



Testimony

before the

Joint Legislative Public Hearings on the

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Executive Budget Proposal

Public Protection

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My name is Dennis Hawkins, Executive Director of the Committee for Modern Courts. On behalf of Modern Courts, thank you for providing us with the opportunity to submit this testimony in support of the Unified Court System's (UCS) budget request of \$2.39 billion for FY 2022-23. Your support for this budget request is essential for the continued operation of the Judiciary during these challenging times.

Modern Courts is an independent nonpartisan statewide court reform organization committed to improving the court system for all New Yorkers. We support an independent, highly qualified, and diverse judiciary that provides for the fair administration of justice and equal access to justice for all who use the courts to resolve their legal disputes. Through research, public outreach, court monitoring, education and advocacy efforts, Modern Courts seeks to advance these goals and to ensure public confidence in the Judiciary.

We are pleased that the budget includes a sorely needed increase of \$12.6 million (12.6%) in funding for civil legal services to cover adjustments for cost-of-living and inflation over the past six years, and funding to fill current vacancies in UCS personnel, including support for three new Court Officer Academy classes for a total of 500 new court officers.

Given that New York State's financial condition is better now than it has been in many years as a result of an increase in revenues of \$12.9 billion, now is the time to invest in our court system to make it truly "modern" by not only approving the Judiciary budget as submitted but with additional funding in the following areas.

## **FAMILY COURT**

The impact of the COVID-19 pandemic on the courts, especially Family Court, has been severe. Safety protocols kept courthouses closed and Family Courts in New York City simply could not function. Unlike other trial courts in New York, such as the Supreme Court, which before the pandemic had implemented electronic filing, the Family Court had not. Accordingly, when COVID-19 struck, the initiation and litigation of a Family Court actions in New York City requiring the filing of physical petitions and in-person court appearances was impossible. Similarly, for those who wanted a copy of a court document, and for those unrepresented litigants who sought help filing papers, the Family Court was not easily accessible. Moreover, court personnel were not equipped with the technology to enable them to work remotely.

Given its limited technological and logistical capacity, once the pandemic hit, the Family Court in New York City prioritized “essential” cases and was unable to hear, for an extended period of time, most visitation, custody, adoption, guardianship, and support matters, as well as many child-protective and termination of parental rights proceedings. The bulk of these cases stagnated for almost a year before being scheduled to be heard, and most new cases like these were, by and large, not even accepted for filing for months. As a result, the vast majority of litigants—especially unrepresented litigants who make up 80% or more of the court population—had no access to the Family Court during a great time of need

## **EXPANDING ELECTRONIC FILING IN FAMILY COURT**

Modern Courts believes it is critically important to provide adequate funding so that e-filing can be made available in Family Court throughout the state as it is in civil parts of the Supreme Court, Surrogate's Court, Court of Claims, NYC Housing Court, and NYC Civil Court (for matters removed from Supreme Court pursuant to CPLR 325(d) and mandatory no-fault actions), and all four Appellate Divisions of the Supreme Court. The implementation of e-filing in Family Court would be a dramatic improvement over the antiquated and inadequate system in place now and provide families with the opportunity they need to adjudicate matters that only Family Court can resolve.

## **IMPROVED TECHNOLOGY**

In addition, Modern Courts believes that the Unified Court System (UCS) needs an effective, user-friendly website that comprehensively informs the public of current court operations and provides guidance to unrepresented litigants. The website should be in multiple languages, be kept up to date, and should include forms with easy-to-comprehend instructional guides. This too will require additional funding and is essential if the Judiciary is to provide true access to justice.

## **INVESTING IN THE FUTURE THROUGH COURT SIMPLIFICATION**

While increased funding for New York’s court system is essential, we urge the Legislature to consider structural reform of the court system, which will enable the courts to act more flexibly and efficiently both during a crisis and during day-to-day operations moving forward, all for the benefit of those who use the courts to resolve their many and varied matters.

The simplification of the court system, which will consolidate the current confusing patchwork of 11 different trial courts into a simplified three-tier structure comprised of a statewide Supreme Court; a statewide Municipal Court; and our existing Justice Courts, will greatly enhance the system’s ability to maximize efficiencies and modernize operations statewide so that the Office of Court Administration will be able to respond creatively and effectively to the needs of the people served. Simplification also will have the greatest benefit in higher volume courthouses that serve low income, marginalized and communities of color.

Jeh Johnson in his [Report from the Special Adviser on Equal Justice in New York State Courts](#), issued in October 2020, found that multiple interviewees complained about an under-resourced, over-burdened court system that has a dehumanizing effect on litigants, and has a disparate impact on people of color. His report noted that, “Housing, Family, Civil and Criminal courts of New York City ... continue to be faced with extremely high volumes of cases, fewer resources to hear those cases and aging facilities. Over and over, we heard about the “dehumanizing” and “demeaning cattle-call culture” in these high-volume courts. At the same

time, the overwhelming majority of the civil or criminal litigants in the Housing, Family, Civil and Criminal courts in New York City are people of color.”

Jeh Johnson’s report states that, “The sad picture that emerges is, in effect, a second-class system of justice for people of color in New York State.”

Modern Courts urges the Legislature to consider and adopt a constitutional resolution to simplify the court system during the 2022 legislative session.

Most importantly, Modern Courts believes that court simplification will make the court system work better for your constituents – families burdened by having to appear in multiple court venues; unrepresented individuals with few if any resources; survivors of intimate partner violence; and others with limited financial means.

It should be noted that Modern Courts has organized the [Simplify the Courts! Coalition](#) composed of 111 organizations from all parts of the state and that this Coalition remains focused on the critical goal of simplifying the New York State court system. The members of this Coalition are independent organizations, with a wide variety of perspectives and interests, who have agreed to work together to simplify our court system to benefit the individuals they represent in New York’s trial, family, civil, criminal, and housing courts.

## **LANGUAGE ACCESS**

Modern Courts applauds the Judiciary for continuing its commitment, through this budget, to ensure that all persons may seek justice in New York’s courts despite limited or no

English proficiency. But here too, Modern Courts believes that more funds are needed to hire additional interpreters, both staff and *per diem*, because of the loss of many of those positions and the long delay during courts sessions for interpretive services. In addition, more support is needed for remote video interpreters, the use of bilingual orders of protection, the translation of documents and information, including DIY forms, and the commencement of a “plain language” initiative. All these are essential to ensure access to justice for all New Yorkers.

### **CIVIL LEGAL SERVICES**

Modern Courts supports the continued funding of civil legal services that ensures access to justice for New Yorkers in crisis without sufficient resources to hire a lawyer. That need continues to exist, especially as a result of the harsh impact of COVID on the poorest communities in our state. We believe that the Judiciary FY 2022-2023 budget provides an essential needed increase. For Modern Courts, this is a matter of simple justice that affects the safety and security of families and children. We ask that you support the funding for civil legal services and the providers who service every county in this state and provide critically needed legal representation.

Respectfully Submitted,

Dennis R. Hawkins