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1 STATE OF NEW JERSEY
2 DIVISION OF CIVIL RIGHTS
3 CIVIL UNION REVIEW COMMISSION

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5 STATE AGENCY AND ADDITIONAL :

6 TESTIMONY :

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10 TRANSCRIPT OF PROCEEDINGS
11 WEDNESDAY, MARCH 19, 2008

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1 B E F O R E :
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1 T R A N S C R I P T of the stenographic
2 notes of the proceedings in the above entitled
3 matter, as taken by and before CHARLES R.
4 SENDERS, Certified Court Reporter (License
5 No. 596) and Notary Public of the State of New
6 Jersey, held at the offices of the New Jersey
7 Civil Union Review Commission, 140 East Front
8 Street, Trenton, New Jersey on Wednesday, March
9 19, 2008, commencing at 1:20 in the afternoon
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1 (Transcript of proceedings, March
2 19, 2008, commencing at 1:20 p.m.)

3 MR. VESPA-PAPALEO: What we will be
4 doing for the next few months is-- well, first

5 of all, our next meeting, at least for the rest
6 of this fiscal year, April 16th, one o'clock
7 here, May 21st one o'clock and June 18th, one
8 o'clock here, as planned.

9 What we intend to do for these
10 upcoming hearings is to obtain more data and
11 information by inviting various state
12 governmental agencies to provide us
13 information, testimony. Then we will
14 supplement that with additional information
15 from various associations that have data as
16 well.

17 Today we are going to focus on one,
18 two, three, four, five state agencies. We have
19 the Administrative Office of the Courts, Human
20 Services, Military and Veterans Affairs, Law
21 and Public Safety and Motor Vehicle Commission.

22 Why don't we start with Mr.
23 Anderson from the Administrative Office of the
24 Courts. Why don't you come here then.

25 Mr. Anderson, welcome. Thank you

1 very much. If you would be so kind as to
2 introduce yourself. Then we'll ask some
3 questions.

4 MR. ANDERSON: I want to thank you
5 all for the opportunity. I'm David Anderson.
6 I'm the Director of the Administrative Office
7 of the Courts. I'm responsible for the
8 oversight of judicial appointments and judicial
9 re-appointments, judicial education, judicial
10 discipline and I oversee the Legislative
11 Liaison Unit. I used to be one, hard work.

12 My testimony is extremely brief,
13 because the implementation of the Civil Union
14 Law was, as far as we're concerned, extremely
15 seamless. We have handled applications for
16 civil unions, both at the Superior Court and
17 Municipal Court level. Our experience has been,
18 I think positive.

19 I measure our success lots of times
20 in the number of grievances that we hear from
21 litigants and practitioners. I specifically
22 asked how we were doing. This is one category
23 that does not seem to generate complaints. You
24 may tell me differently after I'm here for a

6

1 We've done our best to comply with
2 all the aspects. I did read in your testimony
3 in your February 19th report, of a juror that
4 had an experience falling during the voir dire,
5 having a question about whether-- I think it
6 was a he, was married or single and didn't have
7 the opportunity to given the appropriate
8 answer. That's an education issue on our part
9 that we will address now that we read it in
10 your report. It was never raised to us in a
11 formal way. But we're going to address it on
12 our own.

13 Our experience in the area of
14 dissolution is extremely small. I did a random
15 survey of the presiding judges. They said you
16 can counts the number of dissolutions on one
17 hand. I did note that there were two domestic
18 partnerships dissolved in the month of

19 February. I don't have much data. It's a
20 number we just fold into our other statistics,
21 because we do tend to treat these pretty much
22 the same.

23 The question that was specifically
24 in the Chair's e-mail to the Judiciary was, do
25 we expect additional cost as a result of an

7

1 initiative for marriage rather than civil
2 union? We do not. We see no expense to the
3 Judiciary, no need for additional staff. They
4 will be folded into the normal processing of
5 matrimonial matters and domestic relations
6 matters as they are. So we stand ready to
7 implement should the law change.

8 MR. VESPA-PAPALEO: In terms of the
9 training that's provided to both judges and
10 staff of the Judiciary, can you explain the
11 extent to which the issue of civil unions has
12 been a part of that?

13 MR. ANDERSON: The subject matter
14 is handled at the judicial level in two
15 different places. Both at what we call new
16 judge orientation, we often call it baby judge
17 school. We have that usually once and
18 sometimes twice a year, depending on how many
19 nominations we get a year. Usually in the fall.
20 There was an opportunity I thought to have one
21 this spring, but some nominations didn't get
22 moved. I expect a large class of 30 or so
23 judges in the fall will get their first
24 experience at it.

25 There is also an annual judicial

8

1 college where there are a number of programs
2 presented for each case type, civil, criminal,
3 family, municipal, the whole gamut of education
4 for judges. New trends in the law and changes
5 in the law, are always highlighted.

6 This is one that will be reiterated

7 because it is such a new law, both at baby
8 judges school -- new judge orientation school
9 and the judicial college.

10 Staff has handled a lot the same
11 way. We have a staff college during the two
12 days prior to Thanksgiving every year. We have
13 individual programs. We used call them
14 retreats, but the press seems to think that's
15 something that is an extravagance. So we don't
16 call them retreats, we call them educational
17 opportunities now.

18 We are having one in the Family
19 Division within a couple of weeks. I know this
20 is a topic on their agenda.

21 There is regular training. Judges
22 do a lot of staff training. We bring in
23 experts in the field at the judicial college,
24 both from in-state and out of state, to
25 participate in all the various programs.

1 MR. VESPA-PAPALEO: In terms of
2 capturing of statistical data at AOC, to what
3 extent can you tell-- you mention that you
4 could, obviously, tell the number of
5 dissolutions that have been ordered.

6 MR. ANDERSON: Well, I can tell you
7 because we did a random survey, of any judges
8 that had any recollection of them? They raised
9 their hand and said I had one and I had one. I
10 think it was less than five.

11 MR. VESPA-PAPALEO: But are these--
12 is this kind of data captured?

13 MR. ANDERSON: It hasn't been.
14 Certainly should it become a marriage, there
15 wouldn't be any need to. I just think we
16 haven't had it because there aren't that many
17 and it is anecdotal for us right now.

18 MR. VESPA-PAPALEO: If the
19 legislature, instead of using civil unions,
20 actually had given same-sex couples marriage,
21 the Judiciary would have no need to collect any
22 additional data.

23 MR. ANDERSON: Divorce is divorce.
24 I don't want to say that to a litigant,
25 though. Each one thinks theirs is unique in is

10

1 own right, but to us they are numbers.

2 MR. VESPA-PAPALEO: Any questions
3 from any other Commission members?

4 MR. HYLAND: Yes, I have some
5 questions. As you are aware, right after the
6 Civil Union Bill was passed, the Irreconcilable
7 Differences Bill was passed. That did not
8 apply to either civil unions or domestic
9 partnerships.

10 We have a letter before the
11 Commission that was provided by Deb Gustin, a
12 family practitioner in North Jersey, regarding
13 the Family Practice Committee's proposal or
14 suggested legislation that would modify and add
15 that cause of action to both civil unions and
16 also to domestic partnerships.

17 But in the interim, are judges
18 going to be accepting irreconcilable
19 differences as a cause of action for
20 dissolution of a civil union.

21 MR. ANDERSON: I can report to you
22 that on January 22nd of 2007 I sent a letter to
23 every Assignment Judge for distribution within
24 their counties that says: "Please note that
25 section 4B of PL 2006, Chapter 103, enacted

11

1 December 21st, '06, which established civil
2 unions in New Jersey, provides that, the
3 dissolution of civil unions shall follow the
4 same procedures and be subject to the same
5 substantive rights and obligations that are
6 involved in the dissolutions of marriage.

7 "While PL 2006, Chapter 103 was
8 enacted before PL 2007, Chapter 6, the Governor
9 notes in his signing statement, S 1467, that it
10 is his clear understanding that the new cause
11 of action for divorce based on irreconcilable
12 differences is applicable to civil unions as
13 well as marriages".

14 If it's necessary for me to re-send

15 that because you are having experience to the
16 contrary, I will.

17 MR. BLUSTEIN-ORTMAN: Would there
18 be any way you would have of knowing whether or
19 not that is occurring or not occurring?

20 MR. ANDERSON: Only if I had heard
21 from litigants that was not-- I honestly
22 checked this morning with everyone who would
23 know. They said they haven't heard that. It
24 may have, I just haven't heard it.

25 If you are telling me that's an

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1 ongoing issue, I'll make sure it is re-issued
2 to the presiding judges in the Family Division.

3 MR. VESPA-PAPALEO: I think those
4 issues have been brother and I think it would
5 be very helpful. Also, it would be helpful if
6 we could obtain a copy of the correspondence?

7 MR. ANDERSON: If you will excuse
8 my handwritten notes. Just to remind me, if

9 there is a change in the statute, that is one
10 area that we'd like clarified, so everyone is
11 on the same page. Even though we give as much
12 advice-- not advice, as much information to the
13 judges as we can.

14 MR. VESPA-PAPALEO: But you
15 mentioned earlier about the training, the
16 formalized training programs that go on. It
17 appears, though, that you also provide other
18 kinds of guidance or training throughout the
19 year, when they are not in the judicial
20 college, as well?

21 MR. ANDERSON: Whenever there are
22 opportunities to have-- first of all, the
23 presiding judges meet on a monthly basis. So
24 changes in the law are always discussed then.
25 As do the division managers, Family Division

13

1 managers, team leaders meet. So there are
2 ongoing updates and educational opportunities

3 during the year, yes.

4 MR. VESPA-PAPALEO: What is the
5 complaint process? If I were a party in a case
6 and had difficulty with a judge, for example,
7 being inappropriate, making homophobic
8 comments, let's say, what would be my recourse?

9 MR. ANDERSON: There are a couple.
10 The first one, if it is a litigant or lawyer,
11 is to confront the judge on the spot. Now,
12 sometimes that's uncomfortable.

13 We have an advisory committee on
14 judicial conduct. A litigant or lawyer may
15 communicate directly with them. I can give
16 you-- their executive director's name is John
17 Tonelli, T-o-n-e-l-l-i. He is at the
18 Administrative Office of the Courts in
19 Trenton. You can communicate directly with
20 him.

21 They are an independent group of
22 the AOC. They work under us for payroll
23 purposes. But they serve a committee chaired
24 by Justice Handler, co-chaired by Justice
25 O'Hern, made up of citizen members and members

1 of the bar.

2 They investigate complaints raised
3 to them by litigants, lawyers and the like, all
4 kinds.

5 Now, that's a committee about
6 judicial conduct. That committee also gets
7 lots of complaints from litigants, who really
8 want an appeal. That committee doesn't handle
9 a reversal of a judge's decision. They handle,
10 for example, the comments, or unequal
11 treatment, disparate treatment for litigants,
12 that's the kind of thing they would handle.

13 MR. HYLAND: May I ask, Mr.
14 Anderson, if this or something to this effect
15 can be published as a notice to the bar?
16 Because although the judges and the staff may
17 be aware that irreconcilable differences is
18 applicable to dissolution of a civil union, I
19 think most of the family practice bar is not
20 certain on that. That's the question. Some
21 have said they would bring it anyway.

22 MR. ANDERSON: I'll be glad to go

23 back and see if we can do that.

24 MR. HYLAND: That would be helpful,

25 thank you.

15

1 MR. VESPA-PAPALEO: Any other
2 questions for Mr. Anderson? Seeing none, thank
3 you very much.

4 MR. ANDERSON: Thank you very much
5 for the opportunity.

6 MR. VESPA-PAPALEO: Barbara, are
7 you ready to testify?

8 MS. ALLEN: I'm ready as I'm going
9 to be. I'm Barbara Allen, I'm the Department
10 of Human Services designee to the Civil Union
11 Review commission.

12 Commissioner Velez has asked that I
13 testify today on behalf of the Department. The
14 Department looked at all areas within Human
15 Services that could be impacted financially in
16 a change of civil unions to marriage for

17 same-sex couples.

18 We determined that there are two
19 areas that could be impacted, the Medicaid area
20 and public entitlements. I also have here today
21 with me Meredith Van Pelt who can answer
22 questions. She is one of our Medicaid
23 attorneys. In case there are some questions
24 about the Medicaid program, how this works. I
25 thought Meredith would be a better person to

16

1 answer those questions. I'm not really a
2 Medicaid expert Meredith is available if anyone
3 does have any questions.

4 In the area of Medicaid under the
5 Defense of Marriage Act, otherwise known as
6 DOMA, the word "marriage" means a legal union
7 between one man and one woman. The word
8 "spouse" is referring only to a person of the
9 opposite sex, either a husband or wife.

10 DOMA does not give the Centers for

11 Medicare or Medicaid Services, referred to as
12 CMS-- you might have heard that terminology,
13 the discretion to recognize same-sex marriages
14 for the purposes of the federal portion of
15 Medicaid. As such because the same-sex couple
16 would not be considered spouses under the
17 federal law, the resources of the same-sex
18 spouse could not be deemed him or her, making
19 that individual applicable for Medicaid.

20 New Jersey would not be able to use
21 the same-sex marriage as a basis for
22 eligibility to claim federal financial
23 participation, which is referred to as FFP.
24 Only if an individual would be eligible as an
25 individual could he claim FFP.

17

1 So it is really the same for
2 partners currently in a civil union status.
3 They are not considered to be spouses for any
4 purpose under the Medicaid program. Being

5 married wouldn't change that in terms of the
6 federal definition in terms of what marriage
7 means for DOMA purposes.

8 Given the limitation in the federal
9 law, states would need to assume the financial
10 responsibility to address civil unions as well
11 as same-sex marriages.

12 We don't know at this point what
13 the financial impact of that could be on the
14 state. Since the state would have assume the
15 financial responsibility for the state
16 portion. Whatever wouldn't be covered by
17 federal Medicaid we couldn't claim would have
18 to be covered by the state.

19 We can't anticipate what change the
20 civil union status to same-sex marriage would
21 do in terms of financial impact on the state in
22 that area.

23 MR. VESPA-PAPALEO: Does New Jersey
24 currently pay for that, for civil union
25 couples, that would otherwise qualify if they

1 were heterosexual married couples?

2 MS. ALLEN: I believe so, but
3 Meredith can--

4 MR. VESPA-PAPALEO: Feel free to
5 come up here so you can join us. Just state
6 your name for the court reporter, please.

7 MS. VAN PELT: Meredith Van Pelt.

8 MR. VESPA-PAPALEO: My question
9 was, following up on what Barbara was talking
10 about, that if the state would have to assume
11 the cost for Medicaid payments for same-sex
12 couples in marriages, now that we have civil
13 unions, is the state currently picking that up
14 for Civil Union partners.

15 MS. VAN PELT: No. They have to
16 eligible as a single individual, we will pick
17 it up. We are not looking at them as a married
18 couple. Right now it's civil unions, it is not
19 marriage. Even if it were to go to marriage,
20 we can call it what we want, unfortunately DOMA
21 is going to supercede as federal law, so it
22 wouldn't matter. We would have to look at them
23 for Medicaid purposes as two single individuals
24 who just happen to reside in the same

19

1 MR. VESPA-PAPALEO: You are doing
2 that now under civil unions.

3 MS. VAN PELT: Yes. They are
4 looked at as single individuals for the
5 purposes of determining eligibility.

6 MR. VESPA-PAPALEO: Currently the
7 state is recognizing them for purposes of
8 assuming these costs. In terms of right now,
9 is there a financial impact on the state for
10 the cost of recognizing those in a civil union
11 as individuals if they are eligible?

12 MS. VAN PELT: If they are
13 eligible, yes. We would look at them whether
14 there were in a civil union or not. That can
15 have no bearing on our determination.

16 MR. VESPA-PAPALEO: If instead
17 there was marriage, you would look at these
18 people the same way you are doing today?

19 MS. VAN PELT: There would be no
20 change.

21 MR. VESPA-PAPALEO: There would be
22 no different financial impact. So there would
23 be no negative financial impact in the future
24 if there were marriage than if there was today
25 for civil unions?

20

1 MS. VAN PELT: There would be no
2 financial impact on the state.

3 MR. VESPA-PAPALEO: On the state?

4 MS. VAN PELT: Yes.

5 MR. VESPA-PAPALEO: Knowing that
6 the feds were subject to a different law?

7 MS VAN PELT: Yes.

8 MR. HYLAND: I'm going to ask a few
9 questions in this area. First of all, have you
10 looked at whether, by calling these civil
11 unions as opposed to marriage, we're always
12 assuming the Federal Defense of Marriage Act is

13 going to supercede this. But if the Federal
14 Defense of Marriage Act is taken away and the
15 federal government no longer has that
16 limitation, would the Medicaid rules then
17 recognize civil unions for federal purposes, or
18 would they only recognize marriage for federal
19 purposes?

20 MS. VAN PELT: Were that to happen,
21 I think we would look for more guidance from
22 CMS. We have Vermont ahead of us, we have
23 Massachusetts ahead of us, that have asked for
24 opinions from CMS. They have come back with
25 that DOMA does supercede anything that we call

21

1 it.

2 What would happen if that was taken
3 away? It would just be pure speculation on my
4 part. I think the states would be looking to
5 CMS again for guidance and rescinding any prior
6 or modifying their prior determinations for

7 guidance on this.

8 MR. HYLAND: Because the problem is
9 that the civil union is nowhere defined or
10 specified, actually nowhere appears in federal
11 law. So the problem is that, if marriage
12 becomes the option in New Jersey and then DOMA
13 is done away with, it appears that it is clear
14 that same-sex couples in a marriage would then
15 be recognized for the purposes of Medicaid
16 rules?

17 MS. VAN PELT: Again, that's
18 speculation. I would just be speculating.

19 MR. HYLAND: There would be no
20 barrier?

21 MS. VAN PELT: There would be no
22 federal statutory barrier. Whether we would
23 receive guidance, policy or something from CMS
24 at that point, you know, we would have to look
25 at it then.

1 MR. HYLAND: Now, the current
2 reading of all of this is that for the purposes
3 of considering assets and eligibility
4 determinations, a same-sex couple in a civil
5 union doesn't have-- they don't have the same
6 consideration that a married couple would have
7 in their assets being considered jointly?

8 MS. VAN PELT: If their names were
9 on the accounts, we see mother-child,
10 brother-sister all the time. We do look at
11 joint accounts regardless of any civil union or
12 marriage, you know, married relationship they
13 may have.

14 We do look at assets that are
15 jointly held, if someone who is applying as an
16 single individual. We would look if they do
17 have, and they have rights to those assets.

18 MR. HYLAND: What about the issue
19 of Medicaid liens, after let's say the
20 individual who dies, the state would have a
21 Medicaid lien, which would be normally held in
22 abeyance if the spouse died?

23 MS. VAN PELT: There is no spouse
24 according to the federal -- because of the
25 federal statute. So the lien would apply.

1 MR. HYLAND: Has the state looked
2 at some of the options that have taken place
3 from Vermont, for example, where Vermont does--
4 states that any funds that are used for a civil
5 union couple are only state funds that are
6 allocated, therefore, they can cover the couple
7 without having to worry about applying for the
8 federal rules?

9 MS. VAN PELT: As far as I know
10 there has been no discussion to the level that
11 it would be moving forward. That has always
12 been an option, it is an option for any state
13 to have a state only funded program.
14 Regardless of whether or not civil unions is an
15 issue or not.

16 MR. HYLAND: Would that be
17 something that you think would be helpful for
18 your agency to look at or to consider?

19 MS. ALLEN: We can look at that if
20 and when the time arises. I mean, there hasn't

21 been any consideration yet in the DHS of doing
22 that kind of program. We're not authorized to
23 state one way or the other.

24 MR. BLUSTEIN-ORTMAN: What would
25 constitute the time arising?

24

1 MS. ALLEN: If there was a change
2 in the law that would treat them as married.

3 MS. VAN PELT: The determination
4 would be made to treat them as married.

5 MS. ALLEN: If the law were changed
6 to treat them as married.

7 MR. BLUSTEIN-ORTMAN: Is that your
8 question?

9 MR. HYLAND: No. What's happening
10 in Vermont is that they are basically
11 designating the funds that are going to
12 Medicaid for civil union couples, as being
13 entirely state funds. So, therefore, they are
14 not seeking reimbursement from the federal

15 government for those funds. Therefore, they
16 can treat them in as nearly an equal way as
17 possible.

18 It seems like that is something
19 that isn't being done in New Jersey's case.
20 Perhaps should be considered in New Jersey's
21 case. Would that require a rule change or
22 regulation change?

23 MS. VAN PELT: Possibly a statutory
24 change. We're going to be looking at them. It
25 is also a budget consideration.

25

1 MS. ALLEN: . It has to be budgeted
2 in the upcoming budget.

3 MR. HYLAND: That's true.
4 Unfortunately, the budget situation we know is
5 not good. At the same time it doesn't seem
6 like there is an "accepted" that doesn't fit
7 into the budget exception under the Lewis V.
8 Harris case.

9 Maybe that's something that we
10 could get back from you in terms of a report,
11 whether it is going to be requiring some form
12 of a statutory change.

13 MR. BLUSTEIN-ORTMAN: Isn't there
14 some reason to believe that the statutory
15 change has already occurred?

16 MR. HYLAND: I think that the
17 statutory change is probably there in that
18 section, what is it 93 of the Civil Union Act?
19 Which requires that in all regulations, laws,
20 statutes, et cetera, wherever we are referring
21 to married, or spouse or anything like that, it
22 is also required that that applies equally to
23 civil union spouses. If that's the case then,
24 I think you have to review the regulations in
25 light of that particular section of the

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1 statute.

2 Even though I understand that the

3 difficulty is there because of the Federal
4 Defense of Marriage Act, I think it requires
5 your agency in an area like this, to review
6 that to see if there is a way to make that
7 work. Maybe reach out to Vermont, for example,
8 to see how they have allocated this so that
9 they can do that.

10 MR. BLUSTEIN-ORTMAN: If that
11 allocation was based on the civil union law or
12 separate legislation.

13 MR. HYLAND: I believe it is, in
14 Vermont, based upon their civil union statute.
15 It's not something like a statutory, specific
16 statutory change that was made there. It is
17 actually the fact that they have pretty much
18 this all encompassing fallback position that
19 says it has to apply equally.

20 MS. ALLEN: Nobody is buying denied
21 Medicaid if they are eligible. So what we
22 can't claim FFP for, the state would be picking
23 up the costs of.

24 MS. VAN PELT: Picking up fifty
25 percent.

1 MS. ALLEN: In fact, they are.

2 MR. HYLAND: We have to look at
3 that issue and make sure it is the same. We
4 also have to look at whether, particularly the
5 lien issue, as to whether there is a way that
6 can be affected.

7 So that the basic treatment of a
8 same-sex couple in a civil union works out to
9 be the same way, effectively.

10 MR. BLUSTEIN-ORTMAN: Wherever the
11 funds come from?

12 MR. HYLAND: Wherever the funds
13 come from. It would be extremely unfair, for
14 example, for a civil union couple to lose one
15 partner and then have to face the problem of
16 these Medicaid liens being assessed against the
17 property while the other partner was still in
18 the house.

19 MS. ALLEN: Would there be a
20 Medicaid lien if they weren't considered a
21 spouse for purpose of the program?

22 MS. VAN PELT: It would be against

23 the person's property. It depends who owned
24 the property.

25 MR. HYLAND: You have to look at

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1 the issue of how is the property titled, how is
2 that going to be viewed under federal law? We
3 can now, in fact, the default for civil union
4 couples in purchasing property together jointly
5 is as tenants by the entirety. But the federal
6 government, we don't know whether or not the
7 federal government would recognize that as
8 anything except as a joint tenancy. If they
9 only recognize it as a joint tenancy, then can
10 the lien go against that person's, the
11 decedent's, portion of the estate? Is that
12 going to cause the hardship of perhaps having
13 to sell the house, because this lien is being
14 executed or held against that property?

15 MS. VAN PELT: It depends. This
16 does come up where we do have brother and

17 sister.

18 MR. HYLAND: But they are not
19 brothers and sisters?

20 MS. VAN PELT: But they are holding
21 as joint tenants. It would be that portion of
22 the deceased's siblings for the purpose of an
23 analogy. For the most part there is not an
24 eviction of the surviving relative who owns the
25 house. That awaits until the property is sold,

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1 then the lien will then pop up at that time and
2 be executed on the proceeds of the sale.

3 MS. ALLEN: I think we have--

4 MR. HYLAND: I think we need a
5 clarification on some of these areas. It may
6 be a suggestion also that you reach out to your
7 corresponding individual in Vermont, for
8 example.

9 MS. ALLEN: I have here with me two
10 letters that Meredith actually received from

11 Vermont and from Massachusetts, that CMS gave
12 some opinions on. There is a question here
13 about the lien. I can read you the answer
14 here. "Where all federal Medicaid requirements
15 for placing a real estate lien otherwise are
16 present, may the state opt not to place a lien,
17 so long as the same-sex spouse is lawfully
18 residing in the home?"

19 The response was, "Each state
20 follows its own laws or regulations on
21 imposition of liens and on estate recoveries
22 within federal guidelines. Federal language
23 which restricts imposition of liens or
24 adjustment or recovery in the case of a lien
25 until after the death of the surviving spouse,

30

1 would not apply to the surviving member of a
2 same-sex couple. However, while imposition of a
3 lien on real property is optional, estate
4 recovery from real property subject to a lien

5 is mandatory."

6 So these are opinion letters that
7 CMS sent to Vermont and Massachusetts
8 respectively, based upon their differences,
9 civil union in Vermont and same-sex marriage in
10 Massachusetts. I can make copies of these.
11 These are the questions that states have been
12 asking. A lot of them are similar to the
13 questions that you have. Taking into
14 consideration that DOMA is still the state of
15 the federal law and that impacts on all the
16 answers that they gave.

17 MR. VESPA-PAPALEO: That would be
18 helpful to get a copy of that, Barbara, I
19 appreciate that. If we had some additional
20 follow-up, we could perhaps just send
21 correspondence to the Commissioner and focus it
22 that way.

23 MS. ALLEN: The other area-- is
24 that it for Medicaid questions?

25 The other area that we looked at

1 was the area of public entitlements. We have a
2 Division of Family Development which oversees
3 the Temporary Assistance to Needy Families,
4 that is TANF and General Assistance, which is
5 GA, food stamps and child support.

6 What they found was that the civil
7 union legislation does not have a major
8 financial impact in those areas.

9 In the Work First New Jersey TANF
10 and GA programs, much civil union relationship
11 is treated the same as married couples when
12 determining eligibility. In the Food Stamp
13 Program anyone who lives together, prepares
14 meals together are considered one household
15 whether married or civil unioned. All
16 household income would be considered for the
17 Work First New Jersey TANF and GA and Food
18 Stamp programs. So the marital status doesn't
19 affect it all.

20 MR. HYLAND: It has always been
21 household income anyway.

22 MR. VESPA-PAPALEO: So if we call
23 it marriage, it wouldn't cost the state any
24 more than it does now?

25

MS. ALLEN: It wouldn't change what

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1 people are eligible for.

2 MS. VESPA-PAPALEO: Because it is
3 based on their income?

4 MS. ALLEN: Right. There was some
5 information I received from the child support
6 unit at DFD relating to civil union and
7 same-sex marriage.

8 The two areas I was told where
9 there could be an impact, this again goes to
10 the federal funding aspect and the definition
11 of the Defense of Marriage Act. I believe
12 there is a request in now for some opinion from
13 the Feds on what this means. But this was what
14 I was told.

15 We need to find out for sure from
16 the Office of Child Support Enforcement whether
17 there are any problems providing services for
18 parentage determinations, support, in so far as

19 same-sex couples and not risk any IV-D funding.

20 The Defense of Marriage Act limits
21 the definition of "spouse" for all federal
22 purposes, to "a person of the opposite sex who
23 is a husband or wife". We don't know the
24 extent to which this will be enforced through
25 funding, but we do know that the term "spouse"

33

1 appears in federal law requiring child support.

2 The second issue is one of full
3 faith and credit. Currently, states are
4 required to recognize determinations paternity
5 and support orders issued by other states,
6 under the Constitutional right to full faith
7 and credit, the Full Faith and Credit for Child
8 Support Orders Act and the Uniform Interstate
9 Family Support Act. However, DOMA permits
10 states to ignore full faith and credit when it
11 comes to dealing with same-sex marriage.

12 The Administration for Children and

13 families has indicated that there is nothing in
14 the IV-A statute, regulations or the Defense of
15 Marriage Act either requiring or prohibiting
16 the state from counting the partner. States may
17 choose how to define the family assistance unit
18 in the TANF program, as long as the unit meets
19 the minimum statutory requirements.

20 We haven't received, as far as I
21 know and anyone in our Division knows, we
22 haven't received any complaints, be it written
23 or oral, that we are aware of, that people are
24 not getting access to our programs or are being
25 denied benefits because of their status.

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1 We are going to continue to be
2 active and listen, seek feedback from people
3 that are in our programs, if there is an impact
4 on them in a negative way.

5 But I believe people are receiving
6 all that they are entitled to under all of

7 these programs.

8 MR. VESPA-PAPALEO: In terms of
9 these non-federally funded programs like the
10 public entitlement things, in terms of the
11 forms and training of your staff, can you share
12 anything in terms of the implementation of the
13 Civil Union Act with regard to training your
14 your staff and fixing your forms?

15 MS. ALLEN: I didn't address that
16 area with the Division, but these programs are
17 administered through the county welfare
18 agencies. We oversee the programs in those
19 county welfare agencies. They would be--
20 people will be going into the county welfare
21 office to apply for welfare or food stamps, you
22 know, any of the entitlements. So I can check
23 on that. I did not ask that question about
24 many forms, what kind of training has
25 occurred. There doesn't seem to be an issue

1 with people not receiving the benefits or being
2 denied based on status.

3 Most of these are based on family
4 income and who resides in the household. It is
5 not a matter of what their status is.

6 MR. VESPA-PAPALEO: Any other
7 questions for Human Services?

8 MS. ALLEN: It would help too, if
9 maybe Steve could e-mail your specific
10 questions? Because I didn't have time to take
11 notes while I was talking. If you could, I can
12 try to get some responses on your specific
13 questions?

14 MR. HYLAND: As soon as we get the
15 minutes. Hopefully he heard everything. We'll
16 follow-up with each of the witnesses for any
17 follow-up.

18 MR. VESPA-PAPALEO: Thank you very
19 much, Barbara and Meredith, thank you.

20 Okay. You have in your file, or
21 maybe you don't have in your file, a letter
22 from the Adjutant General. I'll read it for
23 the record. Due to a scheduling conflict he
24 could not make it.

25 "I'm in receipt of your"-- this is

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1 from Glen Reith, R-e-i-t-h, the Adjutant
2 General for the State of New Jersey. He's the
3 department head for the Department of Military
4 and Veterans Affairs.

5 "I'm in receipt of your request for
6 testimony concerning the impact of civil unions
7 on the US military. Specifically, you are
8 inquiring as to any additional financial impact
9 on the New Jersey National Guard if the state
10 would recognize same-sex marriages.

11 "Please be advised that we cannot
12 provide the information that you seek for the
13 following reasons: First and foremost, DOD
14 policy precludes service members from entering
15 into either civil unions or same-sex
16 marriages. To do so would subject the service
17 member to separation from the armed forces.
18 Therefore, until DOD policy changes in this
19 regard, it is a moot issue to discuss the
20 financial impact of civil unions or same-sex

21 marriages on the National Guard.

22 "Moreover, as result of this
23 prohibition, any such testimony on this issue
24 would be mere speculation as we have no data on
25 which to base it upon. Therefore, New Jersey

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1 National Guard respectfully declines the
2 opportunity to testify on this subject at this
3 juncture".

4 All right. So let's go on to-- Bob
5 are you here?

6 MR. GRILL: Yes, I am.

7 MR. VESPA-PAPALEO: Melissa, do you
8 mind if we have him go first?

9 MS. RAKSA: Sure.

10 MR. VESPA-PAPALEO: Why don't you
11 come over here. Bob Grill with the Motor
12 Vehicle Commission. Can you just state your
13 name and title for the record?

14 MR. GRILL: Certainly. Good

15 afternoon, Bob Grill, I'm the Director of Field
16 Operations within the Motor Vehicle Commission.

17 As Mr. Anderson, the gentleman who
18 gave the first testimony indicated, this
19 testimony should be brief. With regard to the
20 Motor Vehicle Commission, the acceptance of
21 documents such as a civil union document, are
22 used primarily for name changes.

23 As indicated within the Commission,
24 a name change is possible through marriage,
25 divorce or order of the Court. The Motor

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1 Vehicle Commission gives the same weight to a
2 civil union document that we would a marriage
3 document, marriage certificate. Individuals
4 are able to present that document to have a
5 name change.

6 It is now included on our website
7 and as part of our six point brochure, to meet
8 the six point requirement to obtain an

9 examination permit, an operator's license or a
10 non-driver identification card. It is a three
11 point secondary document.

12 MR. VESPA-PAPALEO: Now, was that
13 done by regulation or is that just your policy.

14 MR. GRILL: That was done, from
15 what I understand, was done by regulation.
16 That is within, I believe, some eighty pages of
17 legislation. The words "civil union" were
18 added following every reference to marriage
19 certificate or marriage.

20 MR. VESPA-PAPALEO: Did you have an
21 opportunity to review our first interim report?

22 MR. GRILL: Nope, I'm afraid I did
23 not.

24 MR. VESPA-PAPALEO: You did not. I
25 know your division did, your Commission did.

1 Because we did highlight a few instances that
2 we received testimony on where individuals

3 throughout the state did have difficulty at
4 various MVC offices getting certain things
5 done.

6 My question is about training.
7 What kind of training have you provided for
8 your staff so that they actually know what's in
9 these new rules.

10 MR. GRILL: Hands-on training was
11 not offered, was not provided. We looked at as
12 a seamless transition. We looked at it as if
13 you had a civil union document in your hand, it
14 would be treated exactly the same as a marriage
15 certificate in your hand.

16 It is included in new employee
17 training information that was provided to Motor
18 Vehicle Commission management at a meeting that
19 was conducted in February or March of 2007. I
20 actually conducted that training and gave that
21 presentation. In addition to that, procedural
22 memorandums from my office under my signature
23 were sent to our 45 motor vehicle agency
24 managers and supervisors, outlining exactly
25 what our policy and procedure, with regard to

1 the acceptance of a civil union document.

2 MR. VESPA-PAPALEO: That went to
3 your whole staff, management--

4 MR. GRILL: Internal management and
5 rank and file; correct.

6 MR. VESPA-PAPALEO: Do you have any
7 way of confirming the success of that process
8 for training? I mean, for example, if you
9 hear-- what's the complaint process if an
10 employee has difficulty-- if somebody comes to
11 them with a form that they are unfamiliar with,
12 maybe they didn't read that memo, what do they
13 do?

14 MR. GRILL: Within each of the
15 respective motor vehicle agencies, they are
16 required or they policy is to bring it to the
17 attention of the supervisor or manager. If it
18 cannot be resolved at that level, the
19 individual, the customer, would be referred to
20 my office.

21 I can tell you that as far as
22 measuring success, I've not been made aware of

23 any complaints specifically with regard to this
24 particular instance. If ever there were, it
25 would be addressed as any other complaint

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1 complaint would be addressed. If it is
2 something that we're permitted to do, we would
3 authorize it to be done. If it is not, then,
4 obviously, we cannot.

5 MR. VESPA-PAPALEO: We did take
6 testimony back in the fall from-- which is
7 actually in our report, from-- I'm recalling
8 one individual in particular who-- I don't know
9 which MVC agency, office it was, that had
10 difficulty having his documentation recognized
11 by some staff there.

12 It was brought to management's
13 attention. I think it was resolved by the
14 management at that office. But it brought to
15 light the issue that there were people not
16 getting the message, that shouldn't have even

17 happened in the first place.

18 We are trying to figure out what
19 are the mechanisms in place to make sure, maybe
20 periodically do an audit or check. Maybe do
21 some testing once in a while, going into an
22 office with a civil union certificate to kind
23 of just test the staff to make sure they know
24 what this is, to see if the training is
25 working. Is there any contemplation of that

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1 sort of periodic monitoring?

2 MR. GRILL: Again, the only thing I
3 can tell you is that since complaints have not
4 been brought to my offices' attention, I'm not
5 sure if that would be necessary. If under any
6 circumstances, if any procedure is not properly
7 being followed by any of our agencies' staff,
8 we would look to reinforce that either through
9 a procedural memorandum or further training,
10 absolutely.

11 To go one step further, I can tell
12 you, again, unfortunately, there are some
13 instances where documents are not being
14 accepted. We have birth certificates that are,
15 unfortunately not being accepted that should
16 be. Marriage certificates that are not being
17 accepted that should be. Divorce decrees that
18 are being accepted that should be. So it
19 doesn't necessarily identify just one
20 particular document. Human error, not being
21 familiar with the particular document, not
22 being sure whether this particular form can be
23 accepted, would be cause for an employee
24 possibly to reject it. But we would hope that
25 they would follow procedures and bring it to

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1 the attention of the facility's supervisor. In
2 the the absence of a supervisor, go to the next
3 level, go to the manager. In the absence of
4 the manager, we have support people within our

5 offices right here in Trenton or, again, to my
6 office.

7 MR. VESPA-PAPALEO: Now, that's
8 very helpful, thank you. If the law had-- are
9 you able to calculate or give some estimate as
10 to what the cost was for MVC to train and
11 change your forms and change your regulatory
12 process, once the Civil Union Act came into
13 effect.

14 MR. GRILL: The only cost, I would
15 imagine would have incurred, would be on a
16 revision of our six point brochure. Because
17 the training aspect of it was incorporated with
18 other training initiatives that were going on.
19 There would be no cost in that, no additional
20 cost in that.

21 As far as the six point brochure,
22 it is updated periodically anyway. I do not
23 have those figures. I can certainly find out
24 and report back what the cost would have been
25 on that. But at the same time that information

1 was added, other revisions were made at the
2 same time. I would imagine the cost to
3 identify just that one change would be
4 difficult.

5 MR. BLUSTEIN-ORTMAN: It might be
6 good to know the sequence, the scheduling of
7 updating the brochures and where this fits into
8 that sequence.

9 MR. GRILL: Absolutely.

10 MR. KOMOSINSKI: This is Joe
11 Komosinski. We have the same issue in Jersey
12 City, Bob, when it comes out. Can you just
13 kind of make a comparison, because that's an
14 analogy of a vital that I know was denied, that
15 in some cases should have been and in some
16 cases shouldn't have been. The same kind of
17 training, was that put in place addressing the
18 Jersey City validation of birth certificates?

19 MR. GRILL: Actually in Jersey City,
20 the compromising of the documents out of Hudson
21 County was part of a much larger training
22 issue. The acceptance of a civil union
23 document, in our opinion was relatively
24 seamless. We pretty much told our field staff,

25 if you see a civil union document, if it is an

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1 original document or a certified copy of the
2 original document, accept it the same way that
3 you would a marriage certificate.

4 The Hudson County certificates were
5 a much larger and much more problematic
6 instance, that I'm sure I don't need to tell
7 you about it.

8 MR. HYLAND: I did have an issue.
9 Actually, it was something that was raised, I
10 think because of the hearings. But it pointed
11 out that there was a problem that related not
12 particularly to civil unions, but to civil
13 unions and married couples in terms of the name
14 change. It was some sort of peculiar rule that
15 appeared based on expecting the wife to take
16 the husband's name.

17 Therefore, when somebody was doing
18 a hyphenated name, if you had, for example, a

19 couple Ms. Jones and Mr. Smith, and Ms. Jones
20 applied for a hyphenated name, it would be
21 different than if her husband applied for the
22 hyphenated name. Because I think the rule said
23 or that regulation said that the maiden name
24 would come first, then the second name.

25 MR. GRILL: The surname.

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1 MR. HYLAND: It gets a peculiar
2 result if both of them go in and, in fact, they
3 just want to be known as Mr. and Mrs.
4 Martin-Smith or whatever it is, rather than
5 Mrs. Smith-Martin and Mr. Martin-Smith. It
6 just appeared when we had same-sex couples who
7 wanted to get that dual hyphenated name. Has
8 that been addressed or is that something that
9 should be addressed?

10 MR. GRILL: That has been
11 addressed, actually. As part of the initial
12 training we put out information that indicated

13 that however the name was being requested, as
14 long as the documentation was there to verify
15 it, the change can be made. We know our system
16 can accept it. In that regard it was done.

17 In fact, quite a number of years
18 ago, in fact, fifteen or almost twenty years
19 ago, we had an instance at one of our
20 particular agencies that has since closed, so I
21 don't have to worry about referencing which one
22 it was, where a couple, man and wife came, into
23 the agency to have their names changed. The
24 agency personnel incorrectly told them the
25 woman can, but we don't change the man's name.

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1 MR. BLUSTEIN-ORTMAN: I might have
2 been that case, seriously.

3 MR. GRILL: That was a long time
4 ago and has since been corrected.

5 MR. HYLAND: Okay, great.

6 MR. VESPA-PAPALEO: Bob, in terms

7 of the cost that you have incurred, let's say
8 the cost for the six point brochure and
9 whatever other minimal costs that you had to
10 incur to provide training to your staff, if the
11 legislature ended up changing the Civil Union
12 Law to provide it as a marriage law instead,
13 would there be any additional costs to this--
14 to MVC, that you haven't already incurred?

15 MR. GRILL: I see no additional
16 costs. I see it being no different than as to
17 how we're conducting business today.

18 MR. VESPA-PAPALEO: Any other
19 questions? Thank you very much for taking the
20 time to be with us, we appreciate it.

21 Melissa?

22 MS. RAKSA: My name is Melissa
23 Raksa. I'm a Deputy Attorney General for the
24 Department of Law and Public Safety, the
25 Division of Law. On behalf of the Attorney

1 General, who is the head of our department, I'd
2 like to thank you for inviting us to testify
3 before the Commission.

4 As the the Attorney General's
5 designee, I will be testifying on behalf of the
6 Department. Just some background, for those of
7 you who might not know what the Department
8 does. The Department of Law and Public Safety
9 is comprised of ten divisions, with
10 approximately 9,000 employees.

11 The Department's diverse and
12 complex responsibilities focus on protecting
13 the lives and property of New Jersey citizens.
14 In addition to providing statewide law
15 enforcement and emergency response services,
16 the Department is responsible for protecting
17 citizens' civil and consumer rights, promoting
18 highway traffic safety, maintaining public
19 confidence in the alcoholic beverage, gaming
20 and racing industries, and providing legal
21 service and counsel to other state agencies.

22 As such, the Department's
23 responsibilities include enforcing the Civil
24 Union Law. The Department is firmly committed,
25 as it is with all the state's laws to

1 fulfilling its responsibilities.

2 Concerning the Department's
3 testimony today, I will peak to the two issues
4 the Commission chair asked us to address. One,
5 whether there will be additional financial
6 impact on the LPS between having civil unions
7 or marriage equality and two, whether the
8 Department's implementation of the Civil Union
9 Act has been effective?

10 With respect to the first area of
11 inquiry, the Department has not studied the
12 financial impact of the Civil Union Law on LPS.
13 Nor has it evaluated whether there would be
14 additional impact on LPS if the Legislature
15 enacted marriage equality.

16 Notably, the Department does not
17 provide direct services to members of the
18 public as, for example, DHS does. So unlike
19 other state agencies that might experience
20 incremental costs, the Department has not

21 identified any obvious problematic costs that a
22 change in law would engender.

23 From its prospective as an employer,
24 the Department along with all other state
25 government departments, agencies and

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1 authorities, complies with the Civil Union Law,
2 to ensure that civil union partners are
3 accorded the same rights and benefits as
4 married couples.

5 Moreover, the Department has
6 incorporated civil union status into its
7 anti-discrimination training provided to all of
8 its employees.

9 On a broader scale, because a
10 marriage equality law would require uniform
11 implementation throughout state government, the
12 assessment of a financial impact of such a
13 change in the law, would necessitate a
14 comprehensive statewide analysis. But because

15 the state is now required to accord same-sex
16 couples the same benefits as married couples,
17 the incremental costs on the state government
18 should be negligible.

19 As to the second area of inquiry,
20 the Department has not received any complaints
21 about its own implementation of the Civil Union
22 Act. The Division on Civil Rights is the state
23 agency responsible for enforcing the amendments
24 to New Jersey's Law against discrimination that
25 prohibits discrimination on the basis of the

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1 civil union status, in addition to
2 discrimination on the basis of affectional or
3 sexual orientation, gender identity or
4 expression.

5 Additionally, the Division enforces
6 the New Jersey Family Leave Act, which also
7 extends its protections to civil union
8 partners.

9 As Frank provided us with this
10 information earlier, with regard to civil union
11 status discrimination, the Division has
12 received eight verified complaints, three of
13 which have been resolved.

14 In addition, since the enactment of
15 the law, the Division has received numerous
16 inquiries about the scope of law from
17 individuals as well as employers.

18 To assist those who have contacted
19 the agency, the Division developed a facts
20 sheet on civil union and marital status
21 discrimination, which is posted on the
22 Division's website, in both English and
23 Spanish.

24 Also available for downloading from
25 the Division's website, at no cost to the

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1 public, are anti-discrimination posters in the
2 areas of employment, housing, public

3 accommodations and family leave. Which includes
4 protections on behalf-- I'm sorry, on the basis
5 of both civil union status as well as gender
6 identity or expression.

7 Additionally, the Division is
8 working on other projects to increase awareness
9 of and compliance with the nuances of the Civil
10 Union Law, such as a self-assessment tool for
11 employers.

12 These remarks provide a broad
13 responses to the issues the Commission asked
14 the Department to discuss. The Division on
15 Civil Rights itself could provide more detail
16 about the type of work it has done with respect
17 to protecting the rights of those who are in
18 civil unions and its efforts to educate the
19 public about the law.

20 In sum, the Department of Law and
21 Public Safety is committed to the effective
22 enforcement of portions of the law over which
23 the Department has jurisdiction, investigating
24 and addressing reported violations of the
25 specific civil rights measures.

1 MR. VESPA-PAPALEO: Thank you,
2 Melissa. On behalf of the Division on Civil
3 Rights, I don't really have more to add than I
4 already provided. Unless you have any
5 questions, I'll be happy to answer?

6 But with regard to Melissa's
7 testimony, any questions?

8 MR. BLUSTEIN-ORTMAN: Can you say
9 something, Melissa, about the character,
10 quality, whatever of the training that people
11 got, that you referred to?

12 MR. VESPA-PAPALEO: Maybe I can
13 address that. Each department in state
14 government, even other branches of government,
15 have EEO offices, that are charged with
16 ensuring that their employees are protected.

17 It is an agency that investigates
18 allegations of discrimination against state
19 employees by other state employees, for
20 example.

21 Our Department has one, has an EEO
22 office. They are--one of the things that they

23 are actually right now in the process of doing,
24 is going out to every single unit-- division in
25 the Department of Law and Public Safety and

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1 requiring actually every employee of Law and
2 Public Safety to submit to training on the
3 state's anti-discrimination--

4 MR. BLUSTEIN-ORTMAN: It sounded
5 like that had been done.

6 MR. VESPA-PAPALEO: That's in the
7 process. There are a number of employees that
8 had already gone through it. But as Melissa
9 mentioned 8,000 or 9,000 employees takes a
10 while to go through the whole Department. They
11 have two trainers to do this.

12 For example, my division is going
13 through the training as well. Those have been
14 scheduled. Those are being done throughout the
15 executive branch, where all the EEO units are
16 making sure that all state employees in the

17 executive branch are trained on the state's
18 anti-discrimination policy.

19 MR. BLUSTEIN-ORTMAN: What does
20 that training look like?

21 MR. VESPA-PAPALEO: It's about a
22 two hour training, typically. It is very
23 interactive training on what the policies say.
24 Using examples-- I've submitted to it in the
25 past, what the examples are, sort of typical

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1 circumstances where these issues might arise.
2 Sexual harassment is a topic. Civil union
3 status discrimination has been rolled into this
4 training as well. It is a very thorough
5 training.

6 There is additional training as
7 well in this curriculum, for those in
8 management and supervisory roles. Because we
9 have additional responsibilities as well.

10 MR. BLUSTEIN-ORTMAN: Specifically

11 I guess my question is, assuming homophobia
12 exists everywhere in our culture, certainly,
13 therefore, within the Department, what steps
14 are taken in the training to allow people to
15 recognize the difference their homophobic
16 response to things and their responsibility as
17 a state employee, to assure the rights of the
18 citizens of the State of New Jersey? Is that
19 something that's addressed?

20 MR. VESPA-PAPALEO: Yeah. I mean,
21 the responsibilities that all state employees
22 have, they sign-on to following certain rules.
23 That's essentially what this organization does,
24 is say here are the rules that you are subject
25 to as a state employee. Those of you in

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1 management, you have even additional rules that
2 you are subject to.

3 So the state has both a state
4 policy against discrimination and then there is

5 also the state law against discrimination,
6 which is a legal remedy that protects people.

7 So this training covers both, both
8 a discussion of the state policy and also a
9 discussion of the state laws. Both those have
10 been-- have incorporated civil union status as
11 a protected group. There is quite a bit of
12 discussion on that now in this training,
13 because it is such a new area.

14 Another area that become a focus in
15 gender identity and expression, because it's
16 very new. So a lot of questions come up.

17 It covers things like, you know,
18 not--things pertaining to making sure that
19 people are not denied employment opportunities
20 because of their civil union status. But also
21 harassment issues. Comments in the workplace
22 about a person's civil union status is possibly
23 actionable. This training also covers those
24 kind of circumstances.

25 Also, what the proper conduct is in

1 the workplace. Even if something doesn't rise
2 to the level of a legal remedy, we still as
3 employees have certain duties that we have to
4 follow. So it goes into that kind of thing,
5 too.

6 If you want more detail on it, I
7 can certainly invite maybe the Director of that
8 unit to come and testify at a future meeting.
9 Because I've only been somebody that's sat in
10 the session. I don't provide that training.
11 It is intentionally segregated in the training
12 that I do. Every employee has to submit to
13 that. If you want to do that, we can invite
14 them to come in.

15 But it is pretty substantial
16 training on all areas.

17 MR. KOMOSINSKI: That does go-- the
18 Department of Human Services, our EEO office
19 does the same training. A lot of that focus is
20 on-- because we deal with the public a lot,
21 depending if your agency deals with the public.
22 So ours focuses on harassment within the
23 workplace and also dealing with the public that
24 come in to deal with us that may be in a civil

25 union or a domestic partnership, in addressing

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1 them.

2 It is pretty far reaching in
3 nature. They do generally do discrimination
4 training a couple of times a year. The
5 component was when we had the civil union
6 piece. So they did go over, I know, focusing on
7 the new civil union piece because it is new.

8 MR. VESPA-PAPALEO: Steven?

9 MR. GOLDSTEIN: I have a question
10 for Melissa or any other government
11 representative. What do you think to what
12 extent budget cuts or certainly budget
13 constraints affect the ability to get the word
14 out to couples who might have complaints that
15 your agencies are places they can go to? In
16 other words, the gap is now increasing between
17 organizations like Garden State Equality, which
18 as I said on the phone coming in, we have had

19 709 complaints as of today versus eight.

20 Particularly in the last month, the
21 number of complaints to us have skyrocketed
22 because of the mass of publicity surrounding
23 the one year anniversary of the law, this
24 Commission's report. So all of a sudden the
25 people knew there was a place to come to and

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1 they came to us and not state agencies because
2 they don't know.

3 Is that affected by budget cuts?
4 In other words, if you had money, quite
5 frankly, to do extensive marketing plans to
6 really get into-- I'm just curious, not just
7 the LGBT community, but the respective
8 communities that are affected by
9 discrimination, to say, hey, come to us?

10 We hear from people all the time
11 that I don't know what government agency to go
12 to. I open up the paper, I see Garden State

13 Equality, Goldstein, whomever and I give them a
14 call. Would more money, more resources for
15 marketing make a difference?

16 MR. VESPA-PAPALEO: I'll speak on
17 behalf of the Civil Rights Division. We have
18 no money for marketing, zero. The Legislature
19 does not provide a line item for any outreach,
20 any marketing, any advertising for any
21 community relations. Even though that's
22 actually part of our statutory mission, is to
23 do community prevention programs.

24 That doesn't mean we don't do it.
25 It is just that the Legislature doesn't line

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1 item that. It comes out of, you know, the
2 budget that we use for all other things.

3 That being said, when your budget
4 is cut, when you are given a specific target,
5 the numeric figure you have to cut, plus the
6 number of staff members you cut, that's the

7 first thing that goes. Training is also an
8 item that goes.

9 Now, the training that we just
10 described is through the EEO Division, that
11 training never goes. That thankfully is
12 there. However, all of that other
13 supplemental -- we all know the only way to
14 effectuate change is to repeat things, you
15 know. We have so many things going on that you
16 need to learn, you need to go to training
17 repeatedly to understand things. That
18 repetitive training does not happen, certainly
19 not at my Division.

20 I do a lot of training to
21 corporations. They do a lot more training,
22 because they provide the resources, they
23 recognize that training is the way to actually
24 prevent discrimination and harassment. What we
25 focus on unfortunately, is fixing it after it

1 happens. That's a function really of budget.

2 So, no, we do not have any budget
3 money. We have not done a public service
4 announcement. The state has not done a single
5 public service announcement on radio or
6 television, or even in newspapers, about the
7 Civil Union Act and where to go. We just don't
8 have the resources for it.

9 You know, my budget was cut last
10 year as all of our budgets were cut. We are
11 not permitted to spend money on these kinds of
12 efforts.

13 MR. GOLDSTEIN: As a citizen, I
14 don't know, you couldn't spend money on
15 marketing? Like, for example, could government
16 agencies, not just my organization, but other
17 organizations that deal with non LGBT
18 discrimination issues, I'm just curious, could
19 you go to events of--for instance minority
20 constituencies, could you take out ads?

21 MR. VESPA-PAPALEO: We cannot take
22 out ads, but that's a budget driven issue.
23 There is no law against it. It's just a budget
24 driven issue when you have X amount of dollars
25 and you have to cut it by twenty percent, that

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1 stuff will get cut. Because at the end of the
2 day, investigating the cases is the priority.
3 Because the legislature counts our success
4 based on the number of complaints you actually
5 investigate and complete, how quickly you
6 complete them.

7 They don't measure how many public
8 service announcements are sent out to the
9 community.

10 MS. KENNY: Publicity is one of the
11 things that have typically gotten a lot of
12 political criticism, printing pamphlets, paying
13 for ads. It is something that is seen as not a
14 core mission of a lot of different agencies.

15 MR. BLUSTEIN-ORTMAN: It doesn't
16 happen.

17 MR. VESPA-PAPALEO: There is
18 advertising. For example, I'm not testifying
19 on their behalf, but as a citizen, they
20 advertise in the summer, come to the Jersey

21 Shore, tourism, things like that.

22 MS. ALLEN: Things that bring
23 revenue to the state.

24 MR. VESPA-PAPALEO: A lot of things
25 that--there are things out there, agencies that

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1 do advertise. It is sometimes it is because
2 they get federal funds to do that.

3 For example, in our Department, we
4 have the Division of Highway Traffic Safety.
5 They do a lot of public service announcements
6 about seat belt use, making sure children, you
7 know, are locked in. Well, those are funded
8 from federal funds. It is not state taxpayers
9 paying for it. So these things continue and
10 the others do not.

11 MR. GOLDSTEIN: The irony that I was
12 asking that, because in the interim report we
13 put out in February, we noted, Frank, you said,
14 that historically in this country people who

15 have complaints go to advocacy organizations.
16 The NAACP has a huge amount of complaints, much
17 more so than, for example, the State Civil
18 Rights. Even environmental organizations get a
19 lot of environmental complaints. So I'm asking
20 about the irony. If there is not a lot of
21 money, if there is no budget for state
22 governmental agencies to really go out there
23 and find the problems, they come to advocacy
24 organizations instead, does that, in fact, make
25 the budget situation worse? Because they don't

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1 come to you, because you can't advertise, your
2 budget is actually decreased, do you know what
3 I'm saying? Are you getting it both ways?

4 MS. ALLEN: Once you came to me,
5 Steven, you can direct someone, for example, to
6 the Division on Civil Rights. Because that's
7 where you would formally file a complaint.
8 Every state agency would not take such a

10 My question I wasn't clear on was
11 saying about people going to state agencies.
12 Are people-- are state employees coming to
13 you? Are agencies saying no one within the
14 agency will take my complaint, that they
15 don't?

16 MR. GOLDSTEIN: No. I will tell
17 you, out of 709 today, due credit goes to state
18 agencies for enforcing our law. We don't have
19 complaints from state agencies at all, not one.

20 MS. ALLEN: I will say internally,
21 based on the training that people receive from
22 their prospective, I think people are pretty
23 well aware within the signage that is within
24 the state agencies what we can do, put up the
25 Civil Rights information of where to go. So

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1 that people internally know where to go to file
2 complaints.

3 MR. GOLDSTEIN: You are right.

4 What I am saying we don't have, among our 709
5 complaints, a complaint from somebody who works
6 for state government.

7 MS. ALLEN: You're agency could
8 direct people to the appropriate state
9 agencies.

10 MR. HYLAND: You are saying if
11 there is some type of maybe a way of having,
12 like, a public-private relationship with
13 organizations such as Garden State Equality,
14 where they do get a complaint and it appears
15 A&P that it's directed toward a specific
16 agency, having a way of facilitating that
17 complaint going to the appropriate office.

18 MR. GOLDSTEIN: It might also be a
19 trust in government issue. I don't know. The
20 irony is, we heard a hundred witnesses during
21 our hearings, right. The witnesses, they have
22 poured their hearts out. As Esther was saying,
23 please, you can file. It doesn't mean that
24 they didn't suffer, because they are pouring
25 their hearts out, they just walked away. We

1 all saw that. It is not that the problems
2 didn't exist. I was just fascinated. You
3 know, in one case I ran up to the people, I'm
4 just curious, why didn't you file?

5 MS. ALLEN: What did they say.

6 MR. GOLDSTEIN: I don't want to,
7 I'm uncomfortable.

8 MR. VESPA-PAPALEO: I can tell you
9 from my own experience in tracking other kinds
10 of complaints in the last several years, this
11 is not hard data, but soft data. When we do
12 community outreach, that means we go out into
13 at the affected potential victim community,
14 actually do training to them. Here is what
15 your rights are. Here's where you go. Here's
16 what you do. Here's how you can keep records
17 so you can succeed in a case.

18 When we do effectively, we see a
19 spike in cases from that group. But a direct
20 correlation, when we go out and do public
21 service announcements on housing
22 discrimination, we see an increase in housing

23 discrimination cases. When we've gone out for
24 two years to do outreach to traditionally
25 undeserved communities, people who are deaf,

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1 hard of hearing, the blind, visually impaired,
2 we saw a huge spike in complaints by those
3 people, because they found out their rights.

4 We have not done that with civil
5 union status or gender identity as much.
6 Because those laws came into effect just as all
7 of these budget cuts were being implemented.
8 That stuff has now been, you know, put to the
9 side.

10 What we've tried to do is provide
11 some level of free materials online which we
12 make available. But we don't physically go out
13 into the field. It is that direct connection
14 with the affected community that results in
15 actual complaints to our agency at least.

16 When do effective outreach with the

17 NAACP, we see a spike in race discrimination
18 cases. That is not an inconsistent pattern.
19 We have not seen that pattern with the civil
20 union status, because we not done that level
21 because of a lot of issues in staffing
22 reductions. We lost eighteen percent of my
23 staff last year. So that means we have less
24 bodies to go out. The bodies that we have are
25 staying in to do the cases that are already in

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1 the door. That's just the reality. That's not
2 just in our agency.

3 Joe, you had something?

4 MR. KOMOSINSKI: I think we talked
5 about this before. Some of the problem, too,
6 is that with state agencies, people that aren't
7 involved in state government, haven't been for
8 a long time, don't understand the process of
9 it, don't know exactly where to go. Because it
10 depends what department and what division it

11 falls under. Sometimes it's not readily
12 accessible to them or clear to them, you know.

13 The State Medical Examiner, who I
14 deal with, is not in the Department of Health
15 which you might think, it's in Department of
16 Law and Public Safety. They don't know to
17 where to actually go for that, so it's hard
18 sometimes.

19 They may have an issue that may
20 cross several divisions or several departments
21 and they are kind of unsure. So instead of
22 having to try to deal with this in big state
23 government that everyone is calling, trying to
24 bounce around to get to the right person, I
25 think a lot of times it is easier for that path

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1 of least resistance or for more information,
2 they know to go to your organization. That's a
3 key point for them. They know to go to NAACP,
4 because that addresses their concerns and can

5 sometimes put them in touch with state
6 agencies. That it maybe isn't so confusing to
7 know how to get to the right person to even
8 talk to.

9 For myself, as an example, I called
10 about an issue. I asked-- I was trying to get
11 an answer as to what happened, I bounced around
12 through the Governor's office, got bounced
13 around, transferred and transferred. Finally,
14 the last transfer was my actual voice mail that
15 said hi, you've reached Joe Komosinski.

16 MR. GOLDSTEIN: That's a classy
17 story.

18 MR. KOMOSINSKI: They really look
19 to try to see who they dealt with on that issue
20 and pass it along to that person. So sometimes
21 even internally, we don't know where we're
22 going.

23 MR. GOLDSTEIN: That's an all time
24 story.

25 MR. VESPA-PAPALEO: Did you call

1 yourself back?

2 Because I know this has come up a
3 few times. I mean, I deal a lot with civil
4 rights agency heads from around the country,
5 even in Canada. People that have my job in
6 various cities and counties in all the other
7 states. It is consistently a theme that our
8 organization, that the state level has seen in
9 the last several years a decline in the number
10 of discrimination charges filed by individuals,
11 with the government agencies. Though, the
12 civil rights community based organizations have
13 seen a spike in the number of complaints filed
14 with them. Whether it is the NAACP, whether it
15 is the National Organization for Women, whether
16 it Latino organizations.

17 So that's not--the numbers we are
18 seeing are not inconsistent. We should expect,
19 actually, based on historical trends, that our
20 agency will continue to not get very many
21 complaints filed under civil union status.
22 That most people who are aggrieved will go to
23 advocacy groups. That's no different than on
24 race discrimination issues, people go to the

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1 they will go to disability rights
2 organizations.

3 There is nothing inconsistent.
4 That does not mean that discrimination isn't
5 happening or that people don't feel it's
6 happening. They are just going somewhere else
7 first.

8 MR. BLUSTEIN-ORTMAN: I'm curious
9 from Melissa, is there anything not in your
10 written report that you would want us to know?

11 MS. RAKSA: I provided you all the
12 information that was responsive to the
13 questions that were asked.

14 MR. VESPA-PAPALEO: Any other
15 questions? Thank you very much, Melissa.
16 We're going to--before we take our quick little
17 break, I know Stephen Hyland had a matter,
18 before we take a quick little five minute break

19 and then we'll reconvene at 2:45.

20 MR. HYLAND: We in the past have
21 spoken briefly about the need for perhaps
22 having separate counsel for this Commission. I
23 think it has been left to me see if we can get
24 a vote on that matter.

25 So what I would like to do is

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1 introduce a resolution that we ask the Attorney
2 General's office to provide independent counsel
3 for our Commission from the list of independent
4 counsel that the Attorney General maintains.

5 MS. RAKSA: Can I respond to that?
6 We don't have-- this Commission doesn't have an
7 appropriation. So where would the money come
8 from to pay for that.

9 MR. HYLAND: I think it would
10 probably come out of the AG's budget anyway in
11 that circumstance, where there has to be some
12 outside counsel. That's why they maintain the

13 list.

14 MR. VESPA-PAPALEO: Currently, the
15 expenses associated with this Commission come
16 out of the Division on Civil Rights' budget.
17 So the cost of the court interpreter, the cost
18 of whatever, comes out. It is pretty much
19 court interpreting services. We have sign
20 language interpreters for some of our
21 hearings. Those costs come out of the Division
22 on Civil Rights' budget.

23 But yes, we do not have an
24 independent allocation from the state
25 legislature, from the current physical year's

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1 budget.

2 Okay. Does that answer the
3 question, Melissa, in terms of your question to
4 Stephen?

5 MS. RAKSA: Well, yeah. I know
6 there is no appropriation for this body.

7 Normally the counsel fees are paid by the
8 agency out of their own appropriations.

9 MR. HYLAND: The problem is, there
10 is an inherent conflict between the Attorney
11 General's office, because the Attorney General
12 sits, has a position on the Commission.

13 Anything that might need to be
14 looked at by an independent counsel -- now, how
15 often we're going to need independent counsel,
16 I think is probably going to be pretty rare in
17 most circumstances. However, the problem is,
18 it can't be somebody like yourself, for
19 example. I think that there is an up and down
20 conflict with the Attorney General's office in
21 that regard.

22 MS. RAKSA: I think what we said
23 last time was that when a legal issue came up,
24 that we would address it then. Because, again,
25 I don't make outside counsel decisions for our

1 office. But I don't believe that we can just
2 have somebody on a retainer and standby. There
3 has to be an actual issue. There are issues
4 about how that person is going to get paid,
5 who's going to pay for it and all of those
6 other kinds of things.

7 MR. BLUSTEIN-ORTMAN: The question
8 we would want to have answered is, is there
9 some money available in the AG's office and
10 budget that would pay it should such a need
11 arise? That would be something that we need to
12 know ahead of time?

13 MS. RAKSA: This Commission is not
14 allocated to the Department of Law and Public
15 Safety.

16 MR. VESPA-PAPALEO: It is in but
17 not of Public Safety. Most likely it will come
18 out of my budget, the Division on Civil Rights'
19 budget. There is no separate budget. There
20 are, obviously, expenses associated and the
21 legislature didn't give any money for it, so
22 somebody pays for it.

23 MS. ALLEN: Wouldn't it be the AG's
24 call? Wouldn't it be the Attorney General's
25 call whether or not conflict exists, such that

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1 outside counsel would need to be obtained, they
2 would have final approval authority.

3 MS. RAKSA: The Attorney General
4 does have authority over retention of counsel.
5 It is not a resolution of this group whether we
6 should or we shouldn't. It's the Attorney
7 General's determination as to whether a
8 conflict exists. We make our determinations if
9 representation by the Attorney General's office
10 is not feasible. The hiring of outside counsel
11 would have to be approved at the Attorney
12 General level. Then if there were conflicts
13 and there were approvals obtained saying that
14 we could, it would come out of the budget. But
15 up until the time that there is such a conflict
16 to review, it's just sort of academic, as far
17 as I know.

18 MR. VESPA-PAPALEO: Stephen, are
19 you requesting, through your motion, that this
20 Commission make a request to the Attorney

21 General to kind of be prepared in case a
22 conflict arises? Do you see, in case a
23 conflict arises, thereby consideration of
24 hiring outside counsel? Or are you in this
25 motion saying that there is currently a

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1 conflict, that we need to move quickly and
2 hire, you know, or request that?

3 MR. HYLAND: No, there is currently
4 not a conflict. But every other agency in the
5 state has some counsel that they can turn to.
6 Either somebody is assigned within the Attorney
7 General's office or perhaps they have their own
8 counsel.

9 We're sort of unique in that we're
10 one of the few commissions where the Attorney
11 General has a seat on the Commission. So if
12 there is a conflict that arises, we want to
13 know that there is somebody there from that
14 list that we can call. It is not that we need

15 immediate appointment of such. I think we need
16 to get some sort of reading from the Attorney
17 General's office on that. And know that if we
18 have need of independent counsel, that we can--
19 that would be the person.

20 Then I guess the question of
21 funding has to be addressed also, who pays for
22 that?

23 MR. VESPA-PAPALEO: Would you be
24 willing to modify your motion to reflect, in
25 anticipation, you know, or in case there is a

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1 conflict issue, this is a request to the
2 Attorney General to engage that process of
3 considering outside counsel appointment?

4 I don't know how long that process
5 takes. I assume your thinking is, if a
6 conflict arises it could take months before
7 this whole process goes out. Then we're stuck
8 not having an answer on something. Is that

9 what your--

10 MR. HYLAND: I think it was
11 illustrated recently by the fact that we had
12 somebody from the Attorney General's office, I
13 guess it was Attorney General's counsel, was
14 here. The question arose as to whether it was
15 appropriate for him to be present during closed
16 session or not.

17 Frankly, we didn't really know. I
18 think that puts the Attorney General's
19 representative in a conflicted position in
20 terms of whether that call can be made, whether
21 that or any similar type of conflict would
22 arise. It would be useful to have somebody on
23 call that we know that we could turn to in that
24 circumstance, if necessary.

25 MS. RAKSA: I think in that

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1 instance I don't think that was a legal issue.
2 I think it was-- it's usually how meetings are

3 run. It depends on what the chair or
4 co-chair--

5 MR. HYLAND: It is part of the Open
6 Public Record Act.

7 MS. RAKSA: We're in an open public
8 meeting, right. Obviously, if we go into
9 executive session, it depends on who is running
10 the executive session as to whether somebody
11 will be out of it, whether it will be open or
12 closed.

13 MR. VESPA-PAPALEO: Can I suggest
14 something? Can I suggest that maybe short of a
15 motion, we can maybe call the Commission. If
16 we have consensus, I'd be happy to reach out to
17 the Attorney General and discuss this issue as
18 a potential. You know, something to put on the
19 radar screen to help us sort through the
20 process. So if a conflict arises in the future
21 we know specifically what we need to do. At
22 that point if we need to take a formal vote,
23 we'll take a formal vote, if that's what's
24 needed. Maybe send a letter to her requesting
25 a review of this issue.

1 MR. HYLAND: I can see another
2 issue where the conflict, potential conflict,
3 would arise. Because the Attorney General's
4 office is required to carry out or enforce the
5 state's laws. But if we need an opinion upon
6 whether the law is, in fact, valid or not, you
7 know, I think there is a potential conflict in
8 asking the Attorney General to make that sort
9 of determination.

10 That seems to me something like
11 that should be posed to outside counsel. So
12 maybe the consensus is that we need to reach
13 out, first of all to the Attorney General's
14 office and determine what the process that is
15 necessary there. Then since we're both a
16 legislative commission and an executive
17 commission, to reach out to the time Attorney
18 General's office, to the Governor's office and
19 perhaps to the legislature and figure out where
20 we can get the funding and whose budget it is
21 going to come out of, if we need to have that.

22 MR. BLUSTEIN-ORTMAN: I think that

23 we missed an opportunity in our first
24 semi-annual report to point out to the governor
25 and to both houses of the legislature, that we

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1 do not have a budget. That we commissioners
2 are expected to operate on a voluntary basis
3 with expenses and all of those things, and
4 use-- to have used this illustration of having
5 an independent counsel as an illustration of
6 just why we need to have budget. Probably we
7 would do well to include such a paragraph or
8 whatever in the next report.

9 MS. O'LEARY: This is Erin I hope
10 you all can hear me?

11 MR. VESPA-PAPALEO: Yes, we can.

12 MR. BLUSTEIN-ORTMAN: Erin, is that
13 you in there?

14 MS. O'LEARY: It is me in the box.
15 Was that you, Charlie?

16 MR. BLUSTEIN-ORTMAN: Yeah.

17 MS. O'LEARY: One of the things
18 that worries me about that, is if you point
19 this out as an example of that, I think that
20 will set a bunch of people into complete
21 conniption fits, because of the issue both
22 around the budget, as well as around the fact
23 that if we are asking for money, the money to
24 be used is to be for attorneys. I think we
25 just-- look, we're not writing the report now.

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1 We can discuss it when we hit that issue. But
2 it is ultimately an issue around, you know, is
3 that really how the monies for the Commission
4 should be used?

5 My personal point of view on this
6 is that I don't think we should cross the
7 bridge until we come to it, but that's my point
8 of view.

9 MR. HYLAND: Why don't we table the
10 motion?

11 MR. GOLDSTEIN: Can I point out
12 that there are many firms out there that would
13 do this pro bono. I don't know the policy.

14 MR. VESPA-PAPALEO: For that we'll
15 certainly have to get a legal definition.

16 MR. GOLDSTEIN: We've been there.
17 Because there are firms to do pro bono, I think
18 the question is more about the concept than
19 about the money. There are really firms that
20 would do this, reputable firms.

21 MR. VESPA-PAPALEO: That's probably
22 something a little easier for me to take a look
23 at, going through our Department's ethics
24 officer, for him to analyze whether or not the
25 Commission would be allowed to accept free, pro

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1 bono, legal services. I'd be happy to do that
2 in the interim.

3 MS. ALLEN: I think it's not just an
4 ethics issue.

5 MS. RAKSA: Even if you can pass
6 the ethics hurdle as to the money issue, you
7 still have the issue of approval from the
8 Attorney General under the Title 52 statute.

9 MS. ALLEN: This is not a new issue
10 for the Attorney General. They assign matters
11 to outside counsel in conflict situations
12 frequently. I don't know how frequently. But I
13 know we've had issues in our department where
14 there may be a conflict issue in terms of
15 representing to two particular defendants in a
16 matter. They will send this outside counsel,
17 we have outside counsel assigned. In certain
18 kinds of cases, like, Municipal Court cases,
19 they have a roster of outside counsel.

20 It's not that we can't obtain
21 outside counsel going through the AG's office.
22 I don't know how long it takes. Maybe Melissa
23 knows. I don't think it takes that long if you
24 need to get outside counsel.

25 MS. RAKSA: I don't know do it

1 myself. I know it's not an overly lengthy
2 period of time list.

3 MS. CASBAR SIPERSTEIN: This is
4 Babs. If that's the case, would the chair, the
5 Commission go forward with the request to the
6 Attorney General to see whether, in
7 anticipation and also look into the possibility
8 of pro bono. But I think we should at least
9 anticipate this.

10 MR. BLUSTEIN-ORTMAN: And whether
11 or not we use this as an illustration, I think
12 we should be pointing out that we don't have a
13 budget, that we should have something.

14 MR. KOMOSINSKI: I think again what
15 is most important, some of the issues that we
16 have, when we actually have a conflict, then to
17 look at, address and determine is this a
18 conflict or not? I think they can tell us the
19 processing time that it may take to do that.
20 But I don't know that we would get a definite
21 decision to say yes or no without an actual
22 item to--

23 MS. RAKSA: The application on the
24 conflicts law is a factually sensitive

25 question. I think it would depend on what the

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1 question was.

2 MR. HYLAND: Let's table the prior
3 motion. May I suggest a motion that we get the
4 question answered by the Attorney General in
5 terms of what is the process and the time
6 frame, in terms of obtaining independent
7 counsel? When is that determined and who is--
8 in other words, answering all of those
9 questions in anticipation. So that when it
10 arises we know what the process is and we know
11 who we can reach out to at that time.

12 MR. VESPA-PAPALEO: Do we need a
13 motion for that? Do we have a consensus to at
14 least explore that?

15 MR. KOMOSINSKI: I think that was
16 kind of addressed and determined in preparation
17 for our report. All of that is already on the
18 table.

19 MR. VESPA-PAPALEO: Okay. Thank
20 you Stephen very much. Because we actually
21 have several people calling at specific times,
22 I'm going to ask that rather than taking a
23 break, if people need to take a break to do so
24 individually so we can continue the meeting.
25 But first I need-- the minutes for

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1 the January 16th meeting, I had forgotten to
2 ask for a motion to approve those minutes.

3 MR. HYLAND: I'll make the motion
4 to approve.

5 MR. KOMOSI NSKI: Second.

6 MR. VESPA-PAPALEO: Seconded by Joe
7 Komosinski. All in favor?

8 (Unanimous affirmative response).

9 Any opposed?

10 (No response).

11 The minutes are approved. Thank you
12 very much.

13 MR. HYLAND: Can we take about a
14 five minute break, maybe?

15 MR. VESPA-PAPALEO: We may not be
16 able to because someone is calling in from
17 Washington at 3:00 p.m. I literally have to
18 just move the meeting along.

19 MR. HYLAND: I'm going to leave the
20 meeting because I have to take off for another
21 meeting.

22 MR. VESPA-PAPALEO: Okay, thank you
23 Stephen. We're waiting for our first speaker.
24 We're just waiting for our first speaker to
25 return back. We'll just wait a moment for her

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1 to get back.

2 (Pause in proceedings).

3 We're going to start back up.

4 MS. SHORT: Is KIM going to be--

5 MR. VESPA-PAPALEO: She'll call in
6 by phone. We're starting the hearing again.

7 Now, our first witness, Maretta Short, the
8 president of NOW-New Jersey, welcome.

9 MS. SHORT: Thank you for inviting
10 me to come and speak today regarding equal
11 marriage. I'm of that generation that grew up
12 in the south and I experienced segregation.

13 The comparison is that I spent part
14 of my life in going to school here in the
15 north. So I have a very good comparison of
16 equality and inequality.

17 In the north we were-- the schools
18 were integrated. We could go to school
19 together. Then when I went home during the
20 summer the lines were separated. You had a
21 black line and a white line. Only I didn't
22 realize that. Because when I went to the ice
23 cream parlor and it said white and black, I
24 loved vanilla ice cream, I went in the line for
25 whites.

1 My cousins almost had a fit, you
2 know. I didn't understand this stuff. I began
3 to experience more and learn what treating
4 people unequally feels like. It is not a good
5 feeling, especially since we're all human
6 beings.

7 Why not marriage equality? What's
8 wrong with it? The only thing I see wrong with
9 it is the fact that people are not being
10 educated about this issue the way they should
11 be in our communities. There is a lot of. I
12 would like to see more information get out and
13 see more advertisements about it, so people are
14 not so fearful.

15 When you sit-down-- sometimes they
16 are darn right hostile about it. Because it
17 also appears to be more of a moral issue rather
18 than a legal issue, as far as I'm concerned.
19 Who are we to tell someone who they can love
20 and who they cannot love and spend the rest of
21 their lives with?

22 This is absolutely ridiculous.
23 Everybody deserves that, everybody. Otherwise
24 they would just be second classes citizens. So
25 I am here in support of marriage equality for

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1 all people.

2 MR. VESPA-PAPALEO: Ms. Short, I'm
3 sorry to interrupt. I just wanted to ask a few
4 questions if you don't mind?

5 MS. SHORT: Sure.

6 MR. VESPA-PAPALEO: In terms of
7 this Commission's purview, what we are charged
8 to study is, is the civil union law working
9 well enough? Is it working enough that the
10 legislature does not need to consider anything
11 beyond civil unions? Can you respond to that?
12 Is the Civil Union Act working or would
13 marriage work better.

14 THE WITNESS: I don't know whether
15 or not I can speak to that issue. Because I'm
16 not involved in civil unions at this particular
17 time. I want to go back to what I said
18 previously. In the way that people are not
19 educated about civil unions. They don't see
20 the visibility of civil unions. People, you

21 know, are getting involved in those
22 ceremonies. I think there is a big fear in
23 certain communities.

24 I know that I experienced that as
25 being a person of color. A lot of the hate

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1 that comes to people during any times there are
2 inequalities based on sex, gender, whatever,
3 there is a fear there. As people get to be
4 more acquainted with each other, they get to
5 know each other better, they are integrating
6 with each other, that fear dies down.

7 The acceptability of whatever it is
8 that needs to be dealt with, begins to be an
9 easier process. So I would say, yes, I think
10 that the State of New Jersey should do more
11 work. One thing is educating our community and
12 making them aware of civil union, what it
13 means.

14 There should be public gatherings

15 where there are people who are of same-sex.

16 There should be just a whole lot of activity
17 going on. It is not happening.

18 It is, like-- I know Steve, you
19 gave something really nice at the SOPAC, that
20 was very nice. I would like to see something
21 like that in our communities all over, being
22 visible, advertisements, the whole nine yards.

23 If everything is played down and
24 there is no visibility, when you sit-down to
25 the table like this, people, you know, treat

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1 like you are estranged, like you don't belong
2 there. You know, you don't know what you are
3 talking about, you are not right.

4 I'm only speaking through my
5 experience as being a woman and being an
6 African American who grew up during the civil
7 rights movement. So, yes, every once in a while
8 we read about it and you hear people talk about

9 it. A lot of my friends have gotten involved
10 in civil unions, but I don't hear it, like,
11 especially in the African American community.
12 It is invisible. It's something invisible,
13 something covered up. Maybe something preached
14 about only in the pulpit, which may not come
15 out to be that positive. I think that
16 particular issue needs to be addressed.

17 MR. VESPA-PAPALEO: Do you believe
18 that civil union-- that giving same-sex couples
19 civil unions in New Jersey instead of marriage
20 in New Jersey, is a form of separate but equal
21 discrimination.

22 MS. SHORT: Do I believe that
23 giving civil union instead of equal marriage,
24 is a form of separate but equal?

25 MR. VESPA-PAPALEO: Yes.

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1 MS. SHORT: I don't know, I don't
2 know at this particular point. I think that

3 civil union is the beginning. Because I
4 remember when people were not able to get
5 married interracially. I remember when black
6 men were killed even looking at a white woman,
7 okay. That seems to be--we're through with that
8 now. We're over with that. We've gotten past
9 that.

10 Now here with the issue, we're
11 talking about same-sex marriage. We're also
12 taking talking about that versus the civil
13 union. I think the civil union is the
14 beginning of eventually of us not even caring
15 whether same-sexes are marrying or not.

16 MR. GOLDSTEIN: Let me ask a
17 question. I am confused. Your chapter of NOW
18 has endorsed marriage equality or not?

19 MS. SHORT: Marriage equality?
20 Yeah, NOW wants marriage equality.

21 MR. VESPA-PAPALEO: You are
22 president of the New Jersey chapter?

23 MS. SHORT: Absolutely. If you go
24 on the National Organization for Woman, if you
25 go on our website, we have lots of information

1 about marriage equality.

2 MR. GOLDSTEIN: The reason you
3 endorsed--because I am totally confused--
4 marriage equality over civil unions is
5 because--

6 MS. SHORT: Well, I believe in--
7 excuse me, but all of this policy took place
8 before I became the president.

9 MR. GOLDSTEIN: Okay.

10 MS. SHORT: But the reason it did
11 is because people-- who am I to tell somebody
12 who to marry, okay? What is wrong with it? I
13 don't see any issue with that at all.

14 MR. VESPA-PAPALEO: I know you
15 have-- actually, she has joined us by phone,
16 the National President of NOW, Kim Gandy.

17 MR. GOLDSTEIN: Kim, are you there?

18 MS. GANDY: I am.

19 MR. Komosinski: Can i backup up
20 one second, Frank? When we talk about separate
21 but equal discrimination, I guess to phrase it
22 based on what you were talking about, you were

23 talking about interracial marriages. At that
24 time-- it is kind of hard, but if we equated it
25 to say at the time that they allowed, first

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1 allowed interracial marriages, if they had said
2 that it wasn't marriage but it was civil union,
3 would you consider that to have been separate
4 but equal?

5 MS. SHORT: If it wasn't marriage--
6 see, I'm accustomed equating separate but equal
7 to the concept that was used in Brown versus
8 the Board of Education, which was
9 discrimination based upon someone's color of
10 skin. Now, we're talking not about gender
11 alone, but we're talking about sexual
12 preference in this case and sexual --

13 MR. GOLDSTEIN: Orientation.

14 MS. SHORT: Orientation.

15 MR. VESPA-PAPALEO: Would you like
16 to bring Kim in, since I know she's got to get

17 off the phone pretty quickly? Why don't we
18 finish that questioning, since she called in
19 from Washington?

20 Madam President, thank you very
21 much for calling in. I'm sorry to cut you off,
22 Mr. Short. You'll be here, so you can
23 continue. If you would like to introduce the
24 President. Would you like to do that?

25 MS. SHORT: I think you've already

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1 done that. Kim, hello, how are you?

2 MS. GANDY: Hi, Maretta. Nice to
3 hear your voice from afar.

4 MS. SHORT: Same here.

5 MR. VESPA-PAPALEO: Madam
6 President, we have here the Civil Union Review
7 Commission, the New Jersey Civil Union Review
8 Commission. We're just taking some testimony at
9 this time.

10 What the Commission is charged with

11 doing is studying the New Jersey Civil Union
12 Law, which has been in effect about a year.
13 Studying it and issuing to the legislature and
14 governor a report or reports identifying
15 whether or not the Civil Union Act is working
16 in New Jersey or whether it is not working as
17 well as marriage would have worked.

18 Would you like to give your
19 thoughts of your organization on that?

20 MS. GANDY: I would like love to do
21 that. I thank the Commission members for the
22 opportunity to address you on this important
23 issue from a bit of a national prospective.
24 Particularly from the prospective of women's
25 rights advocacy group on the national level

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1 that works on this issue.

2 Your work, your task to evaluate the
3 effect and effectiveness of New Jersey's civil
4 union system is certainly an important one. I

5 appreciate your conducting this hearing to
6 consider even more points of view on that
7 subject.

8 Since I'm unfortunately not with
9 you and not privy to the other testimony, I
10 guess I'll apologize in advance if I duplicate
11 any of the points made by the other speakers.

12 I guess I'll start by saying, for
13 the record, that I'm President of the National
14 Organization for Women, the nation's largest
15 feminist activist organization.

16 Our organization took a strong
17 position thirteen years ago in support of equal
18 marriage rights, affirming-- this is a quote
19 from our resolution in 1995. It is affirming,
20 quote, "The choice of marriage as a fundamental
21 constitutional right that should not be denied
22 because of a person's sexual orientation",
23 close quote.

24 There is no doubt in my mind that
25 public attitudes towards civil unions and even

1 toward marriage are changing. We see that on a
2 lot of levels, especially among young people.

3 A couple of years ago I had just
4 said goodnight to my thirteen year old
5 daughter. She stopped me with a rather
6 surprising comment. She said, out of the blue,
7 we hadn't been discussing the issue at all, she
8 said out of the blue, mommy, I don't understand
9 why anyone thinks gay people shouldn't get
10 married. What business is it of theirs
11 anyway? In that way that thirteen year olds
12 do, I think there was probably a toss of her
13 head, but I couldn't see it in the dark.

14 Now, this was-- you know, there was
15 clearly a heated national controversy that was
16 going on at that time. I guess this was about
17 two years ago, on the issue of equal marriage.
18 I guess that had spread to her middle school.
19 But it surprised me that it was an issue that
20 she was even thinking about. But it was and
21 she thought, as an issue of fairness.

22 As we talked about it, for her it
23 was clear, simple, unequivocal fairness. I
24 believe that she is a harbinger of the

25 attitudes of the next generation. That gives

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1 me hope for a future in this country of greater
2 tolerance, greater fairness and yes, greater
3 equality.

4 As a feminist organization, I will
5 tell you that I think the struggle for equal
6 marriage rights is a feminist issue. There are
7 two reasons for that. First is because it is
8 an equality issue. We can and we must, in my
9 opinion, overcome this form of unfairness.
10 Just as we over came the historical
11 discrimination against women within the
12 institution of marriage.

13 In fact, when I started law school
14 in New Orleans in the 1970s, there was an
15 entire section in one of my texts that dealt
16 with people who had limited capacity to do
17 things, like enter into contracts. It was
18 titled something like that of infants, insane

19 persons and married women, no kidding. When I
20 married, I was subject, as married woman, to a
21 law called the Head and Master Law. Which said
22 that my husband was the head and master over
23 all of our joint property.

24 Now, those kinds of discrimination
25 have been overturned. Surprisingly to many

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1 people, without any of the havoc and confusion
2 that was predicted to occur if women were
3 allowed to equally manage the marital money and
4 marital property.

5 Although civil unions were a first
6 step toward fair treatment for gay and lesbian
7 couples, it is not a sufficient one. This kind
8 of marriage discrimination, just as
9 discrimination that used to exist toward women
10 within a marriage also should be eliminated.

11 The second reason that equal
12 marriage is a feminist issue is because female

13 couples are disproportionately affected by the
14 denial of equal marriage benefits, in several
15 ways. As a result of discrimination in the
16 greater society, such as the fact that women
17 are paid on average 76 cents to a man's dollar
18 and, therefore, because they are paid less they
19 have lower Social Security benefits and lower
20 retirement savings.

21 For that reason, lesbian couples
22 face double discrimination economically. So any
23 absence or denial of benefits that would be
24 available to a spouse in a married couple, such
25 as Social Security benefits or retirement

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1 benefits, falls especially hard on female
2 couples who start out with less to begin with.

3 A second differential for female
4 couples, is the impact this denial of equality
5 has on children. Because female couples are
6 statistically more likely to have children and,

7 therefore, have a greater need for the benefits
8 and protections of marriage, as well as, of
9 course, the familial support that comes with
10 it.

11 According to the 2000 census, there
12 are more than a million US children being
13 raised by same-sex couples. But many lesbian
14 and gay parents are not able to assume full
15 legal parenting rights. Without the ability to
16 establish that legal relationship to both
17 parents, these children are left without
18 protections, like, survivors benefits and
19 inheritance rights, even on the state level,
20 that don't invoke any federal issues.

21 In terms of children, very simply
22 put, marriage protects their economic interests
23 by providing an economic safety net. Children
24 of a marriage have automatic and undisputed
25 access to the resources, benefits and

1 entitlements of both of their parents. Such as
2 employer provided dependant healthcare and
3 employer provided child care. Something that's
4 not available to children without benefit of
5 marriage or without proper and full recognition
6 and treatment of civil unions, as seems to be
7 happening from other testimony that I've heard.

8 Married couples also, for example,
9 don't have to incur any expenses, legal or
10 otherwise, to ensure that either parent can
11 take a child to the doctor or make medical
12 decisions for their child in case of an
13 emergency.

14 All of these jeopardize children.
15 Who, as I said, are more likely to be in female
16 couples. So just disproportionately, the
17 treatment of children disproportionately
18 affects women.

19 I think that one thing that both
20 sides of the marriage issue agree on, if I may
21 be so bold, is that marriage is the structure
22 of a family. Children are more secure if they
23 are raised by two loving parents whose
24 relationship is legally recognized and who can
25 share the responsibility of parenthood equally.

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1 Of course, it probably goes without
2 saying, that children of gay and lesbian also
3 benefit by the the cultural acceptance of legal
4 marriage.

5 The direction given by the Supreme
6 Court of New Jersey, was to provide the same
7 rights and benefits as heterosexual couples who
8 choose to marry to same-sex couples. From what
9 I've seen, from the reports that I've read, it
10 does seem that this vision has been realized by
11 the legislature's creation of civil unions.

12 On behalf of the National
13 Organization for Women, we hope that the
14 legislature will correct this error. That your
15 report will so reflect that. And they will
16 make full equality a reality in New Jersey.

17 I appreciate your giving me this
18 opportunity to testify. I will be delighted to
19 answer any questions you might have.

20 MR. VESPA-PAPALEO: Thank you. Any

21 questions from Commission members?

22 MS. CASBAR SIPERSTEIN: This is
23 Babs Casbar Siperstein. I would, in view of
24 the fact that I believe Commissioner Komosinski
25 has the exact numbers, but there seems to be

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1 many more same gender female couples in civil
2 unions. Does that strengthen her remarks as a
3 feminist that it has a deleterious effect on
4 women.

5 MS. GANDY: I think it also-- one
6 leads to the other. I suppose that becomes a
7 chicken and egg question. Because female
8 couples are more likely to have children and to
9 be more in need of those mutual benefits, that
10 may also have led them more to seek the limited
11 protection of the civil union, since marriage
12 is outside of their reach.

13 For all of the reasons that I said,
14 they are more likely to benefit from marriage,

15 much more likely to seek that protection for
16 the protection and benefit of their children,
17 particularly, as well as their own financial
18 and economic security.

19 MR. VESPA-PAPALEO: Thank you. Any
20 other questions?

21 Okay. Thank you very much, madam
22 President, for calling in. I appreciate it.

23 MR. GOLD: Thank you enormously.

24 MR. VESPA-PAPALEO: Hopefully-- we
25 will be sure to include this information.

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1 Thank you for calling up from Washington,
2 wherever you are, I'm not sure.

3 MS. GANDY: I'm actually in
4 Washington briefly. Then headed out again to
5 Texas and Louisiana. Thank you very, very much
6 for taking the the time, for all of your good
7 work.

8 MR. VESPA-PAPALEO: Thank you, safe

9 travels.

10 MS. SHORT: See you in April.

11 MS. GANDY: Bye, Maretta, see you in
12 Atlanta.

13 MR. VESPA-PAPALEO: We are going to
14 move on to the next portion. I am going to
15 excuse myself for a minute. Steven, if you can
16 move on?

17 MR. GOLDSTEIN: I want to welcome
18 Mark Solomon, who is the Director of Mass
19 Equal it, the organization that led the fight,
20 and is still leading the fight, for equality
21 for same-sex couples in Massachusetts. Where,
22 of course, couples can marry.

23 It was interesting, one of the
24 questions that came up as this Commission wrote
25 its first report, was the don't ask, don't tell

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1 question. That the notion of civil unions
2 outing gay people and lesbian people, because

3 same-sex couples are the only couples that can
4 enter civil unions. I said Mark, let's hear it
5 from the horse's mouth. How is this handled in
6 Massachusetts, statistically, et cetera.

7 So, Mark, welcome by the way.

8 MR. SOLOMON: Thank you. It's good
9 to be part of this. It's exciting what you are
10 doing and that you are thinking about coming a
11 hundred percent toward equality like your
12 friends to the north.

13 MR. GOLDSTEIN: Awesome--Mark, are
14 you there?

15 MR. SOLOMON: Do you just want me to
16 go ahead and talk about the issue, this issue
17 of how the state treats from a record keeping
18 prospective, marriage licenses.

19 MR. GOLDSTEIN: Sure.

20 MR. SOLOMON: We know this very
21 well, because we were super-interested in
22 getting the names of the same-sex married
23 couples in Massachusetts, for lobbying
24 purposes, for fund-raising purposes. It was
25 extremely difficult, because there is no

1 separate registry or anything. You know, it
2 is, you know, two men, two woman, a man--an
3 older man and younger woman, older woman and a
4 younger man. They are just one big pile in our
5 Department of Vital Statistics.

6 We literally had to send somebody
7 down to the Department of Vital Statistics and
8 go through, sort of, marriage license by
9 marriage license to try to identify which ones
10 were same-sex couples. There absolutely is no
11 separate registry or any such thing here in the
12 Commonwealth.

13 As a result, there is no sort of
14 state's way to, you know, to discern by
15 marriage license, who is gay, who is the not
16 gay, who is part of a same-sex couple and who
17 is not part of a same-sex couple.

18 MR. BLUSTEIN-ORTMAN: Would you
19 have any empirical or other information about
20 how that has worked out for couples in the
21 military in Massachusetts.

22 MR. SOLOMON: I don't think it's

23 had any impact on couples in the military.
24 Meaning, I think that couples in the military
25 have-- you know, it is safe, as far as I know,

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1 because there is no registry that anyone can
2 point to that is made up of married same-sex
3 couples.

4 So I think that there is no
5 impact. Now, I imagine, you know, somebody in
6 the military could read someone's name in the
7 newspaper in the wedding section, that would
8 violate don't ask, don't tell. But with
9 respect to the state, you know, the state's
10 government itself and the way the state keeps
11 records, this would not-- there is no separate
12 keeping of records for same-sex couples.

13 MR. GOLDSTEIN: Is that under
14 consideration in Massachusetts, by the way? I'm
15 just curious, Mark. In the early days of your
16 Marriage Equality Law, was it always assumed

17 the law is equal now and we're just going to
18 keep all couples in one marriage registry.

19 MR. SOLOMON: Our lawsuit here in
20 Massachusetts, as the lawsuit was in New
21 Jersey, was for full equality. You know, for a
22 whole host of reasons we-- you know, we were--
23 our Court, obviously, came out slightly
24 different than the New Jersey Court. But the
25 idea of everyone being treated completely

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1 equally is what this has been all about. Don't
2 create a separate institution.

3 There are all sorts of unintended
4 consequences, from the issue that you are
5 talking about. Oh, my God, the military now
6 has a list it could go down to see if there is
7 someone in the military on the list. To civil
8 unions, you know, a company saying we don't
9 have to provide benefits under ERISA. Because,
10 you know, federal law talks about marriages.

11 Because, you know, we have marriage
12 equality in Massachusetts. Even though
13 technically a corporation might not have to,
14 practically they do provide the same benefits,
15 because a marriage, is a marriage, is a
16 marriage. What fair minded company would want
17 to treat one marriage different from another
18 marriage?

19 MR. GOLDSTEIN: Mark, I know we
20 were going to ask for it-- the way our meetings
21 are structured, we were going to ask for
22 testimony from other jurisdictions. We were
23 going to get to the ERISA issue. We were going
24 to invite you and others from Massachusetts
25 down. You are saying now that you don't face a

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1 major problem with companies invoking ERISA,
2 not to recognize same-sex marriage?

3 MR. SOLOMON: No. It would be-- I
4 think it would be very embarrassing for a

5 company to-- you know, companies initially when
6 they first started wrapping their arms around
7 it, I think it was because their benefits
8 people, their lawyers were telling them they
9 don't have to. But then when-- you know, then
10 the CEOs and the leadership of the companies
11 took a look, they said we might not have to
12 based on the federal DOMA, but we certainly
13 are, you know, as a fair minded company aren't
14 going to treat one married couple under
15 Massachusetts law any different from another
16 married couple.

17 We have-- during the end of our
18 campaign, we had 180 CEOs of the most
19 significant companies in Massachusetts, you
20 know, sign a Boston Globe ad talking about
21 their support for full marriage equality and
22 how their companies treat everybody equally,
23 from Bank of America, you know, to really down
24 the line.

25 MR. BLUSTEIN-ORTMAN: Moving from

1 companies, Mark, to the federal government and
2 the Defense of Marriage Act, how does
3 Massachusetts respond to Medicare and Medicaid
4 issues? Does Massachusetts step in to protect
5 the rights of married couples?

6 MR. SOLOMON: That's a great
7 question. With respect to Medicaid, we're
8 actually right now working on a bill that
9 would--and there is pretty strong support for
10 it in the legislature, for married couples,
11 same-sex married couples, one of whom goes into
12 a nursing home, if you are a heterosexual
13 married couple, you know, the federal
14 government will not, you know, will not come
15 after your home or a certain percentage of your
16 asset, while the other spouse is still living
17 in the home. Because still under federal law,
18 where same-sex couples are legal strangers,
19 they will come after the home of a married
20 same-sex couple.

21 So we're trying to-- we're right
22 now promoting a law that would have the State
23 of Massachusetts cover the federal portion of
24 that, you know, of that component, until we

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1 So we're doing it on a--we're
2 starting to do it on a piece meal basis. It is
3 all under the umbrella of a marriage, is a
4 marriage, is a marriage. The State of
5 Massachusetts is going to do everything it
6 can. Even if it requires passing special
7 legislation to protect it, to give equal
8 protection to the same-sex couples that are
9 married.

10 MR. BLUSTEIN-ORTMAN: Do you have a
11 sense of where that sits politically in the
12 legislature?

13 MR. SOLOMON: It is pretty
14 universally supported. It is-- I imagine New
15 Jersey is going through this. You know, it is
16 tough budget times. So it is a matter of
17 seeing if we can come up with--if we can get
18 the, you know--

19 MR. BLUSTEIN-ORTMAN: No shortfalls
20 here.

21 MR. VESPA-PAPALEO: Mark, are you
22 aware if at any time in US history the budget
23 has been such much, of any state or federal
24 government, that they are saying sure, we have
25 plenty of money to go around and do this?

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1 That's a constant issue that will be with us no
2 matter what the finances are of any
3 jurisdiction. Somebody is getting the money.
4 It's a matter of who is successful at using
5 those resources. I had a question for you,
6 Mark.

7 MR. SOLOMON: Just as a follow-up
8 on that. I can tell you that the Governor
9 supports this piece of legislation. It was
10 reported favorably by both the House and Senate
11 healthcare finance committees. It is on the
12 track of being approved.

13 MS. ALLEN: Do you have a bill

14 number for that.

15 MR. SOLOMON: Yeah. It is H4107,

16 the Mass Health Equality Bill.

17 MR. VESPA-PAPALEO: Mark, I have a

18 question. I don't know whether you can answer

19 this or not. One of the charges we have, is to

20 look at fiscal impact issues of civil unions

21 and marriage. Can you speak to that? Has there

22 been any negative or positive fiscal impact to

23 the state since you've had marriage?

24 MR. SOLOMON: One thing that might

25 really be helpful to forward to the Commission,

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1 is the Boston Business Journal just did an
2 article about the positive economic benefits of
3 marriage. Because it is now a real competitive
4 advantage for Massachusetts. They interviewed a
5 bunch of gay couples from states that have past
6 defense of marriage amendments, who have moved

7 to Massachusetts because it is the one state in
8 the country where they can get married.

9 That's a real bonus to be able
10 attract the best and the brightest. That's the
11 only-- I mean, that's obviously a positive
12 fiscal impact. Certainly, the wedding planners
13 and the hotel industry are not complaining.

14 There hasn't been any cost. It's
15 been a-- you know, it's, like, say from tourism
16 to, you know, a wedding industry broadly
17 defined, to I think more importantly an
18 economic competitiveness standpoint, it has
19 been a real net positive.

20 MR. VESPA-PAPALEO: But as to that
21 second piece of it, the cost to the state,
22 that's actually something that we have to look
23 at. Have you seen any reports in Massachusetts
24 since you had marriage or same-sex couples,
25 that there has been any increased cost to the

1 taxpayers or to the state government itself for
2 now having this?

3 MR. SOLOMON: I think if you did a
4 serious economic analysis, broadly defined
5 economic analysis, you would find a net gain to
6 state revenues because of same-sex marriage.
7 That would be because people are moving. You
8 know, a state when the people are leaving, in
9 general, for whatever reason, it's been one of
10 the things that's been a detractor of people.
11 But there is nothing that the state is now
12 spending money on that it otherwise would not.

13 MR. BLUSTEIN-ORTMAN: Has there
14 been an analysis published, Mark.

15 MR. SOLOMON: No. Just this Boston
16 Business Journal article that just was out a
17 couple of weeks ago. I can forward that to
18 Steven to circulate.

19 MR. VESPA-PAPALEO: I think I
20 circulated it about a week or two ago.

21 MR. SOLOMON: That's the only thing
22 that's looked at the economic impact.

23 MR. GOLDSTEIN: There was a study
24 and somebody at a future meeting is going to
25 talk about it, showing how much--a cost benefit

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1 analysis, how much New Jersey would make with
2 marriage equality over civil unions. It is at
3 least \$100,000,000 a year. So we'll get to
4 that.

5 MR. VESPA-PAPALEO: There has also
6 been a study released by the New York City
7 Controller's office. Even though they have
8 neither civil union or marriage, they are
9 contemplating, I guess, domestic partnership
10 protections in the City of New York. The
11 controller did a fiscal analysis on what that
12 might mean to the City's finances.

13 Any other questions for Mark?

14 MS. CASBAR SIPERSTEIN: I was
15 wondering whether, Mark, since marriage was
16 seamless, I would imagine there was no extra
17 cost. You didn't have to change any forms at
18 all. But are there any numbers of people who
19 have gotten married? Is there any accurate way
20 of determining that?

21 MR. SOLOMON: Slightly over
22 10,000. That's through actually going--
23 sending volunteers down and counting the
24 marriage licenses or the photocopies in the
25 Department of Vital Statistics. That's

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1 actually another-- that gets to the first
2 question I was addressing, which it is so hard
3 to find the number of same-sex couples, because
4 there is no place where it is kept. Unless you
5 send the volunteers to go through. You know,
6 what happens when you get to Pat something
7 married Terry something, is that a gay marriage
8 or straight marriage? There really is-- so our
9 best estimate is slightly over 10,000.

10 MR. VESPA-PAPALEO: Mark, how has--
11 what has been the impact, if you know this, in
12 terms of other states' recognition of your
13 married couples or same-sex? If I'm in a
14 same-sex marriage in Massachusetts and I move

15 to New Jersey, Vermont, Connecticut, whatever
16 other jurisdictions that have a civil union or
17 domestic partnership law, what's been going in
18 that regard?

19 MR. SOLOMON: That's unfolding.
20 The one place where we do have some experience,
21 we have this crazy law that bars out-of-state
22 couples whose laws don't permit same-sex
23 marriages, from getting married in
24 Massachusetts. There are only two states,
25 strangely, New Mexico and Rhode Island, are the

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1 only two states, where couples can come to
2 Massachusetts and get married in Massachusetts
3 who live in those jurisdictions.

4 Rhode Island, which is next door,
5 we had-- you know, there have been a few
6 hundred couples that have come to
7 Massachusetts, have gotten married, have gone
8 back to Rhode Island. Rhode Island does treat

9 them as marriages. It is sort of a-- you know,
10 it is always testing the system. But the
11 Attorney General of Rhode Island is terrific,
12 is very open-minded, you know, interprets state
13 law as fully recognizing those marriages with
14 respect to state benefits and protections.

15 The unfortunate thing is that the
16 State Court recently ruled that those couples
17 could not get divorced. One of the couples
18 wanted to get divorced and the state divorce
19 laws didn't apply. They are sort of in a legal
20 limbo. The right wing should like that. It is
21 like a covenant to marriage or whatever.

22 MR. BLUSTEIN-ORTMAN: A related
23 question, Mark is, do you have any information
24 about married couples from Massachusetts
25 traveling in the country, ending up in hospital

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1 situations, emergency rooms or in other types
2 of situations in which their marriages have

3 either been accepted or rejected by whatever
4 locality they happen to be in?

5 MR. SOLOMON: I have not. I do
6 know that, what I understand, if a married
7 couple from Massachusetts moves to New
8 Hampshire or Vermont, that they'll be sort of
9 morphed into civil unions. There haven't been
10 enough cases of that. I haven't heard of
11 anyone traveling, you know, and having that.

12 We in the advocacy business are
13 always looking for those stories. They don't
14 happen so often when someone is traveling. It
15 will happen, you know, unquestionably. It will
16 be case by case, you know.

17 MR. BLUSTEIN-ORTMAN: I wonder if
18 you haven't heard about it, because marriage
19 works.

20 MR. SOLOMON: I think-- you know, I
21 can tell you that it works so seamlessly and so
22 perfectly. It's been-- you know, our
23 Congressman and my good friend Barney Franks
24 calls it the biggest yawner in American
25 history. It just has been-- for the same-sex

1 couples it has been huge, enormously important
2 and for everyone else, everyone else has moved
3 onto the other things that they are focused
4 on. You know, the guy who fought it the
5 hardest tried to run for President and lost
6 pretty significantly, our former governor.

7 MR. BLUSTEIN-ORTMAN: Easy for
8 Barney Franks to say.

9 MR. SOLOMON: Well, no, he was on
10 the spot, you know. Especially in Congress,
11 people were coming up to him and saying this is
12 going to--his colleagues, this is going to have
13 a huge impact on the rest of the country. This
14 is going to hurt us in Congress. It is going to
15 create the impetus for the federal marriage
16 amendment, with all the ruckus in
17 Massachusetts. What has happened, there is no
18 ruckus in Massachusetts. It's been a big
19 nothing.

20 People have tried to turn into it
21 something. They have been completely, utterly
22 unsuccessful. It's never been an election-- no

23 person who's voted for marriage equality in the
24 legislature, out of 195 elections, not one of
25 them has lost. You know, it's such a non-issue

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1 here.

2 It is the fear of the unknown, but
3 what it is known, it's really an honor.

4 MR. VESPA-PAPALEO: Mark, does your
5 organization receive any complaints from
6 individuals claiming that they've been
7 discriminated against because of their sexual
8 orientation in terms of marriages?

9 MR. GOLDSTEIN: Do you get ERISA
10 complaints or things like that.

11 MR. SOLOMON: You know, we have a
12 compatriot organization known as GLAD,
13 Gay-Lesbian Advocates and Defenders. They are
14 the ones who really focus on the legal
15 complaints and pursue them. But I can tell you
16 that the issue has died down very

17 significantly. Because companies, you know,
18 once it reached policy, you know, a senior
19 level in a corporation, we aren't going to
20 treat same-sex couples differently in
21 Massachusetts, because a marriage is a
22 marriage, is a marriage. But, you know, to get
23 the specific numbers, we should check in with
24 GLAD.

25 MR. GOLDSTEIN: GLAD actually

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1 submitted a statement. They didn't physically
2 in person testify. They did submit written
3 testimony, months ago.

4 MR. SOLOMON: You know, that's why
5 after marriage went into effect here, the
6 companies put in place all the HR policies and
7 everything, to make sure that same-sex couples
8 were treated completely equally. When our
9 opponents tried to either, you know, pursue a
10 constitutional amendment that either got rid of

11 marriages or morphed them into civil unions,
12 the companies lined up against it. Because
13 they are, like, we already made the changes
14 that we needed to make so that everyone can get
15 married. We don't want to create a separate
16 class. We don't want to-- we're done and it is
17 all fine.

18 MR. VESPA-PAPALEO: Mark, you may
19 not be able to answer this in terms of-- we can
20 ask GLAD this, but if you can, do you know if
21 there have been any complaints filed with the
22 State-- the Massachusetts Commission on Human
23 Rights or Massachusetts Commission Against
24 Discrimination?

25 MR. SOLOMON: I do not know. But I

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1 could certainly, you know work, with Steven to
2 find out.

3 MR. VESPA-PAPALEO: We can get
4 that. I'm just asking you if you know that or

5 not.

6 MR. SOLOMON: I do not, no.

7 MR. VESPA-PAPALEO: Any other
8 questions? Okay, hearing no more questions,
9 thank you very much, Mark, appreciate your
10 coming in.

11 MR. SOLOMON: I can tell you one
12 thing, that we are lonely up here in
13 Massachusetts. We look forward for the good
14 people of New Jersey to join us in this-- you
15 know, this venture. It has been a complete
16 plus and really no negatives at all.

17 MR. GOLDSTEIN: Thank you, Mark. We
18 hope to fly you in and some of your folks, come
19 down to a future hearing.

20 MR. SOLOMON: Okay, good luck with
21 your hearing process.

22 MR. VESPA-PAPALEO: Our final
23 witness-- would you like to come up here so we
24 can have you as part of the table. Dr. Leslie
25 Gabel -Brett, welcome.

1 MS. GABEL-BRETT: Good afternoon,
2 Mr. Chairman and Commissioners. My name is
3 Leslie Gabel-Brett. I'm the Director of
4 Education and Public Affairs of Lambda Legal. I
5 am very grateful to have another opportunity to
6 come and address this Commission. I bring
7 regards from David Buckle who you heard from
8 before, the senior counsel and litigator on the
9 Lewis V. Harris case. He couldn't make it
10 today.

11 I will do my best to represent
12 Lambda Legal. I do have written testimony and
13 brought copies. But in this setting I'll read
14 a little of it, then speak also off the page.

15 Let me just say that, you know,
16 we've been here at Lambda Legal, as we
17 testified before, for many people who
18 experience a variety of problems relating to
19 their civil unions being properly recognized,
20 getting benefits they need, getting recognized
21 when they arrive at school, have to deal with a
22 child's problem, dealing with healthcare
23 institutions.

24 You all did such a fine job and we

25 appreciate it, documenting those stories and

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1 putting out the powerful report that you did
2 about a month ago. So I think that that story
3 has been told, but it continues. There are
4 problems in New Jersey that will always
5 continue as long as we have this separate
6 structure that is confusing, unequal and sets a
7 separate status for same-sex couples.

8 One of the additional issues that I
9 wanted to touch on this afternoon are the
10 economic burdens. That is something that, as
11 you said, Mr. Chairman, you tasked to look
12 into. I will read a little bit. That the
13 economic and bureaucratic burdens of navigating
14 a new and confusing legal structure really fall
15 unfairly on the shoulders of couples and their
16 families.

17 (Pause in proceedings).

18 I was just saying that the economic

19 burdens really fall disproportionately on the
20 shoulders of couples and their families, their
21 children. The cost can really be
22 insurmountable, particularly for low and
23 moderate income families who cannot afford
24 legal representation when things go wrong. As
25 we note in our testimony, things in New Jersey

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1 continue to go wrong, based on the calls for
2 help that we get at Lambda Legal.

3 You know, the theory here is that
4 when New Jersey itself as a legislature has
5 said that same-sex couples are to be treated
6 differently, than that really creates the
7 context or permission for others to treat
8 same-sex couples differently. Whether they are
9 employers, healthcare institutions, law
10 enforcement officials, schools and so on.

11 We are making a big effort, not
12 only in New Jersey but across the country, to

13 educate same-sex couples and help same-sex
14 couples get a variety of legal documents that
15 supplement their status in whatever state they
16 are in. Documents, certainly not wills, but
17 medical power of attorney, funeral
18 arrangements, other kinds of assignment of
19 power and authority. So that they can protect
20 themselves, their families, their assets and so
21 on.

22 One of the issues that we want to
23 raise for this Commission is that when couples
24 don't have the resources to get to those
25 protections, they are at a much greater

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1 disadvantage when they face problems. We are
2 encouraging people to do it. Ordinarily they
3 need help, sometimes you need a lawyer. A lot
4 of people aren't going to be able to do that.
5 They don't have the resources to do that.

6 Then they will face extra burdens

7 and discrimination if they face the other kinds
8 of social discrimination that we see in our
9 society. Whether they are people of color,
10 whether they are women, as Kim Gandy
11 suggested. It adds and it piles on to the
12 kinds of discrimination that you are likely to
13 face, both sexual orientation, race
14 discrimination discrimination and perhaps
15 gender discrimination, as well.

16 One of the things that I wanted to
17 talk a little bit about, was what state and
18 local governments do. I missed the hour that
19 came before. I don't know what your state
20 agency officials said about whether this has
21 been burdensome or not. I will say before I
22 got to Lambda Legal I was a state employee in
23 Connecticut. In fact, for a period in the '90s
24 I was chair of the Connecticut Commission on
25 Human Rights and Opportunities. I feel like

1 this is a very familiar space and process to me
2 from that time.

3 I participated in the process, as a
4 state employee and lead activist in
5 Connecticut, when they first made the
6 transition to state employees being eligible
7 for domestic partner benefits under our
8 collective bargaining agreement. I sat at the
9 table with the state comptroller. I've got to
10 tell you, at least on three meetings I sat at
11 the table with the state comptroller and
12 deputy comptroller, the director of benefits
13 and director of forms. I'm sure that wasn't
14 his title.

15 We had three meeting about how
16 people were going the sign-up, what box there
17 was going to be in the form, what place was
18 going to be filed in the computer, what we were
19 going to do for new employees, what we were
20 going to do for existing employees, what we're
21 going to do for employees who moved into
22 Connecticut. You can only imagine. Maybe some
23 of the testimony you heard earlier also
24 suggested what that's like.

25 Then in Connecticut, about a year

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1 before New Jersey's Legislature, enacted a
2 Civil Union Law, as I'm sure you know. So many
3 of those forms had to be changed all over
4 again. In any state these changes are going to
5 be happening all the time. That's what state
6 government does. Usually you want to do that
7 for a purpose, to change eligibility for some
8 important program. Here in New Jersey, it's
9 our strong feeling that the only purpose for
10 all of those state expenses, costs and staff
11 time, is to separate same-sex couples from all
12 other couples. It doesn't accomplish anything
13 else but that.

14 As I wrote in the testimony here,
15 in these financial times, which got worse since
16 I wrote the testimony, why or how can we waste
17 state money, taxpayers money making forms,
18 making changes, making a separate structure
19 that has to be administered, for no other
20 purpose than to set people apart.

21 Really, Lamda Legal came here to
22 today to say that these economic burdens fall
23 on the couples. The economic burden falls on
24 the state and on the local agencies. That
25 whatever changes happen, you may say, okay,

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1 well, those changes were expensive, but we did
2 them already.

3 Every time you change a state
4 program, whatever it might be, some benefit,
5 some program, some eligibility requirement, you
6 are going to have to change it in two parallel
7 structures. You are going to have spend more
8 time sending out notices, changing websites,
9 changing computer forms. So it is not going to
10 end.

11 Even if--many or most state
12 agencies say they have already made the changes
13 that they needed to accommodate civil unions.

14 On the other hand, of course, once

15 New Jersey enacts, as I hope you will, marriage
16 equality, that other thing evaporates and
17 everybody gets into the same pot without any
18 extra forms or extra explanation, that's
19 existed for a hundred years, which is plain old
20 fashioned marriage.

21 So I want to go back to one or two
22 of the things that I heard you all discussing
23 before I came to the table. This business
24 about ERISA. Mark was saying, from
25 Massachusetts, that employers have mostly

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1 stepped up and treated married couples that are
2 same-sex couples equally.

3 What I was thinking about costs
4 is, in a situation where you have marriage
5 equality, you would have to spend more money or
6 take more time to find or make the list of
7 same-sex couples, to differentiate them from
8 the heterosexual sexual couples. No employer

9 is going to do that. Why would they do that?

10 He put it in a different way. He
11 said what would they gain from it? So while
12 they may not be required under the law, most of
13 the employers in their experience have quickly
14 realized that there is nothing to be gained by
15 trying to sort out and treat same-sex couples
16 differently.

17 On the other hand, as we've seen
18 where there is a civil union, it is quite
19 obvious because people have this different
20 legal status, then we're in a different
21 position with employers.

22 Also, I wanted to say about
23 economic benefits. As I said because I come
24 from Connecticut, an economist named Lee
25 Badget, some of you know, did a terrific study

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1 in Connecticut of what the economic benefit
2 would be to the State of Connecticut for passing

3 marriage equality. If the don't have it in
4 your file, Steven probably has it. Maybe you
5 do as well, Mr. Chairman. I'm happy to get it
6 and share it with you.

7 It has to do with revenue created
8 by marriage activity, but also by tourism, by
9 families flying in. Also some of the more
10 technical things she analyzed by the tax status
11 of married couples and so on. It is a whole
12 package of things.

13 Anyway, so the overall economical
14 calculations tilt in favor of a positive net
15 gain for the state when marriage equality is
16 enacted. That would be the report we had from
17 Connecticut.

18 Only marriage provides the clear
19 and unambiguous universally recognized status
20 that committed couples and their children
21 deserve. Once again, we urge you, as you have
22 in the past, to speak forcefully in favor of
23 marriage equality. Thank you.

24 MR. VESPA-PAPALEO: Thank you.
25 Just to be clear, this Commission has not

1 issued a report yet on exactly whether civil
2 unions or marriage equality is the right
3 solution.

4 MS. GABEL-BRETT: I apologize for
5 misrepresenting.

6 MR. VESPA-PAPALEO: There was a
7 report that identified a bunch of problems and
8 issues of concern, but the Board has not
9 reached any conclusion yet at this time.

10 MS. GABEL-BRETT: Pardon me.

11 MR. VESPA-PAPALEO: Hold on just a
12 second. You mentioned some of the additional
13 costs to same-sex couples who need to get legal
14 documentation, in order to have the full
15 protections with each other. That being a
16 financial cost to same-sex couples that others
17 do not do you. Have any sense of sort of what
18 those costs are.

19 MS. GABEL-BRETT: Sure. We are
20 recommending and putting out more information
21 in the next few months about a package of
22 documents that are sort of the gold standard

23 for legal protection for same-sex couples.
24 Because regardless of the status we have in
25 whatever state we are in, it A, may not be

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1 recognized in an emergency and I'll talk about
2 what some of those are. Or B, it is certainly
3 not being recognized when you travel to other
4 states where, you know, laws don't recognize
5 the status that you have in the state where you
6 live.

7 Some of those that I'm talking
8 about, sort of the most-- sort of the one that
9 comes up in an emergency situation, certainly
10 is the medical Power of Attorney. The story
11 that's most tragic that is current at the
12 moment, because we are representing a client in
13 Florida, is a story where the lesbian couple
14 was about to take a trip with their children.
15 One of the women had an aneurysm, was rushed to
16 the hospital. The hospital -- this was in

17 Florida, didn't recognize their relationship,
18 they would not let her in the room and the
19 woman pass away. There was only one short
20 visit that was arranged by a priest.

21 Nobody wants that to happen. So
22 we're trying to help the lesbian and gay
23 community learn the skills and resources they
24 have to protect themselves as best they can.
25 Sometimes you need a lawyer to help you make

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1 the documents, get them notarized, have them be
2 properly drafted and so on.

3 That's why I said in my remarks
4 that not everybody is going to be able to do
5 that. Some of the things you can do yourself. I
6 don't want to put out the message that you
7 always need a lawyer. People can do the best
8 they can on their own.

9 Each step towards clear and
10 universally understood marriage, makes those

11 tragedies less likely. To be able to stand in
12 front of an emergency room staff person, a law
13 enforcement person, whoever it is and say I am
14 married. Here is my marriage license. Not to
15 have to explain it, not to have to offer a
16 definition, not to have to spend time trying to
17 explain what the legal status is in one state
18 as compared to another.

19 That's the best solution we have
20 available to ensures that these tragedies don't
21 happen.

22 MR. VESPA-PAPALEO: Thank you. Any
23 questions?

24 I was interested in your testimony
25 about the forms. Because just yesterday one of

1 the responsibilities I have is to, every year
2 compile an annual financial disclosure
3 statement for the State Ethics Commission. I
4 was doing that. The form was not updated to

5 include civil union partners. So they are
6 violating state law and the constitution, the
7 Lewis decision. Here I am spending my time
8 filling out the form that I have to do, because
9 I'm subject to law. I have to sit there and
10 now have a conversation to educate them on
11 something that's been a law for a year.

12 It was a simple issue of changing--
13 now, they have on their form "spouse", but we
14 don't have civil union spouses. They are
15 called civil union partners. It is another
16 example of here is yet another agency that
17 actually has not implemented the Civil Union
18 Act correctly. It is the State Ethics
19 Commission, which is telling everybody else to
20 follow all of these laws and rules and they are
21 not doing it themselves.

22 MS. ALLEN: What did they say,
23 Frank, when you pointed that out?

24 MR. VESPA-PAPALEO: They said, oh,
25 we didn't know.

1 MS. ALLEN: We have liaison officer
2 over in my Department. They haven't heard any
3 complaint from the Department, except a blind
4 individual can't access the form. They have to
5 send it in separately. We brought that to
6 their attention over the last probably three
7 years, that it is not accessible to a blind
8 individual. They have to send one in hard
9 copy. They can't use the electronic version.

10 MR. VESPA-PAPALEO: They said they
11 would fix it, which is good. They are going to
12 resolve it. I will follow-up with them in a
13 couple of weeks to make sure it actually is
14 fixed. I filed my report online, did all of
15 that.

16 I had to take my time to reach out
17 to the right person and educate them about this
18 law that they certainly should have known. This
19 is a law enforcement agency that doesn't have a
20 law that's updated. While they are getting
21 everyone else to submit forms on a daily basis
22 and will hold us accountable. If I don't have
23 my form in on time, it is \$50 a day. They are
24 really tough, but they are not tough on

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1 That's one little agency. You
2 know, it is really-- it shouldn't be happening
3 a year after the law has been in effect. If it
4 was just a spouse, I would be able to check
5 off-- somebody would have been able to check
6 off spouse. It would have been over.

7 MS. GABEL-BRETT: If I can just add
8 to that it is hard enough to get all the state
9 agencies to do all the steps that they need to
10 do. This is just illustrative of that. Then it
11 rami fies down to the next layer of big public
12 i nsti tuti ons, not government i nsti tuti ons, for
13 for example, hospi tals.

14 My own story is that I'm in a
15 l esbi an commi tted relati onshi p. I was needing
16 a hospi tal admi ssi on for a surgery and sat in
17 front of--you know how you do the admi ssi on and
18 they si t in front of a screen and ask you all

19 of those questions? When they asked me for the
20 relationship of my partner and I said civil
21 union partner, they didn't have a place for it
22 on the form. She looked back at me and said
23 I'm going to type in "other".

24 I said, really I don't want you to
25 type in "other". She had, well, I can't make

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1 the next screen come up until I type
2 something. You know, at that moment when I'm
3 dealing with a medical situation, I said fine,
4 type" other, but that was not correct. I don't
5 know how many hospitals you have in the State
6 of New Jersey, but I can bet that some of them
7 are in compliance and some are them are not.
8 It's going to take a while. It shouldn't. It
9 is going to cost them money as well.

10 MR. VESPA-PAPALEO: I suspect from
11 what people have told me and my own
12 experiences, it sounds like your experience as

13 well, each time this happens, that you come
14 across inadequacy in a form or in some
15 admissions process. You don't go and file a
16 complaint with the State Civil Rights Agency.
17 You just go and try to move on, even though
18 these are violations of the law. So the
19 agencies don't necessarily-- the numbers that
20 the agencies get, don't really reflect the
21 inconsistent application of the law, at least
22 my experience.

23 MS. ALLEN: I think Joe mentioned
24 at one of the meetings, that the Department of
25 Health had sent something out that there is a

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1 change of the law, but I don't think people
2 know how to handle it operationally. You get a
3 memo that says the law has changed, please
4 recognize civil union partners or whatever. But
5 they don't really know to operationalize that
6 in their environment. Meaning, the forms need to

7 be changed, the staff needs to be educated
8 about what it means to have that kind of
9 partner, that they are allowed in the room,
10 that somebody signs a document saying this is a
11 person who can receive all of my health
12 information. That needs to be honored. I
13 don't think they know.

14 MR. GLUSTEIN-ORTMAN: You can only
15 extrapolate from that, that the financial cost
16 of doing that is phenomenal. You know, that
17 needs to somehow be a part of our record. You
18 talk about a hospital. Then you think about
19 the number of hospitals that are in New
20 Jersey. You think about the number of
21 departments in New Jersey and the number of
22 people filling out the various forms that
23 either will accept or reject peoples
24 relationships. The cost is enormous to the
25 state and to the agencies in our state, by

1 having a separate status.

2 MS. GABEL-BRETT: Just to sort of
3 go down the trail, that really matters to
4 peoples lives, when you want to be treated with
5 dignity. If you go to a primary care doctor, a
6 dentist, a nursing home. You start adding it
7 up, the cost to people is great. Then the cost
8 to the New Jersey economy of all -- you know, as
9 you say, I think your backing up, not only do
10 you have to change the form, you train your
11 staff to change the computer, it's expensive.

12 MR. VESPA-PAPALEO: I can say,
13 since we've been in effect, we don't have a
14 budget from the legislature, out of my budget I
15 spent about \$50,000 so that we can study civil
16 union laws. If it were marriage we'd be able
17 to spend that \$50,000 on a much better use.
18 You know, whether it is staffing, so on. There
19 are costs like that, certainly every day, that
20 government has to do just to study or take a
21 look at this issue.

22 So we are really studying. Going
23 forward in the next couple of months, we're
24 going to study much more in-depth data about
25 fiscal issues. We are going to have the

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1 Department of Health and Senior Services which
2 regulates our hospital industry, they are going
3 to be testifying at a later date. We will
4 focus on that real issue when we speak to
5 them. But if we have no other--any other
6 comments, questions?

7 Thank you very much, have a great
8 day. Okay. That's the end of the meeting. We
9 are adjourned, thank you.

10 (Whereupon, the matter stands
11 adjourned at 4:05 p.m.).

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15 I DO FURTHER CERTIFY that I am neither
16 a relative nor employee nor attorney nor
17 counsel of any of the parties to this action,
18 and that I am neither a relative nor employee
19 of such attorney or counsel, and that I am not
20 financially interested in the action.

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CHARLES R. SENDERS, CCR NO. 596.