

April 30, 2020

Hon. Janet DiFiore
Chief Judge
New York State Court of Appeals
20 Eagle Street
Albany, New York 12207

Hon. Lawrence K. Marks
Chief Administrative Judge
New York State Unified Court System
Office of Court Administration
25 Beaver Street
New York, New York 10004

Hon. Rolando T. Acosta
Presiding Justice
Supreme Court of New York
Appellate Division, First Department
27 Madison Avenue
New York, New York 10010

Hon. Alan D. Scheinkman
Presiding Justice
Supreme Court of New York
Appellate Division, Second Department
45 Monroe Place
Brooklyn, NY 11201

Hon. Elizabeth A. Garry
Presiding Justice
Supreme Court of New York
Appellate Division, Third Department
Capitol Station, P.O. Box 7288
Albany, New York 12224

Hon. Gerald J. Whalen
Presiding Justice
Supreme Court of New York
Appellate Division, Fourth Department
50 East Avenue
Rochester, New York 14604

Re: A “Humanitarian Exception”

Dear Chief Judge DiFiore, Judge Marks, Justice Acosta, Justice Scheinkman, Justice Garry, and Justice Whalen:

We write with respect to an access to justice issue that is of concern to the New York County Lawyers Association, its Justice Center, Committee on Professionalism and Professional Discipline and Ethics Institute. That issue is the inability of indigent litigants to meet basic human needs while their cases are pending. These litigants are typically represented without fee by volunteer lawyers on a pro bono basis or by dedicated lawyers from legal service organizations. The urgency and cause of these litigants’ desperate financial situation are often at the heart of the litigation, but that very situation may preclude the litigants from being able to maintain the litigation to conclusion.

The need for some funding of basic needs of indigent litigation clients so that their cases may go forward and their poverty does not extinguish their right to relief is becoming even more acute as the result of the COVID-19 emergency. We are aware of the letter written to you on April 24 on behalf of the New York City Bar Association and of the proposed change to Rule 1.8 of the Rules of Professional Conduct described in that letter.

The amendments proposed are not a complete answer to the underlying issue, but they or other steps are urgently needed now. The courts of this State under your leadership have responded in prompt, innovative and constructive ways to the present crisis, and this is another area where we believe similar action is necessary. We respectfully urge that steps to permit some funding of these critical needs be adopted as soon as possible on at least a temporary, emergency, if not more permanent, basis.

You have the deepest gratitude and respect of NYCLA for the leadership you have all demonstrated during this difficult time. NYCLA, its Justice Center, Committee on Professionalism and Professional Discipline, and Ethics Institute stand ready to work with the courts and other groups to find solutions to this and other access to justice issues affecting the indigent on both an immediate and longer-term basis.

Respectfully submitted,



Stephen C. Lessard
President, New York County Lawyers Association

cc: Anthe Maria Bova, *NYCLA General Counsel & Director of Pro Bono Programs*

James Kobak, *Co-Chair, NYCLA Justice Center*

Ron Minkoff & Phil Schaeffer, *Co-Chairs, NYCLA Committee on Professionalism and Professional Discipline*

Sara Jo Hamilton, *Chair, NYCLA Ethics Institute*

Roger Maldonado, *President, New York City Bar Association*

Wally Larson, Jr., *Chair, New York City Bar Association Professional Responsibility Committee*

Tyler Maulsby, *Chair, Professional Ethics Committee*