

TESTIMONY FOR THE FEBRUARY 23, 2009 APPROPRIATIONS HEARING
ON BEHALF OF FUNDING FOR LEGAL SERVICES

The financial crisis deeply concerns all residents of our state. But as the deans of the state's three law schools, we are particularly worried about one aspect of the current economic crisis: the grave threat to legal services for Connecticut's poor. We urge every citizen to sit up and take notice.

We suspect many in Connecticut are not aware that roughly two-thirds of the funds that support lawyers who represent, in civil cases, those who cannot otherwise afford an attorney come from a special program called IOLTA. This stands for Interest on Lawyers' Trust Accounts. Under the IOLTA program, lawyers who hold client money for short periods pool these funds in special accounts from which the banks pay interest that ultimately goes to fund legal services for the poor.

Today's economic conditions have virtually decimated IOLTA. For one thing, very few real estate transactions are going forward and there is thus very little money to be held in trust by lawyers. Equally important, current interest rates are so low that many banks are paying less than 1%. The combined effect of these drastic changes is that 2008 IOLTA money is roughly one-half of what was expected and 2009 revenue will likely dip to approximately one-quarter of that generated by the program in 2007. This translates into a shortfall for legal services of between \$8 and \$9 million dollars for 2009, a catastrophic reduction of one-third of their budget.

Imagine if you suddenly lost one-third of your household budget. If nothing is done to replace IOLTA funds, legal services offices throughout the state will face immediate and severe attorney layoffs. Thousands of indigent clients who would otherwise be served will go without lawyers. Self-help materials that enable poor people to educate themselves about the law will go unpublished. And, to the extent that individuals without resources find themselves unable to avail themselves of the nation's courts, this will undermine our nation's claim to adhere to the rule of law.

In times of economic crisis, poverty has many faces. Obsolete production techniques cause a loss of jobs and some people are generally unable to work due to physical ailments outside their control. Yet in every crisis victims arise as a result of unscrupulous actors seeking to take advantage of the less fortunate. Those who might prey on such innocent victims include irresponsible landlords; predatory lenders who make loans on unaffordable and incomprehensible terms; and overeager salesmen whose products bear scant resemblance to the highlights in the sales pitch. We hear a great deal in the news about how such unscrupulous practices must be regulated. Certainly a case can be made that such regulation will protect those who most need it.

But what good will come from regulation if the average citizen has no means or representatives to fight back against the predators? Only a vibrant legal services system can ensure that our poorest citizens can rely upon a state-provided lawyer to resist those who would take advantage of them. Certain mid-sized states such as Maryland, Virginia, and Washington have creatively directed court filing fees to legal services resulting in annual appropriations from more than \$6 million to more than \$11 million, and nearby states such as New Jersey and Massachusetts also have state budget annual allocations of more than \$10 million. Connecticut's is approximately \$1 million. The collapse of IOLTA revenues means our state needs to find another way to secure a legal services' revenue stream.

As law deans, each year we collectively welcome hundreds of students into the legal profession. We want to tell them they are joining a profession in which legal rights can be vindicated on behalf of rich and poor alike. But we also want to tell them the truth. Preserving lawyers for the poor is absolutely essential for the optimistic story about the rule of law to be truthful. Connecticut is known as the "Constitution State," but we face a serious danger that lack of representation will threaten many citizens' constitutional rights. If you believe in the rule of law, we are counting on you--and everyone in Connecticut-- to help us save legal services.

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