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TESTIMONY of
Legal Information for Families Today (LIFT)
Presented by Melissa Beck, Chief Executive Officer,
On the need for Civil Legal Services among kinship caregivers
Submitted on October 5th 2010
At Chief Judge Lippman's Hearings on Civil Legal Services

Good afternoon, my name is Melissa Beck, and I am pleased to be here today on behalf of LIFT to testify at this important hearing about the need for expanded Civil Legal Services in New York State.

For the past fourteen years, LIFT has been a pioneer and leader in promoting access to justice for disadvantaged families embroiled in the New York City Family Court system. We are the only organization in the City dedicated to empowering court-involved families by providing them with the tools they need to advocate for themselves in Family Court.

We operate our programs where families need us most – inside the Courthouses in all boroughs except Staten Island, at Help Centers and Education & Information Sites – as well as programs in the community – through the Family Legal Center and Family Law Information Telephone and Email Hotlines. We also produce 35 original multilingual Legal Resource Guides, available in seven languages at all programs and on our website. Last year, those we served were typically low-income, black (48%) or Latino/a (37%) parents (82%) or grandparents (18%). One in ten of the people we served were monolingual Spanish speaking.

We offer a unique window into the needs and challenges facing a population in need of an expanded right to council: the many unrepresented litigants in New York City Family Court. As the people who line up, sometimes for hours, at court metal detectors and crowd its waiting rooms well know, the Courts are badly understaffed, and procedures are typically slow, intimidating, and confusing. Free legal representation is in tremendous demand and is not mandated for all types of Family Court matters, forcing people who cannot afford attorneys to

handle their own cases. A staggering 94% of the 25,000 families LIFT serves annually do not have legal representation.

LIFT can, and does empower many Family Court users to successfully self advocate and resolve their cases without the help of an attorney, but we believe strongly that in order for access to justice to be fully realized, all Family Court users should have the right to a free or low cost attorney. We celebrate the triumphs of our participants – their ability to use the courts as they were designed; to serve the best interests of the children at the heart of every family court case, by ensuring financial stability, recognizing parental responsibilities and providing a legal road map through complex, messy and at times dangerous relationships surrounding those children. But ultimately, we recognize that successful self-advocacy is not a realistic goal for every court user, nor does it ensure an even playing field when unrepresented litigants are up against opposing parties with attorneys.

LIFT recognizes and applauds the fact that relative to the rest of the country, New York State Family Law provides for the right to an attorney in many significant and critical instances. But we feel that the law does not go far enough – far too many New Yorkers are left to fend for themselves in matters affecting the very fabric of their families and the lifelong wellbeing of their children, with great social and emotional cost both to the individuals involved and the host of government programs and entitlements that are left to pick up the pieces.

In recognition that change must occur incrementally and associated costs and benefits are being weighted carefully by the Task Force, we urge you to prioritize the following critical category for expanded legal services in Family Court: kinship caregivers – grandparents, aunts, uncles and other relatives who are either formally or informally raising hundreds of thousands of children every day throughout the five boroughs and the state.

According to a June 2009 report from the New York City Kin Care Task Force, in New York City alone, approximately 250,000 children are being raised by grandparents or other relatives who have *no right* to a free court appointed lawyer when they engage with Family Court.

In custody and visitation cases, biological parents are entitled to a free attorney if they cannot afford one. Since in most cases, kin caregivers are not – regardless of how long they have been caring for the child at the center of the case – kinship caregivers are at a severe disadvantage in court proceedings.

As a result, many kinship caregivers find the process of obtaining custody or visitation particularly overwhelming and have great difficulty navigating the court effectively – and this in

turn negatively affects the stability and wellbeing of the children who are in their care or with whom they have long standing relationships.

Kin caregivers often have no idea what their rights are or how to begin when petitioning for custody or visitation and are faced with a frustrating process that moves at a snail's pace due to delay upon delay – in some instances these holdups are caused by their own lack of information and guidance when filling out paperwork. They also face a significant and often formidable opponent, their own child's attorney since biological parents have a right to counsel. These unnecessary setbacks and patent inequities leave children in limbo for far too long and can make dropping a case seem like the only answer – even when that is not a caregiver's real intention nor in the best interest of the child.

A small number of these grandparents, 4,500 or 18% of the 25,000 families served in our programs every year, are lucky enough to find LIFT. 95% of those kinship caregivers that turned to LIFT last year were facing the complex Family Court system without legal representation. The majority of these caregivers are grandparents caring for youth who are often in crisis and in need of therapeutic services. The financial and emotional stress facing these families can be overwhelming and the paths to meeting their needs are highly complex – much can be done by the systems serving them to alleviate this stress and build on their collective strengths so they can thrive as families.

While LIFT can give kin caregivers the tools and knowledge they need to represent themselves in court with confidence and success, there are times, particularly in custody a case, where having an attorney is an imperative if justice is to be served. If many of the grandparents who have found help at LIFT find themselves in challenging battles to get visitation or perhaps custody down the road, there is no doubt that they will be at a disadvantage facing their own kin's court appointed attorney alone.

The vast majority of social service agencies serving kinship caregivers agree that all low income caregivers should have access to free legal representation. We urge you to consider taking action to support an amendment to the Family Court Act to mandate representation for kinship caregivers in matters of custody and visitation as part of your work to extend the right to Civil Legal Services in NY State.

For more information please contact:

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