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In New York, Cuomo Pledges More Aid for Lawyers of the Indigent

By JAMES C. MCKINLEY Jr. OCT. 21, 2014

Gov. Andrew M. Cuomo has agreed to settle a class-action lawsuit that accused New York State of failing to provide adequate legal defense for the poor in several counties, committing the state to paying for bigger and better public defenders' offices, lawyers representing both sides said on Tuesday.

The settlement mandates changes in Suffolk County on Long Island and in four upstate counties: Ontario, Onondaga, Schuyler and Washington; it does not affect New York City. But civil rights advocates characterized the settlement as groundbreaking and predicted that it would serve as a model for many other counties outside the city.

The state agreed to cover the costs of hiring more defense lawyers, investigators and expert witnesses to improve the defense for the indigent in the five named counties. The Cuomo administration agreed to establish standards for how many cases each public defense lawyer could handle in those counties and to provide resources to reduce caseloads to those levels.

Moreover, the state agreed to assume the final responsibility for making sure people who cannot afford lawyers are well represented, rather than leaving the task to county governments.

The lawsuit, *Hurrell-Harring v. New York*, claimed that public defenders in the five counties were so overworked and overmatched that poor people essentially received no legal defense at all.

The case, which was to go to trial on Wednesday, had won the attention of Attorney General Eric H. Holder Jr., who had Justice Department lawyers file a statement of interest in the case.

“This agreement is a template by which New York can establish equal justice for all in every single county,” said Corey Stoughton, the lead lawyer on the case for the New York Civil Liberties Union, which filed the suit. The group suggested that other counties would demand more funds from Albany to assist public defenders’ offices.

The settlement also requires the state’s Office of Indigent Legal Services to develop statewide standards on who should be given a public defender, a move expected to increase the number of people served.

Justice Gerald W. Connolly, who is overseeing the case in State Supreme Court in Albany, has to approve the settlement.

The state attorney general, Eric T. Schneiderman, said in a statement, “The approach outlined in this agreement can be a building block toward the kind of statewide reforms we need.”

Mr. Cuomo called the settlement a step “that addresses longstanding inequities” and said, “I am proud that we have been able to reach a resolution that results in a fairer, more humane justice system.”

The Justice Department’s motion, filed in favor of the plaintiffs, said limited funds and heavy caseloads made the public defender in the five counties “a lawyer in name only.”

Gary Stein, a partner at Schulte Roth & Zabel who represented the plaintiffs free of charge, said that in Suffolk County, for instance, each Legal Aid lawyer was handling 500 to 600 cases. In Onondaga County, which includes Syracuse, public defenders spend an average of four hours with their clients and less than an hour investigating the facts of a case, he said.

“The scales of justice are not balanced here in New York,” Mr. Stein said. “This settlement is a critical step towards restoring that balance.”

Though the Sixth Amendment guarantees the right to legal representation, it was the landmark 1963 Supreme Court case *Gideon v. Wainwright* that compelled states to provide defense lawyers to poor people charged with serious crimes. Two years later, New York created a public defense system run by the counties.

In 2006, a commission appointed by the state’s chief judge, Judith S. Kaye, found this patchwork system provided “an unconstitutional level” of legal defense, because the offices received so little money that they were chronically understaffed.

In 2011, the state created the Office of Indigent Legal Services to help improve

legal defense for the poor, but most of the burden for paying public defenders remained on county governments. Some county leaders have called for the state to take over the public defender system entirely.

Under the settlement, the state will assume much more of the burden, at least in those five counties. For starters, Mr. Cuomo has pledged to include \$5.5 million in his executive budgets over the next two fiscal years as part of the agreement.

Once the state office develops guidelines about manageable caseloads, however, the Cuomo administration will pay for the extra lawyers and investigators needed in each county, aides to the governor said.

The settlement would run seven and a half years. It requires the state to guarantee that within 20 months, all poor defendants in the five counties have defense lawyers at their first appearance. Ten months later, public defender caseloads must not exceed levels set by the state.

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