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**Contact:** Jeanine Plant-Chirlin, 212-998-6289

**Morgenthau Leads 62 Former Prosecutors in Call for Better Defense of the Indigent**

*62 Former Prosecutors back legal challenge before the New York Court of Appeals that claims five New York counties provide inadequate legal defense for the poor*

New York -- Today, 62 former New York prosecutors joined an amicus brief in support of a suit, now pending before New York's highest court, which alleges that New York State's legal services for the poor are constitutionally inadequate.

Former Manhattan District Attorney Robert M. Morgenthau joined on as one of the amici as did former District Attorney Joseph Jaffe and former U.S. Attorneys Zachary Carter, Robert B. Fiske, Jr., John S. Martin, and Otto G. Obermaier.

"We need strong advocates on *both* sides in order for our criminal justice system to operate fairly," said Robert M. Morgenthau, former District Attorney for New York County and United States Attorney for the Southern District of New York.

Though former DA Morgenthau has long supported the defense function, it is generally rare for prosecutors to join together to insist on better defense services. They are doing so here because they believe that the lower court wrongly dismissed a lawsuit alleging that five New York counties are systematically failing to fulfill their obligation to provide indigent defendants with a constitutionally adequate defense.

In the appeal, titled *Hurrell-Harring v. New York State*, the former prosecutors urge the Court to order the case to proceed in New York's courts, explaining that "the judiciary has a particularly strong duty to act here, where the alleged constitutional deficiencies threaten the integrity of the judicial system and its very capacity to render justice."

The underlying suit, brought by the New York Civil Liberties Union and Schulte Roth & Zabel, alleges a troubling catalogue of alleged systemic failures. These include: failure to provide defense counsel and failure to train or supervise counsel that is provided. It also describes as chronic the failure of counsel to maintain contact with clients, to confer with clients so that they can make informed decisions about their cases, and to investigate and prepare clients' cases.

Such failures are increasingly attracting national attention. David Udell, Director of the Brennan Center's Justice Program, observed: "Cases alleging constitutionally intolerable defense services have reached the highest courts in states throughout the country. These cases and the allegations they present arise against the backdrop of mounting concern about the rising cost of incarceration which, in turn, animates renewed interest in the quality of defense services available to the poor."

"As former prosecutors, the 62 amici feel they have an important stake in the criminal justice system and a perspective on the prosecution and defense functions that will be useful to the Court," according to Lee Richards of Richards Kibbe and Orbe, the firm that co-authored the amicus brief.

United States Attorney General Eric Holder has repeatedly urged the states to improve the quality of legal representation provided to the poor, and has suggested the federal government take on increased responsibility for fixing the problems.

Brennan Center Attorneys serving as co-counsel on behalf of the amici are David Udell and Alicia Bannon, along with pro bono counsel Lee Richards, Arthur Greenspan, and Eric Rosen of Richards Kibbe & Orbe LLP. The plaintiffs are represented by the New York Civil Liberties Union and Schulte Roth & Zabel LLP.

For more information about the amicus brief, contact Susan Lehman at 212 998 6318 or [susan.lehman@nyu.edu](mailto:susan.lehman@nyu.edu) or Jeanine Plant-Chirlin at 212-998-6289 or [jeanine.plant-chirlin@nyu.edu](mailto:jeanine.plant-chirlin@nyu.edu).

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