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State Bar Group Seeking Creative Legal Aid Funding

ALBANY-- To help close the "justice gap" in New York, the New York State Bar Association is pursuing a creative way to secure more money to help fund legal services to the poor.

Under a legal doctrine known as cy pres comme possible, which means "coming as near as possible," unclaimed funds from class action settlements can be dispensed to groups that were not parties to the litigation. Traditionally, such funds have been used for their "next best use" -- to benefit groups related to the purpose of the litigation. In recent years, however, the approach has been expanded.

According to a report issued by the state bar's Special Committee on Funding for Civil Legal Services (co-chaired by attorney C. Bruce Lawrence of Rochester), to help close the justice gap courts across the country have begun to make cy pres awards to programs that provide legal services to the poor. Since these programs help protect the rights of those who are unrepresented, as is often the case with class action plaintiffs, they are seen as meeting the next best use standard.

Association President A. Vincent Buzard of Rochester said, "Our cy pres plan represents the development of an exciting program that will help fund critical legal services to poor and disadvantaged New Yorkers, without raising taxes or reducing support for other important programs." However, he cautioned, "Cy pres is not intended to, and cannot, supplant the need for a permanent state funding mechanism."

The state bar is committed to a four-part action plan to help create a cy pres program in New York. This includes developing a cy pres manual for distribution to the bench and bar; serving as a resource in providing information and identifying appropriate groups to receive funding; initiating

a study of potential legislation or court rules that will govern cy pres awards; and working with The New York Bar Foundation to assist in the distribution of cy pres monies.

The three primary funding streams for civil legal services in New York (federal, and the state's Interest on Lawyer Account program and the Legal Services Assistance Fund) have been victims of budget cuts and the sharp drop in interest rates. Together, they do not come close to adequately funding legal services to the poor. At current funding levels, New York's legal aid nonprofits are able to meet the needs of only about 20 percent of low-income New Yorkers.

The 72,000-member New York State Bar Association is the official statewide organization of lawyers in New York and the largest voluntary state bar association in the nation. 4-20-06

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