

**Written Statements Submitted  
To The Senate Judiciary Committee  
for May 7, 2013 Hearing  
State Capitol Building, Room 8E-B, East Wing  
9:30 a.m. to 12:00 noon**

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# **Charles Cuff**

*Client of MidPenn Legal Services-  
Harrisburg*

**TESTIMONY OF CHARLES CUFF**  
*Client of MidPenn Legal Services-Harrisburg*

My name is Charles Cuff and I reside at 9 Hall Manor Apt. H on Sumner Street in Harrisburg, PA 17104. I am 22 years old now. I have worked for UPS as a dock loader for six years. Just over two years ago I was diagnosed with non-Hodgkin's lymphoma. I had to be treated with chemotherapy and I feared sterility. My girlfriend and I decided to have a child and a girl, Charlanye, was born, now age 2. The mother and I never lived together but things went well for some time but we later broke up. At first I was allowed to stay involved in my child's life until later on when I found a new girlfriend. I was then denied any contact by the mother for periods up to three weeks without any cause. I remember begging her for some time around Christmas last year.

It broke my heart not to see my baby girl. It really got to me because I loved her and I wanted to be a good dad. I never had a dad myself and I wanted to make sure that Charlanye was never in that position. At the same time, I didn't want to take matters into my own hands. Sometimes I would get to see my little girl and then there were long periods where I was prevented from having any contact. After trying every single thing I could think of to persuade the mother to allow me steady visits I went to MidPenn Legal Services.

I met with Attorney Shana Walter who filed a Complaint for Custody on my behalf. When the mother brought the child into court for the conciliation session and Charlanye saw me, she ran over to me and jumped in my lap. I now have 50-50 shared custody of my little girl and I am cancer free. "Cancer changes everything about the way you look at life. My little girl means the world to me. I couldn't have done this without the help I received for MidPenn Legal Services."



**Rhodia D. Thomas, Esq.**  
*Executive Director, MidPenn Legal Services*



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## **TESTIMONY OF RHODIA D. THOMAS, ESQ.**

To Senator Greenleaf and distinguished members of the panel: Thank you for the opportunity to testify on the important topic of civil legal services in Pennsylvania. My name is Rhodia Thomas; I am the Executive Director of MidPenn Legal Services, which is the legal emergency room for the poor in Central Pennsylvania. We are a non-profit, legal aid law firm providing civil (not criminal) legal representation in court, as well as brief services and advice to low-income persons and survivors of domestic violence across 18 counties in Central Pennsylvania.

Our service area is geographically diverse, and includes rural, suburban and urban areas. We work to handle bread and butter issues that affect the lives of our clients including: family matters, housing, securing income, healthcare, education, and personal safety. At the time folks come to us they have one thing in common they are facing a legal situation that requires immediate assistance. They are most often people with children, whose lives are in upheaval, because they are facing a threat to their personal safety, threats to the stability of their family because of child custody problems, threats to the security of their family because of loss of income because of layoff or job loss, or loss of their homes through mortgage foreclosure or illegal eviction.

In the 2000 Census, there were about 250,000 individuals who were living at or below poverty in our 18 county service area. In the 2010 Census, that number grew to about 361,000. At this time of increased need, fewer resources and more funding challenges on

the horizon, we have had to work hard to maintain a level of service for those with civil legal problems; however we are simply not able to meet the growing need.

With continued funding decreases, stagnant interest rates, flat funding and escalating costs, our staff size has decreased from 102 individuals to the current staff of 90 which includes 40 attorneys, 14 paralegals, 2 ombudsman, and 24 support/intake staff to cover our 18 counties. The 10 member administrative staff has responsibility for general management, legal oversight, fundraising and communications.

While we never were able to meet all the need, we now have more people who need our help and less staff to help them. This has caused us to further limit our case acceptance guidelines to those with situations that we categorize as emergencies. This includes Protection from Abuse, Child custody snatches, illegal evictions, Unemployment Compensation denials, and Mortgage Foreclosure. This crisis in legal services even sometimes forces us to close intake because we can't keep up with all the requests for service.

Monday through Friday across the MidPenn Region (which is geographically larger than the state of Maryland), our 24 intake workers take calls or speak to individuals who walk into one of our offices in need of legal assistance. Their job is to determine whether the person is income and otherwise eligible for services before referring the caller to one of advocates (attorneys and paralegals) who will assess each individual's legal situation to determine the best way to assist each client.

Monday is the busiest day for both phone and walk-in intakes. On Mondays our intake workers also have about a thousand calls to return from new applicants who have left messages over the weekend. This number does not include the number of calls that come in on Mondays from new applicants or the requests that we get via email.

The number of those we **can** help is steadily decreasing while the number of those we **can't** help is increasing. The 2009 Legal Services Corporation's study "*Documenting the Justice Gap in America*" reported that 80 percent of the individuals who need legal help are turned away because legal services programs lack the resources to offer them assistance. However, by our estimates, we are only able to serve about 5-10% of those

who are eligible for services. Also, there is a growing number of low-income people who are unaware of our services due to cultural or educational differences and, tragically, there is a growing number of people who have been turned down so often that they have given up all hope of assistance and stopped trying. Many individuals we can't help are referred to Self-Help centers in counties where they exist or to other available resources, but for most of the needy people we must turn away there are no other free legal resources for the poor who are trying to gain legal assistance to resolve their legal problems.

Without legal assistance, many problems that could be resolved if legal help was available can and do escalate. A family whose custody matter could have been resolved had they had legal help may end in violence between the parents, families facing mortgage foreclosure or illegal evictions may lose their home and have to rely on the assistance of the shelter system and an individual denied Unemployment Compensation will not have money to buy food or pay a mortgage thereby leading to even more dire consequences. These are things that do happen because we aren't able to serve all who contact us for service.

We appreciate the efforts of this Committee to hold these hearings and listen to this Testimony about the ever-increasing need for civil legal services for the poorest Pennsylvanians. Thank you again.

### **Background of Rhodia D. Thomas, Esq.**

Ms. Thomas is currently the Executive Director of MidPenn Legal Services, a non-profit law-firm that provides civil legal services to low-income individuals in 18 counties in central-Pennsylvania. She graduated *magna cum laude* from Syracuse University, with a B.S. in Education, and received her J.D. from Widener University School of Law. Ms. Thomas has received several awards including the PLAN Excellence Award, the Outstanding Minority Scholar Award, Women of Excellence Award, Adult Achievers Award sponsored by the Camp Curtin YMCA, and in 2002 she was named as one of **50 Minorities of Influence** by the American Lawyer Media, publishers of the Legal Intelligencer and Pennsylvania Law Weekly.

Ms. Thomas is active in the Pennsylvania Bar Association and currently serves as a member of the PBA Constitutional Review Committee and until recently she served as



Co-Chair of the PBA's Access to Justice Committee. She is also a member of the Minority Bar Committee and for three years she co-chaired the MBC's *Diversity Summit*. Ms. Thomas is also a member of the PBA's Immigration Law, and Legal Services to the Public Committees. In July 2012, Ms. Thomas was elected to the Board of the Pennsylvania Bar Institute, and currently she serves as President of the Pennsylvania Project Directors Association. Ms. Thomas has over 25 years of experience in public interest law.

**Shana Walter, Esq.**  
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## **TESTIMONY OF SHANA M. WALTER, ESQ.**

To Senator Greenleaf and distinguished members of the panel: Thank you for the opportunity to testify on the important topic of civil legal services in Pennsylvania. My name is **Shana Walter**; I am a staff attorney at MidPenn Legal Services. I have been employed at MidPenn for six years. For the past two and a half years, I have served as the Custody Attorney seeing clients in Dauphin County. MidPenn represents low-income individuals and families in a wide variety of poverty law areas, but this position focuses on direct representation in child custody matters. The position was made possible by the support of the Dauphin County Bar Association and Foundation, the Dauphin County Commissioners, Metro Bank, local foundations, law firms and numerous business leaders and attorneys in Dauphin County.

The demand for legal services, particularly in custody cases is extraordinary, particularly given the state of the economy (more residents qualify for our services). Given the heightened demand, we can only take critical matters. Typically, the cases we take are critical situations in which one parent removes the child from the primary custodian without a court order or a legitimate reason or when one parent refuses to let the other parent have contact with the child. Charles Cuff came to our office because the Mother of his daughter would not permit him to have consistent contact with the child. I filed a Complaint for Custody on his behalf and eventually established a custody schedule that gives Charles fifty-percent custody. Charles' case was a very real reminder of why we are here. When Charles' daughter got off the elevator in the courthouse, she ran up to him

yelling Daddy, Daddy and jumped on his lap. She even cried for him when it was time for us to meet with the mediator.

Children need stable, safe homes. Bouncing from one relative to another or one house to another has a negative effect on children. Children thrive with structure. By ensuring that children have a schedule for when to see their Mommy and Daddy, they can worry about things kids are supposed to worry about like riding bikes and playing Skylanders.

Children also need both of their parents. As a child of parents who divorced when I was very young, I understand the need for a child to have contact with both parents. I understand that children love and need both of their parents, even if their parents cannot get along. When I have clients or opposing parties that cannot see past their contempt for the other parent, I tell them all the same thing: You have to love your child more than you hate the other person. Parents get this.

An orderly resolution to custody matters is beneficial to parents. Custody schedules benefit parents so they can schedule their periods of custody around their work hours. Too often, parents have to leave work early to make sure their child isn't taken from the school or stay home from work so the other parent doesn't take the child from the daycare center. Of course, that's not the way parenting is supposed to work, but it does and I try to minimize the impact on my clients' employment. The majority of cases settle (85%) because parents are generally reasonable and understand the necessity of having both parents in the child's life. Since December 2012, I have handled 432 cases helping 1105 local family members at less than \$250 per case.

About 70% of the callers who contact us want assistance with a custody related matter. For everyone I assist there are more people who I can't assist. Because of the growing numbers of low-income people with civil legal problems our program has had to limit the types of custody cases that we can handle to those that are emergencies. Sometimes, I provide callers with simple advice, but more often I can do nothing to assist those in need. Given that we are the only free legal resource in the County sometimes, I refer callers to Self-Represented Clinics, or tell them where they can get Self-Help packets to file on their own. As an attorney, I know that neither of these is ideal, but as one

attorney, with the high demand for representation in custody matters, I simply can't meet the need of everyone who contacts our office for legal help.

### **Background of Shana M. Walter, Esq.**

Ms. Walter is currently a staff attorney at MidPenn Legal Services in Harrisburg. She has been employed with MidPenn for the past 6years. She has a B.S. from East Stroudsburg University and received her J.D. from Widener Law School in 2007. She is experienced custody litigator who spends many hours advising, and litigating on behalf of low-income clients with custody matters. She is a member of both the Dauphin County and Pennsylvania Bar Associations.

**Matthew Holland**  
*Client of North Penn Legal Services*

## **TESTIMONY OF MATTHEW HOLLAND**

*Client of North Penn Legal Services*

My name is Shelly Holland. Matthew Holland is my son. He is 29 years old and has traumatic brain injury from falling off a bridge when he was 19 years old. He is in a comatose state and is either in bed or in his wheelchair at all times. I stay home to care for him. I provide him constant care and am never away from him for more than two hours at a time. We applied for replacement of his manual wheelchair in March of 2012, and were denied by the Department of Public Welfare. The chair was 7 years old, and because Matthew had grown about 8 inches to six feet 2 inches and gained 60 pounds since he first got the chair, he could not fit in it anymore. He spends all waking hours in his chair. It was worn out and dangerous. The seat and leg rests no longer fit and his feet hung over the rests. I had duct taped repairs on the chair and done everything I could to make it last but finally it was time for a replacement. Integral parts of the chair (like arms) began falling off. The arm rests had broken and come loose from the chair and the risk of him falling out even when strapped in was great. The chair was rickety because bolts had come loose and the holes were stripped. Also, the chair was used for range of motion exercises, so it had to be utilized to the fullest. The chair was a mess and dangerous as well and we had no funds to replace it ourselves.

We applied to DPW for replacement of his manual wheelchair in March of 2012, through a vendor, and it was denied. All the information that was requested had been sent. After this first denial, the vendor applied for us again, this time adding new material to answer all concerns. Again the replacement item (replacement or rebuilt wheelchair)

was denied. We thought an appeal had been taken to the second denial which we got in October, and were referred by the vendor to North Penn Legal Services.

The North Penn attorney came to our home to meet with us, since it is so difficult for us to travel. Upon inquiry by NPLS, it was discovered that no appeal had been taken so NPLS appealed immediately and that began the LONG process of negotiations with the DPW Doctor who makes these decisions. Revised reports and equipment requests were resent to DPW. Photos (already sent) showed how much disrepair the chair was in due to constant use for 7 years.

The vendor had corrected any “omissions” and still the denial continued. We had made due with the chair by duct taping and jerry rigging where possible, but it was worn out...

A hearing was scheduled in January of 2013 but NPLS continued to resubmit and negotiate as the hearing process is long and we had already waited months, actually years. We went to NPLS in October of 2012 and the hearing got scheduled for the end of January 2013.

After numerous doctor submissions, revisions, phone calls, and work up of the costs, the Department doctor finally agreed that the chair should be replaced. This was decided about 2 days before the hearing was to be held.

We had done all we knew to do and the vendor had also given up—I was told to call Danna Rich-Collins at North Penn because if anyone could help it would be her. She came out to our house in the country to meet with me and meet Matthew. She spent hours talking to the vendor and DPW and never gave up. She got us the new chair. I told her I don't think we would have the chair yet without Legal Services help.



In our household is myself, Matthew, his 19 year old brother and my fiancé. We all were involved in one way or another in this quest for a new wheelchair for Matthew. My son and fiancé helped gather all the information DPW kept requesting They filled out paperwork, and they take care of Matthew, which is what we do all the time. Matthew is our priority. We try and get him outside and out of bed as much as we can. He lives in his chair. I was very worried the chair would not hold up when we went out because it was so unsteady and bolts would fall off. We are so grateful to have this chair after all this time.

**Lurnetta M. Young**  
*Client of MidPenn Legal Services*

## **TESTIMONY OF LURNETTA M. YOUNG**

*Client of MidPenn Legal Services*

My name is Lurnetta Young. I am a resident of Harrisburg, Pennsylvania. I am a single mother of one. For years, I worked as a case manager for a Mental Health and Mental Retardation facility. I also worked a second job to save money so that my daughter could attend college. In 2006, I took a first time homebuyers course and bought my first home.

I had to stop working in 2007 when I was hit by drunk driver and I was no longer able to work. This terrible accident required that four rods be placed in my back and will require ongoing surgeries in the future. After the accident, I was in and out of the hospital. Essentially, I was living in a hospital bed in my living room. Soon I fell behind on mortgage payments. I was about to lose my home and I needed help.

I contacted MidPenn Law Services. I was assigned an attorney, Nancy Datres, who knew exactly what to do. She helped me apply for the Emergency Homeowners Loan to stop the foreclosure process. I did not even know that this was an option for me. Nor would I have been able to have done this on my own. Initially, my application was denied. Nancy Datres fought for me to get a reconsideration and we finally got it.

Once the foreclosure process was stopped, I was able to keep my home. My daughter, who has now graduated from Temple University with a degree in finance, is able to take care of me.

Lurnetta M. Young  
1517 Allison Street  
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**Thomas G. Wilkinson, Jr., Esq.**  
*President, Pennsylvania Bar Association*



**TESTIMONY OF THOMAS G. WILKINSON, JR.**  
*President, Pennsylvania Bar Association*

Good morning, Committee members and staff. I am Thomas G. Wilkinson Jr., Pennsylvania Bar Association President, representing the 28,000 members of the Association. Thank you for inviting us to testify concerning issues regarding access to justice for Pennsylvania’s residents.

Listening to the clients and legal services professionals telling their compelling stories here today, there is a need for action to make access to justice for all a reality. There has been a lot of discussion at the local, state and national bar levels about access to legal services to those in need, and a number of innovative ideas have been put forward. Examples include expanded clinical programs at law schools. New York recently enacted requirement that all new lawyers provide 50 hours of pro bono service before being admitted to the state bar and New Jersey appears to be poised to adopt a similar rule. Various county courts, in partnership with local bars, are establishing self-representation resources in courthouses, as well as encouraging pro bono limited representation programs, particularly in the family law and mortgage foreclosure contexts.

One initiative that has been under discussion for some time is the adoption of a statewide “Civil Gideon” effort providing representation to the indigent who are facing crisis situations in critical areas, such as the loss of housing or the loss of custody of a child.

On March 18, 2013, we marked the 50th anniversary of *Gideon v. Wainwright*, the Supreme Court’s landmark 1963 ruling granting a right to counsel for indigent criminal defendants. Although we have not fully realized the promise of criminal Gideon, the questions posed by the proponents of a civil Gideon initiative are whether there

should be a right to appointed counsel in a more narrow scope of civil cases where basic human needs are at stake, such as shelter, sustenance, safety, health or child custody, and if no such right is guaranteed, can such a right be granted by state legislation?

The American Bar Association House of Delegates passed a resolution in 2006 urging states to provide free legal counsel to poor civil litigants when these basic human needs are in jeopardy, and some pilot programs are underway in other states. Access to justice has been promoted by the PBA since its first Task Force on the Delivery of Legal Services to the Needy in 1989, and in November 2007 the PBA House of Delegates formalized that support:

*RESOLVED, That the Pennsylvania Bar Association urges the Commonwealth of Pennsylvania to provide legal counsel as a matter of right to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.<sup>1</sup>*

In 2008, the PBA formed an Access to Justice Task Force whose mission was to implement the resolution:

*The Access to Justice Task Force is charged to develop broad implementation strategies for the right to civil counsel that was passed at the Nov. 30, 2007, PBA House of Delegates meeting, including strategies to fund a right to civil counsel as well as strategies to maximize private bar efforts in that regard in support of court and other efforts to improve access to the justice system.*

That Task Force became the current PBA Access to Justice Committee, which met regularly through 2010. In 2009, the Philadelphia Bar Association created a Civil Gideon and Access to Justice Task Force. The task force's mission was to investigate and consider all aspects of an effective system of civil Gideon in Philadelphia, including the development of concrete proposals to advance the implementation of a civil right to counsel in those areas of adversarial civil proceedings where basic human needs were at stake. The Philadelphia Task Force was charged with examining civil Gideon efforts

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<sup>1</sup> For the full resolution, see <http://www.pabar.org/public/committees/lpublic/resolutions/right%20to%20counsel%20resl%20boardapprovdoc.pdf>

underway in other states, developing strategies for implementing civil Gideon in Philadelphia and making recommendations in two areas of basic need: cases involving the loss of shelter and child custody. In 2012, the Philadelphia Task Force began to explore statewide strategies to improve access to justice. A statewide coalition was formed early this year and the PBA became a partner with the Philadelphia Bar Association and other key statewide stakeholders in developing a statewide initiative, which includes helping to plan statewide hearings to examine the current state of the civil justice gap in Pennsylvania.

Thanks to the leadership of Senator Stewart Greenleaf and Pennsylvania Supreme Court Chief Justice Ronald Castille, we are here today to kick off the first statewide hearing exploring civil legal representation of the indigent and asking the important question: “Have we achieved equal access to justice?”

There are now civil-Gideon working groups in Pennsylvania, and there have been a number of educational programs that have explored strategies to narrow the civil justice gap. From their work, we know that many citizens are being turned away today from civil legal aid agencies due to reductions in funding, staff layoffs and a sharp increase in the number of people who have fallen into the poverty ranks due to the economy and now financially qualify for free legal assistance.

A commentator recently observed that we provide appointed counsel for those facing potential confinement for months or years, while we do not do so for those facing eviction and homelessness for months or years, or even for victims of domestic violence seeking court protection.

Here are several stark statistics conveying how access to justice is rationed in our state and nation. A national Legal Services Corporation (LSC) study found that for each eligible client represented by a legal aid program, there was another person in need of and eligible for assistance, and who asked for help, who had to be turned away due to the lack of legal aid resources. This 50 percent under-service rate holds true in Pennsylvania. In fact, the need for legal aid was shown to be more acute in rural parts of the Commonwealth.

Other studies have shown that only about 20 percent of the legal needs of low-income individuals are being met. This can be contrasted with the results of a recent study by the Pennsylvania Interest on Lawyers Trust Account Board (IOLTA)

documenting the benefits generated by legal aid. The study found that for every dollar spent on civil legal aid in Pennsylvania, there is a more than 10-fold return on investment in dollars generated to benefit the client and in savings on things such as shelter costs.

But while the pressing need for some form of civil Gideon may be clear, serious questions have been posed about its implementation, chief among these being where adequate funding will come from when state and local governments' budgets are strapped and contributions to legal aid agencies are stagnant at best. We hope that these hearings will produce some recommendations on possible solutions that may improve access to justice.

In any event, the 50th anniversary of the *Gideon* decision is an appropriate time for the legal profession, the judiciary, the legislature and the community to focus on what steps can and should be taken to help close the civil justice gap. As the late U.S. Supreme Court Justice Lewis F. Powell Jr. observed, "Equal justice under law is not merely a caption on the facade of the Supreme Court building; it is perhaps the most inspiring ideal of our society. ... [I]t is fundamental that justice should be the same, in substance and availability, without regard to economic status."

The ongoing discussions concerning adequate access to counsel in civil cases and helping self-represented litigants navigate the justice system go hand-in-hand with the PBA's efforts this year to highlight in our publications and on the website those "Lawyers Making a Difference" who are providing extraordinary pro bono service. I have had the pleasure of participating in many local bar events where lawyers, legal aid agencies and bar foundations have been recognized for outstanding service to the community and to individual clients facing crisis situations, such as abuse and the need for assistance with housing and benefits following floods or mortgage foreclosure. It has been exciting to hear about what proactive local county bars are doing to launch programs in conjunction with their local court administration to assist self-represented litigants. There is movement on this front from York to Monroe, from Pike to Centre, from Erie to Lancaster, and in other counties as well.

Lawyers are doing their part. As the Chief Justice just noted in his April 2013 letter to the legal profession calling for increased pro bono service and legal aid contributions, every lawyer in the Commonwealth contributes \$35 to legal aid through the IOLTA portion of our annual licensing fee. The Pennsylvania Supreme Court has led



the way in supporting civil legal aid in a variety of manners, from providing new avenues for funding to setting up a loan forgiveness program for legal services practitioners.

The Pennsylvania Legal Aid Network (PLAN), in partnership with our regional legal aid providers and a network of specialty legal aid programs, helps provide the framework and structure for legal assistance for the poor. Pro bono volunteers, encouraged by the Pennsylvania Bar Association and local bars, provide time and financial contributions to help fuel the important work of representing those clients who have critical needs but cannot afford to retain private counsel. Our law schools inculcate the values of pro bono service in the next generation of Pennsylvania lawyers.

It is important that we continue to expand pro bono participation well beyond the core group of lawyers who always can be counted upon to represent another client in need. The public image of lawyers does not always account for the many who are giving generously of their time and expertise to make a difference in people's daily lives. Those PBA members who have devoted many hours to leading the effort to narrow the justice gap and expand access to civil legal representation are to be commended.

But lawyers cannot do this alone and increased pro bono will not close the gap without more. Going forward we need to continue to urge that all the key players, including the judiciary, civil legal aid organizations, the organized bar, the legislature and community groups, actively participate and resolve to bridge the civil justice gap.

Thank you again for the opportunity to present remarks on behalf of the Pennsylvania Bar Association and we appreciate the Committee's willingness to address this important topic.

**Samuel W. Milkes, Esq.**

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### **TESTIMONY OF SAMUEL W. MILKES**

Thank you for the opportunity to testify before your Committee on the very important topic of civil legal aid in Pennsylvania. This is an area of need that I have dedicated my career to. I began as a staff attorney at legal services in Carlisle in 1979 and have been involved in civil legal aid ever since. However, I was also in private practice for 10 years before beginning my current position as Executive Director of the Pennsylvania Legal Aid Network in 2001. That experience helped to educate me about the challenges faced by attorneys and their devotion to providing pro bono services for clients in need.

I am supplying you with an article of mine that was published in the Pennsylvania Lawyer several years ago, entitled “How Pennsylvania’s Legal Aid System is Organized.” In a nutshell, most civil legal aid services in Pennsylvania are provided through the Pennsylvania Legal Aid Network, or PLAN. This network includes the regional programs across the state that provide on-the-ground representation in day-to-day cases, such as protection from abuse, custody, and mortgage foreclosure cases. There are also six specialized programs that are part of PLAN and that provide statewide specialized services, such as in the areas of healthcare and utilities. We receive the state appropriation for legal services, as well as filing fee revenues and IOLTA funds to support this work. Also, the PLAN programs receive a great deal of local support through United Ways, contributions of attorneys and bar associations, local government support and business support.

In addition to the PLAN programs, there are other specialized legal services providers that offer services, generally in the more urban parts of the state, but some are statewide or in rural areas. These programs provide services for clients with needs such as elder clients, disabled clients, clients with AIDS and in other areas.

Finally, I want to mention the important work of private lawyers who provide pro bono representation to clients. Many cases are referred by the local legal aid program to a private attorney who agrees to accept the case without charging a fee. When the referral is made in this way, the attorney's work is covered by the program's malpractice insurance. Private attorneys are to be commended for their contributions to helping assure access to justice for those who cannot afford legal services. Each year, our programs count over 5,000 clients represented in this way and, of course, many thousands more clients are represented pro bono, but referrals come from other sources, especially with the help of local bar associations.

The provision of civil legal services today is in a crisis mode. Some of you may have noticed that referrals you could make in the past cannot always be handled now. I will speak to that crisis, but first let me say what it is we do.

You will hear many client stories during the course of this hearing, and I won't retell those stories, but I want to bring to life the most typical of cases that our programs handle, nearly all of which are emergency cases:

**Last fiscal year, PLAN programs represented 10,879 Protection from Abuse clients.**

A client has been physically abused by her husband, and she is in fear for her own safety and that of her children. The local legal aid program represents this client and obtains a Protection from Abuse Order. While criminal charges will punish the conduct, they will not resolve the questions of who should live in the family home or how custody is handled, and they do not provide the immediate relief of a Protection from Abuse Order which can be enforced arrest if its terms are violated. Many of these cases require in-court appearances and they can often involve contested hearings.

**Last fiscal year, PLAN programs represented 12,754 clients involved in custody disputes.**

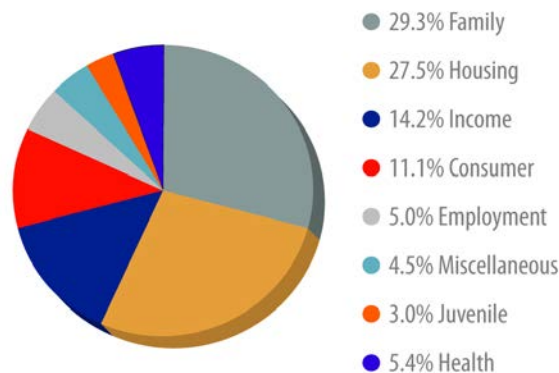
The parents of two young children have split up and they are unable to agree upon the custody arrangements for their young children. As a result, the children are getting bounced around, sometimes missing school, and suffering from the tension between the parents, each of whom believes him or herself to be the proper parent to have custody. The local legal aid program represents the father of the children by filing an emergency

custody petition, alleging inappropriate behavior of the mother when the children have been in her care. An immediate but temporary custody order is entered and a conference with a custody conciliator is scheduled quickly. The legal aid program will continue to represent that client at a hearing if necessary and in the end, a judge will be able to determine what is in the best interests of the children..

**Last fiscal year, PLAN programs represented 7,229 families facing foreclosure.**

The primary wage earner of a family of five was recently laid off due to a downsizing of the company she worked for. As a result, the family has gotten behind on the mortgage. While the family can see a light at the end of the tunnel, and she has gotten a new job, they need a little time to catch up on the mortgage. The bank has filed for foreclosure and is moving to foreclose on the home. The client has made many efforts to contact the bank to try to work this out but can never get a return call and when they do get through, often the bank is asking for information already supplied. In the meantime, the foreclosure has become imminent. The local legal aid program represents this client and is successful at negotiating with the bank’s attorney a dismissal of the foreclosure case, saving of the family home, based on a renegotiation of the terms of the debt and help from Pennsylvania’s HEMAP program.

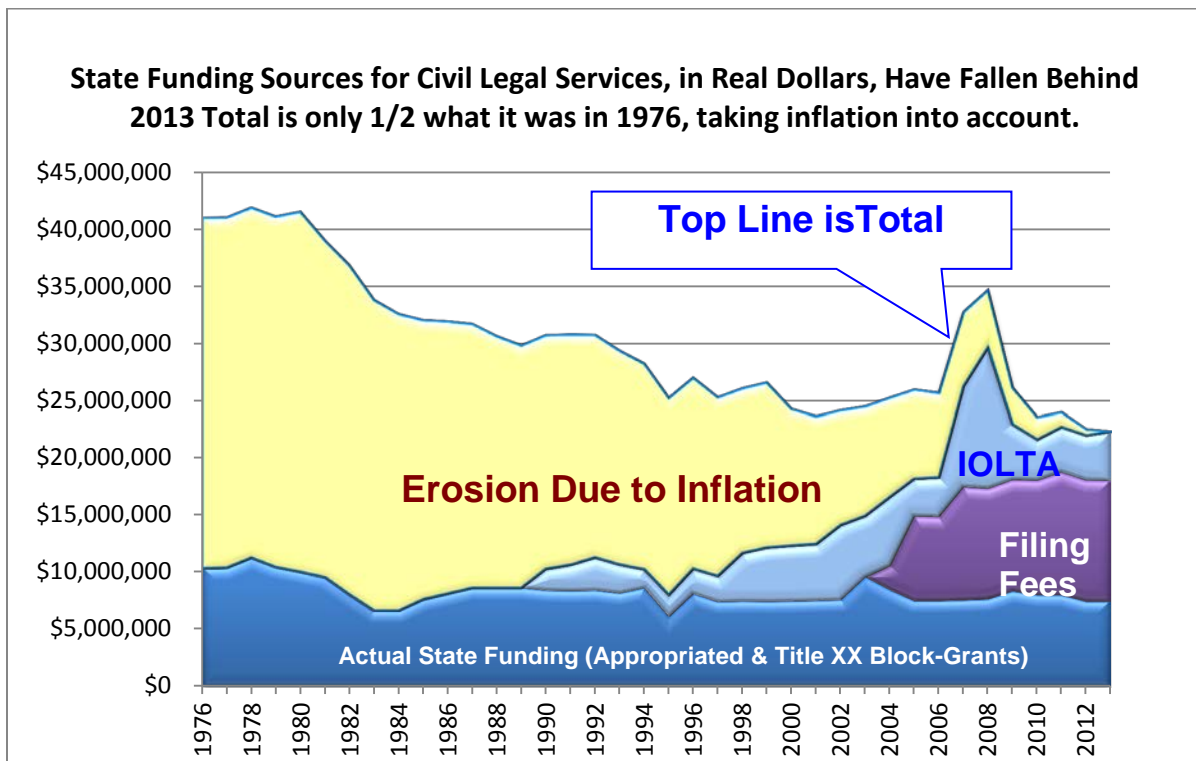
I am supplying a pie chart displaying these and other types of cases handled by PLAN programs during fiscal year 2011-2012:



Despite the good news about the important work of legal aid programs, the state of legal aid today is precarious and is worse than we have seen in many, many years. The

most concrete demonstration of that is the fact that for many years, the PLAN programs have been able to represent over 100,000 clients each year. Last year, the number fell to about 85,000 and this year it will be closer to 80,000. This is the result of diminished or frozen funding, causing the closing of some offices and the laying off of staff. This means that 20,000 people we would have represented two years ago now aren't getting served.. They are the ones who don't get the benefit of PLAN's lawyers saving their houses or getting them protection from abuse orders. This is a crisis.

As we celebrate this year the 40<sup>th</sup> anniversary of the start of state funding for legal services, the graph included in my written testimony displays how modest a celebration that really is. Funding today is about the same as it was 40 years ago. Adjusted for inflation, that puts our state funding at about 1/4 of where it started. We are very appreciative of the added support from the \$3 filing fee surcharges to help support legal aid. We are very appreciative of the IOLTA funds which come from interest generated from lawyer trust accounts. The Supreme Court has been very supportive by adopting a number of initiatives to help fund legal services. Every lawyer, for example, is assessed \$25 when they renew their annual registration. This generates about \$1.5 million. But as this graph portrays, even taking these sources into account, funding today is still only about half of what it was at the outset, adjusting for inflation:



We are proud today to be able to offer the vital services provided by civil legal aid programs. We are very appreciative of the support provided by Pennsylvania's General Assembly and particularly the support of this Committee and its Chairman, who have often been the origin of efforts to help fund civil legal aid. But once again this year, our state funding will be flat. In recent years, it has remained flat or has been cut by as much as 10% in a single year. It is amazing to me that the total state dollars appropriated for civil legal aid are only \$2.5 million

The fact is that even before the more recent cuts, a study by the Legal Services Corporation documented that for each person legal aid is able to represent, another person, eligible for services and actually asking for help, has had to be turned away. This data held true in Pennsylvania and in fact, the data for Pennsylvania shows the need to be especially acute in rural parts of the state. Since this study, the level of service has gone down. It is less than one person being served today for every person we have to turn away. We are an important resource for low-income clients and to help our justice system work. We are looked to and receive constant referrals from domestic violence shelters and local social service organizations, from the Courts, from legislative offices, from other governmental officials, and from communities at large. PLAN, Inc. administers a website at [www.palawhelp.org](http://www.palawhelp.org), which sees about 15,000 hits per month and is a vital and free legal resource for clients, legislators, lawyers, and the community at large. We accomplish a lot for the nearly 100,000 Pennsylvanians we represent each year, but more attention and more resources have to be devoted to legal services in Pennsylvania.

### **Background of Samuel W. Milkes**

Samuel W. Milkes was admitted to practice law in Pennsylvania in 1979. He began his career as a staff attorney in the Carlisle office of legal services and has spent most of his career in legal aid. He was also in private practice, as a partner in the Carlisle firm of Jacobsen & Milkes from 1992 to 2001.

In 2001, Mr. Milkes began his current position as Executive Director of the Pennsylvania Legal Aid Network. From 1986 to 2002, he was Executive Director of Central Pennsylvania Legal Services, an eight-county legal aid program based in Lancaster, which has since merged with other legal aid programs to become part of MidPenn Legal Services.

Mr. Milkes earned his undergraduate degree at Arizona State University in 1974, and his J.D. at Indiana University, Bloomington, Indiana in 1979.

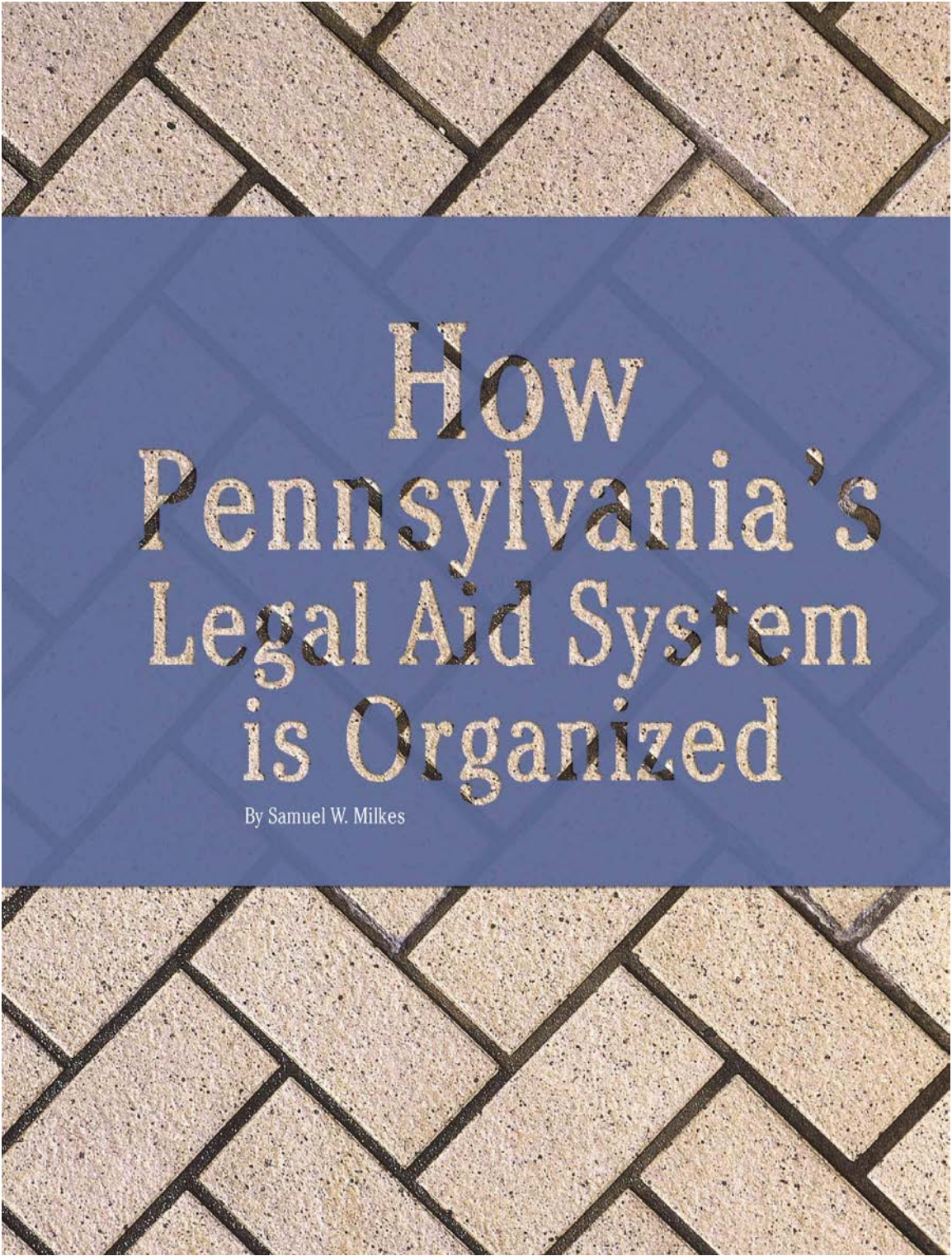
As Executive Director of PLAN, Inc., he is responsible for the organization that administers state funding by subcontracting with regional and specialized legal aid programs. PLAN, Inc. also conducts statewide training events, and oversees the Martin Luther King, Jr. internship and fellowship programs, aimed at promoting a diverse staff in legal aid programs.

Previously, as a practicing attorney, he has represented thousands of clients, especially in the areas of domestic law, including protection from abuse, custody and divorce, as well as criminal defense, and other areas of more complex litigation, including some personal injury and workers compensation representation.

Mr. Milkes lives in Carlisle with his wife and one child, and has another adult child.







# How Pennsylvania's Legal Aid System is Organized

By Samuel W. Milkes

Recently, I read a study on first-year associates in big Philadelphia law firms. These are lawyers handling commercial litigation, transactional matters, real estate and intellectual property — not your usual legal aid cup of tea. I was struck by one statistic in particular. I had not expected that when these lawyers were asked to cite the one reason they wanted to practice law, 15 percent would say they “wanted to right social wrongs.” This reason ranked well above salary as a consideration and not far behind having an “interest in the business world.”

Well, in legal aid, we are often in the business of helping to right social wrongs, often case by case, representing individuals and families who would have nowhere else to turn were it not for our legal help. Most of our cases are in the family law area, with many also involving government benefits, consumer problems, housing problems and a host of other issues.

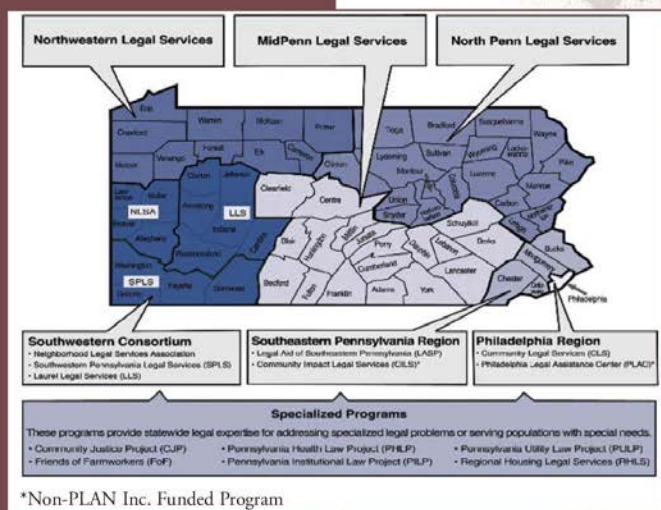
Recognizing that the organization of the civil legal aid system in Pennsylvania is confusing for many, this article is intended as a road map to legal aid. First, a word about terminology. Historically, “legal aid” initially was used as a term referring to free counsel for those facing criminal charges. Over time, the term began to be used for civil legal aid. In the 1970s, efforts were made to move to the term “legal services” when referring to civil legal services. This was seen partly as a way to avoid confusion over the civil/criminal distinction and partly as a way to refer to a more professionalized

Civil legal aid services are available in every Pennsylvania county. Each program operates as an independent nonprofit organization.

connotation in the language. But clients and the public have continued to use and be comfortable with the term “legal aid.” For this reason, many organizations, including my own, again use that term.

Civil legal aid services are available in every Pennsylvania county. While the Pennsylvania Legal Aid Network Inc. (PLAN) distributes state funding and Interest on Lawyers Trust Account (IOLTA) funding to local legal aid programs, each program operates as an independent nonprofit organization with its own board of directors. Programs are answerable to the funding conditions set by these supporters, by the federal Legal Services Corp. (LSC), which contracts directly with most of these programs, and by local funders such as United Way units, city and county governments, and bar associations and foundations.

During the 1990s, at the urging of LSC, some states consolidated their legal aid services into single statewide programs. Pennsylvania leaders took a more conservative approach; which I believe has served us well. Smaller programs, some serving only one county, were merged together to provide core services to six regions of the state. The result was the formation of the eight programs displayed on the map at left. Meaningful local control and accountability are assured through local boards of directors made up of local attorneys, some judges, clients and members of the community.



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Local control and accountability  
are assured through local boards  
made up of local attorneys,  
judges, clients and members  
of the community.

With few exceptions, legal aid programs represent clients whose gross income is at or below 125 percent of the federal poverty level. For a family of four, that's currently an annual income of \$26,500. A person earning minimum wage would not qualify alone, but if that person also supported a child, the family would be eligible. Exceptions to this income cutoff rule: As specified by funding from the state, victims of domestic violence are represented without regard to income; and where the local Area Agency on Aging has contracted for services with legal aid, income guidelines do not apply. Some funding sources allow for variations on the income cutoff, up to about 200 percent of the federal poverty level.

Within certain parameters, each program decides on how best to spend its money and allocate its services. The stark reality is that all our programs must prioritize their services; they can't do it all. A recent LSC study found that only half the eligible persons presenting themselves to legal aid offices in Pennsylvania can be represented. So how are these services rationed? While PLAN programs handle about 100,000 cases annually, these programs must also decide whom to turn away. In one county, mortgage foreclosures may be a high-priority need because of abusive lending practices or especially dramatic declines in property values. In another county, the highest need may be for help with unemployment compensation and other employment-related issues because of higher unemployment rates. One county may have in place a well-functioning custody dispute system, where fewer lawyers are needed; a neighboring county may need more assistance from lawyers to help make the system work.

Of course, the degree of pro bono services also varies from county to county. Legal aid programs and county bar associations or independent pro bono programs are the usual starting places to get referrals for pro bono representation by lawyers from outside the legal aid system who have offered to help. In some counties, there are very active panels of lawyers covering many types of client needs. Other counties have more scaled-back levels of participation. We in the legal aid community were very excited to witness the PBA's action in June 2007, under its then-President Andy Susko's leadership, adopting a resolution that sets the bar's commitment and expectations for providing pro bono help. Still, the level of volunteer service available can greatly impact the level of overall service available in any given county.

Generally, legal aid programs  
represent clients whose gross income  
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poverty level.

In some counties, we know that as many as 80 percent of litigants in family law matters enter the legal system unrepresented. While the pro bono and legal aid systems continue to try to address this, there are also ways in which self-represented litigants are being helped, through the Internet and through standardized forms. The Pennsylvania Supreme Court recently announced an important initiative to standardize forms in the family law area. Ironically, counties offering help to self-represented litigants have not necessarily seen a rise in numbers of the self-represented. But for those who must proceed this way, they are better equipped.

The PLAN programs don't have a monopoly on the legal aid market. While our core programs together provide services in every county and

The stark reality is that all our programs must prioritize their services; they can't do it all.

our specialized programs provide an array of additional needed services, there are other sources of help. Along with independent pro bono referral programs, there are some free-standing legal aid programs that are not part of PLAN. Some of these programs provide vital services that emphasize representation of children, our older population, women and clients who are HIV positive. Others focus on particular areas of law such as education or disability. We consider the combination of the PLAN programs and these other programs to offer an overall web of assistance, often allowing for some level of help to those in need.

The variation of services from program to program and county to county can be frustrating and confusing. We recognize that. But weigh that against what a one-size-fits-all system would look like. Most programs have telephone intake systems, so one can easily determine whether the case is handled and, if not, what other resources might be available.

Programs have plans in place to deal with problems arising in other counties. For example, if a client lives in Erie County, but the legal problem has its venue in Montgomery County, contact with either of these programs will lead to a coordinated result, allowing for the client to be represented.

The PLAN system also has six specialized programs listed on the map. These programs are relatively smaller. They provide targeted services in specialized areas such as health and utility law. Their services are accessed differently, depending upon the program. But where there is a need, each program can easily be contacted for services.



See the PLAN Web site at [www.palegalaid.net](http://www.palegalaid.net).

Another resource is the [www.palawhelp.org](http://www.palawhelp.org) Web site.

Speaking of contacting programs, all the PLAN programs have Web sites. Many answers can be found by going to the PLAN Web site, [www.palegalaid.net](http://www.palegalaid.net), which will direct a visitor to the program he or she needs and provide other key information. Our companion Web help site, [www.palawhelp.org](http://www.palawhelp.org), which is promoted and maintained in partnership with the PBA, offers a wide array of information to the general public and to lawyers who may be seeking help maneuvering through the legal aid system or the court system, looking for information about a substantive area such as how to claim a security deposit or just trying to locate the nearest Social Security office. We receive 15,000 page visits monthly at the help site and are told it is a great help to lawyers and to the public.

Although we are doing a lot, legal aid programs and their clients need your help. Please consider getting involved, if you aren't already. You can donate your time or dollars to legal aid and pro bono programs. You'll make a difference. ☺



Samuel W. Milkes is executive director of Pennsylvania Legal Aid Network Inc. (PLAN).

To comment on this article for publication in our next issue, please e-mail us at [editor@pabar.org](mailto:editor@pabar.org).

# **Linda Yarison**

*Client of North Penn Legal Services*

## **TESTIMONY OF LINDA YARISON**

*Client of North Penn Legal Services*

This statement is in regards to our foreclosure on our property. My husband, Charles Yarison, had a bad fall from an accident in 2005 that caused massive head trauma that affected his ability to work. Because of the head trauma he is unable to hold a job and drive a vehicle. As a result, he also had personal issues that caused him to leave our home up until November 2007. During that period, I was the only one bringing home any income, and I was also struggling with my own work injury. In 2006, I was working for Bayada Nursing when I was hurt on the job. I fell and injured my shoulder and back and was off work without income for a period of time. I had a series of surgeries to repair my shoulder.

As soon as I knew that we were going to miss a mortgage payment, I contacted the mortgage company. That was in 2006. They told us about modifications for people who couldn't make their payments. We applied and didn't get any response. When I called the mortgage company, they refused to talk to me and wanted to talk to my husband, who had brain damage from his accident. Then they would say they never received the application, or it was missing documents, and I would have to apply again. I can't even remember how many times we applied for a modification. We wondered every day if the sheriff would be serving us a foreclosure notice.

What started as a big relief - knowing there was a modification that could possibly help us keep our home - turned into a five year nightmare. No one will ever know what we have been through.

When we did get the foreclosure, Legal Services represented us and tried to get the loan modified. After sending in documents over and over again, the first offer was to pay more than we could afford. The second offer, months later, we felt we could afford. AFTER we accepted it and started making payments, the mortgage company demanded a

\$5000 payment that was never in the modification. They claimed there was a missing paper that required \$5000. The third time, the same thing happened again, but we expected it and had the down payment, so our attorney asked the court to enforce the modification. I was trying to save all my money, not knowing if we could save our home, and I had to voluntarily give up my car

In 2009, while we were still fighting with them in court, we heard about the new government modification program that might make our payments even lower, so we applied. It was the same thing all over again because we had to apply through the mortgage company, not the government, and it was not organized. We finally did get the government program that made our payments \$135 less than they were.

The foreclosure case was finally over in 2011. Our attorney worked endlessly on helping us save our home. This was an ongoing nightmare and put so much stress on us. My husband and I were both dealing with so many health issues, and the stress over those five years made everything so much worse.

Linda Yarison



**Honorable Todd A. Hoover**  
*President Judge,*  
*Dauphin County Court of Common Pleas*

SENATE JUDICIARY HEARING  
MAY 7, 2013

Honorable Todd A. Hoover, President Judge  
Common Pleas Court of Dauphin County  
Dauphin County Courthouse  
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Harrisburg, PA 17101  
Telephone: (717) 780-6670  
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**TESTIMONY OF TODD A. HOOVER, PRESIDENT JUDGE,  
COMMON PLEAS COURT OF DAUPHIN COUNTY**

Good Morning Senator Greenleaf and honorable panel members. Thank you for the opportunity to speak at this hearing. My name is Todd A. Hoover. I am currently President Judge of Dauphin County, a position I have held for over three years.

For the last twenty years, I have been honored to serve on the bench of the Dauphin County Court of Common Pleas. Before, being elected to the bench, I practiced in the state and local courts of Pennsylvania as an Assistant District Attorney for four years, then as a private practitioner for ten years. Over these last twenty years on the bench, I have observed a significant increase in pro se representation and the need for self help resources in the Court of Common Pleas.

The unrepresented party is not just another entry into our dockets. While they may be economically disadvantaged, these parties are often contributing citizens in their neighborhoods and Dauphin County. Many are underemployed, undereducated, and unskilled. Some are middle-class citizens who are financially overextended and cannot afford to hire an attorney. All of these citizens deserve equal treatment in the courthouse and by our legal system.

Unrepresented litigants are the most vulnerable of our citizens, usually frightened and confused by a legal system they do not understand. They have much to lose in the legal proceedings which have entangled their lives.

Dauphin County is blessed to have an excellent courthouse self-help center and a top-notch *pro bono* program. Dauphin County's model self-help center continues to expand its offerings to increase access to the legal system. In my opinion, the courthouse doors are indeed open to all. I can say with confidence that the filing fees for *in forma pauperis* status persons allow equal access to justice. However, the real question is, once they have that access, can unrepresented litigants received equal justice under the law? Providing representation to vulnerable, unrepresented litigants not only helps the litigants, but helps safeguard the integrity of the legal system as a whole.

### **Time-Consuming Drain on Resources**

Cases involving unrepresented litigants take more time to process than cases where both sides are represented by counsel. Unrepresented litigants look to courthouse staff to help them. Judges and courthouse staff must spend substantial time on these cases, time which could be devoted to other cases. In addition to their time consuming nature, frequent inquiries from unrepresented parties place courthouse staff and judges in difficult ethical dilemmas.

### **Screening/Mediation/DCBA**

If we were able to provide attorneys to people with legal problems early on, we could often avoid the filing of many of the cases which **clog our dockets**. Many of these cases would not be brought if the parties had consulted with an attorney before filing an action.

Furthermore, each step in the litigation process is unduly delayed because the unrepresented litigant is completely **unfamiliar with the process**. Not surprisingly, unrepresented parties often need to return to court because filings are incorrect or incomplete, and procedural **items are missed**. Valuable court time is spent on cases which are ultimately **dismissed**.

Because meaningful settlement discussions are rarely possible with unrepresented litigants, many cases which should be settled early on proceed **unnecessarily to trial**. When those cases go to trial, the trials last substantially longer than those involving represented litigants. We have **repeated continuances**. **The unrepresented party** cannot present their case or resolve cases that otherwise could be resolved if an attorney were involved on both sides. Having attorneys on both sides **simplifies the process** of reaching fair agreements. Unrepresented parties will sometimes agree to **unreasonable terms** so as not to antagonize the adversary.

### **Negative Impact on the Quality of Justice**

From the beginning, an unrepresented litigant faces **difficulty navigating a system** which lawyers have gone to law school to learn. It's like forcing someone to play poker without telling them the rules, and where the chips are the player's children, finances, home or job. **The misunderstanding of the process** begins at the inception of the case

The unrepresented party often incorrectly alleges important dates in the complaints, which may be poorly and incompletely drafted. The unrepresented party's lack of knowledge about the law results in **confusion** over issues.

As judges, we have difficulty **ascertaining the facts** in these cases, because the unrepresented party fails to properly present necessary **evidence**. Unrepresented litigants are rarely aware of the **burden of proof** associated with their case. The **testimony** from an unrepresented litigant is usually excessive and unrelated to any of the issues at trial.

There are rarely objections by unrepresented litigants, resulting in the presentation of long-winded, extraneous and irrelevant matters.

Unrepresented litigants are usually unable to present effective **witness examination** and arguments. Although legal issues are paramount to proper resolution, unrepresented parties are generally unfamiliar with the appropriate and requisite case law. The basic constitutional due process questions of notice and opportunity to be heard require the judge to explain the various **civil legal procedures**, the subject of several courses in law school, to the unrepresented litigant in five minutes or less. The Court has to **explain matters** that would otherwise not be discussed, such as the trial process, the meaning of evidentiary rulings, and why evidence was not admitted.

### **Ethical Catch-22**

As you can probably imagine, it is difficult to remain **neutral** in a proceeding in which unrepresented parties face able counsel, and the unrepresented party lacks the ability to introduce into evidence a decisive document, or even ask the right question.

This difficulty in maintaining neutrality is particularly challenging in cases in which a party's home, access to health care, ability to feed, clothe or educate one's children, or escape from domestic violence, are at stake.

It stretches our **neutrality** when judges attempt to engage in a case involving unrepresented litigants. Even more, it is painful to see an obvious **unfair advantage** for

the party with experience and proper counsel over those who cannot afford legal assistance.

Judges are not the only ones in the courthouse walking this ethical tightrope. **Opposing counsel** must avoid **overstepping lines** when the opposing party is unrepresented.

Finally, the entire courthouse staff faces the struggle of attempting to explain the legal process to the unrepresented litigants, help them understand the pleading procedures, and provide the correct forms, **without crossing the line** to improperly providing legal advice.

### **Low-Income Parties Face More Complex Issues**

We are all familiar with the recent economic crisis; however, the effect of the economy on low-income individuals and their families is much more devastating, than to those who have blessings of emergency savings, higher education, and/or family support structures.

Legal issues significantly affect the day-to-day lives of low-income citizens. Low-income litigants are involved in family law, consumer credit problems, landlord-tenant issues, custody filings, and child support conferences. While the issues they face, and too often face alone, run the gambit, we find that litigants in **family court** are the first to feel the effects of the economic crisis.

### **Conclusion**

Like many President Judges across the state, I see our court system pulled in many directions when faced with unrepresented parties. How can we best serve the public, access and ensure equal justice for all parties, provide for efficient case

management, wisely use our limited budgets, and maintain the integrity of the legal process?

It is my opinion that the lack of sufficient funding for legal services to the indigent in civil matters has, and will continue to have, a counterproductive effect on our legal system, and will continue to overburden the courts, court administration and court-related departments, and will directly lead to unfair results with the potential to do harm to those without financial resources.

**BIOGRAPHICAL SKETCH OF TODD A. HOOVER, PRESIDENT JUDGE,  
DAUPHIN COUNTY COMMON PLEAS COURT**

President Judge Hoover was born in Harrisburg and graduated from Upper Dauphin High School. Judge Hoover is a 1976 graduate of Indiana University of Pennsylvania with a degree in Criminology and a 1979 graduate of Delaware Law School. From 1979-1983, Judge Hoover served as Dauphin County Deputy District Attorney.

For the next decade (from 1983 to 1993), Judge Hoover was a sole practitioner with a broad general practice including Criminal Defense, Family Law, Wills & Estates. He also served as special counsel to the Domestic Relations Office, a Dauphin County Divorce Master, solicitor for Pennsylvania State Police Court Martial Board, and solicitor for Middle Paxton Township Zoning Hearing Board.

President Judge Hoover was originally elected to bench in November 1993 and retained in November 2003. Currently, he serves as President Judge of Dauphin County. President Judge Hoover presides over Criminal Cases, Orphans' Court, and the Dauphin County Grand Jury.

President Judge Hoover has been a guest lecturer at Widener School of Law and Temple University. He has spoken at state and national conferences on the use of Family Group Decision Making as an alternative sentencing practice in Juvenile Delinquency and Adult Offenders.

In 2008, he received the Pennsylvania Bar Associations Pro Bono Judge Award. In 2011, the Pennsylvania Supreme Court appointed Judge Hoover to serve as Co-Chair of the Constable Handbook Committee. In 2012, the Pennsylvania Supreme Court appointed Judge Hoover to serve as Chairman of the Juvenile Court Procedural Rules Committee. In 2013, the Pennsylvania Supreme Court appointed Judge Hoover to the Statewide Committee on Elder Abuse.



**George Dingler**  
*Client of MidPenn Legal Services*

## **TESTIMONY OF GEORGE DINGLER**

*Client of MidPenn Legal Services*

My name is George Dingler; I am 62 years old and I live at 302 Don Drive, in New Holland, Pennsylvania. I am a Vietnam Veteran and I have worked all my life as a laborer.

I had a pacemaker installed in 2006 after I collapsed at work in 2006. In 2009, I was forced to stop working because I was having serious problems with my heart and lungs. I applied for unemployment compensation but once my unemployment ran out, I no longer had any income. Winter was coming and I had no propane for heat or cooking and I had little food to eat. I couldn't get a job at Wendy's, I know because I tried three times. I tried to get assistance from the VA but they said they could only help me if I was wounded in battle. I got some help from a local food bank. But without money I had no other housing options and I knew any shelter wasn't going to take my dog. I called an attorney numerous times who advertised on TV about getting Social Security Disability but I did not get a call back. It wasn't long before I fell behind on my payments for my mobile home, where I had lived for eight years with my dog.

In 2010, the Sheriff Department came to my home and gave me papers. They said the next time they came by they would have to lock me out. They showed me on the papers that I could apply for MidPenn Legal Services. They were very nice to me; they even brought me a 50 lb. bag of dog food a few days later. I had tried to get help but couldn't find anyone to help me. I was feeling depressed and hopeless because I didn't have any other place to live or any money to even rent a hotel room. I was in Vietnam and knew I could go live in the hills if I had to, but I know that my dog would not have survived. I couldn't let that happen.

I called MidPenn Legal Services and was given an appointment to meet with an attorney. When I met with Attorney Linda Timberlake from MidPenn Legal Services, I explained my situation and she immediately made me feel comfortable and like I had known her forever. She talked to me about applying for Social Security Disability benefits. I told her that I had worked for all of my life and I didn't want any handouts.

She explained my options and convinced me to file the papers needed to get food stamps, medical assistance and for Social Security Disability benefits. Not only that, she helped me create a budget. On my limited budget, I was not only able to keep my home but I was able to get caught up on all of my bills. My attorney not only opened doors that I could not open myself, she gave me the information I needed to maintain my life going forward.

MidPenn Legal Services also connected me with the Lancaster Bar Association's Volunteer Attorney Program. My Pro Bono lawyer, Mitchell A. Sommers, has filed a Chapter 11 Bankruptcy Petition so I can stay in my mobile home and I'm getting caught up in all my bills. I feel indebted to these people for helping to take the weight of the world off of my shoulders. And I get to keep my companion, my dog, Ruby.

George H. Dinger  
302 Don Drive  
New Holland, PA 17557

# **William F. Rothman**

*RSR Realtors*

## **TESTIMONY OF BILL ROTHMAN**

*RSR Realtors*

My name is Bill Rothman and I founded RSR Realty in 1970. Our office is at 3 Lemoyne Drive #100, Lemoyne, PA, 17043. I am actively involved in supporting the Dauphin County Bar Foundation's Custody Attorney Campaign which raised funds to hire a Custody Attorney at the MidPenn Harrisburg office. My friend Attorney Jeffery A. Ernico approached me along with Attorney James P. De Angelo and asked me to consider having a breakfast to introduce some of my business friends to the campaign. I was proud to do that and I've been very pleased to learn about the effectiveness of MidPenn Legal Services and this position in particular.

I am a donor to the campaign and I've reached out to friends like Bill Lehr of Capitol Blue Cross which has also joined in the effort. Many area leaders in both business and government have teamed up with the Dauphin County Bar Foundation to make this happen. The Dauphin County Commissioners and Metro Bank lead a host of law firms and local foundations on this list. I'm proud to be a part of this partnership of public and private funding which has raised over \$320,000 to hire the Custody Attorney for five years.

We all know that there are an overwhelming number of single parent households these days. When mom and dad can't agree on where children should live, there is a high probability of serious stress for all involved. These situations are extremely upsetting to the children and lead to an atmosphere of impulsive actions. I read case reports from the campaign about angry parents fighting about custody rights and over the timing of visits. I read about children being snatched from their homes and hidden from the other parent. Many times these case reports involve domestic violence and I can't imagine growing up in such a home environment.

An extraordinary number of low-income people come to MidPenn for help on these matters. Since December of 2010 when we were able to raise sufficient funds to hire our Custody Attorney, she has handled 432 local custody matters, helping 1105 family members. The cost per case is less than \$250. About 85% of these cases settle fairly

quickly. The families receive a court order which is a clear road map for them to follow. The court determines what is best for the children and the rights of both parents are spelled out.

As a businessman I'm acutely aware of the importance of a stable workforce. When employees are distracted by custody battles, both their work performance and attendance suffers. Arguing over custody rights and using children as bargaining chips is destructive not only to those in the immediate family but to the entire community. I believe that having a custody order in place makes for a more stable situation for these families. It gives these kids a chance to grow up in a steady and supportive home. I think it can help to reduce incidents of domestic violence in these households. We all have a stake in this because stable families make stable communities. I support funding legal aid. I've seen firsthand the scope of the need as well as the good work they are doing for our communities.

# **Elaine Strokoff**

*Executive Director, Downtown Daily Bread*

**Elaine Strokoff**  
**Executive Director, Downtown Daily Bread**  
**234 South Street**  
**Harrisburg, PA 17101**  
**(717) 238-4717 (717) 232-9341 fax**  
**estrokoff@pinestreet.org**

### **TESTIMONY OF ELAINE STROKOFF**

Thank you for the opportunity to testify on the important topic of civil legal services in Pennsylvania. My name is Elaine Strokoff. I am the Executive Director of the Downtown Daily Bread (DDB), a soup kitchen located just down the street that provides a nourishing, hot meal for the poor and homeless of downtown Harrisburg. This is done at no cost to the recipient.

DDB operates under the philosophical belief that **all human beings are created equally**. Men, women, and children of all races, religions, ethnic backgrounds and socioeconomic levels deserve to have their basic human needs met and to be treated equally. All human beings should have access to food, shelter, and clothing.

In recent years, DDB has grown to include a wide range of services for the poor, including offering personal hygiene services, clothing, and information and referral services to other resources. We have a counselor on staff who works directly with clients and offers referrals to other human and social service agencies in the community, including legal services.

We also collaborate with many other community organizations to offer holistic services to our homeless and at risk clients at our own facility. For example, we bring in an employment counselor from the YWCA once per week to help our clients work on resumes and obtain employment. We also have a mental health professional from Dauphin County Mental Health who provides homeless outreach services at DDB one day a week. Student nurses from Messiah College and Harrisburg Area Community College as well as Hershey Medical Center students also come to our facility to help.

We also collaborate with the Dauphin County Bar Association and their Homeless Outreach Project. Through this program, attorneys volunteer their time to come to our



facility once a month to answer legal questions for DDB clients, help them understand legal issues, and refer them to legal services agencies if needed.

I am here to talk about what civil legal services can achieve for clients and the urgent need to expand access to civil legal assistance in the community we serve. Many of the homeless clients we serve at DDB have suffered because they have not had access to legal services. MidPenn Legal Services provides high quality legal services. However, the sad fact is that many more clients in our community need legal help than we are able to refer to legal services programs whose resources are stretched beyond the breaking point.

As community advocates, we see, every day, the difficulty low-income people face when they confront the legal system on their own, without the aid of a trained legal advocate.

Some of our clients became homeless after an unfortunate family breakdown. These clients may face family law and domestic violence related issues often without the assistance of counsel or even the chance to talk to an attorney for some advice. Some of our clients became homeless after encountering a financial crisis that led to eviction and loss of housing. Many people end up in a financial crisis after they or one of their loved ones fought a life-threatening disease which resulted in a loss of employment and insurmountable medical bills. When the choice is paying for the medicine or paying for rent, there are no good answers.

Increased foreclosures and the economic downturn have contributed to a significant increase in homelessness and the risk of homelessness for individuals and families in our community. Increased rates of foreclosures are leading to homelessness for low-income homeowners and renters of foreclosed properties, while prolonged unemployment is leading to a widespread inability to afford mortgage or rent payments.

To further exacerbate the situation, a person's lack of a permanent place to live may also give rise to other legal problems (in addition to the family and financial issues they already have) including criminal victimization (physical, sexual and emotional abuse of children, women and seniors), discrimination (based on race, class, sexual orientation, and gender, for instance), and failure to respond in a timely fashion to important legal

deadlines. Tragically, a homeless person may have several legal issues and their homelessness may place them at further risk of additional legal problems.

Many homeless people have more than one legal issue affecting them at any one time. Furthermore, homeless people face more legal events than those of us who were not homeless. Thus, the people least able to afford a lawyer have a much greater need for a lawyer.<http://www.lawfoundation.net.au/report/homeless/542FFB245EA2D68BCA25707500829078.html> - [bmk\\_fnote4](#)

Civil legal problems that impact our homeless clients include a variety of legal issues that preserve the “essentials of life”:

- Evaluations of claims for government benefits such as public assistance or Social Security Disability benefits;
- Unemployment insurance appeals,
- Housing and homelessness issues such as foreclosures, evictions, tenant/landlord disputes, and housing discrimination;
- Family law, including divorces, child custody, child support, and domestic violence;
- Consumer protection issues, debt collection, and bankruptcy;
- Elder law, such as concerns of nursing home residents;
- Mental health and disability issues, especially where benefits are denied; and,
- Other non-criminal legal problems.

Had a free attorney been available to assist a low-income person with limited English facing an illegal eviction, one less client may need our help. Had a free attorney been available to help that person negotiate additional time to relocate, one less client may need our help.

Had a free attorney been available to help a young unemployed spouse divide the marital assets in an equitable fashion, one less client may need our help. Had a free attorney been available to help establish a fair child support order, one less client may need our help.

Had a free attorney been available to go to the District Justice with a working adult with unpaid credit cards debt, a young man may have avoided the repossession of his car and the resulting loss of his job, and one less client may have needed our help. Had a free attorney been available to help an Iraq war veteran appeal his denial of Veterans Benefits, one less client many need our help. For example, many veterans are denied the financial benefits that could allow them to pay rent, because a simple error is made in the medical review. Yet, without a lawyer, this soldier just figures he is out of luck once again.

Legal Aid lawyers and/or pro bono attorneys provide invaluable legal assistance to allow low income people to maintain the bare minimum essentials of life and may be help a person avoid homelessness in the first place and, thus, reduce the need for programs like ours. If I can provide you with any additional information, please do not hesitate to contact me. Thank you.

### **Background of Elaine Strokoff**

Elaine Strokoff has been with Downtown Daily Bread (DDB) for the past 18 years. She was hired as a volunteer coordinator and expanded her role to become the Executive Director. DDB is a soup kitchen located in the Boyd Building of The Pine Street Presbyterian Church in downtown Harrisburg. We provide hot, nutritious meals for the needy and the homeless of the city. The meals are served daily between the hours of 12:30 p.m. and 1:30 p.m. The soup kitchen was opened in March of 1983 out of concern for local hunger needs. There is no cost to the recipient and no questions are asked.

During her time at DDB, she has expanded the program to include 19 participating churches and synagogues. She is also responsible for starting the “Lunch Plus” program. This program provides an extensive range of services for the needy and homeless clients free of charge. It is a program unique to Harrisburg in that all of the services are provided in one location.

The Lunch Plus component of the kitchen offers phone, mail service, and lockers as well as clothing for men and women. Showers are also available and haircuts are offered monthly. There is no charge for these services. In addition, a counselor is present to help clients access DDB services and the services of other social agencies. DDB has collaborations in place with many organizations in the area. An employment counselor from the YWCA meets with DDB clients once per week to help them work on resumes and work toward employment goals. A mental health professional from Dauphin County Mental Health serves as a homeless outreach professional at DDB one day a week. In acknowledgement of these collaboration efforts, DDB was awarded the 2003 Non-Profit Innovation Award in the area of Collaboration by the “Central Penn Business Journal.”

Elaine is also active in city and county organizations which deal with hunger and homelessness. She represents Downtown Daily Bread at the Dauphin County Poverty

Forum, Dauphin County Diversity Networking Group, and is a founding member of CACH (Capital Area Coalition Against Homelessness) where she serves on the Service Delivery committee. Elaine was a member of the Board of PROBE for 4 years. She is also a member of the President's Advisory Board of Central Pennsylvania College.

Before coming to DDB, Elaine was an assistant legislative liaison for the Department of Community Affairs, a staff assistant at the PA Jewish Coalition, and a secondary education teacher. She has spent many years volunteering, including serving as President and National Board representative for the Harrisburg Chapter of Women's American ORT (Organization for Rehabilitation through Training.) She also served on the East Pennsboro Superintendent's Advisory Board and the East Pennsboro High School Principals Advisory Board.

Professional awards include: Greater Harrisburg YWCA President's Award; Soroptimist International Making a Difference Award; the Non-profit Innovation Award for Leadership Excellence; The Kathryn Towns Founders' Award from P.R.O.B.E (Potential Re-entry Opportunities in Business and Education), and the Open Stage Women Who Care Award. Elaine resides in Camp Hill with her husband, and has four grown children.

# **Honorable Chester Harhut**

*Senior Judge,  
Common Pleas Court of Lackawanna  
County*

**Honorable Chester Harhut, Senior Judge**  
Common Pleas Court of Lackawanna County  
200 Adams Avenue  
Scranton, PA 18503  
Telephone: (570)-963-6306  
Fax: (570)-496-1734

## **TESTIMONY OF HONORABLE CHESTER HARHUT**

I am pleased to appear before the Senate Judiciary Committee on the important topic of the availability of civil legal services in Pennsylvania. I wear two hats in commenting on this. I have been a Court of Common Pleas Judge in Lackawanna County for 26 years. Seventeen of those years as a family court judge and ten years as President Judge. I am currently President of the Board of the Pennsylvania Legal Aid Network, the umbrella program that administers state funding sources to legal aid programs across the state and that offers training and other services to legal aid programs. I have been a member of the Board since 2008.

The network of legal aid programs provides essential services to low income clients across the state. Historically, the network has provided representation to over 100,000 clients annually. However, due to cuts and funding freezes, some program offices have been closed, staffing of programs has been reduced, and the number of cases handled has declined to about 85,000 during the current fiscal year.

The Pennsylvania Legal Aid Network represents clients in a variety of civil legal problems. The case types are mostly in the areas of family law, making up one third of the cases, especially protection from abuse cases and emergency custody cases. This is closely followed by housing cases, which mostly involve foreclosures and evictions. These are extremely important areas of representation, having to do with personal safety, wellbeing of children, and housing for families.

Because you are also hearing from Sam Milkes today, Executive Director of the Pennsylvania Legal Aid Network, I want to direct my comments primarily to the functioning of the courts, and access to fair and equal justice, when legal services are and are not available to individuals involved in civil cases in the courts.

I have presided over many types of cases during my tenure as a Common Pleas Judge. However for the last 17 years the cases before me were primarily in the family law

area, especially involving protection from abuse, custody, and child neglect and abuse cases. Here are my observations.

At least 50% of the individuals appearing before me in these cases were unrepresented. Often both sides were unrepresented, but sometimes, one side was represented and the other side was not. The overwhelming reason this occurred was that people with low incomes were not able to afford counsel and the legal aid program serving our area was not able to represent all who qualified. In fact, statistics show that for each person represented by legal aid in Pennsylvania, another person who qualified for services and requested help had to be turned away due to lack of sufficient resources.

Individuals who represent themselves at the Common Pleas level are at a great disadvantage. Common Pleas Courts are formal courts. Judges and litigants must follow The Rules of Civil Procedure. If a judge chose, for example, to pass over a hearsay rule and allow or disallow testimony because the rule was simply too difficult for the self-represented person to understand, this could become a basis for reversing the outcome of the case. So instead, Judges must enforce this and other formal rules. Many people are unfamiliar with how even to present a case in court, by questioning witnesses, as opposed to just wanting to tell the story themselves. Again, imagine how difficult this can be for a self-represented litigant who is up against a party who is represented. How does the individual counter the hearsay objection made by an attorney, or correct the manner of presenting evidence when an objection is made?

Judges now receive training on how to effectively deal with self-represented litigants, but the challenges to the litigants and to the court are tremendous.

Imagine the difficulty for a victim of domestic violence who is seeking a protection from abuse order. Whether the opposing side is represented or not, the fact is that the victim will be placed in the position of being in a courtroom and having to question the abuser on the witness stand and sometimes of having to be subjected to cross examination by the abuser.

Self-representation in cases such as this is very problematic in two ways. First, it puts the parties directly against each other, instead of having trained lawyers fulfill the role of reasonably presenting the evidence and witnesses, so that a decision can be calmly made according to the principles of law, and so the parties are not directly confronting each other.

Second, a frequent benefit of having lawyers involved is that disputes can get worked out. Lawyers know how the law will apply to a particular situation and they know how judges are likely to rule. While not all cases settle, many do, especially because of the skill of lawyers, who know how to settle cases.

When cases cannot settle, the court system itself gets bogged down. Disputes go to trial when they shouldn't. Cases get delayed and justice slows down when an agreement should have and could have been reached. When the parties are left to try to settle their case themselves, there are great risks and the attempt is usually unsuccessful. When there is unequal power, such as when one party is physically intimidated by the other party, but even when the parties are of different intelligence or skill level, an agreement is hard to reach.

I could go on, but the point is, in my experience the court system itself does not work as well when parties in need of representation are not represented. And the resolution of disputes between the parties is often less satisfactory and can be unnecessarily contentious or even dangerous for the parties who represent themselves. Even the outcome of the case may be wrong, simply because a self-represented party was unable to properly put on his or her case.

As a judge, there are times when I find it so important for a person to be represented in a case that I will send a member of my staff into the halls of the courthouse to find a lawyer who will handle the case on a pro bono basis. Of course, this is not always successful. There are times when I have to continue cases in order to find a way to get an attorney involved. These situations especially involve custody cases, where I must decide what is in the best interests of the child, not necessarily the parents, and I am concerned that I am not getting a full or accurate description of the facts. There is a crisis in our legal system when judges are concerned they do not have the information before them that is needed to make a fair decision.

My observation is that when legal aid is involved in representing clients in civil cases in court, there are good results, both for the court and for the client. This does not mean that they win every case, but it does mean that the court system itself works well and that the parties in the case understand the process and results, and that they get a fair shake in the outcome, within the rules of court proceedings.



I find legal aid lawyers to be knowledgeable of the law and effective at negotiating cases and representing clients. I also find they are effective at screening cases. Given their limited resources, they do not have an interest in bringing cases where there is not merit to their side of the case.

Thank you for the opportunity to present these comments.

### **Background of Judge Chester Harhut**

Judge Chester Harhut was first appointed to the bench of the Court of Common Pleas of Lackawanna County in April 1987 and served as President Judge of that Court from October 2000 through December 2010. He retired at the end of 2012, after 26 years on the bench and now continues to hear cases as a Senior Judge. He graduated from the University of Pittsburgh, School of Law in 1972 and received a Master's degree from the University of Nevada National Judicial College in 1995. Judge Harhut became Administrative Judge of Family Court in 1996. At that time, he also integrated human services into the legal system to alleviate conflict while helping families achieve a permanent solution to family issues. Judge Harhut has also instituted major reforms in family practice in Lackawanna County, including establishing Kids First, Co-Operative Parenting, Mediation, and programs to help parents understand the effects on their children of separation and divorce. Since the introduction of coordination between the court and social services, recidivism dropped considerably. Judge Harhut is a strong proponent of resolving conflict through support services and alternative dispute resolution and a strong advocate of mediation as an alternative to litigation. He also spearheaded an anti-truancy program which focuses on reducing criminal activity while strengthening the importance of education. Since its inception, it has been expanded countywide. Judge Harhut currently serves as President of the Board of Directors, Pennsylvania Legal Aid Network; he serves on the Pennsylvania Bar Association Youth Court Advisory Board; and as Past-President of the Pennsylvania Conference of State Trial Judges.

Judge Harhut also serves on the Board of Trustees of the National Council of Juvenile and Family Court Judges; he is a member of the National Judicial-Child Support Task Force, Pennsylvania Early Learning Investment Commission and Chair of the Pennsylvania Dependency Bench Book Committee until December, 2013.

# **Claire Smith**

*Client of North Penn Legal Services-  
Williamsport*

## **TESTIMONY OF CLAIRE SMITH**

*Client of North Penn Legal Services-Williamsport*

I am Claire Smith, living at 1029 Washington Boulevard, Williamsport, Pennsylvania. I will be 70 years old. I am a retired bookkeeper and certified public accountant. I volunteer at a soup kitchen for three days a week at the West End Christian Center for almost 3-1/2 years, and we feed 150 to 175 people a day. I receive Social Security Widow's benefits since 1985. I am raising my grandchildren, ages 3 and 8.

I moved into a rental home in the fall 2009, paying \$1,000 per month rent. After one year, it went up to \$1,200 per month. After we moved in, there were many problems with the rental house. There was rusty tap water, a broken oil tank, broken garage door, there was no hot water, other than rusty water, and there was mold growing in various areas in the home. I made numerous requests to the landlord, oral and written, to repair these items. He did not respond and did not make any repairs. I wrote a letter to the landlord informing him that I would be withholding rent until he fixed these items. The landlord gave me an eviction notice November 10, 2009, and another later one, with no reason specified.

The landlord did not begin to make repairs for another 5-1/2 months. I did not pay rent for five months. In the meantime, I continued only to have rusty hot water, dangerous moldy conditions, and the other problems I mentioned.

I came to North Penn Legal Services in March 2010 about the conditions because my landlord has never responded to my requests for repairs.

Then landlord filed a Landlord Tenant Complaint with the District Magistrate against me and a hearing was held before Magistrate Schriener in May 2010, at which I was represented by North Penn Legal Services. Following the hearing, the Magistrate ruled in my favor and awarded the landlord no damages for rent or other claims, due to the problems with my rental property.

The landlord filed an appeal from the Magistrate's decision. North Penn Legal Services and John Person, Esquire, filed a Counterclaim on my behalf against the landlord for the rent I paid and other damages. An arbitration hearing was held and an award was made against the landlord on his claim against me, and I was awarded \$3,500

on my Counterclaim against the landlord, again due to the major problems with my rental property.

Unfortunately, my stubborn landlord filed another appeal to the County Court. A non-jury trial was held before Judge Gray in December 2012. Judge Grey entered an Order, again finding against the landlord on his claims, and awarding me \$3,612.90 in damages against the landlord. Finally, the landlord did not take a further appeal. My attorney has written to the landlord threatening to execute on the judgment against the landlord. We are expecting payment in the near future.

The landlord was extremely nasty verbally towards me and my family in this case. The landlord said that the reason our toilet did not work was because my son was too fat. My landlord said if I had worked with him, that it would not have come this, and that I should not have gone to Legal Services. But I had made many attempts to work with him. He just didn't seem to want to keep the rental house in decent shape and I was left with no alternative but to take action so I could have a safe home for myself and my grandchildren. If I had not had Legal Services, I feel I would not have been successful in this situation. Due to how my landlord treated me and others during this long process, I am extra pleased with the outcome of this case.

I thank Legal Services for being available for me. I am so thankful for free attorney service for people who are low-income. I could not have done this on my own, and Legal Services has helped me be successful in this case.

**Andrew F. Susko, Esq.**

*Chair, Pennsylvania IOLTA Board*

## **TESTIMONY OF ANDREW F. SUSKO, ESQ.**

*Chair, Pennsylvania IOLTA Board*

### **Funding Legal Aid: The Economic Impact**

Good morning. My name is Andrew Susko. I am a member of the law firm of White & Williams, LLP in Philadelphia and it is my privilege to serve as the Chair of the Pennsylvania IOLTA Board. The IOLTA Board is a not-for-profit organization charged with disbursing and administering funds generated through legislative enactment (filing fees, etc.) and by the Supreme Court of Pennsylvania through assessments on attorneys and other sources detailed below. The IOLTA Board supports the Court's, and Chief Justice Castille's broad commitment to improving access to our justice system and to providing civil legal assistance to low income/indigent Pennsylvanians, especially when they are facing situations that threaten basic human necessities such as shelter, personal safety, access to healthcare and nutrition, and familial unity. The IOLTA Board makes grants to legal services organizations dedicated to fulfilling this mission throughout the commonwealth. The sources of funding used to make IOLTA grants include (1) interest earned on attorney trust accounts and magisterial district judges' custodial accounts; (2) filing fee revenues; (3) attorney registration fees; (4) admission fees collected from out-of-state attorneys wishing to make an appearance in a Pennsylvania court; (5) class action residuals; and (6) private attorney contributions.

IOLTA funding of these worthwhile grantee legal services organizations has been increasingly challenging during the recent economic downturn. For example, during fiscal year ended June 30, 2007, the Board collected \$12.2 million in interest on attorney trust accounts. In 2008, interest rates dropped to near-zero and took IOLTA revenues with them. Last fiscal year, IOLTA collected \$3.5 million, a 71%, and about a \$9 million decrease as compared to collections just five years earlier. In response to this, the Supreme Court of Pennsylvania has taken extraordinary steps to help the Board continue funding its grantees at historic levels during a time when more and more families are slipping into poverty, are facing increasing financial difficulty, and are relying more than

ever before on the assistance of legal aid. Most recently, the Court increased the attorney registration fee and directed the additional funds to the IOLTA Board, amended Pennsylvania's Rules of Civil Procedure to direct residual funds from class actions to the IOLTA Board and issued a call-to-action letter to all attorneys in Pennsylvania asking them to increase their private bar pro bono efforts. The Board is incredibly appreciative of the Supreme Court's unwavering support of legal services for those who cannot afford an attorney. However, we need to do more. You will hear today and on May 23 about the impact of the great recession on the state of legal services in Pennsylvania. The Civil Justice Gap crisis is getting worse as more people are living in poverty and in need of legal services while resources are cut and the capacity of legal services programs to meet this increased need is greatly diminished.

You will also hear today from people who will tell you that without the free legal representation they received from a legal aid office, they would have had to go it alone against an opposing, represented party. Litigants rely on lawyers to protect their rights in court. A legal dispute in which one party has an attorney and the other does not is inherently imbalanced and may adversely impact the quality of justice in a particular case. The IOLTA Board is privy to the stories of legal aid – unlawful evictions thwarted, consumer fraud revealed and halted, a domestic violence victim and her children protected from another round of abuse by a PFA, or a party avoiding a mortgage foreclosure through a loan workout plan. Low-income clients deserve, at the critical times when fundamental needs are being threatened, the same rights and protections under the law as those that can afford a lawyer. But funding legal aid is about more than simply leveling the playing field; there is an economic case for allocating ever scarce resources to legal services.

In 2011, the IOLTA Board commissioned a study of the economic impact of legal aid services. The findings were issued in April 2012. As indicated in the attached summary, the study found that the total economic impact of civil legal assistance in 2011 to Pennsylvania's low-income individuals and families was \$594 million, representing a greater than *eleven-fold* return on the investment of \$53.6 million from all funding sources. As a result of legal aid's work in 2011, eligible, low-income Pennsylvanians

received \$118 million in federal Social Security benefits and Supplemental Security Income, and \$59 million in the federal share of Medicaid benefits. Each federal dollar coming into the commonwealth as a result of the work of legal aid circulates 1.86 times. According to data from the U.S. Department of Commerce, every one million dollars in federal funds supports 13.84 state jobs. The payoff is more sales for local businesses and more jobs for Pennsylvania's workers.

When unrepresented Pennsylvanians are unable to obtain warranted federal benefits, such as federal disability and federal Medicaid payments, the state's economy loses tens of millions of dollars each year. The state and local governments must then foot the bill for programs to combat homelessness, domestic violence, and poverty. Each domestic violence incident costs on average \$3,462 in medical care to injured victims, special education, housing and counseling for affected children, police resources and prison for perpetrators. This does not include costs that are equally real, but difficult to quantify such as the value of time lost from school and work or the long-term costs of trauma on children and adults caused by exposure to domestic violence. As a result, of the 6,658 families that obtained a protection from abuse order in 2011, it is estimated that \$23 million in domestic violence costs was saved. Additionally, legal aid services saved Pennsylvania \$25 million in emergency shelter costs by helping an estimated 4,147 low-income households avoid eviction or foreclosure.

In conclusion, the availability of legal aid services to all low-income Pennsylvanians at critical junctures when the need is the greatest is about equal access to justice but that is not all. It also makes economic sense. The 2011 study commissioned by the IOLTA Board tells us that the provision of legal services to the poor is an essential gateway for eligible Pennsylvanians to access federal public benefits, which not only allows them to pay their rent, purchase food and medicines but also stimulates businesses and supports jobs. We urge the continued support of civil legal services in Pennsylvania.

On behalf of the IOLTA Board, I extend my gratitude to the committee for the opportunity to provide comments on this most important subject that bares directly on the fairness of our justice system.



## **Background of Andy Susko:**

Andy Susko is a Partner in the law firm of White and Williams. He focuses his practice on the defense and trial of complex cases involving catastrophic personal injury, property damage and insurance related disputes. He has extensive, broad based jury and bench trial experience. Andy concentrates his practice in the areas of insurance fraud, bad faith and punitive damage claims, disability law, medical malpractice, products liability and public utility law.

As Chair of the Litigation Department, Andy manages the firm's diverse litigation practice groups, utilizing an aggressive and team-oriented approach to provide efficient and cost-effective resolution of complex litigation matters.

Andy has lectured extensively in the area of insurance fraud, bad faith and punitive damage exposure and the trial of civil cases, including cross-examination of the expert witness and presenting the company executive and corporate designee witness for deposition and trial.

During law school, Andy served as a member of the *Law Review* and was selected to its Board of Editors.

Andy is a highly active member of the legal profession and has a longtime commitment to the Pennsylvania and Philadelphia Bar Associations, as well as the Philadelphia area *pro bono* community. He served as President of the 29,000-member Pennsylvania Bar Association in 2007-2008. Andy has been a member of the Advisory Board of the Legal Clinic for the Disabled since 1990, a Board Member of the Pennsylvania Supreme Court Judicial Independence Commission since 2009, a Pennsylvania IOLTA Board Member since 2008 and is a past president (2004-2005) of the Pennsylvania Defense Institute.



## The Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania

In 2011<sup>1</sup>, \$53.6 Million Invested in Pennsylvania's Civil Legal Services Yielded \$594 Million in Income and Savings for Residents and Communities and Supported 2,643 Jobs.

The total economic impact of civil legal assistance in 2011 to Pennsylvania's low-income individuals and families was \$594 million, representing a greater than *eleven-fold* return on the investment of \$53.6 million from all funding sources.<sup>2</sup>

### The Unmet Need for Legal Aid Costs the State Money

Legal Aid lacks the funds to meet all the need. As a result, the state's economy loses tens of millions each year because unrepresented Pennsylvanians are unable to assert their right to obtain federal benefits, such as federal disability and federal Medicaid payments. The state and local governments then must step into the breach, spending funds from Pennsylvania taxpayers to combat homelessness, domestic violence, and poverty, while forgoing the eleven-fold economic return on investment that legal aid funding provides.

### The 2011 Economic Impacts Include:

- **\$546 million in direct economic benefits for Pennsylvania's local communities.**<sup>3</sup>  
Each federal dollar coming into Pennsylvania as the result of Legal Aid's work circulates 1.86 times through local economies. The payoff is more sales for local businesses and more jobs for Pennsylvania workers. In 2011, the impacts were:
  - \$118 million in Social Security benefits and Supplemental Security Income attained for low-income residents;
  - \$59 million in the federal share of Medicaid benefits attained for low-income and disabled residents;
  - \$14 million in federal grant funds received from the Legal Services Corporation; and
  - \$355 million for communities via the economic multiplier effect (1.86 times \$191 million in total federal funds above).
  - 2,643 jobs for Pennsylvania workers, with every million dollars in federal funds brought in supporting 13.84 jobs.<sup>4</sup>
- **\$48 million in additional cost savings<sup>5</sup> for Pennsylvania taxpayers and communities.**  
These savings include:
  - \$25 million in savings in emergency shelter costs. During 2011, a total of 1,715 low-income Pennsylvania families successfully avoided the need for emergency shelter thanks to assistance by Legal Aid advocates. Studies show an average cost savings of \$14,794 per family. In the five-year period 2007-11, Legal Aid helped 7,534 families avoid the need for emergency shelter and saved \$111 million in emergency shelter costs.
  - \$23 million in savings in costs related to domestic abuse. Legal Aid advocates protected 6,658 Pennsylvania families from domestic violence during 2011. Studies indicate an average savings of \$3,462 per family in the costs of medical care for injured victims, targeted education and counseling services for affected children, and law enforcement resources. In the five-year period 2007-11, Legal Aid protected 31,550 families and saved \$109 million.
- **Additional Benefits (not quantified):**
  - Savings linked to crime prevention and reduction in law enforcement assistance.
  - Savings realized by keeping children in school whose attendance would otherwise have been interrupted by homelessness and/or domestic abuse.
  - Revenue for Pennsylvania hospitals and other health care providers from Medicaid reimbursements for services they would otherwise have to write off.
  - Efficiencies in Pennsylvania courts due to Legal Aid's assistance to clients and self-represented litigants through materials and trainings on how to follow court procedures.
  - Additional tax revenue from jobs preserved in Pennsylvania as a result of Legal Aid employment cases.

<sup>1</sup> All years refer to fiscal years ending in the stated year.

<sup>2</sup> A total of \$53.6 million from "all funding sources" included \$15.3 million in local efforts and direct IOLTA grants; \$13.8 million in federal funds; \$11 million in state Access to Justice Act (AJA) filing fee funds; \$6.1 million in state block grants (Social Services and other), disability project funds, and special allocation funding; \$3 million from the state general fund; \$2.5 million from other sources; and \$1.8 million from IOLTA.

<sup>3</sup> Based on application of U.S. Department of Commerce "Regional Economic Input-Output Modeling System," and on the assumption that clients immediately spend most of the benefits received. For further information, see this link > <http://www.bea.gov/regional/rim/>

<sup>4</sup> Ibid.

<sup>5</sup> For more information on calculations, assumptions and data sources, visit [http://www.psiolta.org/Grants/Grants\\_ReportsINDEX.htm](http://www.psiolta.org/Grants/Grants_ReportsINDEX.htm)

April 11, 2012

# **Arthur Gomersall**

*Client of MidPenn Legal Services-Lebanon  
County*

**WRITTEN TESTIMONY OF ARTHUR GOMERSALL**

*Client of MidPenn Legal Services-Lebanon County*

My name is Arthur Gomersall. I'm 80 years old and I live in Myerstown, Lebanon County. For the past eight years, I've lived in Tulpehocken Terrace, so I can be near the VA Hospital. Before my knees got bad I liked to garden; I had roses, mums and I grew potatoes. Now I just have a few things that I tend.

I recently almost lost my apartment at Tulpehocken Terrace. We had a change in management and people had lots of complaints about one of the caretakers who was bullying and threatening people. So the management decided to have a meeting to talk about the problems. During the meeting the caretaker told some of the people to "sit down and shut up." That was too much for me. I stood up and said "That is your problem, right there" and pointed to the caretaker. The caretaker threatened to take my head off.

Right after that the management gave me an eviction notice. I didn't have a lawyer and I went to court. I was lucky. The Magisterial District Justice's office sent me to MidPenn Legal Services, where I was given a lawyer. It is a good thing. The management did not want to negotiate; they wanted to have a long, drawn out battle. They put on eight witnesses and a long court hearing. I would not have known what to do if I was on my own. Thanks to the help of my lawyer, the court eventually ruled I didn't do anything wrong and could stay. The Judge said that I had done nothing wrong and that management had invited the discussion. The caretaker and I will never be friends but we have managed to get along.

Really, this caretaker was just a bully. He was yelling at old ladies and I almost lost my home because I tried to stop it. I feel that MidPenn Legal Services did a great job for me and I think they treated me with respect. I felt 100% better when I knew an attorney had taken my case. My attorney was wonderful and she handled the matter most professionally. I don't know how to talk to a judge. I have made a cash donation to them every now and then when I can make that happen.