

No deal in public defender lawsuit

Civil action challenges way indigent defense cases are handled

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ALBANY — A settlement conference in a class-action lawsuit brought by civil rights attorneys, which seeks to remedy what they say is the state's "persistent failure" to provide meaningful counsel to the poor, ended Tuesday with no settlement.

A trial date was set for October in state Supreme Court, said Corey Stoughton, lead attorney for the plaintiffs and a lawyer with the New York Civil Liberties Union.

She said state Supreme Court Justice Eugene Devine "wanted to see if we could make progress on our own."

The NYCLU filed the suit with the New York City-based law firm Schulte Roth & Zabel. The private meeting ended quickly after Judge Devine was informed that both sides were communicating.

The setting of a trial date "doesn't mean anything one way or the other about whether the case will settle," said Stoughton. The attorney general's office, which represents the state in civil lawsuits, didn't respond to a request for comment.

The suit was filed five years ago in the name of Kimberly Hurrell-Harring and 19 others charged with crimes in Onondaga, Ontario, Schuyler, Suffolk and Washington counties.

Each plaintiff was left to navigate the criminal justice system without adequate counsel, some spending months unnecessarily behind bars. But the "types of harm suffered" by these defendants are "by no means limited or unique" to those counties, the suit claims.

A 2006 report from The New York State Commission on the Future of Indigent Defense Services called the public-defender situation an "ongoing crisis" and concluded "nothing short of major, far-reaching reform" can bring the state into constitutional compliance. It recommended a state takeover to properly fund counsel for the poor and enforce standards.

Plaintiffs seek a state takeover of the system, a move some in the legal community support.

New York's highest court, the Court of Appeals, overturned a dismissal of the case in 2010, returning it to state Supreme Court in Albany.

Indigent defense costs at least \$380 million a year, if county and state expenditures from 2011 are used as a baseline.

Problems with the public defense system in the state include excessive caseloads, disparity in pay and resources compared with those for district attorneys, and delays in appointing counsel, critics said.