



Before the Council of the District of Columbia

**Joint Statement of Chief Judge Anna Blackburne-Rigsby, District of Columbia Court of Appeals,
and Chief Judge Anita Josey-Herring, Superior Court for the District of Columbia**

FY 2022 Access to Justice Initiative Funding

We are pleased once again to write in support of the Access to Justice Initiative. As Chief Judges of the District of Columbia Courts, we are confronted every day by the significant civil justice gap that persists in our community. Chief among the obstacles to confronting this gap is the vast number of litigants who must navigate their cases in both the DC Superior Court and DC Court of Appeals alone because they cannot afford counsel. The Access to Justice Initiative is a fundamental and necessary part of any effort to provide equal justice for District residents facing significant civil legal challenges because it is a critical tool in securing legal representation for thousands of vulnerable District residents who seek redress in our tribunals each year. The Access to Justice Initiative ensures that countless residents who are in legal crisis have an advocate at their side when the things they most value – their children, their livelihood, their safety, their homes – are at risk.

The DC Courts have remained open throughout the pandemic. Accessing the courts during this time has presented new challenges for everyone, particularly litigants without counsel. The DC Courts have taken numerous steps to ensure access to justice during this time, including modifying operations to allow for remote access to court services and establishing five remote hearing sites throughout the District for litigants who may otherwise lack the ability to participate in virtual hearings. The DC Court of Appeals is conducting remote oral arguments and appellate mediation via Zoom, deciding motions, and issuing decisions. To make filing more accessible, the DC Court of Appeals has also established an email address for *pro se* litigants

who are not registered with the Court's electronic filing system to submit filings and suspended the requirement for the filing of paper copies of electronically filed documents and the requirement that requires additional paper copies. The DC Superior Court has continued to hold hearings on emergency and an increasing number of other matters. Nevertheless, navigating remote proceedings and managing the procedural and legal changes necessitated by the pandemic can be overwhelming to an unrepresented party.

Legal services providers funded through the Access to Justice Initiative have provided invaluable support to the DC Courts during the COVID-19 pandemic. They've provided feedback to DC Courts' leadership on operational changes throughout, and have highlighted best practices for remote operations, all with an eye towards maximizing access to justice. Access to Justice Initiative funds also support essential court-based programs and resource centers in areas such as landlord-tenant, debt collection, small claims, child support, family law, and domestic violence – all of which have continued to provide remote services during the pandemic.

Legal services providers have also worked closely with the courts to develop ways to affirmatively reach out to litigants to offer access to civil legal services before hearings even occur, such as through letters and phone calls. Some have created and staffed new, centralized hotlines for unrepresented litigants seeking legal advice and representation in areas that are both high volume and high risk, such as eviction, debt, domestic violence, and more. These efforts ensure that litigants have access to legal information, and are a way to screen for the opportunity to secure counsel or limited scope representation.

As we are all keenly aware, however, even the most comprehensive resources available to unrepresented parties are not a substitute for counsel. This has been even more true over the past year due to the extraordinary disruptions in normal court operations due to the pandemic. Even with legislative moratoria in areas of eviction, debt collection, and residential foreclosure, people have continued to face needs during the pandemic that require legal redress. The legal issues confronted by many litigants are complex and even the most sophisticated litigants struggle to understand the relevant statutes and rules, effectively raise complicated defenses, and present their evidence and arguments persuasively. Emergency

legislation and fast-moving legal and procedural changes throughout the public health emergency have complicated matters for unrepresented litigants who may not understand how these changes impact their cases. For the high percentage of litigants who also struggle with additional obstacles, such as mental illness, physical disabilities, low literacy, lack of internet and technology access, and histories of domestic violence or trauma, self-representation can seem – and in practice be – impossible. For these litigants, counsel is indispensable.

Unfortunately, the pandemic is likely to both increase the number of litigants without the financial ability to retain counsel and the number of litigants facing life-altering legal cases. As we continue to grapple with the challenges of the COVID-19 pandemic and prepare for its aftermath, we expect to see the civil justice gap widen. As judges, we understand what is at stake for unrepresented litigants, and how difficult it is for them to advocate for themselves, particularly when they find the forum intimidating and the law complex. As a judge, it is deeply distressing to have to adjudicate cases where the lack of counsel inhibits the full presentation of evidence and/or the persuasive presentation of legal arguments. We expect to see even more litigants facing these challenges for the first time as more District residents face financial and legal challenges they could not have imagined a year ago. In this way, the Initiative is more important than ever before, as the funds provide thousands of litigants with pressing legal issues the representation that they need and deserve. We and our colleagues on the bench witness each day the pivotal interventions that occur when legal representation is available to help those most in need.

Having access to counsel is crucial not only for litigants but for the efficient operations of our courts. Counsel present cases more efficiently thereby reducing litigant wait times and freeing up judicial resources. They ensure that dispositive issues are raised early in the case, reducing time expended by parties and witnesses while also permitting judges to reach a just result in a timely manner. As the DC Courts begin hearing more non-emergency matters and resuming normal operations, efficiency becomes even more important. There is not only a significant backlog in cases from the past year that require resolution, but there are also likely to be large increases in new cases filed once legislative moratoria on eviction and debt collection expire. Much of this new volume is anticipated to fall on the Landlord and Tenant

Branch, which was already a high-volume calendar with a very high percentage of unrepresented litigants before the pandemic. As the DC Courts works through these cases, counsel will provide invaluable assistance in helping streamline and move cases and ensuring meritorious claims are concisely raised and presented.

As Chief Judges, we are also charged with ensuring the fair administration of justice more generally. Public trust and confidence in the courts is absolutely essential to our ability to do our jobs. When those who come to us to enforce their rights and liberties feel that economic disadvantage affects their fair treatment by our courts, it strains the fabric of our justice system and our rule of law-based society. It is crucial that all litigants have – and perceive themselves to have – an equal opportunity to have their cases fairly presented. No matter how much we do institutionally and individually to enhance the experience of unrepresented litigants, the reality is that represented litigants are far more likely to feel that they have been fully and fairly heard by the Court. We simply cannot sustain public confidence in our civil justice system unless all litigants – regardless of income – feel they have this opportunity.

The DC Courts are also committed to expanding the level of *pro bono* representation in our courts. We recognize that any *pro bono* effort depends on a well-funded and stable legal services network to ensure that the cases placed with volunteer lawyers are properly screened, and that these lawyers receive the training, mentoring, and support that they need to take on cases that may be outside their area of expertise. The Courts, in partnership with the Commission and the D.C. Bar Pro Bono Center, are pleased to recognize the community of *pro bono* lawyers who are already serving through the Capital Pro Bono Honor Roll, which honors the crucial *pro bono* contributions of local attorneys. For 2020, the DC Courts were pleased to recognize over 5,000 attorneys for their *pro bono* contributions, a new participation record. The District enjoys a robust and collegial *pro bono* community, and legal service providers are essential to harnessing this resource for the benefit of District residents.

Finally, legal services providers funded by the Access to Justice Initiative also provide invaluable support to the DC Courts' own strategic planning efforts. Even before the pandemic, the DC Courts identified access to justice as the number one goal in its strategic plan and launched initiatives in this area. The Court is actively engaged in examining lessons learned

from the pandemic and past year of remote operations, with a focus on maintaining promising practices that expand access to justice as the Courts move towards fully resumed operations. DC Superior Court is also conducting a reform project to examine some of its most high-volume calendars, and we will rely on our network of legal services providers to offer feedback to enhance our court operations for the better. And last month, following the review of a comprehensive racial equity proposal submitted by the D.C. Courts' Standing Committee on Fairness and Access, the Joint Committee on Judicial Administration launched a Racial Equity Initiative to establish a comprehensive strategy and next steps to assess DC Courts processes, policies and procedures through a racial equity lens. The Court knows that it can rely on legal services providers to again provide valuable feedback and support for these efforts as another avenue to increase access to justice.

The vision statement of the District of Columbia Courts is "Open to all, trusted by all, justice for all." Along with our colleagues on the bench, we are fully committed to achieving this vision. To do that, we need a skilled and resourced legal services network, working full-time to protect the rights of the District's most vulnerable residents. We are mindful of the many needs the D.C. Council must consider in formulating the FY 2022 budget and deeply appreciate this Committee's strong and steadfast support of the Access to Justice Initiative. We hope that the Committee will support the highest possible funding level for this vital program.

Thank you for considering our views on this important issue.



The Honorable Anna Blackburne-Rigsby
Chief Judge
District of Columbia Court of Appeals



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