

State of the Judiciary
Chief Justice Stuart J. Rabner, New Jersey Supreme Court
Message to the State Bar
May 20, 2011

Good morning everyone. Congratulations, Sue [Feeney], on your installation last night. It was my honor to be able to swear you in, and I thank you for asking me.

Chief Judge Brown, colleagues in the judiciary and in the Bar, thank you for inviting me to this impressive convention. This year's program covers a broad array of topical subjects. The attendance has been brisk. I'm pleased to see not only so many attorneys and judges, but also hundreds of law clerks for the second straight year. The overall sense of excitement in the air bodes well for our legal community.

I'm also pleased to be able to offer a report again on the state of our judiciary -- to discuss some of the projects the judiciary has been working on and look ahead to the upcoming year.

We took a careful look this past year at the state of residential mortgage foreclosure matters in our court system. A number of facts led us to take combined administrative and judicial action some months ago.

The first was that foreclosure actions in this state have been increasing at a staggering pace, tripling from more than 21,000 in 2006 to more than 65,000 this past year.

The second thing we observed is that the vast majority of these cases are uncontested: 94 percent of foreclosure actions are not contested in any meaningful way; and as for the remaining 6 percent, many of those involve pro se parties -- because people faced with foreclosure often cannot afford an attorney.

That has meant that the courts, through the Office of Foreclosure, have been processing submissions often without any meaningful adversary process that could test them.

The third fact is that the court has an obligation not only to the parties in a case -- to the homeowners and lenders -- but also an obligation to ensure the integrity of the judicial process overall: to make sure that judgments are entered based on valid, reliable documents that are filed with the court.

Against that backdrop, we reviewed a report from Legal Services of New Jersey about court proceedings and hearings that took place in New Jersey, Washington, D.C., and elsewhere. The report raised questions about deficiencies in foreclosure filings and revealed instances of robo-signing that we're now all familiar with, improper notarizing of documents, and other concerns.

In response, Judge Mary Jacobson ordered six large lenders implicated in irregularities to show why their foreclosure proceedings should not be suspended, and Judge [Glenn] Grant entered an

administrative order directing 24 other lenders and servicers to demonstrate to a special master that there are no irregularities in their practices.

Today, I am pleased to report that with the cooperation of lenders and loan servicers, the special masters are in the midst of actively overseeing both matters. Lenders and servicers are presenting proofs, right now, about their foreclosure processes, which are under careful review.

In the end, our hope is that this review process will help ensure that foreclosure proceedings are based on accurate, reliable information, and that they can proceed in our courts appropriately and smoothly. We also hope that this review will provide greater confidence for the public, at this time of crisis, and ensure the integrity of the judicial process.

I want to thank the efforts and leadership of Judge Jacobson, retired Judges [Richard] Williams and [Walter] Barisonek, who are serving as special masters, and members of the foreclosure bar and counsel for the lenders and servicers, whose cooperative spirit in approaching this challenge is certainly noteworthy and commendable.

While the process has been underway, we've recognized the need to manage our filings more efficiently. So for the past year, we've begun using the JEFIS system -- the electronic filing system that is currently in use for special civil part cases -- for foreclosure actions. That system provides a foundation not only for electronic filing but also for case management. It will be an increasingly important tool this coming year as we anticipate tens of thousands of additional foreclosure filings in the coming months.

That's only one area, one of many ways that we're using technology in our courts. Let's talk about some others. It's now commonly accepted that people can pay parking tickets and motor vehicle violations online. In the past year, drivers resolved 1.6 million tickets by using the court's NJMCDirect website and paid nearly \$120 million in fines in that way.

Attorneys also can complete attorney registration forms online. This past year, more than 28,000 lawyers did so out of more than 80,000 overall. I did it, and it was easy enough that I didn't need to be rescued by computer-savvy teenagers, so I recommend it to all of you as well.

I know that talk about paying fines and fees for attorney registration doesn't exactly bring joy to anyone's heart, but by streamlining the process, I hope we have made it easier to get through.

We've tried the same sensible approach to jury service. We ask a lot of our jurors, who give of their time as they serve the system of justice. And we've understood that many would prefer to communicate electronically with the court.

So this past year we introduced Juror Online Services, enabling residents to answer jury summonses on the court's website at any time that is convenient for them. That information is transferred electronically and helps reduce storage costs for the 1.3 million records of summonses that go out each year.

And we're working on better uses of technology in other areas as well to help the public and the Bar. For example, we took a look at the most common Madden assignments that attorneys are asked to handle. Those are defending domestic violence contempt cases, handling parole revocation hearings, and defending municipal court appeals.

We understand that many attorneys who are given these assignments don't ordinarily handle them as part of their regular practice areas. So to assist the Bar, we created three working groups of judges, staff, and practitioners who have completed manuals in each of these three areas -- which by all accounts are useful, are practical, and better still, are available online for ready access by attorneys.

We've also redesigned the judiciary's website, which is now more user friendly, adding a link for internet access to civil case information and creating an online self-help center for pro se litigants, among other changes.

That said, we need to do more in the area of technology. We need to use e-filing and electronic case management for more case types and more filings. The rewards are obvious: greater convenience for attorneys in filing papers; no need for courier services and the costs associated with them for last minute filings, which can be accomplished by the click of a mouse; and any number of greater efficiencies for the court system.

But in light of the large number of annual filings in our state courts, with 1.1 million new cases each year, the comprehensive e-filing system that we need will require a substantial overhaul, substantial changes to our computer network, and that in turn will require a stable funding source to start and maintain the project. I look forward to input and help from the Bar as we press forward with this issue this coming year.

As always, we must be mindful of the fiscal impact of such projects, and I'd like to talk briefly with you about the current fiscal situation as it relates to the judiciary.

Our state and our nation are in the midst of very difficult economic times. Last month, the Chief Justice in Alabama announced that court offices and courtrooms statewide would be closed every Friday, and that the amount of time dedicated to civil trials would be cut in half. She regretted the inevitable delays, the increase in backlog, and the reduction in revenue collected by the courts that will surely follow, but explained that she had no alternative.

And just this past Wednesday, the New York Judiciary laid off more than 350 court employees with more layoffs planned.

In New Jersey in the past three years, the judiciary has been forced to deal with substantial budget shortfalls totaling more the \$110 million. That has already led to a reduction of about 475 court employees through attrition, the deferral of IT expenditures and a variety of other cost-saving measures.

And for the upcoming year, we anticipate an additional \$25 million shortfall. Because our budget is based so heavily on salaries, we expect that we will have to lose an additional more than 60 employees through attrition to help make up that shortage.

That will bring to more than 500 the overall number of employees that we will have lost. The judiciary recognizes that we must do our share at this difficult period in light of the state's overall budget situation. But we're also hopeful for an economic turnaround to allow us to avoid the crippling, long-term effects that future cuts would have on our ability to administer justice.

To be clear, we remain committed to doing our best to meet the needs of lawyers and litigants as we work through this crisis. It's because of the dedication of staff and judges -- their exemplary handling of cases and careful stewardship of our budget -- that we have been able to serve the public so well in the face of growing demands and fewer resources.

Let's look ahead to some projects that we'll be working on with the Bar. State Bar President Sue Feeney last night outlined an array of pro bono projects that she and the Bar are planning. We are anxious to work together with you on them and wholeheartedly endorse the proposals that you outlined.

This fall, as you heard, will include an effort by the courts and the Bar to mark the 10th anniversary of 9/11. We will be coordinating not only with the State Bar, but also with county and specialty bars. We will set aside space in courthouses throughout the state for members of the public to meet with attorneys who will volunteer their time and offer legal advice.

I was also very pleased to hear you mention that a number of attorneys will be volunteering their time to help with wills and estate documents for first responders and veterans. That dovetails nicely with the Veterans Initiative that has been ongoing in our court system for eighteen months. Court staff identify veterans who enter the municipal and superior courts as criminal defendants, pair each defendant with a mentor, thanks to the New Jersey Department of Military and Veteran Affairs, and refer defendants to existing social services for addiction issues and mental health problems that sometimes surface when veterans return from combat.

And for the past 18 months, as thousands of members of the New Jersey National Guard have returned from tours of duty overseas, what began as a pilot project in Atlantic and Union Counties is now operational in 18 counties throughout the state. More than 750 referrals have been made statewide to date to assist veterans get help that they deserve and need. The project's success is a fitting tribute to our veterans. It is also an impressive accomplishment of many individuals and groups who have made it a reality.

As Chief Judge Brown said, we'll also be working with the Bar and the federal courts on Professionalism Day for this October. Our goal is to set aside two hours in the afternoon, in courthouses throughout the state, and provide an opportunity for the bench and bar to meet and talk about the importance of ethics and professionalism in seminars at each of these locations. The forum will not only provide a robust discussion of these issues, but also valued free CLE credits.

And on that subject, having completed the first year of CLE, we invite your comments, suggestions, and constructive criticism about the program as we continue to evaluate it and think about changes to be made.

As always, your feedback shouldn't just be limited to CLE. Judge Grant and I welcome your thoughts and ideas about how we can improve the judicial system on any topic. Just send me or Judge Grant a letter or e-mail, and I assure you it will be read and reviewed.

Much has been written about the challenges and successes of our court system this past year, and no doubt much more will be written in the months that lie ahead. If there were one piece that I'd like to see covered -- that goes to the heart of the New Jersey judiciary's reputation for excellence and innovation -- it would be about the great strides that our Family Division has made on the problem of legal orphans.

Let me read to you parts of a recent letter sent by the president of the National Council of Juvenile and Family Court Judges to the Commissioner in Washington, D.C., for the Administration on Children, Youth and Families.

It says, and I'll excerpt and read it in part, "Aging out of foster care without a legal connection to a family, and often with no connection to a family at all, is the worst possible outcome for a child in foster care. Can you imagine filling out a simple job application or an information sheet at a doctor's office and having to answer 'none' to the question asking for the name and address of your next of kin?

"In 2009," the letter continues, "607 legal orphans aged out of foster care in Texas" and hundreds more in Illinois and California. "Alternatively," he writes, "the New Jersey courts took ownership of the legal orphan problem and have shown that court attention will make a difference. We are committed to spreading that success" -- New Jersey's success -- "to all children in all states."

And then the letter lays out a series of steps and requests in that regard. How did that happen? How did New Jersey become the model for the nation, singled out in a letter written just ten weeks ago to one of the nation's top officials on children and families?

The letter writer was referring to the extraordinary reduction of legal orphans in the state, and in Essex County in particular, which has dropped 75 percent since 2005. That's thanks to the sustained effort and determination of staff and judges who started a pilot project in Essex in 2005, at a time when there were 1,200 legal orphans there. A year ago, the project turned into a statewide initiative, and we've seen a dramatic reduction in the number of legal orphans and an equally dramatic increase in the number of adoptions. In Essex County alone, 2,285 children have been adopted since this project began.

The state of our judiciary is strong because of accomplishments like this, because of sustained and determined efforts at leadership by staff and judges -- people like Judge Sallyanne Floria, who's been overseeing the project in Essex, Judge Glenn Grant before her, and so many others.

These are individuals who try to focus on how to improve people's lives and are not just working diligently through case files.

And we've seen similar successes and innovative projects in every part of the court system -- people hard at work trying to administer justice each and every day, with real results. That is an inspiring measure for our state's judiciary and one that is worth thinking about.

One last word. Our judiciary is losing one of its leaders at the end of the summer, as Justice Rivera-Soto steps down after completing his seven-year term on the Supreme Court. We will miss his powerful intellect, his prodigious work ethic, his personal warmth and the exemplary commitment to serve the Bar and attorneys throughout the state that he's demonstrated time and again throughout his career.

As members of the Court said this past Tuesday at a ceremony in court before the rules conference, we know there are many more chapters to be written about your professional career, and we know that they'll be marked by the same excellence and industry, the same intelligence and dedication, and yes, the same passion that you are known for, which we've all witnessed up close these past seven years. Roberto, we wish you all the best.

I hope that you enjoy the rest of the conference. Take advantage of the courses and the chances to network and schmooze with one another, which is all good. And thank you very much for giving me a chance to speak with you again this morning.