

State of the Judiciary
Chief Justice Stuart J. Rabner, New Jersey Supreme Court
Address to the New Jersey State Bar Association
May 15, 2009, in Atlantic City, New Jersey

I am pleased to be here again to report on the state of the judiciary. It is a challenging time. I wish that I could echo the tone of Judge Brown's remarks at the end, but it is a challenging time in our nation and state, and we see that reflected in our court system.

I'll go light on statistics and mention just a few. In 2009, we project the highest number of filings for the year ending next month: 1.15 million case filings in the Superior Court. That increase in filings is fueled by the state of the economy, as seen in the staggering number of mortgage foreclosure cases, and a historic high in the number of contract and collection cases that are tied to credit card debt and other matters.

The judiciary is responding to those filings with the smallest number of staff in recent memory. In order to meet our budget shortfall last year, we now have 300 fewer staff members a result of the early buyout program and attrition.

Thanks to some careful management efforts, as well as the exemplary dedication of judges and staff and many of our judges are here today, and I thank you for that we have had the same responsiveness in handling cases, the same high caliber of decision making, and the same commitment to excellence in the administration of justice. That is a tribute to our judges, who deal with difficult issues day in and day out with an ever-growing caseload, and to our staff who care so passionately about the work that they do.

I thank all of them for their extraordinary efforts this past year, and I thank them in advance for the challenges that lie ahead in the coming year.

It is no secret that the state faces a fiscal crisis of great proportions right now. The judiciary has not gone unscathed as part of that process. Last year, we were asked to meet a shortfall of \$27 million, which we met, as I mentioned, through a reduction in force of 300 people and by deferring IT (information technology) expenses as well as some other items. That was the opposite direction of where we wanted to head, given what the judiciary must do in terms of IT, but we had no choice.

For the coming year, as it stands right now, we face a budget shortfall of \$52 million. Once again, I expect we will have a reduction in staff. We estimate that by this time next year, we will have 170 fewer staff members. Also, we will reluctantly have to defer IT expenses once again. We will also make adjustments to salary lines, operating expenses, and a number of other items.

Judge Grant and his talented leadership team are hard at work on budget issues, and we are convening a group of judges and staff to try to identify additional areas for cuts that will not impair our mission. It is a difficult process. It is a sober challenge. But as we focus on short-term

fiscal needs, we must keep in mind the long-term obligations that the judiciary has in serving the public.

I am confident that we will come through the challenging year ahead. We will absorb the loss of additional personnel and still be able to meet the needs of litigants and the public.

But I worry about the future if our economy continues to falter, because we cannot lose more than 100 people year after year and be able to provide essential services the public rightly expects. At some point, the strain will be too much to bear. And we can't tell people with emergencies in our family court system that they should come back another day; that potential victims of domestic violence can't have their matters heard because our resources are stretched thin; that defendants can't have hearings scheduled or bail set until next week; or that law enforcement should wait because we don't have enough resources to review the search warrant that they need right away. Nor can we tell corporations and ordinary citizens embroiled in civil disputes, on which their very livelihood depends, that they should come back in a few more months when we might have more available staffing.

All of these matters depend not only on a fair and independent judiciary but one with the resources to be able to respond to the crises that are upon us each day. That is dependent on the professional, dedicated staff that the judiciary is proud to be able to work with.

We appreciate the respect that the executive and legislative branches have shown to us as an independent branch of government; we have been able to identify cost savings ourselves. We will continue to cooperate as best we can in order to help meet the shortfall that state government faces at this moment. As we do so, we all are hopeful that we'll get through this immediate crisis mindful of the long-term responsibilities that the judiciary has.

As we work through these issues, our judges and staff are most fortunate to have a healthy, productive relationship with the bar at the county and state levels. It is a relationship born of mutual respect and a shared sense of responsibility. Let's talk briefly about some efforts that partnership has worked on in the past year, and the results of some meaningful and timely programs.

The first initiative relates to the mortgage foreclosure crisis. The crisis has received nationwide attention. In New Jersey, the stark number of filings unfortunately helps tell the story. For the 10-year period beginning in 1995, filings averaged roughly 20,000 mortgage foreclosure cases a year. This court year, we estimate that by the end of next month, there will be about 58,000 mortgage foreclosure filings.

And those aren't just numbers. Each case represents the potential for real human suffering, the potential for losing one's home. The judiciary, working closely with the executive and the legislative branches, has implemented a statewide mediation program with a very simple goal: getting borrowers and lenders to sit down together at the same table to try to work out their differences and forge an agreement that will avoid foreclosures.

The court's obligation in all instances is to provide a neutral forum, one that will protect the rights of both lenders and homeowners. But in a time of crisis, courts have an obligation beyond that: to attempt to provide a forum where there can be meaningful, professional, and free opportunities to foster compromise.

With that in mind, today, in each foreclosure action that is filed in the state, homeowners and lenders have the opportunity for mediation. In contested cases, which are but a small number of the overall cases that are filed, judges order mediation at the case management conference. In uncontested cases, homeowners receive not one, not two, but three notices encouraging them to participate in the mediation program. To try to ensure that mediation sessions are valuable, the executive and legislative branches have provided for housing counselors to work with homeowners in advance. And, of course, we are dependent on professional, trained, competent mediators.

This initiative began as a pilot project in Middlesex County. Last November, when we announced it would be rolled out statewide, the very first thing that we did was ask lawyers if they would volunteer their time and services to help serve as mediators. In the weeks and months that followed, more than 750 lawyers volunteered to do just that. All of them were trained by the AOC at more than a dozen sessions lasting either one or three days, which is a tribute to the professionalism at the AOC.

Let's talk a little bit about the results to date. In the first four months of this year, from January to April, 548 mediation sessions have been scheduled, 202 completed, and of those, 100 cases settled. That's 100 cases where there were loan modifications or reductions in interest rates, or extension or forbearance agreements, or some other form of resolution.

Those are very impressive results. Equally remarkable is the statement of support by members of the Bar, by members of the legal community, who stepped forward to offer assistance in the noblest tradition of our profession. By doing so, they are making a real difference in the lives of many people, which is why we entered the profession of law. We applaud all of those volunteers.

This past year the judiciary has also worked on an initiative relating to veterans who find themselves in the criminal justice system. More than 4,000 citizen soldiers of the New Jersey National Guard have been summoned for duty overseas. We know, historically, that some veterans have problems readjusting to civilian life on returning home. They may end up in trouble with the law; and underlying some of the offenses charged may be substance abuse problems, mental health issues, and related areas of concern.

In anticipation of the large number of veterans who will be returning in the next twelve months, the judiciary has piloted a project in Atlantic and Union Counties. The initiative is designed to identify veterans who find themselves in Municipal and Superior Court in criminal cases and to refer them for existing services that other agencies are currently providing.

A key component of the project is the participation of DMAVA, the Department of Military and Veteran Affairs, which is identifying mentors, veterans, and retirees who can offer guidance to

defendants in these criminal cases. Perhaps they can speak to and reach defendants in ways that probation officers and judges aren't able to.

To be clear, this program is about identifying and referring defendants for services. It is not a veteran's court, or a diversionary program, or a substitute for criminal prosecution.

As part of the process to date, we have referred more than 80 veterans: 60 in Atlantic and more than 20 in Union County. Our goal, our hope, is that these referrals and the mentoring process will make an improvement in the lives of individual defendants, and that we will not see them in the criminal justice system a second time.

One other challenge that we are working on is the expansion of the electronic filing system in the judiciary. We must continue to modernize the way we operate and take advantage of changes in technology not only to make our courts more efficient and accessible to litigants and the public, but to anticipate the next generation of lawyers. For them, long, yellow legal pads will be a historic relic; twittering and texting, let alone the Internet and computers, are now a reality.

We have a special committee at work right now that is chaired by former Attorney General John Degnan, who is working with a group of practitioners, judges, staff, and people with technical expertise. They are analyzing a host of practical questions about where and how to expand, and how to do so at a time of tremendous budget cuts. I look forward to getting their report and recommendations in the near future and acting upon them, as we must.

The coming year will also be a year of change for some in the Appellate Division as we mark a return to Newark. The Appellate Division had a long, rich history in Newark, with chambers located there from the 1950s into the 1980s. Newark, of course, remains one of the principal legal centers in our State, with more than 2,000 private practitioners, some of our major law firms, and the largest county prosecutor's office.

Add to the mix the fact that Essex County has made the improvement of the courthouse complex a priority, with the renovation of the historical courthouse, a new jury assembly room, parking garage, park and plaza. County Executive Joseph DiVincenzo made a proposal and offered beautiful, newly-outfitted space that would be dedicated to the Appellate Division more space than currently exists in the Hackensack and Springfield chambers, whose leases will expire at an overall less cost, and a newly refurbished courtroom dedicated to the Appellate Division in the adjacent courthouse building. That idea is under construction today. We hope that by early 2010, Appellate Division judges will be operating out of new chambers in Newark and continuing to serve litigants and lawyers with the excellence that the Appellate Division is so widely known for.

Finally, let me offer a word of thanks to Judge Glenn Grant. He is completing his first year as Director of the Administrative Office of the Courts. He was off to a running start with energy, purpose, vision and a keen understanding of how the judges, staff, and members of the legal community, of the Bar, are all critical to the proper functioning of our courts. We are all grateful that Judge Grant was willing to take on this assignment and look forward to working with him for many years to come.

Particularly at this challenging time, Judge Grant and I welcome suggestions, comments, constructive criticism, and ideas from the judiciary, the public, and members of the bar. Please contact me, Judge Grant and the assignment judges. E-mail is the easiest way to reach me. Feel free to use it in order to continue this conversation. I welcome that.