

## INDIGENT CRIMINAL DEFENSE CLASS ACTION SETTLEMENT

*Hurrell-Harring v. State of New York, Index No. 8866/07*

**Please Read this Notice Carefully.  
This Notice Contains Important Information.**

**This is a Notice of a Class Action and Proposed Settlement Regarding the  
Provision of Publicly Funded Criminal Defense Representation in  
Onondaga County, Suffolk County, and Washington County.**

*A New York State Court approved and authorized this Notice.*

*This is **not** a solicitation from a lawyer.*

*You will **not** be asked to pay any money under any circumstances.*

### **What is this lawsuit about?**

Plaintiffs claim that New York State has failed to provide constitutionally required criminal representation to poor people in five counties, including Onondaga, Suffolk, and Washington Counties. Plaintiffs claim that lawyers are not available to poor defendants at critical stages of the criminal process, including that defendants face first appearances without counsel and that defendants effectively have no one advocating for them during plea negotiations. Plaintiffs do not seek to overturn any criminal conviction. Instead, Plaintiffs seek to reform the public defense system by getting a court order declaring that the State is not providing constitutionally sufficient representation to poor people and requiring the State to fix the constitutional problems.

### **Who brought this lawsuit?**

Kimberly Hurrell-Harring, James Adams, Joseph Briggs, Ricky Lee Glover, Richard Love, Jacqueline Winbrone, Lane Loyzelle, Tosha Steele, Bruce Washington, Shawn Chase, Jemar Johnson, Robert Tomberelli, Christopher Yaw, Luther Woodrow of Booker, Jr., Edward Kaminski, Joy Metzler, Victor Turner, Candace Brookins, Randy Habshi, and Ronald McIntyre brought this lawsuit, on behalf of themselves and all other people similarly situated in five counties in New York who are or will be entitled to receive constitutionally required, publicly funded criminal defense representation. A New York State appellate court certified the case as a class action in January 2011.

### **Where is this lawsuit pending?**

The lawsuit is pending in Supreme Court in Albany County.

### **Who is this lawsuit against?**

The lawsuit is against the State of New York, as well as the Counties of Onondaga, Suffolk, and Washington.

### **Who is settling?**

The Plaintiff class is settling its claims involving Onondaga County, Suffolk County, Washington County, and the State of New York that exist as of October 21, 2014. The Plaintiff class separately agreed to settle its claims involving Ontario County and Schuyler County, and the State agreed to include these two counties in this settlement.

### **Who are the lawyers for the class?**

The class is represented by lawyers at the New York Civil Liberties Union Foundation, 125 Broad Street, New York, New York 10004, and the law firm of Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022.

### **Can I get any money from this lawsuit?**

No. The lawsuit does not and has never included a claim for money damages. It seeks declaratory and injunctive relief, which means a court order setting out a party's obligations and requiring a party to do something.

### **Can I overturn my criminal conviction or withdraw my guilty plea?**

This lawsuit is not a way to attack your individual criminal conviction or plea. The lawyers for the Plaintiff class cannot advise you on these matters.

Nothing in the settlement agreement bars you from bringing an ineffective assistance of counsel claim to challenge your conviction.

### **Do I have to pay any lawyers?**

No. The State has agreed, as part of the settlement, to pay attorneys' fees and costs of \$5.5 million to Plaintiffs' attorneys.

### **What are the terms of the settlement?**

The State of New York will ensure that defense attorneys are present at all arraignments or first appearances in each of Onondaga, Ontario, Schuyler, Suffolk, and Washington Counties. The State will, through the New York State Office of Indigent Legal Services ("ILS"), establish and implement caseload/workload standards, including hiring attorneys and support staff as needed in each county to meet those standards. The State of New York, through ILS, will create plans to improve the quality of public defense representation in Onondaga, Ontario, Schuyler, Suffolk, and Washington Counties. ILS will establish statewide defendant eligibility criteria to ensure uniform and fair eligibility determinations. The State of New York will also monitor and report on its obligations under the agreement to Plaintiffs' counsel.

In exchange, the Plaintiff class has agreed to dismiss the systemic claims concerning the constitutionality of criminal representation for poor people in Onondaga County, Suffolk County, and Washington County that were made or could have been made in this lawsuit against the State of New York, Onondaga County, Suffolk County, and Washington County up to the date of the settlement agreement.

### **What if I want to object to the settlement?**

Any person seeking to be heard in opposition to the settlement may object in writing or appear at one of the Fairness Hearings that will be held on:

- January 7, 2015, at 10:00 a.m., at Supreme Court, Onondaga County, Syracuse
- January 8, 2015, at 10:00 a.m., at Supreme Court, Washington County, Fort Edward
- January 12, 2015, at 10:00 a.m., at Suffolk County District Court, Central Islip
- January 15, 2015, at 10:00 a.m., at Supreme Court, Albany County, Albany

To submit a written objection, you must send a written Notice of Objection entitled, "Objection to the Suffolk County Settlement in *Hurrell-Harring v. State of New York*, (No. 8866-07)" to: (i) Kristie M. Blase, Esq., Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022; and (ii) Adrienne Kerwin, Esq., Office of the Attorney General, The Capitol, Albany, New York 12224. Any written objection must be postmarked by December 19, 2014. Your objections will be provided to the Court, which will consider them in deciding whether to approve the settlement.

If you make a written objection, it must include: (i) your name and address; (ii) a statement as to whether you plan to appear at the Fairness Hearing; (iii) a description of your objection; and (iv) any documents that you want the court to consider.

### **What happens next?**

Albany County Acting Supreme Court Justice Gerald Connolly will hold fairness hearings, as described above. After these hearings, Judge Connolly will determine whether the settlement should be approved as fair and reasonable. You are not required to attend any hearing, but you may if you wish.

### **How do I get more information?**

Do not call or write the court, the judge, any county, or the State of New York for additional information.

You may review the pleadings, the full settlement agreement, and certain other court documents at [www.nyclu.org/PublicDefenseLawsuit](http://www.nyclu.org/PublicDefenseLawsuit) or at the office of the Clerk of the Court of Albany County, who will make the file available to you for inspection and copying at your expense during regular office hours. You may also review the full settlement agreement at the offices of Legal Aid in Suffolk County; the offices of the Washington County Public Defender; the offices of the Onondaga County Assigned Counsel Program; the offices of the Hiscock Legal Aid Society; the offices of the Ontario County Public Defender; and the offices of the Schuyler County Public Defender.

If you have any questions concerning the matters in this notice please contact Noah Breslau, New York Civil Liberties Union, at 212-607-3381 or [nbreslau@nyclu.org](mailto:nbreslau@nyclu.org), and one of the attorneys for the Plaintiff class will respond to your inquiry.