



COURT SIMPLIFICATION IN NEW YORK STATE: BUDGETARY SAVINGS AND ECONOMIC EFFICIENCIES

In addition to the many substantive advantages of court simplification, including making our courts more understandable to the public and improving access to justice, the budgetary and economic savings to the court system and to those who use it are real and substantial.

According to a fiscal analysis recently performed by Modern Courts, with the cooperation of the Office of Court Administration (OCA), court simplification would result in **budgetary court savings** of at least **\$65 million annually** through the unified treatment of related cases and by improving the courts' administrative framework, less **\$2.57 million annually** related to the costs of the equalization of judicial salaries. An additional **\$56 million annually in economic savings** would be achieved through efficiencies from improved case management, procedural codes reform and automation.

In addition to savings to the court system, the Special Commission on the Future of the New York Courts¹ concluded that court simplification would save **\$443 million annually** in terms of productivity, lost wages, attorneys' fees and related costs – money that is currently wasted because litigants and their counsel have to make redundant court appearances, file unnecessary papers and briefs, and suffer through delays caused by courthouse backlogs and inefficiencies.

Introduction

No state in the nation has a more complex court structure than New York and as a result it is significantly more costly and inefficient than it needs to be. Both the unnecessary costs and the inefficiencies can be remedied by simplifying the court system so that our court system reflects a modern organizational and operational structure.

Consisting of eleven separate trial courts, along with three appellate courts, this structure which has evolved in a piecemeal fashion is administratively cumbersome, inflexible and extremely difficult to navigate, for litigants (especially those who are unrepresented) and even attorneys.

The current structure of the courts not only costs the state more than it should, but imposes additional and unnecessary costs on both court users and the taxpaying public. As a result, the leading business associations in the state – the Business Council of New York, the Partnership for the City of New York, the CenterState Corporation for Economic Opportunity, the Long Island Association, Inc., the Westchester County Association, The Business Council of Westchester, the Buffalo Niagara Partnership and the Atlantic Legal Foundation, as well as a broad coalition of advocates against domestic violence, legal service providers, bar associations good government groups and others,² support court simplification.

¹ SPECIAL COMMISSION ON THE FUTURE OF THE NEW YORK STATE COURTS, A COURT SYSTEM FOR THE FUTURE: THE PROMISE OF COURT RESTRUCTURING IN NEW YORK STATE 23 (Feb. 2007)

² See Appendix A for a list of coalition members supporting court simplification.

By identifying the operational and other inefficiencies that result from the complexity of the court structure and quantifying the costs directly attributable to those inefficiencies, it is possible to project the cost savings and operational efficiencies from simplifying and modernizing the court structure for the courts and those who use them in four major areas:

- unified treatment of related cases
- administration
- case management, procedural codes reform and automation
- societal savings for individuals, businesses, state agencies, municipalities and others

While, especially in a difficult fiscal climate, immediate savings are of particular interest, structural reform of the courts is not a short-term project. Consequently, both the short- and long-term economic and operational consequences of court restructuring should be considered.

In addition, in order to plan for the future it should be noted that given past experience the workload of the New York courts will continue to grow in both volume³ and complexity⁴ which will require additional resources unless structural reform and operational efficiencies are implemented now.

Rather than merely reacting to the fiscal crisis facing the State by having the courts undertake a severe cost cutting program, which, in the past, have had a negative impact on court operations (e.g. reduced court hours, the virtual elimination of the Judicial Hearing Officer program and Family Court Children's Centers), court simplification will provide both savings and improvements in efficiency over time which are impossible under the current system.

The ultimate goal of constitutional reform is to provide the public with a court system that promotes rather than impedes the delivery of justice to the public in an efficient and cost-effective manner.

Budgetary Savings

1/ Unified Treatment of Related Cases

The most obvious example of structural inefficiency in the current constitutional scheme is the presently unavoidable assignment of related cases to different judges in different courts. The burden of this fragmented treatment of related cases is most often borne by families, which might have to appear in Family Court for a custody or support proceeding, in Criminal Court in a domestic violence case, in Housing Court if the family falls behind in paying its rent, and in

³ If the court system's caseload continues to grow at the average rate that has prevailed over the past 50 years, there will be more than 6.2 million new court filings a year by 2036.

⁴ Examples of the growing complexity of the courts' caseload include increased judicial oversight in child permanency cases, the enhanced record-checking required in custody and visitation cases, fair access legislation, and mandatory conferences in foreclosure cases.

Supreme Court if one of the spouses seeks a divorce. All of these matters might stem from the same basic core of problems, yet, because of the jurisdictional limitations on the authority of the various trial courts, the matters are heard in a disjointed manner, by multiple judges in multiple courts.

Families bear the inconvenience, and the added cost, of having to appear in different courts in different cases on different days, rather than in a single case before a single judge empowered to decide all of these interrelated disputes. The courts also bear a heavy cost because scarce judicial time is spent by different judges hearing piecemeal matters that could be heard more efficiently and economically by a single judge in one case. Non-judicial resources are wasted in processing multiple cases rather than a single case with related issues.

Nor is the problem limited to family-related legal matters. Whenever the state and a private party are named as defendants in a personal injury or medical malpractice action, the case must be split between the Court of Claims and Supreme Court, which means that in thousands of cases every year injured persons, large and small businesses, and state agencies must litigate cases simultaneously in two different courts. As a result, the costs to the courts as well as to the litigants are significantly increased.

As the number of active cases increases in these two instances, the number of court appearances and the amount of judicial attention required to manage them necessarily also increases, as do the scheduling difficulties, the courts' administrative responsibilities, and the overall economic burden on the system.

But for constitutionally-based jurisdictional impediments, the resolution would be simple - there would be one case before a single judge empowered to resolve all of the interrelated disputes. This approach would be less burdensome on the parties, and, where families are concerned, it would promote more comprehensive, coordinated approaches to litigants' problems. It also would reduce costs for both court users and the courts.

An empirical study⁵ by the Center for Court Innovation found that a system permitting unified treatment of related family matters before a single judge would lead to 1.7 fewer court appearances. Managing one unified case rather than processing multiple cases in different courts before different judges would result in less work for the judges and the non-judicial staff in processing the cases. Among the many redundant case-processing tasks that would be eliminated by a unified approach are reviewing multiple petitions, creating and maintaining multiple case files, and maintaining multiple court calendars.

According to OCA records, currently there are approximately 240,000 sets of at least two family-related cases that could be more efficiently adjudicated before a single judge. A reduction of 1.7 appearances per case would translate into a reduction of more than 400,000 court appearances each year. OCA estimates that the potential savings resulting from the elimination of redundant case processing and management tasks is \$235 per case.

⁵ Mennerick, et al., "The Potential Cost-Effectiveness of Trial Court Restructuring in New York State," Center for Court Innovation (2005).

Given the large numbers of related cases, the increased efficiency resulting from a one family-one judge approach is significant. At the current level of 240,000 sets of related cases, the budgetary value of the eliminated redundant work is more than \$59 million.

Assuming that caseloads increase at the rate of 15 percent a decade – a far more modest rate than they have increased over the past 50 years – that number would grow to more than 325,000 in 2031 which would result in a reduction of more than 560,000 court appearances each year if court simplification was implemented. The budgetary savings of eliminating those redundant case-processing tasks would exceed \$76 million a year, measured in today's dollars.

2/ Administration

New York's antiquated court structure not only contributes to adjudicative delay and increased litigation costs for private and public litigants, but it also is particularly inefficient to administer. In many counties there are five or more different trial courts, with different judges, chief clerks, clerical staff, back offices and procedures.⁶

Adoption of a streamlined two-tier organizational structure, accompanied by procedural simplification, would allow the court system to designate two sets of non-judicial county-level court managers instead of up to nine different sets of court managers in some counties. A simplified structure with county-level court managers for each of the Supreme and District Courts would greatly increase the efficiency of court operations through coordinated, unified management that allows for the rational assessment of the county's needs as a whole and for the deployment of existing staff and resources to meet those needs in a flexible, efficient manner. Such a consolidated administrative framework would support enhanced judicial coordination and cross-assignment of court personnel to meet caseload demands and trends. A single authority for trial court budgeting, planning and personnel administration for each of the superior court and lower court divisions would greatly streamline and strengthen court management.

Reducing the number of court-specific administrative structures would reduce costs and facilitate cross-assignment and cross-training of court personnel, reducing the need to increase staffing each time there is caseload growth within a specific division.

OCA has concluded that a simplified court structure would permit, through attrition, the reduction of about 60 mid-level managers statewide. As a result of the layoffs and hiring freeze necessitated by the State's fiscal crisis, as well as the early retirement incentive of 2010, that reduction has already been achieved, and management positions have been consolidated around the state.⁷

⁶ For example, in Westchester County, there is a Supreme Court, a County Court, a Family Court, a Surrogate's Court, a Court of Claims, five City Courts (Mount Vernon, New Rochelle, Peekskill, White Plains, and Yonkers) and many Town and Village Justice Courts.

⁷ For example, in Putnam County, a single Chief Clerk now manages the Supreme Court, County Court, and Family Court.

However, this reduction in management staffing was necessitated by the State's fiscal crisis rather than by reforms designed to simplify the court system's organizational structure and trial court operations. As a result, these staffing reductions have been harmful to the court system's ability to resolve cases in a timely fashion, and any savings that have been achieved have been at the expense of increased backlogs, higher litigation costs and decreased services for public and private litigants and for everyone else affected by the litigation process in New York.

The far better way to manage the court system is through the adoption of the structural reforms and organizational improvements as outlined herein.

Administrative and managerial consolidation is essential to promoting the operational efficiencies that will be needed in the future to meet the challenge of ever-increasing caseloads. With just two non-judicial court administrators in each county for the courts of superior and lesser jurisdiction, multiple functions and tasks previously duplicated and overseen in each county by multiple managers would be grouped together under a single manager exercising authority and accountability through standardized policies and procedures.

Under a restructured court system, there would be much greater operational flexibility, with judges and staff able, as necessary, to serve in more than one division at a time. Under the new structure, cost savings would be achieved as a result of the consolidation of separate administrative staffs and separate clerical offices and procedures; pooling of trial court resources, including court security, equipment, supplies, and training; standardization and integration of case management systems and management information and support systems; and coordinated provision of support services, such as court interpreter and court reporting

OCA has estimated that a tighter administrative framework would result in budgetary savings of approximately \$6 million annually with untold millions in societal savings based on reduced litigation costs for litigants.

Budgetary Costs

Judicial salaries

While court simplification will produce significant savings both to the State and to court users, there are costs that will partially offset the savings. The costs to the State are the result of equalization of judicial salaries. In 1977, the State assumed responsibility for the costs of court operations, including judicial salaries.⁸ Despite this takeover, certain disparities in the pay of judges serving on the same courts and performing like functions have persisted. Over the years a number of judges have brought lawsuits challenging these disparities, some of which have been successful. The disparities have not been systemically addressed by the Legislature, and some still exist. With the merger of the nine existing trial courts into one of two trial courts, the remaining disparities should be eliminated.

⁸ See L. 1976, c. 966. This State assumption of the costs of court operations did not include the Town and Village Justice Courts, which to this date are funded locally.

The estimated cost of salary equalization is \$2.57 million annually.

Economic Efficiencies

1/ Case Management

Each year more than four million new cases are filed in the New York courts, each of which must be assigned to one of New York's trial court judges.⁹ The overabundance of courts of limited jurisdiction frustrates the efficient and equitable assignment of these cases. In any large organization with a high volume workload, uneven distribution of work inevitably occurs. An efficient organization attempts to guard against such disparities and is able to take corrective action quickly when disparities occur. However, the structure of the New York trial courts, with strict jurisdictional limitations on many of them, prevents efficient allocation of the workload. Thus, the court system would benefit enormously from reforms that remove or reduce existing statutory barriers to effective case management and thereby promote faster case dispositions and ease case backlogs across the system.

2/ Procedural Codes Reform

A necessary byproduct of trial court restructuring is comprehensive overhaul of the state's many outdated procedural codes. Constitutional reform of the structure of the New York State courts will require conforming amendment of the various statutory procedural codes that govern practice in the different court types. This offers the opportunity for a comprehensive review of New York practice with an eye toward streamlining and simplification. While the various procedural codes have been amended over time with respect to specific issues, none has received a comprehensive review and updating in decades.¹⁰ All of the major procedural codes are sorely in need of reform to harmonize them with modern technology and address the inconsistencies and irregularities that have arisen as the result of decades of piecemeal legislative amendments and judicial decisions.

Procedural reforms might consist of streamlining discovery on the civil and criminal sides, which could expedite case dispositions and promote more civil settlements and criminal pleas. Other potentially valuable, cost-saving reforms could include reducing the number of peremptory challenges available in certain classes of cases, and broader use of technology to reduce court appearances.

While it is not possible to predict what statutory procedural reforms would accompany constitutional court reform or to precisely quantify the economic value of expedited case dispositions and more rapid development and deployment of automation projects, we believe that simplification and procedural codes reform would promote more efficient case management and

⁹ See Appendix B for a breakdown by court.

¹⁰ For example, the Family Court Act has not undergone such a review since it was first adopted in 1962, when the New York City Family Court was first created. Similarly, New York's main civil practice statute, the CPLR, was enacted 50 years ago.

automation solutions. OCA estimates¹¹ that these efficiencies would produce at a minimum an annual reduction of one million hours of court time saved by judges and non-judicial staff.

As a result, there would be a total economic efficiency worth \$56 million¹² annually. These savings in court time could be used to deal with the inevitable increasing case load without necessarily increasing the budget.

3/ Automation

New York's arcane court structure also imposes costs and creates inefficiencies with respect to automation. New York courts could not handle their massive workload without a unified, sophisticated automated systems for case management, records storage and data exchange. The present court structure requires that separate systems for separately organized courts need to be developed and maintained resulting in considerable duplication of effort and greater costs. A court system with simpler structures, such as a two-tiered scheme, would need to maintain only one or two case management systems. New York's fragmented court structure¹⁰, and the procedural diversity among its nine different trial courts, makes that kind of efficient, rational approach impossible. Instead, the New York State court system presently has no option but to develop and maintain multiple case management systems. The result is redundancy, inefficiency, delay and cost escalations in development and implementation of new automation.

Fewer courts and simpler, more uniform procedures would allow more efficient workload allocation and call for less complex and less costly automation solutions. Court managers as well as technology staff could devote themselves to system-wide rather than court-specific solutions. The result would be more efficient case management and more effective and rapid development of automation solutions. A great deal of redundant work is being performed each year across the various case management systems that are required to support New York's fragmented trial courts. Simplification of the court structure and procedures would eliminate the need for this duplicative work, and would permit the reassignment of technology staff to the development, implementation and support of more global automation projects. Some of these projects include enhancements to the court system's electronic filing system, integration of the e-filing and case management systems, and development of additional data-sharing projects with other government entities in the justice system.

Societal Savings

The mission of the court system is to resolve society's disputes. Therefore, the economic benefits of a structurally modernized court system accrue overwhelmingly to the litigants -- individuals, businesses, state agencies, municipalities and others -- whose lives and livelihoods are affected by court cases.

¹¹ This estimate is based conservatively on just one hour of time saved in one-half of all new filings in the following courts: Supreme Civil, Family, NYC Civil Court, City and District Courts civil cases, plus all NYC Criminal Court cases where fingerprints are not required, and all cases in the IDV and drug courts.

¹² The total savings of \$56 million is calculated by multiplying one million hours saved the hourly salary (plus fringe) of a mid-level court clerk.¹²

As a result, there is overwhelming support from business associations, advocates against domestic violence, legal service providers, bar associations good government groups, and others for court simplification.

The elimination of outdated jurisdictional boundaries between courts and the ability to allocate caseloads rationally across the court system would speed up case processing times and greatly reduce the delay and expense associated with litigation in New York State. The continued failure to address the systemic inefficiencies built into the judicial system can only hurt New York's economic growth. Businesses realize that an antiquated judicial system that is slow and expensive represents a drag on economic performance.

All New Yorkers deserve a modern and efficient court system that provides justice in a fair and timely manner.

The current system both limits the ability of the system to reallocate cases from overburdened courts to those with excess capacity, and limits the ability of a single judge to take jurisdiction over all claims arising from a given event or transaction. Both these limitations generate many more court appearances than would be needed in a simplified system.

The Special Commission on the Future of the Courts in New York State estimated that the costs to litigants and attorneys in additional time spent at courts equals \$443 million annually.

The existence of so many jurisdictionally independent courts also means that caseloads cannot be managed and distributed rationally across the court system as a whole. Extreme disparities exist between the caseloads and disposition rates of the busiest courts and the least utilized courts. Unfortunately, court administrators do not have the option of reallocating cases from overburdened courts to courts with excess capacity. The inability to reallocate workloads efficiently across the entire court system means that some types of cases receive much less judicial attention than others. Limited opportunity for judicial case management results in a decreased ability to engage in the kind of early court intervention known to promote settlements and hasten early resolution of legal disputes. Allowing so many cases to languish increases the number of court dates and raises litigation costs for all parties.

In its 2007 Report, the Special Commission on the Future of the Courts in New York State estimated that even a conservative 10% reduction in the number of court appearances for a selected set of 1.2 million complex civil, criminal and family cases would result in 468,000 fewer court appearances per year, with litigant productivity and travel savings of \$83 million annually, plus an estimated \$231 million in avoidable attorneys' costs for a total of \$314 million dollars in savings.

In addition, the savings to litigants and attorneys by a unified treatment of related family matters would result in savings of \$129 million annually because the consolidation of the 240,000 sets of overlapping family-related cases in one courts would significantly reduce the costs of litigant productivity and travel (by \$68 million) and attorney costs (by \$61 million) because of far fewer court appearances (480,000).

Therefore total productivity savings for individuals, businesses, state agencies, municipalities, and others will equal at a minimum \$443 million annually.

Conclusion

New York has the most fragmented court structure in the country. The existence of nine different courts of limited jurisdiction makes it very difficult to manage the system's overall caseload efficiently and rationally. It also creates operational inefficiencies that result in high costs for the court system itself and especially for all those who must use the courts. A restructured, streamlined system consisting of two statewide trial courts would ensure the most effective allocation of the court system's limited resources and the unified treatment of related cases. It is estimated that the budgetary savings resulting from the unified treatment of related cases would amount to approximately \$59 million annually plus administrative streamlining would enable the court system to rely on a much smaller cadre of county-level court managers, with savings to the court system of approximately \$6 million annually for a total budgetary of \$65 million annually.

A necessary byproduct of trial court restructuring is comprehensive overhaul and simplification of the state's many outdated procedural codes. The procedural efficiencies that would result from such reform would greatly expedite case dispositions, promote earlier settlements and ensure more efficient use of court technology and jury resources. When combined with the more efficient case management and automation that would result from court simplification, it is estimated that a two-tiered trial court structure would save the court system approximately \$56 million annually.

And perhaps most importantly, productivity savings for individuals, businesses, state agencies, municipalities, and others will equal at a minimum \$443 million annually.

If the court system's caseload continues to grow at the same rate as has prevailed over the last half century, the New York courts will have a caseload of more than 6.2 million new filings a year by 2036. New York's court system desperately needs a structure designed to meet such huge numbers as well as all the justice-related demands of a complex, rapidly changing society. The fiscal consequences of court simplification are significant in the short term, and enormous in the long term. The failure to enact reform means the failure to provide the public with a court system that promotes rather than impedes the delivery of justice in an efficient and cost-effective manner. It means the failure to provide the state with a court system that facilitates economic growth and productivity. It is clear that New York simply cannot afford failure on this critical issue.

APPENDIX A: COALITION FOR COURT SIMPLIFICATION

African Services Committee
Atlantic Legal Foundation
Behavioral Health Services North, Inc.
Buffalo Niagara Partnership
Business Council of New York
Business Council of Westchester
CenterState Corporation for Economic Opportunity
Children's Law Center (CLC)
Citizens Union
Columbia Law School Sexuality & Gender Law Clinic
Common Cause/NY
Day One
Downstate Coalition for Crime Victims
Empire Justice Center
Fund for Modern Courts
Greater Watertown-North Country Chamber of Commerce
Hope's Door, Inc.
Human Services Council
inMotion
Lawyers Committee Against Domestic Violence
League of Women Voters/NYC
Legal Information For Families Today (LIFT)
Long Island Association, Inc.
Manhattan Chamber of Commerce
MFY Legal Services
National Federation of Independent Business in New York
New York City Bar Association
New York County Lawyers' Association
New York Legal Assistance Group (NYLAG)
New York State Bar Association
New York State League of Women Voters
Orange County Chamber of Commerce
Pace Women's Justice Center
Partnership for the City of New York
Project Permanent Group, LLC
Queens Chamber of Commerce
Rural Law Center of New York
Safe Horizon
Sanctuary for Families
Spanish Action League
STEPS to End Family Violence
The Door - A Center of Alternatives, Inc.
The Legal Project
The St. Luke's-Roosevelt Crime Victims Treatment Center
The Westchester County Association
Tompkins County Chamber of Commerce
Urban Justice Center
Victim Resource Center of the Finger Lakes, Inc.
Voices of Women Organizing Project
Western New York Law Center, Inc.

APPENDIX B

NEW YORK STATE UNIFIED COURT SYSTEM 2011 FILING DATA

COURT	FILINGS
CRIMINAL	
Supreme and County Courts	
Felony	48,638
Misdemeanor	28,541
Criminal Court of the City of New York:	
Arrest Cases	357,842
Summonses	503,536
City & District Courts (outside New York City):	
Arrest Cases	284,078
Traffic Tickets	438,339
Parking Tickets	173,712
Total w/o Traffic & Parking	1,222,635
TOTAL CRIMINAL	1,834,686
CIVIL	
Supreme Court:	
New Cases	167,426
Ex Parte Applications	220,700
Uncontested Matrimonial Cases	49,557
Notes of Issue ^a	51,350
Civil Court of the City of New York:	
Civil Actions	408,002
Small Claims	26,671
Landlord/Tenant Actions & Special Proceedings	274,931
Commercial Claims	8,028
City & District Courts (outside New York City):	
Civil Actions	179,970
Small Claims	25,604
Landlord/Tenant Actions & Special Proceedings	88,113
Commercial Claims	10,575
Arbitration ^a	24,929
County Courts Civil	45,671
Court of Claims	1,505
Small Claims Assessment Review Program	33,729
Civil Total	1,540,482
FAMILY	715,738
SURROGATE'S	148,836
Grand Total w/o Traffic & Parking	3,627,691
Grand Total w/o Parking	4,066,030
Total	4,239,742

^a Not included in Totals - Shown for Reference Only

APPENDIX C

POTENTIAL SAVINGS DUE TO PROCEDURAL REFORMS AND MORE EFFICIENT CASE MANAGEMENT AND AUTOMATION SOLUTIONS

NEW YORK STATE UNIFIED COURT SYSTEM POTENTIAL SAVINGS

COURT	POTENTIAL HOURS SAVED ¹	ESTIMATED SAVINGS ²
SUPREME CIVIL Includes RJI's, ExParte & Uncontested Mats	237,000	\$11,139,000
FAMILY NYC CIVIL (Civil, Housing, Small Claims & Commmercial Claims	360,000	\$16,920,000
NYC Criminal Court Non-Fingerprintable	410,000	\$19,270,000
City & District (Civil, Housing, Small Claims & Commmercial Claims	23,000	\$1,081,000
IDV + Drug Court	148,500	\$6,979,500
	25,000	\$1,175,000
TOTAL SAVINGS	1,203,500	\$56,564,500

1) Based on one hour of time saved in one half of all new filings in the following courts: Supreme Civil, Family, NYC Civil Court, City & District Civil Cases plus all NYC Criminal Court non-fingerprintable cases, IDV and Drug Court Cases.

2) Saving is calculated using the hourly rate of a mid-level clerk (\$33) plus fringe benefits for a total of \$47 per hour.