

**Public Hearing on Mayor Fenty's Fiscal Year 2011 Budget Gap Closing Plan
Before the Council of the District of Columbia, Committee of the Whole**

**Testimony of Eric T. Washington
Chief Judge of the District of Columbia Court of Appeals**

November 30, 2010

Good morning Chairman Gray and members of the District of Columbia Council. My name is Eric T Washington, and I am the Chief Judge of the District of Columbia Court of Appeals and the Chairman of the Joint Committee on Judicial Administration in the District of Columbia. I am joined today by Chief Judge Lee Satterfield, of the DC Superior Court, Peter Edelman, Chair of the District of Columbia Access to Justice Commission and Ronald Flagg, President of the District of Columbia Bar.

We are here today to urge the Council to preserve government funding for civil legal services. While I was unable to attend the Council hearing that was held in April on this same subject, I know that my colleague, Judge Inez Smith Reid, who also serves as the Vice Chair of the Access to Justice Commission, testified about the critical importance of this program to ensuring meaningful access to justice for the far too many District residents who are currently living in poverty. As Chief Judge, I am acutely aware of the challenges faced by litigants who must

navigate our sometimes complex court systems without access to counsel.

Although as a matter of principle, indigence should not be a bar to justice, the reality is that far too many District residents are fending for themselves in circumstances where the law is complex, the forum is intimidating, and the stakes are all too high.

Our courts have worked hard to forge a fair and accessible judicial system. We have long been aware, however, that this goal cannot be fully realized without a properly functioning legal services network that can provide counsel to the many individuals who simply cannot navigate our court system alone. As Chair of the Joint Committee on Judicial Administration for the District of Columbia, I am aware of and have been supportive of a number of important initiatives that have been designed to ensure that residents confronted with complicated legal problems have meaningful access to the judicial system. Together with Chief Judge Satterfield, the Courts have supported the creation of pro se resource centers, refined policies and practices to ensure that pro se litigants can most effectively advocate for themselves, and provided support to ensure that interpretation services are available for those litigants facing language barriers. While these critically

important initiatives have made it possible for many District residents to access the courts, there is no doubt that having counsel fundamentally improves the likelihood that litigants will be able to effectively and successfully present their cases to the court.

Many of the areas of law that affect people in poverty – housing, unemployment – are necessarily complex. They often involve statutes, regulations, and procedures that any pro se litigant would find daunting. Although calibrated to optimally protect the interests of all parties, those statutes, regulations and procedures can become a barrier to achieving a just result when the litigant cannot effectively understand and navigate them. Too often we see cases where the lack of counsel below, coupled with the existence of a sophisticated, institutional litigant on the other side, hinders the proper presentation of the case and undermines the pro se litigant’s ability to press potentially meritorious claims. Having counsel ensures that indigent litigants are able to raise meritorious legal issues at trial court, creating a record upon which an appeal can be made if appropriate. As a judge, it is deeply distressing to know that litigants may be unable to press potentially meritorious legal issues because of the lack of counsel. In addition to the often tragic

consequences for the individual litigant, such occurrences can undermine the public's confidence in our judicial system and erode the public's trust in the courts as an institution blind to economic circumstances.

It is for these reasons that I am here today testifying in opposition to the Mayor's proposal to reduce this vital funding by more than fifty percent. The legal services network has already been significantly decimated by the recession, just as client requests for services – and the urgency of those requests – has increased sharply. Indigent and increasing numbers of middle class residents from across the city are facing financial hardships and safety net reductions. The courts are often the forum of last resort to redress alleged wrongs, and the loss of these funds will mean that more and more District residents will be unrepresented during critical moments when they are at their most vulnerable – for example, the family facing an imminent eviction, or the senior resident confronted with a medical emergency, or the young man or woman in critical need of a protection order. For the many litigants who, in addition to being poor, are limited in their English proficiency, suffering trauma due to violence, or managing other serious challenges, the consequences of not having counsel are even more dire.

The letters that have been written in support of public funding for these programs by both me and Chief Judge Satterfield are a testament to how strongly we believe in the substantial and measurable contributions this program has made to the administration of justice here in the District of Columbia. We deeply appreciate the Council's steadfast support for these vital programs in the past, and sincerely hope the Council will continue to do all that it can to preserve this funding in the future.

Thank you.