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JOINT PRESS RELEASE

New York, NY, November 12, 2003 --- The New York County Lawyers' Association ("NYCLA"), New York Attorney General Eliot Spitzer and New York City Corporation Counsel Michael A. Cardozo today announced the settlement of the litigation brought by NYCLA against the State and City of New York challenging the constitutionality of the statutory rates of compensation paid to assigned private counsel who represent children and the poor in New York City.

NYCLA brought this litigation in February 2000. At that time, Chief Judge of the State of New York Judith S. Kaye and others were pointing out that the State Legislature's failure to increase the rates of compensation for these lawyers – rates that had been fixed since 1986 at \$25 and \$40 per hour for out-of-court and in-court work, respectively -- had led to a crisis in the State's courts. NYCLA sued to ensure that the children and poor adults represented by assigned counsel receive the meaningful assistance of counsel guaranteed to them by the State and federal constitutions. In February 2003, NYCLA obtained a Judgment against the State and City. Finding that the State's failure to increase the rates resulted in a real and immediate threat that litigants were being denied their constitutional rights and impaired the courts' ability to function, New York State Supreme Court Justice Lucindo Suarez declared unconstitutional those portions of the statutes that fixed the rates of, and limits on, compensation as applied in New York City and issued a permanent injunction ordering the State and City to pay assigned counsel \$90 per hour for all work until the Legislature modified the rates. The State and City appealed the Judgment.

In May 2003, the Legislature enacted legislation increasing the rates to \$75 per hour for work on felony criminal cases and family court matters and \$60 per hour for work on misdemeanor criminal cases. These increased rates will take effect on January 1, 2004. The legislation also created an independent task force, which will review the adequacy of the new rates and make

recommendations for any modification to those rates in a written report to be submitted by January 15, 2006.

In light of the legislation increasing the rates and the State and City's representations that they intend to fully implement the increased rates on January 1, 2004, as the legislation requires, the parties have agreed to settle the litigation. As part of the settlement, the State and City have withdrawn their appeals of the Judgment and the injunction setting a higher rate, which was stayed pending appeal, has been dissolved. NYCLA has agreed not to seek retroactive enforcement of the injunction from the date of its entry though the effective date of the new legislation, nor to seek attorney's fees.

"While the recent legislation increasing the rates is an important step forward and one that merits ending this ground-breaking litigation by NYCLA," said Michael Miller, NYCLA's President, "there still is much work to be done. We must continue to focus not only on the adequacy of the rates of compensation for assigned counsel, but also on the quality of legal representation provided to all indigent litigants throughout our state. We must ensure that the State, City and counties comply with their constitutional and statutory obligations to provide these poor litigants with meaningful and effective representation in all criminal and family court matters that require court-appointed counsel."

Attorney General Eliot Spitzer said: "I am pleased this litigation is concluded and credit NYCLA, as a bar association, and its counsel, Davis Polk & Wardwell, who served *pro bono*, for their tireless efforts to resolve the inadequate funding of the assigned counsel program. It is essential that all interested parties, including the Governor, the legislature, the judiciary and state and local leaders, continue to focus on the need to ensure that the children and poor in our state who rely upon court-appointed counsel receive quality legal representation. By doing so, we can ensure that reform is achieved through the political process, rather than the courts, and avoid the need for litigation like this in the future."

"We are pleased to announce the settlement of this litigation, challenging the adequacy of the rates of compensation for court-appointed counsel set by State law," said Corporation Counsel Michael A. Cardozo. "While this settlement concludes this litigation," Cardozo continued, "it does not in any way end the need to focus on the issues that it highlighted --- in particular, the need to ensure that all children and indigent adults who are represented by court-appointed counsel in family and criminal court proceedings in New York City receive legal representation consistent with constitutional standards. I urge all those, at both the State and local levels, with an interest in issues relating to court-appointed representation for the indigent, to continue to make those issues the focus of their attention and efforts, so that we will never again have to face the crisis in the court system that prompted this litigation."

In recognition of this need to continue to focus on the adequacy of the State's assigned counsel system, NYCLA, the Attorney General and the Corporation Counsel called upon the Governor, the Chief Judge, the Senate President and the Assembly Speaker to immediately appoint the seven members of the task force created by the recent legislation so that they may begin their important work. They also called upon the Legislature to promptly enact an amendment to the

legislation extending the existence of the task force beyond June 30, 2006, the date it currently is to dissolve by law, and charging it with conducting a similar review, including public hearings and the submission of a written report, of the adequacy of the rates of, and limits on, compensation for assigned counsel once every three years to avoid the need for litigation on these matters in the future. NYCLA and the Attorney General also called upon the Legislature to broaden the mandate of the task force to consider the adequacy of the current mechanisms for providing quality, mandated legal representation to children and indigent adults in family and criminal court proceedings in New York State.