legal systems and achieve just and appropriate outcomes.

All of these trends and factors led to the creation of this partnership and to the development of this *Initiative*.

Through this *Initiative*, we expect to carry out a number of important activities.

*Why the initiative is important . . .*

### **Residents:**

**Lack of awareness of legal rights**  
**Lack of representation in court**  
**Legal assistance: unaffordable**

*Why the initiative is important . . .*

### **Attorneys & the Courts need . . .**

**Greater awareness of the legal issues ... traits ... and circumstances affecting . . .**  
older adults  
Individuals with disabilities  
caregivers

## **Legal Services Initiative**

### *Partnership*

NY State Office for the Aging  
NY State Office of Court Administration  
NY State Bar Association

One major activity is to strengthen the aging network's Legal Assistance Program, which is implemented at the local level by the State's 59 Area Agencies on Aging to provide legal advice and representation on civil legal matters to older adults with greatest economic or social needs.

The State Office for the Aging administers this Federally funded program, and the funds are allocated to each county to assist persons aged 60 and over who are least able to obtain legal assistance elsewhere.

Through the Legal Assistance Program, legal service providers under contract with the Area Agencies on Aging help older adults to understand their rights, exercise options through informed decision-making, and achieve optimal benefit from the support and opportunities promised by law.

The *Legal Services Initiative* is expected to strengthen the Legal Assistance Program through improved coordination with other legal assistance programs and increased availability of accessible and affordable legal assistance and pro bono services for people with great economic or social need.

Another major activity under the *Initiative* is a series of statewide surveys conducted by the Partnership.

The surveys will gather a significant amount of information, including measuring the gap in access to affordable legal assistance by New York's older adults, individuals of all ages with disabilities, and family caregivers; find in which areas of the State the gap is greatest; learn the extent to which people are using legal assistance to resolve problems; and understand which issue areas needing legal help are most important to the State's residents.

Through another major activity, the partnership will convene of a group of knowledgeable and motivated individuals who will use the survey findings and information from their own professional and personal experiences to develop a blueprint of steps, activities, and strategies to enhance access to affordable legal services by the targeted populations & their caregivers.



**Legal Services Initiative**

*Activities*

- Strengthen the Aging Network's *Legal Assistance Program*

A priority under the Federal Older Americans Act . . . to help older adults with legal issues that affect their ability to live independently & with dignity

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**Legal Services Initiative**

*Activities*

- Series of statewide surveys of:
  - Area Agencies on Aging
  - Legal Service Providers
  - Consumers— all ages
  - New York's attorneys
  - Members of New York's Judiciary

To assess:

- Where legal assistance is most needed
- Status of access to affordable legal assistance

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**Legal Services Initiative**

*Activities*

- Convene a Think Group—
  - Public & private entities & consumers

Using survey findings & Think Group's experience:

- Identify & implement steps, strategies, & training

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A number of products are also being produced through this Initiative.

These products—and all of the activities that have been mentioned—are intended to help achieve the intent and goals of the Initiative.

**Legal Services Initiative**

*Activities*

- **Develop products—**
  - Self-assessment Planning Tool
  - Inventory of legal resources
  - Community training & education forums
  - Access-to-justice gap analysis
  - Elder law Treatise for attorneys & other professionals
  - Interactive consumer legal web site

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The goals of the initiative include:

- Promote awareness among individuals of their legal rights;
- Increase access to affordable legal services and increase the availability of legal assistance;
- Increase understanding among members of the legal field of the needs and the characteristics of older adults, individuals with disabilities, and caregivers.

The result of achieving these goals—the ultimate aim of the *Initiative*—is to increase access to justice by these individuals . . . and to encourage people to plan, plan, plan.

**Legal Services Initiative**

*Aims of the initiative*

Promote awareness of legal rights among:  
Consumers  
Service providers

**Increase:**  
Access to affordable legal services  
Availability of legal assistance

**Increase:**  
Understanding of aging, disabilities, and caregiving among members of the legal field

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