

JOINT LEGISLATIVE HEARING ON THE 2012-2013 JUDICIARY BUDGET

REMARKS OF CHIEF ADMINISTRATIVE JUDGE A. GAIL PRUDENTI

JANUARY 30, 2012

Good morning Chairpersons DeFrancisco, Farrell, Bonacic and Weinstein, committee members, staff, ladies and gentlemen.

I am so very delighted to be here, and I am honored to have the opportunity – my first as the new Chief Administrative Judge – to discuss with you the Judiciary’s budget request for the coming fiscal year. Over the last two months I’ve tried to contact as many legislators as possible from around the State, to better understand their views of the Judiciary, its mission, and its challenges. I very much look forward to continuing that conversation here today – to working closely with you and getting to know each of you and learning your particular concerns.

At the outset, I want to thank you for your support of the court system over many years, including, most recently, your historic reform of the process for setting judicial salaries.

I also want to acknowledge Chief Judge Jonathan Lippman and my predecessor, Judge Ann Pfau, for their outstanding work in crafting the Judiciary’s proposed 2012-2013 budget – a budget that very carefully and thoughtfully reconciles the competing demands of the need for fiscal austerity and the need for the resources necessary to handle the massive workload of the New York courts.

I trust you have noticed that this budget is considerably shorter than our submissions of prior years, and that, in response to concerns some of you raised in prior hearings, it is more transparent and easier to understand.

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New York, as Governor Andrew Cuomo observed in his State of the State Address, is at a crossroads. So too is the New York State Judiciary. The business of the courts is booming. We face a staggering workload. Yet economic realities – the need to achieve fiscal savings and unavoidable cost increases – mean that we have fewer resources to help us meet that burden.

I am rightly proud of the way that our greatest resources – our judges and nonjudicial staff – have responded to this challenge. But the answer is not only that everyone has to work harder and do more. Rather, as Governor Cuomo has said, now is the time to reinvent government, to work smarter, and to find ways to reduce costs as we also improve our service to the public. The Chief Judge and Judge Pfau made considerable progress in confronting this challenge, and among my highest priorities as the new Chief Administrative Judge will be to continue to reevaluate, to adapt and to transform.

As I have done throughout my career, I will begin by taking a good hard look at every aspect of court operations to learn what is working well, where we can improve, where resources can be best deployed, and how we can become more efficient without compromising results or our ability to fulfill our constitutional mission.

To this challenge I bring my experience of ten years as a trial court judge, as the Administrative Judge of a judicial district with more than 75 judges and one thousand nonjudicial employees, and, over the past decade as the Presiding Justice of the largest and busiest Department of the Appellate Division. I also bring an open mind, and an attentive ear. I look forward to hearing from all of you, and from your colleagues

in the Legislature, and from the Governor's Office on this subject.

The proposed Judiciary Budget that you have before you today reflects our commitment to work with the Legislative and Executive Branches to address the State's fiscal crisis. It bears the fruit of our ongoing reassessment of court operations. It is the second consecutive negative-growth Judiciary budget, with a proposed General Fund request that is \$3.9 million less than the current year. And we achieved this reduction despite more than \$70 million in increased costs next year, including the cost of the judicial salary adjustment and nonjudicial salary increases mandated by law. We are able to present the negative-growth budget as the result of a broad range of cost-cutting measures and efficiency improvements.

- We streamlined court administration so that scarce resources can be devoted to the courts.
- We modified operations to sharply reduce overtime costs, eliminated many high-priced print legal reference materials in favor of flat-rate online legal research, and largely replaced in-person training for judges and nonjudicial personnel with web-based remote programs.
- In addition, we are very closely monitoring juror utilization, not just to reduce expenditures for jury fees but to ensure that our citizens are not called to jury service when it is not likely that they will even be sent out for voir dire.
- As in past years, technology plays a key role in our re-engineering efforts, with the expansion of eFiling, the initiation of online attorney registration, and a variety of innovative projects with government agencies to improve

inter-agency transmission of data, in order to reduce costs, increase efficiencies and improve service to the public.

In terms of fiscal impact, the most significant measures we have undertaken are the two years' long hiring freeze and other steps that have sharply reduced the size of the court system's workforce. Three years ago we adopted a program to encourage targeted nonjudicial employees to leave State service. In 2010, we implemented a Retirement Incentive Program. Unfortunately, as a result of the reduction of our 2011-2012 budget request, we had no choice at the beginning of the current fiscal year but to layoff more than 400 nonjudicial employees. As a result of these actions, the court system's nonjudicial workforce has been reduced by 1400 employees since 2009.

In response, our remaining nonjudicial personnel are doing whatever is needed to fill in the gaps and maintain the highest level of service to the public. Chief clerks in some counties have assumed supervisory authority for multiple courts, while others have taken on the responsibilities of lower-level managers whose positions remain vacant. Administrative employees have been redeployed to positions that directly support court operations. In consultation with our unions we are using alternate work schedules to limit overtime costs while also ensuring the necessary staffing coverage. In addition, court managers closely monitor court calendars, so that staff can be assigned where they are most needed.

I believe that many of the steps that we have taken in response to the budget crisis have worked well. There is, of course, more that can be done; the transformation of an organization as complex as the court system requires a long-term commitment, and the re-engineering of the courts is very much a work in progress.

And as in any work in progress, there are setbacks. We know that some of the steps that we have taken, notwithstanding their cost savings, have had a negative impact on court operations and on the public that we serve. Recent reports, including a study by the New York State Bar Association, describe these impacts from the perspective of the court user. The cancellation of evening hours for Small Claims parts has resulted in a delay in the hearing and resolution of these cases. The 4:30 pm closing time, which we reluctantly instituted as part of our overtime control program, has affected the conduct of trials. In addition, changes in arraignment part schedules in New York City, also undertaken in an effort to reduce overtime costs, have had some impact on arrest-to-arraignment time.

We are committed this year to addressing these issues, and to minimizing the negative impacts of budget-saving measures. As a former Administrative Judge of the trial courts, I know first-hand the frustrations experienced by litigants, jurors, and attorneys when they encounter delays, long lines, and others inefficiencies at the courthouse. We will continue to monitor closely the impact of our actions on court users, and make adjustments whenever possible.

I am particularly concerned about the impact on families and children. Family Court and matrimonial matters have always been among the most difficult cases; that is especially true in tough economic times, and we must be vigilant to ensure that our cost-cutting measures do not further burden the parties to these cases. We have implemented procedures to ensure that earlier closing times do not delay access to anyone seeking an order of protection or other emergency relief – but we must do more.

Likewise, I have already taken steps to address the arrest-to-arraignment issue in New York City by asking one of our most respected jurists, Judge Barry Kamins, to do double duty and to take on the additional role of Citywide Administrative Judge for the New York City Criminal Court, in order to focus particular attention on this critical issue.

Going forward, we believe that within the resources provided by the proposed budget we will be able to take further steps to mitigate some of the more serious negative impacts of the cost-cutting efforts necessitated by our austerity budget, including some modification of the Small Claims and closing hours policies.

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Of course, budgetary constraints are only one of the challenges that the Judiciary faces at this crossroads. The work of the courts continues unabated. Each year there are more than four million new cases filed in the New York courts. That is a growth of 16 percent over the past 10 years, during which time only a handful of new judgeships were created. I want to briefly address several aspects of this rapid growth, which I know are of special interest to you, as they are to us.

First, foreclosures. Between 2006 and 2010, the number of foreclosure cases doubled. Last year there was a sharp decline in new residential foreclosure filings. Unfortunately, this has less to do with the state of the housing market than with the robo-signing scandal and the affirmation mandate that the New York State courts imposed in response. Indeed, there is evidence that a large number of homeowners, perhaps tens of thousands, have been served with a summons and complaint in cases that will appear on court dockets as soon as banks can comply with the affirmation

requirement. Despite this recent, and apparently temporary, decline in new filings, our foreclosure workload remains substantial. The courts ended 2011 with approximately 75,000 foreclosure cases pending. These cases require, on average, four to eight distinct appearances before the settlement conference process is completed. In 2011, more than 80,000 conferences were conducted. Since the foreclosure legislation went into effect in 2009, the courts have held over a quarter of a million conferences. These conferences are very demanding and time-consuming, but they have also been effective. For example, last year settlements were reached in more than 35 percent of those cases in Rockland County in which the settlement process was completed. But we need to come up with more innovative ways to encourage financial institutions to renegotiate mortgages for individuals who should be able to afford and stay in their homes.

Family violence cases are another category that is of particular concern. There have been almost 32,000 petitions filed under the Intimate Relationship legislation enacted in 2008, which authorized the Family Court to issue orders of protection to persons involved in non-traditional family relationships. Over that time period the total number of orders of protection issued by Family Courts increased by more than 20 percent.

One of the most critical problems facing the Judiciary today is the growing number of unrepresented litigants – estimated at more than 2.3 million a year. The Judiciary has responded to this challenge by providing a range of services to unrepresented litigants, including Help Centers, staffed by court employees who provide free procedural information with instructional packets, court forms, and access

to online self-help tools. In addition, Chief Judge Lippman has led the effort to encourage attorneys to provide free legal services to low and moderate income citizens, including the creation of a pro bono attorney emeritus initiative under which retired lawyers provide free legal assistance in civil and family matters. But more needs to be done, and last year you addressed this issue by authorizing \$12.5 million to begin implementation of the recommendations of the Chief Judge's Task Force to Expand Access to Civil Legal Services. In the first year of this new program, 56 grants were awarded to non-profit organizations in every corner of the State, providing assistance in foreclosure, eviction and other cases involving basic human needs. Preliminary reports demonstrate the significant impact that these funds are having. In just the first three months of the new program, more than 50,000 clients were served and more than 8,000 cases were diverted from the courts.

Especially at a time of economic downturn, legal representation is critical to ensuring fair and equal access to justice to the most vulnerable New Yorkers. But Civil Legal Services funds do more than that. The court system itself functions more efficiently when litigants are represented by experienced advocates rather than attempting to navigate our complex system on their own. Representatives of the real estate industry and other businesses have also testified that they prefer to litigate against an attorney rather than a non-represented party. The State also sees a return on monies spent on civil legal services, in the form of increased federal benefits and decreased social services and homelessness. For these reasons, our proposed budget includes an increase of \$12.5 million in funding for civil legal services, bringing the overall funding sought to \$25 million, the level that was originally proposed in our

budget submission last year.

Finally, I want to speak briefly about alternate sources of funding. In this difficult economic climate, it is important not only to rethink the way that the Judiciary does business, but also to look "outside of the box" for new non-public revenue sources in order to achieve goals that otherwise might not be attainable. Toward this end, I will work closely with the Center for Court Innovation, the court system's independent research and development arm, to identify potential partners who share our goals, and to implement new initiatives without unnecessarily burdening taxpayers.

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This is a time of unprecedented challenge for the Judiciary. But unprecedented does not mean insurmountable. And as a dear friend and mentor of mine was fond of saying, obstacles are simply opportunities disguised as headaches. I have complete confidence that with the continued efforts of the incredibly hard-working and dedicated judges and staff of the court system, we will confront this challenge, take advantage of this opportunity, and continue to transform our court system for the better. We look forward to partnering with you on this historic endeavor.

Thank you for inviting me to address you today. Again, I look forward over the coming days to getting to know all of you, and your colleagues and staffs, and to working with you to better serve the people of this great State.

I would now be happy to answer any questions you may have on the Judiciary Budget.