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New York County Bar Associations Sue to Block City, Mayor from Overturning Current System for Indigent Criminal Representation

New York, NY – On behalf of the bar associations for the counties of New York, Bronx, Kings, Richmond and Queens (the “County Bars”), Haynes and Boone, LLP litigators commenced an action today in New York State Supreme Court seeking to block the City of New York (the “City”), Mayor Michael Bloomberg and the Mayor’s Criminal Justice Coordinator John Feinblatt (the “CJC”) from unilaterally implementing an overhaul of the City’s indigent legal defense system for criminal matters -- a system that was devised and has been operated under a joint plan among the City and the County Bars for more than 40 years. The County Bars brought the lawsuit on behalf of New York’s indigent defendants, who are otherwise without effective means or recourse to challenge systematic inadequacies in the provision of criminal defense services.

According to the court petition filed today, in the wake of the U.S. Supreme Court’s landmark 1963 decision in *Gideon v. Wainwright*, the State of New York enacted County Law Article 18-B in order to ensure that indigent defendants receive meaningful and effective assistance of counsel in criminal cases as guaranteed by the New York State and United States Constitutions. The County Bars’ claims are based upon allegations that the City, Mayor Bloomberg and the CJC violated Article 18-B, which requires all counties in New York to implement a system that provides criminal defense attorneys to the indigent utilizing one of four options: (1) an office of the public defender, (2) a private legal aid society organized and operating for the provision of indigent legal counsel, (3) a panel of private attorneys furnished pursuant to a plan proposed by the local bar associations and approved by the state administrator, or (4) counsel furnished in accordance with a plan containing a combination of any of options (1) through (3). Since 1965, the City has satisfied its obligations under Article 18-B through a combined system of the Legal Aid Society of New York and alternate institutional legal service providers, and a plan proposed by the County Bars (and the Association of the Bar of the City of New York) and approved by the state administrator.

In February and March, 2010 -- without input or agreement from the County Bars -- the Mayor and the CJC took steps toward implementing a new system for indigent defense. The petition filed today contends that these actions violate Article 18-B and other state law because they do not qualify as one of the four allowed options for the City’s indigent defense plan, and they otherwise exceed the Mayor’s and CJC’s executive powers. The Mayor’s proposed overhaul would also marginalize the County Bars’ core and statutory role in ensuring all New York residents receive fair legal representation when accused of a crime. Instead of relying on the plan the City implemented with the advice and cooperation of the County Bars in 1965, the Mayor now seeks to select all defense providers without the County Bars’ input, through a confidential competitive bidding process that threatens to emphasize low cost over quality of legal services. This proposal poses a serious risk that New York City’s system for providing legal services to the poor will fall below State and Federal Constitutional standards.

Today’s action -- referred to as an “Article 78 Proceeding” -- seeks an order from the court preventing the City and the CJC from further violating Article 18-B or disturbing the status quo unless and until the City

reaches an agreement with the bar associations that preserves indigent defendants' access to adequate legal counsel.

The Haynes and Boone team includes Partners David Siegal and Kendyl Hanks, Jon Pressment, Of Counsel, and associates Nora Van Horssen and Lauren Perotti.

Haynes and Boone, LLP is an international corporate law firm with offices in New York, Texas, California, Washington, D.C., and Mexico City, providing a full spectrum of legal services. With more than 550 attorneys internationally and over 40 attorneys in New York, Haynes and Boone is ranked among the largest law firms in the nation by *The National Law Journal*. The firm has been recognized as one of the "Best Corporate Law Firms in America" (*Corporate Board Member Magazine*, 2001-2009), as one of "The Best 20 Law Firms to Work For" (Vault.com, 2009), and as a Top 100 law firm for both diversity (*MultiCultural Law Magazine*, 2009) and women (*Women 3.0*, 2008).