



Testimony
Public Hearings on the Executive Budget
before the
Joint Fiscal Committees of the Senate and Assembly
Public Protection

Presented by Denise Kronstadt,
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February 8, 2010

On behalf of Modern Courts, I want to thank the Committees for providing our organization with the opportunity to present testimony today.

The Committee for Modern Courts is an independent nonpartisan statewide court reform organization committed to improving the court system for all New Yorkers. Modern Courts supports a judiciary that provides for the fair administration of justice, equal access to the courts, and that is independent, highly qualified and diverse. By

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research, public outreach, education and lobbying efforts, Modern Courts seeks to advance these goals and to ensure that the public confidence in the judiciary remains strong.

Modern Courts supports the budget presented by the Judiciary. The budget reflects an efficient and appropriate use of resources to meet the growing needs of our Court system. As the Chief Judge emphasized it is “the Judiciary’s basic constitutional obligation to hear each and every case that comes before it.” Modern Courts believes that sufficient resources must be provided to the courts so that judges can do their jobs. If the Judiciary is to maintain its independence and effectiveness, its budget submissions must be accorded the respect befitting this separate branch of government.

It has become clear that the courts in New York State have been strained to the breaking point with court filings at an all-time high of 4.7 million in 2009, up 200,000 from 2008. Although the Judiciary submitted a zero-growth budget request for the past two years, it simply can not be expected to do that year after year and maintain the quality of justice the public deserves.

Modern Courts understands that the State is facing an unprecedented budget deficit, but the budget gap should not be closed by denying families in need access to our already overburdened Family Court or by closing the doors to those who because of the recession have turned in increasing numbers to the courts for relief.

The largest portion of the increase in the Judiciary budget is needed to meet salary and benefit payments for which the system is contractually obligated. The only way to reduce these costs would be to cut a significant number of non-judicial positions

primarily through layoffs, which is unthinkable in view of the increased caseloads of the courts.

Modern Courts also supports the inclusion of \$48 million in the Judiciary budget for judicial compensation increases for state judges retroactive to April 1, 2005, which represents one-quarter of 1 percent of the court budget. Given that the Judiciary has not received an increase in compensation, nor even a cost of living adjustment, in over 11 years, the inclusion of this amount in the budget is entirely justified. Modern Courts further vigorously supports the increases coupled with legislation that would create a Quadrennial Commission – an objective mechanism - as a means by which judicial compensation can be determined in the future. Such a system ensures that New York’s judiciary will remain independent.

Modern Courts has long believed that insufficient compensation may dissuade our most talented and committed lawyers from becoming judges. For most judges, the call to public service, rather than the salary, is the motivating factor in seeking judicial office. But the judiciary and, perhaps more importantly, the public are ill-served by the failure to adjust judicial compensation more than twice in 20 years.

Modern Courts recognizes that additional state funding for civil legal services is an absolute necessity. This need exists as a result of our current low interest rates generated from the Interest on Lawyer Accounts (IOLA) fund which has been caused by dire economic conditions. We believe that the Governor, Legislature and the Judiciary should work together to devise a method of funding that ensures, now and into the future,

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necessary support to replace the loss of IOLA funds for civil legal services and provide for additional funding as well.

According to the ABA, 80% of the civil legal needs of low income individuals go unmet nationally. Here in New York, this “justice gap” has been estimated at over 85%. The Committee for Modern Courts supports the inclusion of \$15,000,000.00 in the judiciary budget for the rescue of IOLA funding for civil legal services. As a result of the economic crisis, the crisis faced by civil legal service providers is unprecedented this year. The \$15,000,000.00 does not provide for new money nor substitute for additional funding necessary to fund civil legal services. It presents a one time need to ensure that the IOLA funding, as one source of legal services funding, does not fall short.

It is troubling that the poorest citizens, who at times of economic stress have the greatest need to access to justice, may lose critical services. For Modern Courts, this is a matter of simple justice.

Thank you.

Modern Courts is a nonpartisan, nonprofit, statewide court reform organization founded in 1955. Through research, advocacy, and the efforts of more than 600 in-court volunteers statewide, Modern Courts helps ensure fair and efficient justice for all New Yorkers. Led by concerned citizens, prominent lawyers, and business leaders, Modern Courts is the only organization in New York State devoted exclusively to improving the judicial system.