

SENATE JUDICIARY COMMITTEE PUBLIC HEARING

"Civil Legal Representation of the Indigent: Have We
Achieved Equal Access to Justice?"

TRANSCRIPT OF PUBLIC HEARING

Before: Senator Stewart Greenleaf, Chairman
Senator Zachary Hoover
Senator Daylin B. Leach
Senator Gregg Warner
Senator Wayne Fontana
Senator Gene Yaw

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By : Gail D. McLucas, Notary Public
Registered Professional Reporter

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1 CHAIRMAN GREENLEAF: We'll call to order
2 the Senate Judiciary Committee Public Hearing on Civil
3 Legal Representation of Indigents. The reason for this
4 hearing is to explore the need for adequate funding for
5 those individuals that are engaged in litigation or the
6 need for representation in our civil courts of our
7 Commonwealth.

8 All too often we find people that are
9 going to court without counsel. I know in some areas it
10 could be as much as 80 percent of those people in a
11 particular area of civil law and they have no counsel.
12 It places a terrible burden upon the judge, first of
13 all, in that it causes them to be in a difficult
14 position in trying to make sure that that individual is
15 adequately, or the process is fair to them without going
16 over and being their advocate. Also, it's not fair to
17 an individual who doesn't have representation and it's
18 not fair to the person who does has representation and
19 the court then has to deal with that situation. So it's
20 a terrible situation we're dealing with. Justice is not
21 being done because of it and we thank all the
22 individuals and the witnesses who are here today to
23 testify and expand on this to demonstrate what the
24 consequences are for the Commonwealth and hopefully to
25 generate more support for the solution of this and the

1 support for appropriations or legislation that will help
2 to remedy it.

3 I would thank also the Philadelphia Bar
4 Association and the Pennsylvania Bar Association, the
5 Pennsylvania Legal Aid Network. All those who have been
6 involved in it, Jerry McHugh who was originally the
7 person who approached me about this and then the other
8 individuals that have acted independently it has all
9 resulted in these hearings and this is one of three
10 hearings we're having. One here, one in Philadelphia
11 and one in Pittsburgh.

12 I would also thank my colleagues here for
13 being here today. So Senator Leach do you have any
14 comments to make?

15 SENATOR LEACH: Thank you, Mr. Chairman.
16 Only that I look forward to the testimony today. I
17 practiced law for 17 years before I was elected to the
18 legislature and this was one of the most difficult
19 issues I dealt with in terms of when I was practicing.
20 And so there's got to be a way to eventually solve this
21 problem and I'm looking forward to hearing how we're
22 going to do that this morning. Thank you, Mr. Chairman.

23 CHAIRMAN GREENLEAF: The first witness on
24 our agenda is Charles Cuff, a MidPenn Legal Services
25 client. As you're sitting down, let me just also say I

1 apologize. There's a press conference at 10 o'clock
2 that I, and I don't know if any other members have to go
3 to. I will be leaving briefly and coming back. But
4 it's not a reflection on your testimony. I'm not
5 walking out in a huff. Just so you know.

6 Thank you very much for being here today.
7 Would you mind identifying yourselves?

8 SHANA WALTER, ESQ.: My name is Shana
9 Walter. I'm an attorney with MidPenn Legal Services in
10 the Harrisburg office.

11 CHARLES CUFF: My name is Charles Cuff.

12 RHODIA THOMAS, ESQ.: Good morning. My
13 name is Rhodia Thomas. I'm the executive director of
14 MidPenn Legal Services.

15 CHAIRMAN GREENLEAF: Would Mr. Cuff be
16 going first here? Thank you very much, Mr. Cuff, for
17 being here today. Just be relaxed and we're all friends
18 here and we want to -- you're going to help us to solve
19 this problem by telling your experience, if you don't
20 mind. Thank you.

21 CHARLES CUFF: Hi. My name is Charles
22 Cuff and I'm 22 years old and I have a one year old
23 daughter going on two. Her name is Charlanye. And I'm
24 a single father. And I have been working at UPS for
25 about six years now. And I needed MidPenn Legal

1 Services help because I had a, well, the baby's mother,
2 we had a lot of moments where she wanted to be difficult
3 and place like a dictatorship upon our child instead of
4 looking at it, like, because I never had a father
5 myself. So, you know, I always -- I'm a little nervous,
6 so, I'm sorry --

7 CHAIRMAN GREENLEAF: It's okay. Take
8 your time, because we're all supporting you. That's why
9 we wanted you to come here, not because it's a hostile
10 situation. It's just a friendly situation, because most
11 people when we talk about this issue, we talk about like
12 the technicalities of it all. But really what's
13 important is your experience and we all want to hear it.
14 We're anxious to hear it. So don't feel uncomfortable
15 at all. So whatever you say is going to be very, very
16 helpful. Just take your time and take a deep breath and
17 we'll hear your story.

18 CHARLES CUFF: I had a lot of struggles
19 growing up. When I was 20 years old, I got diagnosed
20 with Hodgkin's lymphoma cancer. When you're 20 years
21 old, that's not the one thing you expect your doctor to
22 tell you. What came to my mind where my daughter plays
23 the part, I was told before I underwent chemotherapy
24 that I had the option to either a sperm bank or take a
25 risk of not being able to have a child. And, so, me and

1 my daughter's mother at the time, we talked about having
2 a baby. And it happened. And my daughter was born
3 November 10th, about three days before I finished all my
4 treatments, including my chemotherapy and my radiation
5 which I had to do for about nine months. After that, it
6 was the most precious moments to me. Having cancer made
7 me look at life a lot differently and appreciate the
8 little things that are around or the things that are
9 given to me and the things that I don't have. It made
10 me appreciate it a lot more.

11 Where MidPenn Legal helped was, like I
12 said, my baby mother she felt as though she was the
13 mother of the child, that she had more parenting-ship or
14 just more of a say on how the relationship between me
15 and my daughter would be conducted. So, you know, if
16 there was personal issues where she got a problem with
17 me, then there would be times where I hadn't seen my
18 daughter for two weeks, three weeks. Just last
19 Christmas I had to beg her to see my daughter. I tried
20 to make several type of communication efforts as far as
21 talking to her, talking to family members. But nothing
22 worked. She felt like her word was the word.

23 So I linked up with MidPenn Legal and
24 Shana helped me do it all, she showed me the way with
25 it. I went in there and basically took my baby mother

1 right off of her pedestal and let her know that it's not
2 about you and it's not about me. It's about the child.
3 So I'm just thankful for that. I definitely wouldn't
4 even know where to start or how to go about the process
5 of setting this up to where it's setting now. Now I
6 have 50 percent custody of my daughter. I see my
7 daughter for a week on, a week off. So she gets time to
8 spend with me. She gets time to spend with her mother.

9 CHAIRMAN GREENLEAF: Okay. Thank you.
10 And what would have happened if you had not had access
11 to counsel?

12 CHARLES CUFF: Then I still probably
13 would be going through the same issues. She probably
14 would let me see her one week. Then, you know, the next
15 week if -- because we weren't together. We split up.
16 So I don't know, just anything that just tickles her.

17 CHAIRMAN GREENLEAF: But now it's working
18 okay and the child is doing fine?

19 CHARLES CUFF: Yes. We even have a
20 better communication.

21 CHAIRMAN GREENLEAF: How old is she now?

22 CHARLES CUFF: My daughter is one,
23 turning two.

24 CHAIRMAN GREENLEAF: You enjoy having
25 time with your daughter?

1 CHARLES CUFF: Oh, yes. It's the
2 greatest. I never -- there's nothing in this world I'd
3 rather be than a father.

4 CHAIRMAN GREENLEAF: What's her first
5 name?

6 CHARLES CUFF: Charlanye.

7 CHAIRMAN GREENLEAF: You like that name?

8 CHARLES CUFF: Excuse me?

9 CHAIRMAN GREENLEAF: You like that name?
10 That's a nice name.

11 CHARLES CUFF: Oh, yes. It's supposed to
12 my name, Charlie, and her grandmother's name, DeLanye.

13 CHAIRMAN GREENLEAF: That's wonderful.
14 Thank you so much for being here today.

15 CHARLES CUFF: I appreciate the services
16 of MidPenn Legal.

17 CHAIRMAN GREENLEAF: Would your counsel
18 here have anything to say or make any comments?

19 SHANA WALTER, ESQ.: Sure.

20 CHAIRMAN GREENLEAF: Are there any
21 questions that the Committee might have for the witness?

22 SHANA WALTER, ESQ.: My name is Shana
23 Walter, as I said earlier. I have been an attorney at
24 MidPenn Legal Services for six years. For the past two
25 and a half years I have been an attorney doing solely

1 custody cases. I have been, I was chosen for that
2 position. It's a specific position that is funded by
3 the Dauphin County Bar Association and the Dauphin
4 County Bar Foundation as well as Metro Bank and other
5 businesses and law firms and attorneys in the community.

6 The demand for custody, legal
7 representation in custody cases as well as other cases
8 has significantly increased as a result of the economy.
9 As people's incomes go down, the more people are
10 qualified for our services. And a large majority of the
11 request for services that we get are custody cases.
12 Unfortunately, I'm only one person, so I can't help
13 everybody. But the cases that we try to provide full
14 service to clients are cases like Charles. He came to
15 us because Mom wasn't letting him see the child and what
16 he forgot to say was, and it gets me a little emotional,
17 when his daughter got off the elevator at the
18 courthouse, her mom put her down. She bolted over to
19 Charles yelling Daddy, Daddy, Daddy. And then when we
20 went inside to court, the little girl, she was crying
21 hysterically because she hadn't seen him in so long.
22 And it was clear to me they had a really, really strong
23 bond.

24 So being able to help him get custody of
25 his child makes it all worth it for me in situations

1 like his. And having a custody schedule, Charles knows
2 when he's going to get his child. It's beneficial for
3 his work schedule. He knows that he picks up his
4 daughter at noon on Saturdays. So he can make sure that
5 he has childcare so he can go to work and Mom, as well,
6 knows when she can work and it benefits the community.
7 He's not missing work to go chase around the mother of
8 his child or worrying about the mom doing something that
9 would prevent him from getting the child as a result of
10 the custody order.

11 I also think that it's important that
12 children have stability. So his daughter knows now,
13 even though she's small, that one week she's with her
14 mommy one week and one week she's with her daddy. She's
15 not wondering where her parents are. And I think that's
16 really important with young children as well as older
17 children as well that they have that stability of
18 knowing both of their parents. My parents got divorced
19 when I was two. And it was never an issue of contention
20 between my parents. If I wanted to see my dad, I saw my
21 dad. My mom didn't say anything bad about him. He
22 didn't say anything bad about her. So I understand how
23 that's important for a child's development and it
24 benefits their education if they're stable and things
25 like that and it benefits the larger community.

1 The majority of cases that we handle do
2 settle. Parents I find are generally reasonable when it
3 comes to custody cases. Charles' case settled at the
4 first court proceeding I believe because by the end of
5 it she understood that the parents have to love their
6 child more than they hate the other person and I think
7 that she got that and Charles gets that and it's about
8 the kid. It's not about their contempt or their anger
9 towards the other person.

10 Unfortunately, as I stated earlier, we're
11 unable to represent every person who contacts our office
12 for assistance. Since December of 2012 which was the
13 inception of the custody attorney position, I've handled
14 432 cases helping 1,105 local family members and the
15 cost was about \$250 a case. And I really think that
16 legal services is important to the community, not just
17 in custody cases, but for the community at large to help
18 stabilize the community and help families.

19 CHAIRMAN GREENLEAF: How long have you
20 been there?

21 SHANA WALTER, ESQ.: With MidPenn Legal
22 offices, it will be six years in October.

23 CHAIRMAN GREENLEAF: And are you there
24 full time?

25 SHANA WALTER, ESQ.: Right now I'm

1 working a reduced schedule. I just had a baby. So --

2 CHAIRMAN GREENLEAF: But you normally
3 would be there full time?

4 SHANA WALTER, ESQ.: Right. And I'm
5 still doing the same number of cases, just in a shorter
6 period of time.

7 CHAIRMAN GREENLEAF: Are you doing other
8 cases other than custody cases?

9 SHANA WALTER, ESQ.: I only do custody
10 cases.

11 CHAIRMAN GREENLEAF: So that's full time.
12 Isn't that, I thought that it wasn't an opportunity for
13 Legal Aid to be representing custody or divorce cases.
14 So it's different in custody cases compared to divorce?
15 Or do you actually represent people in divorce cases as
16 well?

17 SHANA WALTER, ESQ.: We have pro se
18 information that's available for divorce cases. We are
19 unable to handle those cases, but we do provide
20 representation in custody cases. As I've said, I'm
21 fortunate to be the --

22 CHAIRMAN GREENLEAF: I think if you're
23 going to make an exception, then that's certainly the
24 area that you should be making the exception so it
25 provides some resolution at least to that issue. The

1 financial issues is another matter. But I think that
2 issue obviously is important.

3 SHANA WALTER, ESQ.: I do as well.

4 CHAIRMAN GREENLEAF: Okay. Your turn.

5 RHODIA THOMAS, ESQ.: Thank you very
6 much. My name is Rhodia Thomas. I'm the Executive
7 Director of the MidPenn Legal Services. We appreciate
8 this opportunity to be here this morning to testify
9 about the need for civil legal services here in the
10 Commonwealth.

11 MidPenn Legal Services covers 18 counties
12 in the center part of the state. As you can imagine,
13 it's geographically diverse. We're ethnically diverse.
14 We're just a very diverse region. We're very large.
15 Our territory is larger than the State of Maryland. Our
16 clients are low income people. They have a myriad of
17 problems that they come in with. We're heard custody.
18 You could hear from several other clients who have had
19 other types of problems that we have been able to assist
20 them with.

21 The one thing that all of our clients
22 have in common when they come to us through our doors is
23 that they need immediate legal assistance for some sort
24 of crisis in their life. Whether it's a child custody
25 problem, whether it's a mortgage foreclosure, whether

1 it's a illegal eviction, whether it's a job layoff,
2 whatever it is, people are in crisis when they come to
3 us.

4 In the 2000 census there were about
5 250,000 people living in the 18-county region that we
6 cover who were living at or below poverty. And the most
7 recent census, that number is 361,000. As the number of
8 people who are eligible for our services have increased,
9 we have fewer resources, including less funding. We've
10 been dealing, because we get legal services funding from
11 the federal government, we've been dealing with
12 rescission, sequestration cuts. There's been flat IOLTA
13 funding for many years. And so we have been trying to
14 maintain the level of services that we have here, but
15 it's been very, very difficult. We had a staff of 102
16 about three years ago. We're down to 90 people. That's
17 40 attorneys, paralegals, support staff and
18 administrative staff. While we were never, ever able to
19 meet all the need across our region, now it's even
20 worse.

21 The 2009 Legal Services Study said one in
22 two. But by our estimates that we were serving only 20,
23 meeting only 20 percent of the need by our estimates,
24 we're doing 5 to 10 percent of the need for the people
25 who are coming to access our services. And also there's

1 just a growing number of people who try access our
2 services who can't get help who have just given up. So
3 that number we can't even count, we can't quantify,
4 because we don't know how many people there are.

5 There are things such as self help
6 centers in some counties. There are things such as pro
7 se. But we all know that that's not ideal for people.
8 There are things such as clinics and we try to run those
9 to help more people. But, again, it's not ideal. Such
10 as the situation we described here today, there's a
11 client who came through our door who needed legal help
12 and we were able to provide them with an attorney.
13 There's nothing that meets that ideal. With everything
14 else that we're trying to do from self-represented
15 litigants to whatever else that we're trying to do,
16 there's nothing that can take the place of having an
17 attorney to really go into court with you and when you
18 need that, whether it's a protection from abuse case,
19 whether it's in a custody case, whether it's a mortgage
20 foreclosure, whatever the situation that comes through
21 the door, there's nothing like having an attorney.

22 What we've seen over the past years, and
23 I have been doing this for a long time, the need is ever
24 growing for people that demand our services is ever
25 growing, while our resources are ever shrinking. Thank

1 you.

2 CHAIRMAN GREENLEAF: Thank you. Yes,
3 Senator Fontana.

4 SENATOR FONTANA: Thank you. So how do
5 you do it? People walk through the door and if you have
6 an attorney available, you assign them. If not, what
7 happens?

8 RHODIA THOMAS, ESQ.: How we do it is we
9 have what we call case acceptance guidelines, which
10 really they're bear bones and they describe emergency
11 type situations. So a situation such as Charles's and
12 the ones you're going to hear about, mortgage
13 foreclosure and eviction, those particular situations
14 are defined as emergencies and we get them to an
15 attorney. So a protection from abuse case, that would
16 be as an emergency. But we also have other types of
17 cases where people come to us where it is an emergency,
18 but it doesn't rise to the level of what we've had to
19 define emergency because of our resources.

20 SENATOR FONTANA: So do you take care of
21 all the emergencies? Are you able to do that?

22 RHODIA THOMAS, ESQ.: No, we're not.

23 SENATOR FONTANA: So how many do you turn
24 away? You're turning people away?

25 RHODIA THOMAS, ESQ.: Yes, we do. I'm

1 saying that, what I was trying to, the point I was
2 trying to make is we're meeting probably about 5 to
3 10 percent of need that's out there.

4 SENATOR FONTANA: So what happens to the
5 other folks that you can't help? Do you refer them
6 someplace else and hope they get help? Is that it?

7 RHODIA THOMAS, ESQ.: Yes. Some people
8 we're able to send out to pro bono lawyers, but that's
9 not the vast majority of people.

10 SENATOR FONTANA: Thank you, Mr.
11 Chairman.

12 CHAIRMAN GREENLEAF: Maybe we can explore
13 that a little bit in regard to that we're only covering
14 about -- and it's not your fault and we're not saying
15 that at all -- it's our fault that we should be
16 providing more assistance here. But we're only
17 providing 5 percent of the need for all those cases that
18 you mentioned, all those types of cases?

19 RHODIA THOMAS, ESQ.: That's by our
20 estimates, 5 to 10 percent.

21 CHAIRMAN GREENLEAF: And when you say
22 then those people that are not serviced by you, are
23 they, what percent of those end up having legal
24 representation, of the 95 percent remaining? Or maybe
25 you can't even tell.

1 RHODIA THOMAS, ESQ.: I can't even tell.

2 CHAIRMAN GREENLEAF: Probably not an
3 awful lot.

4 RHODIA THOMAS, ESQ.: Probably not a lot.
5 I do know in the counties that we cover, there has been
6 a lot of conversation among members of the bench about
7 the growing numbers of pro se litigants that are coming
8 into their courts. And of course that's not a good
9 situation for the courts, either. So that's the only,
10 and that's more anecdotal then. I don't have any
11 quantitative data.

12 CHAIRMAN GREENLEAF: But it's not just
13 then -- I always heard that the highest percent were
14 domestic relation cases where they had a very high
15 number of unrepresented litigants. But you're saying
16 all types of litigation is very high?

17 RHODIA THOMAS, ESQ.: That is correct.

18 CHAIRMAN GREENLEAF: Thank you very much.

19 RHODIA THOMAS, ESQ.: Thank you.

20 CHAIRMAN GREENLEAF: Our next witness is
21 the Matthew Holland case, but it will presented by Danna
22 Rich-Collins from North Penn Legal Services. Good
23 morning.

24 DANNA RICH-COLLINS: I guess you know I'm
25 not Matthew Holland. I was asked to present Matthew's

1 mother's, actually, testimony today as she was unable to
2 attend due to the fact that she's a caretaker for
3 Matthew. And when she agreed to do this, she thought it
4 was in Williamsport. But she has never left Matthew for
5 two hours since he was 19 years old and he's 26 now.
6 So, before I do that, I guess I would just like to, if
7 you don't mind, introduce myself.

8 Thank you very much for inviting us here
9 today to present Matthew's story and some other stories
10 from our office. My name is Danna Rich-Collins and I'm
11 a paralegal and an office manager at North Penn Legal
12 Services. I have been there for, Rhodia said a long
13 time, I guess a long time, 38 years that I've worked at
14 legal offices in Williamsport.

15 And I just wanted to take this
16 opportunity to just share a few things that I've seen
17 over the 38 years that I have been there. When I first
18 started at Legal Services, and I see Senator Yaw has
19 left, he was on our Board of Directors for many years.

20 CHAIRMAN GREENLEAF: Today is so packed
21 with things going on and I apologize for that. They
22 want to be here. Some of them will come back. But
23 there's just a lot of other things going on at the same
24 time. So it's not a lack of interest. They wouldn't
25 have been here in the first place if they weren't

1 interested in what was being presented.

2 DANNA RICH-COLLINS: No, it wasn't a
3 criticism. I was just saying that one of your
4 colleagues was on our Board for three years. And so
5 when I first started, we represented Lycoming County,
6 which as you all know probably is the size of Rhode
7 Island, and we had nine attorneys in our office, two and
8 a half paralegals, three support staff, a director of
9 development and a director of education. There were two
10 other counties that were represented, Clinton County and
11 Tioga County both had their own offices, their own
12 attorneys, their own paralegals. Now in 2013, the
13 Williamsport office represents Tioga, Lycoming and
14 Clinton County out of the Williamsport office. We have
15 two attorneys, one and a half paralegals. So as you can
16 see, the ability to deliver the legal services has been
17 greatly reduced. Unfortunately, the request for legal
18 services has been greatly increased.

19 When I first started, we were basically
20 like a civil law firm for indigent people. People had a
21 legal problem and we could represent them. Now as
22 Rhodia said we are basically an emergency intake at all
23 times. Somebody has to be in danger, basically, of
24 losing rights to their children, like the gentleman
25 before me, losing their home, losing income. Those are

1 the emergent situations that we see. And we basically
2 have done the same things that Rhodia mentioned with pro
3 se, with clinics, with all kinds of educational
4 material. But it's just not the same. That's not to
5 disparage our clients, but it's not like AARP members
6 who have time to research and prepare their cases. But
7 these are, our clients are people who are just
8 struggling every day to feed their families, to keep
9 their homes, to see their children and to then represent
10 themselves in these forms is very daunting work. While
11 our courts try their best, they are handicapped also
12 because of the limitations on how much they can help pro
13 se litigants when someone comes in.

14 So I just wanted to also mention that
15 today from our office you'll hear three stories of three
16 people who we were able to help. What you won't hear
17 are all the stories of the people that either came to us
18 too late to be helped or that didn't get in the door.
19 Some that come right to mind is a client I had recently
20 in an unemployment matter who was unemployed basically
21 through no fault of his own, which is I believe why we
22 have the unemployment compensation fund. But
23 unfortunately, he didn't know about our services. He
24 went to the hearing by himself. His employer didn't
25 show at the hearing, but they had written in the forms a

1 statement that unfortunately was not accurate. He
2 objected four times at the hearing. Unfortunately, he
3 was found ineligible for unemployment and he filed an
4 appeal. The decision was based totally on the paragraph
5 that the employer had sent in in the forms. He lost his
6 appeal at the appeal hearing and in the meantime he got
7 evicted because he's had no income for this period of
8 time. Someone then told him about us. He came.
9 Unfortunately, he was already in Commonwealth Court and
10 he had been dismissed, his petition had been dismissed
11 for untimeliness. We filed a petition with the
12 Commonwealth Court asking them to reopen his case,
13 listing what had gone on before and we did get a remand.
14 We haven't gone any further, we just got that remand.
15 But if he didn't come to us -- I mean, he's already lost
16 his home and some other things. You won't hear cases of
17 people who had their homes sheriff saled without the
18 procedures being followed correctly. Some we have
19 gotten involved in and have been able to save their
20 homes. Some we got involved in basically too late. Or
21 people who, one of our cases where the parent took the
22 child and went to Mexico. And what we were able to do
23 because when they first called us, it wasn't an
24 emergency. It didn't meet our criteria. But
25 unfortunately, then, the child actually was taken to

1 Mexico. And then, again, there are the cases that we
2 don't ever see, that don't come. People will come to us
3 later with something else and say, oh, I had this case
4 but I didn't even know you were here. So I just wanted
5 to share that with you and thank you, again, for asking
6 us to come here.

7 And now, if you'll indulge me to read,
8 because these are not my words and I don't want to
9 misspeak. "Matthew Holland is my 26-year-old son. And
10 he has traumatic brain injury from falling off a bridge
11 when he was 19 years old. He is in a comatose state, 4
12 on the Glasgow coma scale, and either in bed or in his
13 wheelchair at all times. We applied for replacement of
14 his manual wheelchair in March of 2012 and were denied
15 by the Department of Public Welfare. The chair was
16 seven years old. Matthew had grown about eight inches
17 and gained 60 pounds since he first got the chair and
18 spent all waking hours in his chair. The chair was also
19 used for range of motion exercises so it had been
20 utilized to the fullest. Applications for a replacement
21 are sent to DPW through the vendors. Our vendors sent
22 all the information that was requested. After the first
23 denial, they, the vendor, resent and added new material
24 to answer all concerns. The requested item, the
25 replacement or rebuilt wheelchair was denied.

1 We thought an appeal had been taken to
2 the second denial, which we got in October. We were
3 then referred to Legal Services by the vendor. Upon
4 inquiry by North Penn Legal Services, it was discovered
5 that no appeal had been taken. So NPLS appealed
6 immediately. That began a LONG process," that's
7 emphasized, "of negotiating with the DPW doctor who
8 makes these decisions. Revised reports and equipment
9 requests were resent to DPW. Photos already sent showed
10 how much disrepair the chair was in due to constant use
11 for the seven years. The vendor had corrected any
12 omissions and still the denial continued. We had made
13 due with the chair by duct taping, jerry rigging where
14 possible. But during the process integral parts of the
15 chair, like the arms, began falling off. The chair was
16 a mess and dangerous as well, and we had no funds to
17 replace it.

18 Matthew has grown six to eight inches
19 since he was fitted for his present chair and he had
20 gained 60 pounds. The seat and leg rest no longer fit
21 and it was dangerous because his feet hung over the
22 rests. In addition, the actual seat didn't accommodate
23 his six-foot-two body. The chair was rickety because
24 bolts had come loose and the holes were stripped. The
25 armrest had broken and come loose from the chair and the

1 risk of him falling out even when strapped in was great.

2 A hearing was scheduled for January of
3 2013 but NPLS continued to resubmit and negotiate as the
4 hearing process was long. We had waited many months,
5 actually years. We went to North Penn Legal Services in
6 October of 2012 and the hearing had gotten scheduled for
7 January. After numerous doctor submissions, revisions,
8 phone calls and workup of costs, the Department doctor
9 finally agreed the chair could be replaced. This was
10 decided two days before the hearing was to be held. We
11 had done all we knew to do before we went to NPLS and
12 the vendor had also given up. I was told to call Danna
13 Rich-Collins at North Penn Legal Services" -- I didn't
14 write this part -- "because if anyone could help, it
15 would be her. She came out to our house in the country
16 to meet with me and meet Matthew. She spent hours
17 talking to the vendor and DPW. She never gave up. She
18 got us the new chair. I told her I don't think we would
19 have had the chair yet without Legal Services' help. In
20 our household is myself, Matthew, his 19-year-old
21 brother and my fiance. We all were involved in one way
22 or another in this quest for a new wheelchair for
23 Matthew. My son and fiance helped get all the
24 information DPW kept requesting, fill out the paperwork
25 and especially take care of Matthew, which we all do all

1 the time. Matthew is our priority. We try to get him
2 outside and out of bed as much as we can. He lives in
3 his chair. I was very worried the chair would not hold
4 up when we went out because it was so unsteady and bolts
5 would fall off. We are so grateful to have this chair
6 after all this time."

7 CHAIRMAN GREENLEAF: How many cases are
8 there like that?

9 DANNA RICH-COLLINS: Well, unfortunately,
10 I have had seven wheelchair cases where people have been
11 denied wheelchairs in situations, some similar to
12 Matthew.

13 CHAIRMAN GREENLEAF: That's before you
14 got involved or even while you were involved?

15 DANNA RICH-COLLINS: Yes. I have a case
16 right now that we have not resolved yet and it has been
17 three years. My client has spina bifida. He basically
18 lives in his wheelchair. It's a very similar thing.
19 His wheelchair is like 10 years old. He's always had a
20 seat elevator in his wheelchair because he can't reach
21 the table or anything like this. He can't see out of a
22 window in a car if he's in it. He's a very spunky
23 person, but he has no balance. And we have been
24 negotiating, well, we have had one hearing. We're back
25 again for another appeal and it's been, it was two and a

1 half years before they came to us and we have been
2 involved for a year.

3 CHAIRMAN GREENLEAF: And your opinion,
4 they're entitled to these chairs and why aren't they
5 being given the chairs? What's the rationale of the
6 Department?

7 DANNA RICH-COLLINS: Well, the standard
8 is medical necessity. So their doctor has determined
9 medical necessity and then the Department has to then,
10 their doctor determines whether it's a medical
11 necessity. And it's proving medical necessity, and it
12 takes quite awhile. We try to get them to hearings
13 quicker. We've asked for expedited, but --

14 CHAIRMAN GREENLEAF: Other people that
15 are not represented, they're not getting the
16 wheelchairs?

17 DANNA RICH-COLLINS: Yes. We're getting
18 referrals now from the vendor who told people that, and
19 the vendors do their job, they try to help the people.
20 But now they're sending us cases, several cases. Right
21 now I have three wheelchair denials and they're all
22 people, they're people who live in their wheelchair,
23 basically. Not people who use it just when they're out.

24 CHAIRMAN GREENLEAF: Other people that
25 you think are out there, I guess there's no way of

1 knowing this, that don't know about you who don't have
2 wheelchairs or have dysfunctional wheelchairs? Would
3 you have any estimate how many people that are out
4 there? Has the manufacturer told you how many they
5 think are out there that don't have adequate
6 wheelchairs?

7 DANNA RICH-COLLINS: Well, yesterday when
8 I talked to her about sending the pictures -- I'm not
9 sure if she was able to do that -- she said, I'm sending
10 you two more case and we got a phone call from Hershey
11 Medical Center said that we didn't know Legal Services
12 did wheelchair denials. We have been trying to find
13 someone. So, you know, I don't really want to get a
14 reputation of being a wheelchair expert because I'm not.
15 It's very frustrating to find the medical necessity
16 standard. I'm not a doctor. But I think there's a lot
17 of people out there that are being denied the
18 wheelchairs from what I'm hearing.

19 CHAIRMAN GREENLEAF: Do you do anything
20 else? What other cases do you handle?

21 DANNA RICH-COLLINS: Me personally or the
22 office? I do unemployment and benefits. Welfare
23 unemployment. Social security.

24 CHAIRMAN GREENLEAF: And a previous
25 question I had for the previous witness was do you have

1 any idea of the number of people that you're actually
2 serving and those that are out there that aren't being
3 serviced?

4 DANNA RICH-COLLINS: Well, our director
5 told us yesterday that from her assessment and
6 statistics that we're serving one out of probably every
7 three people. I think that's maybe that contact us. So
8 we're not -- and there's a lot more that aren't.

9 CHAIRMAN GREENLEAF: Those are all
10 wheelchairs?

11 DANNA RICH-COLLINS: Oh, wheelchairs?

12 CHAIRMAN GREENLEAF: That's all the cases
13 that you handle?

14 DANNA RICH-COLLINS: Right.

15 CHAIRMAN GREENLEAF: Senator Fontana?

16 SENATOR FONTANA: No.

17 CHAIRMAN GREENLEAF: Thank you so much
18 for your testimony and for being here today.

19 DANNA RICH-COLLINS: Thank you.

20 CHAIRMAN GREENLEAF: The next witness is
21 Lurnetta Young, a MidPenn Legal Services client. Thank
22 you for being here today.

23 LURNETTA YOUNG: First of all, I want to
24 say thank you for having me.

25 CHAIRMAN GREENLEAF: Thank you for being

1 here today.

2 LURNETTA YOUNG: My name is Lurnetta. I
3 saw you struggle over that.

4 CHAIRMAN GREENLEAF: I did. Thank you
5 for helping me.

6 LURNETTA YOUNG: My story is in 2007 I
7 was working as a Mental Health adult case manager. Also
8 bartended two, three times a week in order to save money
9 to get my daughter through college. On March 2nd, '07 a
10 drunk driver hit me. It injured my spine. He knocked
11 me a block away. It injured my spine. I went through
12 about nine months with decompression, epidural shots,
13 aqua therapy, electric therapy. Everything that they
14 thought that they could do to help my spine. Hershey
15 Medical Center determined that I needed surgery. They
16 did the surgery. They took out my L4, L5 and S1 discs
17 and they fused my bone marrow together with four rods to
18 hold up my spine. For three months I stayed in a
19 hospital bed in my living room. I couldn't do anything
20 for myself. My daughter had to wash me, clean out the
21 potty, things that were really humiliating to me because
22 I'm an adult.

23 At the time, I had, about a month prior
24 to the accident, I had taken my whole 401(k) out to put
25 my daughter through college for her first year. She

1 went to Hampton University. So I depleted those funds.
2 After almost a year, I couldn't work. I never was
3 denied social security because of the severity of my
4 surgery. And I have more surgery that I have to have
5 done. I stayed up with my mortgage for -- I had
6 somewhat, a little bit of savings. For about two years
7 I contacted my mortgage company. I always kept them in
8 the loop what was going on medically. I fought too hard
9 to keep my house, to get my house, to lose it for
10 somebody that was being irresponsible.

11 After I started falling behind in the
12 payments, I started getting harassed every morning, late
13 at night, unethical practices that I feel that they did
14 to me to kind of intimidate me about my mortgage. By me
15 being a case manager I knew of MidPenn Legal, that's
16 what I did, I advocated for other people. So I knew at
17 one point that I needed somebody to advocate for me.
18 Because I just didn't know and wasn't educated on all of
19 the issues and all the terminology that go along with
20 your mortgage.

21 I came to MidPenn Legal, I don't remember
22 where I was at, I think I was at the social security
23 office. I had, the day before they had posted something
24 on my door, big neon colored so all the neighbors could
25 see. We're coming to get your home type of thing. And

1 I saw the advertisement for MidPenn Legal. So I
2 thought, well, maybe I should go down there and talk to
3 them and see what happens.

4 I talked to Nancy Datres, I always have
5 problems with her last name. She was very, very
6 helpful. She was very concerned. She treated me with
7 dignity and respect, which was very important to me.
8 Because I felt bad enough that I couldn't pay my
9 mortgage and I know some of those programs are for low
10 income people. But everybody that's low income are not
11 people that are just laying around and not doing any
12 work and not trying to better themselves. I worked hard
13 to get what I had and I just wasn't going to lay down
14 and let somebody take it from me.

15 So she looked over the paperwork that
16 they had given me. Keep in mind, the company knew all
17 of the things that I was going through the whole time
18 after my car accident. So they were using these things
19 against me and were putting pressure on me to sign
20 papers that were not in my best interest. To refinance
21 the mortgage and in the long term it would become a
22 balloon. It was all this technology that I didn't
23 understand and I was so desperate, I was getting ready
24 to sign the papers, which in turn I would have lost the
25 house eventually anyway.

1 So she helped me out with that and then
2 she told me about the EHLA, Emergency Homeowners Loan
3 Program. I applied for that and they initially denied
4 me. But come to find out that they did my paperwork
5 wrong. They didn't have all my money and what I was
6 receiving in correctly and that's why I was denied.
7 Nancy made a phone call and they straightened that out
8 and the day before the program ended, they turned it
9 over and I was able to keep my home. So right now I'm
10 still in my home. I'm still advocating for other
11 people; I just became a foster parent. So not only do I
12 have my house for me and my daughter, I'm taking in
13 other people and still continue to give it back to the
14 community. I think, my personal belief when you come
15 down to these services, I feel that it's a shame that we
16 should even have to discuss whether this is important or
17 not. There's people that struggle just as hard as
18 anybody else to have what they have and the law is set
19 up that way. If everybody could know the legal aspect
20 of all departments, then we wouldn't need lawyers, you
21 know. I needed someone to advocate for me and MidPenn
22 Legal allowed me to keep my home and I'm very grateful
23 for that. And by the way, my daughter did graduate from
24 Temple with a finance degree. She is ready to go back
25 to school in September at Penn State. I wouldn't have

1 been able to do any of that if I was living in the
2 projects or was homeless or whatever. So I am very,
3 very grateful for that.

4 CHAIRMAN GREENLEAF: I have some
5 follow-up questions on that. What if you had not had
6 any services available to you, any legal services? What
7 do you think would have happened to you?

8 LURNETTA YOUNG: I would have signed
9 those papers. They would have ended up taking my house.
10 And because my disability is not a lot, I probably would
11 have had public housing.

12 CHAIRMAN GREENLEAF: Thank you. Senator
13 Fontana, any questions?

14 SENATOR FONTANA: No.

15 CHAIRMAN GREENLEAF: Thank you very much
16 for being here today and sharing your story.

17 The next witness is Thomas Wilkinson, Jr,
18 Esquire, President of Pennsylvania Bar Association.
19 Mr. Wilkinson, thank you so much for being here today.
20 Nice to see you. Thank you to you and the Bar
21 Association's efforts in this and many other activities
22 that your association is involved in for the benefit of
23 the Commonwealth.

24 THOMAS WILKINSON, ESQ.: Thank you,
25 Chairman Greenleaf, and thank you members of the

1 Committee for focusing on issues relating to Access to
2 Justice for Pennsylvania residents.

3 I'm Tom Wilkinson, president of the
4 28,000-member Pennsylvania Bar Association. Listening
5 to the clients and Legal Services professionals telling
6 their compelling stories here today really shows there's
7 a need to make Access to Justice for all a reality.
8 There's been a lot of discussion on local, state, and
9 national bar levels about access to legal services to
10 those in need and a number of innovative ideas have come
11 forward.

12 One initiative that's been under
13 discussion for some time is the adoption of a statewide
14 "Civil Gideon" effort providing representation to the
15 indigent who are facing crisis situations in critical
16 areas such as the loss of housing or the loss of custody
17 of a child.

18 March 18, 2013, marked the 50th
19 anniversary of Gideon v. Wainwright, the Supreme Court's
20 landmark 1963 ruling granting a right to counsel for the
21 indigent in the criminal defense context. Although
22 we've not fully realized the promise of Gideon in the
23 criminal sense, the questions posed by the proponents of
24 a Civil Gideon initiative are whether there should be a
25 right to appointed counsel in a more narrow scope of

1 civil cases where basic human needs are at stake, such
2 as shelter, sustenance, safety, health or child custody,
3 and if no such right is guaranteed, can such a right be
4 granted by state legislation?

5 The American Bar Association House of
6 Delegates passed a resolution in 2006 urging states to
7 provide free legal counsel to the poor in civil cases
8 where these basic human needs are in jeopardy and some
9 pilot programs are underway in other states. Access to
10 Justice has been promoted by the PBA since its first
11 task force on the delivery of legal services to the
12 needy in 1989. In November of 2007 our House of
13 Delegates formalized that support in a resolution urging
14 the Commonwealth of Pennsylvania to provide legal
15 counsel as a matter of right to low income persons in
16 those categories of adversarial proceedings where basic
17 human needs are at stake, such as those involving
18 shelter, sustenance, safety, health, or child custody.

19 In 2008, the PBA formed an Access to
20 Justice Task Force and that task force became the PBA
21 Access to Justice Committee.

22 In 2009, the Philadelphia Bar Association
23 created a Civil Gideon and Access to Justice Task Force.
24 And that task force's mission was to investigate and
25 consider all aspects of an effective system of Civil

1 Gideon in Philadelphia, including the development of
2 concrete proposals to advance the implementation of a
3 civil right to counsel in those areas of adversarial
4 civil proceedings where basic human needs were at stake.
5 The Philadelphia Task Force was charged with examining
6 Civil Gideon efforts underway in other states,
7 developing strategies for implementing Civil Gideon in
8 Philadelphia, and making recommendations in two areas of
9 basic need: Cases involving the loss of shelter and
10 child custody.

11 In 2012, that task force began to explore
12 statewide strategies to improve Access to Justice and a
13 statewide coalition was formed earlier this year and the
14 PBA was happy to become a partner with the Philadelphia
15 Bar and other key statewide stakeholders in developing
16 those statewide initiatives, which include helping to
17 plan these important hearings to examine the current
18 state of the civil justice gap in Pennsylvania.

19 Thanks to the leadership of Senator
20 Stewart Greenleaf, our Pennsylvania Supreme Court
21 Justice Ronald Castille and others, we're here today to
22 kick off this first statewide hearing exploring the
23 question whether we really have achieved equal access to
24 justice.

25 There are now several Civil Gideon

1 working groups in Pennsylvania, and a number of
2 educational programs have been put forth to focus on
3 these strategies. And particularly when many residents
4 are being turned away from civil legal aid agencies due
5 to reductions in funding, staff layoffs, and a sharp
6 increase in the number of persons who have fallen into
7 the poverty ranks due to the downtrend in the economy
8 and now financially qualify for free legal assistance.

9 One commentator recently observed that we
10 provide appointed counsel to those facing potential
11 confinement for months or years, while we do not do so
12 for those facing eviction and homelessness for months or
13 years, or even for victims of domestic violence seeking
14 court protection.

15 Here are several stark statistics
16 conveying how Access to Justice is rationed in our state
17 and nation. A national Legal Services Corporation study
18 found that for each eligible client represented by a
19 legal aid program, there was another person in need of
20 and eligible for assistance who asked for help and who
21 is then turned away due to the lack of legal aid
22 resources. This 50 percent under-service rate holds
23 true in Pennsylvania. In fact, the need for legal aid
24 was shown to be more acute in rural parts of the
25 Commonwealth.

1 Other studies have shown that only
2 20 percent of the legal needs of low income individuals
3 are being met. And that's consistent with the results
4 in a recent study conducted by the Pennsylvania Interest
5 on Lawyers Trust Account or (IOLTA) Board documenting
6 the benefits generated by legal aid. And that study
7 found that for every dollar spent on civil legal aid in
8 Pennsylvania, there's more than a 10-fold return on
9 investment in dollars generated to benefit the client
10 and in savings on issues such as shelter costs.

11 We hope these hearings will produce some
12 recommendations on possible solutions that may improve
13 Access to Justice.

14 The 50th anniversary of the Gideon
15 decision is an appropriate time for the legal
16 profession, the judiciary, the legislature and the
17 community to focus on what steps can and should be taken
18 to help close the civil justice gap. As the late
19 Justice Lewis F. Powell, Jr. observed, quote, "Equal
20 justice under law is not merely a caption on the facade
21 of the Supreme Court building; it is perhaps the most
22 inspiring ideal of our society. It is fundamental that
23 justice be the same in substance and availability,
24 without regard to economic status."

25 The ongoing discussions concerning

1 adequate access to counsel in civil cases and helping
2 self-represented litigants navigate the justice system
3 go hand-in-hand with the PBA's efforts this year to
4 highlight in our publications and on our website those
5 "Lawyers Making a Difference" who are providing
6 extraordinary pro bono service. I have had the pleasure
7 of getting out into many local bar events where lawyers,
8 legal aid agencies and bar foundations have been
9 recognized for outstanding service to the community and
10 to individual clients facing crisis situations such as
11 abuse, neglect, and the need for assistance with housing
12 and benefits following floods or mortgage foreclosure.
13 It has been exciting to hear about what proactive local
14 county bars and what they're doing to launch programs in
15 connection with local court administrations to assist
16 self-represented litigants. There's movement on this
17 front from York to Monroe, from Pike to Greene and from
18 Centre to Lancaster and the other communities as well.

19 Lawyers are doing their part. As the
20 Chief Justice noted in his April 2013 letter to the
21 legal profession calling for increased pro bono service
22 and legal aid contributions, every lawyer in the
23 Commonwealth contributes \$35 to legal aid through the
24 IOLTA portion of their annual licensing fee. And, of
25 course, many lawyers buttress the support through

1 foundations, civil legal aid both in financial and in
2 volunteer efforts. The Supreme Court has led the way in
3 supporting civil legal aid in a variety of manners, from
4 providing new avenues for funding to setting up a loan
5 forgiveness program for legal services practitioners.

6 The Pennsylvania Legal Aid Network, who
7 you have heard from and will hear from when Sam Milkes
8 testifies, in partnership with our regional legal aid
9 providers and a network of specialty legal aid programs
10 helps the framework and structure for legal assistance
11 for the poor. Pro bono volunteers, encouraged by the
12 PBA and local bars provide time and financial
13 contributions to help the important work in dealing with
14 clients who have critical legal needs, but cannot afford
15 to obtain private counsel.

16 It's important that we continue to expand
17 pro bono participation well beyond the core group of
18 lawyers who always can be counted upon to represent
19 another client of need. Those PBA members who have
20 devoted many hours to leading the effort to narrow the
21 justice gap and expand access to legal services
22 representation are to be commended.

23 But lawyers cannot do this alone and
24 increased pro bono service will not close the gap
25 without more. Going forward, we need to urge that all

1 the key players, including the judiciary, civil legal
2 aid organizations, the organized bar, the legislature
3 and community groups actively participate and resolve to
4 bridge the civil justice gap.

5 Thank you very much.

6 CHAIRMAN GREENLEAF: Thank you for being
7 here and your participation in this process.

8 Your figure here of 50 percent under
9 service rate holds true in Pennsylvania. Does that mean
10 for all cases that, let's say all types of cases or is
11 there a variation between some of them? Some of them
12 aren't represented at all. Legal aid doesn't have the
13 resources to represent them.

14 THOMAS WILKINSON, ESQ.: There are many
15 kinds of arguably nonurgent needs for legal services
16 that the legal aid societies and agencies are not in a
17 position to assist with at all. My understanding of the
18 50 percent standard which may be understated is that
19 that applies to all kinds of urgent legal needs. Sam
20 Milkes will follow me as Executive Director from the
21 Pennsylvania Legal Aid Network has, I'm sure, more data
22 for you on this topic and can speak to it more directly.
23 But I think the 50 percent figure is in this economic
24 time very much understated.

25 CHAIRMAN GREENLEAF: So it applies to the

1 emergency services that you have talked about in your
2 comments?

3 THOMAS WILKINSON, ESQ.: Absolutely.
4 Yes, sir.

5 CHAIRMAN GREENLEAF: The other issue
6 about pro bono service, I agree with you. I don't think
7 the legal profession can close the gap. But what
8 percentage do you think exists now? What do anticipate,
9 since we've added this population of what the needs are,
10 what civil service needs and where they're going to be
11 coming from, what do you envision the legal profession
12 being able to provide of a hundred percent of the legal
13 needs?

14 THOMAS WILKINSON, ESQ.: Well, more
15 lawyers can participate. But they always need a
16 structure for purposes of that participation. And they
17 need the training; they need some oversight. To ask
18 someone who primarily does mergers and acquisitions to
19 then jump in and assist with a mortgage foreclosure
20 problem or a child custody problem, they need the
21 oversight and management of our competent legal aid
22 lawyers and there are many lawyers who are willing to
23 take that training and dive in and be helpful. But it's
24 very difficult without having adequate staffing of the
25 legal aid agencies who assist in not only delivering the

1 clients to the lawyer and then making sure they're
2 adequately trained so they can take on these cases.

3 CHAIRMAN GREENLEAF: So your vision of it
4 is to have the legal aid services, agencies to
5 incorporate into their services the volunteer pro bono
6 attorneys?

7 THOMAS WILKINSON, ESQ.: Pretty much all
8 of the legal aid organizations, organizations in
9 Philadelphia such as the Juvenile Law Center, Volunteer
10 Lawyers for the Arts, the Senior Law Center, whose
11 executive director is here with us today, all provide
12 some form of training. Typically, also combined with
13 free continuing legal education credits as an incentive
14 to bring those lawyers in and do a wonderful job with
15 that. But it's making that tent bigger can only provide
16 a portion of the services that are really needed. We
17 have some counties where the participation on the pro
18 bono side is extremely high and do tremendous service.
19 And some of those counties are helping to set up
20 self-representation kiosks and resources in the
21 courthouses, such as in York County. But there are
22 circumstances where self-represented litigants are
23 committing egregious malpractice in dealing with very
24 difficult problems. To put a self-represented litigant
25 against a lawyer for a major bank on a mortgage

1 foreclosure situation is not really a fair way to
2 approach the problem. And usually when those
3 self-represented litigants have lawyers, a very good
4 compromised resolution is sorted out where the homeowner
5 can stay in the home and get on some payment plan that
6 is perfectly satisfactory to the bank. The home remains
7 occupied and does not fall into disrepair and everyone
8 is well suited for that result. You really can only do
9 it if you have the resources to address the problem.

10 CHAIRMAN GREENLEAF: Thank you very much
11 for coming today. Senator, do you have any questions?

12 SENATOR FONTANA: Real quick, if you
13 don't mind. With Gideon and Wainwright, what was
14 established was the public defender's office and that's
15 funded how?

16 THOMAS WILKINSON, ESQ.: Well, my
17 understanding is it's primarily through county funds.
18 Although, there's always a shortfall.

19 SENATOR FONTANA: But it is funded
20 through the counties?

21 THOMAS WILKINSON, ESQ.: Yes.

22 SENATOR FONTANA: So neighborhood legal
23 services is funded basically, how? By the pro bono?

24 THOMAS WILKINSON, ESQ.: I would probably
25 ask Sam Milkes to address that. They're addressed in

1 part through the national organizations, Legal Services
2 Corporation which distributes funds throughout the
3 country to legal aid organizations such as PLAN which in
4 turn distributes to local legal aid agencies. That's
5 only a small portion. Some is addressed through
6 contributions in either United Way or directly to the
7 agencies themselves. And you have a lot of volunteer
8 support.

9 SENATOR FONTANA: I'm not a lawyer but I
10 guess my impression is that being that the public
11 defender's office was established statewide, it's
12 somewhat organized, where this isn't as organized. You
13 pointed out specific counties that do it well and then
14 other counties may not do it as well. It doesn't seem
15 to be as organized as the concept of a PD's office
16 funded by the county.

17 THOMAS WILKINSON, ESQ.: I think that's
18 absolutely true. And perhaps this will lead to a more
19 stabilized structure for support, for adequate financial
20 support for legal services where it's really critical.

21 SENATOR FONTANA: Thank you.

22 CHAIRMAN GREENLEAF: Thank you very much
23 and thank you for your service to the Bar.

24 The next witness is Sam Milkes, Executive
25 Director of Pennsylvania Legal Aid Network.

1 Thank you very much for being here today.
2 SAMUEL MILKES, ESQ.: Senator Greenleaf,
3 thank you very much for inviting us to testify and for
4 shining light on this. Thank you members of the
5 Committee. We very much appreciate this opportunity.

6 My name is Sam Milkes. I'm the Executive
7 Director of the Pennsylvania Legal Aid Network which is
8 kind of the umbrella for the planned programs, kind of
9 the main core programs providing civil legal aid across
10 the state.

11 I have an article attached to my
12 testimony about how the legal aid system is organized
13 and just wanted to comment on that briefly. We do serve
14 every county in the state through the eight regional
15 programs that are funded, and I'll mention in a moment
16 what the main sources of funding are. That does not
17 mean there's an office in every county. There's not.
18 But there are services available in every county. And
19 there are also specialized programs that provide
20 statewide specialized services in areas such as health,
21 housing and other areas.

22 And then in addition, there are some
23 other legal aid programs that are not part of the
24 Pennsylvania Legal Aid Network, but provide key, mostly
25 specialized, statewide kinds of services. The funding

1 to support legal aid from the state is about two and a
2 half million dollars right now of state appropriation, a
3 number that we consider pretty modest. That is the
4 total amount of state funding dedicated to civil legal
5 aid. There is some federal funding that's also
6 provided, social services block grant that is
7 appropriated as part of the state budget. And if you
8 look at the graph that is included in my testimony,
9 you'll see that over the 40 years that legal aid has
10 been funded, civil legal aid, that line is a flat line,
11 a combination of state funding and SSBG funding is
12 essentially the same today as it was 40 years ago. And
13 so factoring in inflation that's what, in part, gets us
14 to the crisis and we consider it a crisis right now that
15 we are in presently in legal services.

16 The Supreme Court has been very
17 supportive in helping to fund legal services. For
18 example, they assessed a \$25 registration fee in the
19 annual registration of lawyers. And that is used, that
20 accumulates to about a million and a half a year and
21 that's used to help fund legal services. They support
22 pro bono efforts and other funding and initiatives.
23 This Committee and the General Assembly have been
24 supportive in creating the Access to Justice Act. A
25 \$3.00 filing fee that helps fund legal services. And we

1 are very appreciative of that. It has helped very much
2 so. The need is great and by inflation factor, we are
3 falling further and further behind. But we do thank you
4 for that support.

5 There's also the Federal Legal Services
6 Corporation. You've heard references to the decline in
7 some of those funds. Now we do get support locally,
8 United Ways and contributors from local government.
9 Some counties do support legal services, businesses.
10 But that does explain in some reason the unevenness that
11 you've heard. One county it may just be the core
12 funding, LSC and the planned funding and nothing else
13 and another county may have what you heard from MidPenn
14 where a full-time custody lawyer is supported. So
15 there's going to be more ability to meet those custody
16 needs in that county; whereas, in many other counties,
17 the vast majority of people are getting turned away.

18 By the way, that document the Justice Gap
19 Study, it is the study of all people coming to a legal
20 aid program, being determined eligible for legal
21 services and then looking at what happened with those
22 people. So it is across the board, but it also it's not
23 the people who will be turned away, except for the lack
24 of resources. We do appreciate the pro bono efforts of
25 the Bar. Just through the legal aid programs, we refer

1 out over 5,000 cases a year to pro bono lawyers, and
2 that doesn't count the cases that bar associations and
3 others refer out. It doesn't count the cases that
4 attorneys handle on their own. Local bar associations
5 and attorneys are very supportive financially and in
6 other ways. Many bar association foundations support
7 the work of legal services.

8 But that crisis still arises. You heard
9 Danna's reference to what the staffing looked like at
10 North Penn Legal Services a number of years ago and what
11 it looks like now. We are closing offices. We have
12 closed offices in the Pennsylvania Legal Aid Network
13 within the last several years. Staffing is down by
14 15 percent. And I think one of the most key statistics
15 is for many years the Pennsylvania Legal Aid Network has
16 been able to handle about 100,000 cases a year. That's
17 not full representation in every case. But that's how
18 many clients we could assist in some way, 100,000. This
19 fiscal year that's going to be down to 80,000. So that
20 is to say that even according to that sort of lowered
21 standard, how many people are we actually getting to?
22 Even that is going down from 100,000 to 80,000 because
23 of the diminished and flattened resources that we live
24 with.

25 To give you an example of what we do, in

1 the last fiscal year we represented 10,879 protection
2 from abuse clients. I'm being that precise because
3 every one of those is an important case. It was about
4 15,000 only a few years ago and that's not because
5 domestic violence has gone down. It's because we're
6 having to turn more people away in urgent, emergency
7 kinds of cases. 12,754 custody cases that we handled
8 last year. But again we were handling thousands more
9 than that only a few years ago. Especially before 2008,
10 before the economy really took a hit and resources
11 diminished.

12 In the last fiscal year, 7,229
13 foreclosure cases that we handled. But again, thousands
14 more that we were able to handle in the past. To see a
15 full breakdown of the kinds of cases we do, there is a
16 pie chart in my testimony that you can see what the
17 array of services are that we handle. We also have a
18 palawhelp.org website where we get tens of thousands
19 hits a month. That is a self-help place where consumers
20 can go and try to provide their own help or find their
21 own resources because we recognize that we cannot do it
22 all.

23 I think in conclusion, as I described to
24 you, the crisis that we face that it is the combination
25 of those statistics. How many people is it that we are

1 turning away, that 100,000 down to 80,000. That
2 document the Justice Gap Study. But at the same time
3 recognizing that even emergency cases are getting turned
4 away. And we didn't used to have to say that. We used
5 to be able to at least say, we're handling all the
6 emergencies, we can't get to the cases that still need
7 help that are somewhere behind that emergency level.

8 Senator Leach said he'd look forward to
9 our presenting the solutions to this today. And I'm not
10 sure that we came to this first hearing as much to
11 propose the solutions as to tell the story, to let you
12 hear from clients, to let you hear how the system is
13 organized. We do think that the filing fee has been one
14 of the helpful solutions. But I think what it backs up
15 against is that IOLTA funding, Interest on Lawyer Trust
16 Account funding is down \$9 million a year right now from
17 where it was in '08. So it has taken a lot of resources
18 just to try to catch up to a level of funding that we
19 used to be able to experience.

20 We got stimulus funding that has
21 disappeared. So there are some things that have helped
22 us buffer some of the hits that we took a number of
23 years ago and they have fallen by the wayside to a large
24 extent, which is why you are hearing more of a crisis
25 today. We weren't laying off staff a few years ago. We

1 are laying off staff last year and this year and it has
2 shown the effects.

3 So I thank you for this opportunity to
4 give you somewhat of an overview of the legal aid system
5 and I want to defer it to other clients and
6 representatives who will be here today.

7 CHAIRMAN GREENLEAF: A question I have, I
8 notice that you indicated how many you've served. But
9 do have any -- there's all kinds of figures floating
10 around there about the others and percentages, which is
11 easy to understand. Maybe it's impossible to do that
12 because you only know the ones that you've served. You
13 don't know the ones that really never came to you or
14 went into a courtroom and were unrepresented. You don't
15 have access to that. Are there any such figures?

16 SAMUEL MILKES, ESQ.: It is a hard thing
17 to put your finger on, both in terms of statistics and
18 in terms of having people testify. It's harder to get
19 people that want to come in and testify about that they
20 didn't get help. But I think the reason people keep
21 referring to the Documenting the Justice Gap Study is
22 because it was a carefully conducted study where we did
23 count in our programs for a period of time how many
24 people came, were they eligible and did they get
25 represented or did they not? That's only the people who

1 actually had the initiative to come and ask for help. A
2 lot of people are discouraged nowadays and that study
3 was done before '08, before the hit of the economy.

4 I was able to get a hold of the
5 Pennsylvania data for that study and was able to confirm
6 that back then it was one out of every two that we could
7 represent that showed how much the rural parts of the
8 state were especially hit. But there also have been
9 professionally conducted studies. We've looked at in
10 Pennsylvania and it's been done state after state after
11 state and this 20 percent figure continues to arise,
12 which is we know that statewide we are meeting about 20
13 percent of the actual need for civil legal aid, a
14 combination of people who come to us get turned away and
15 people who get so discouraged that they don't even come
16 to legal services.

17 CHAIRMAN GREENLEAF: How are we doing
18 compared to other states?

19 SAMUEL MILKES, ESQ.: We are a little
20 above the middle range compared to other states. We do
21 have a state appropriation, but it's not a real large
22 one. We do have filing fees and those are very helpful
23 and we do have some initiatives of the Supreme Court
24 that help, that puts us, as I say, a little bit above
25 the middle ranking. And I just again emphasize the

1 unevenness from county to county because of the local
2 resources that may exist.

3 CHAIRMAN GREENLEAF: Some of the other
4 hearings maybe we'll discuss a little bit about some of
5 the solutions, obviously, and what some the other states
6 are doing and what might be necessary for us to do.

7 SAMUEL MILKES, ESQ.: We will be pleased
8 to come back for some of that discussion.

9 CHAIRMAN GREENLEAF: I like the idea of
10 expanding and incorporating the pro bono work of the
11 attorneys, because some of them do it on their own and
12 we don't even know about that. But if they were really
13 indeed part of your group of training and encouragement,
14 it may involve even more and would be helpful. So maybe
15 you can flush that out for us in the coming hearings.

16 SAMUEL MILKES, ESQ.: I know the IOLTA
17 Board did a study recently and determined that there
18 were about 122,000 volunteer hours of lawyers provided
19 in a single year's time. That has been well documented
20 and is a study available to this community.

21 CHAIRMAN GREENLEAF: The IOLTA Board when
22 we created that, I remember when we did that, it was
23 Senator Reibman.

24 SAMUEL MILKES, ESQ.: Senator Shumaker
25 and Reibman were both very much involved in that, yes.

1 CHAIRMAN GREENLEAF: And it is interest
2 on the accounts, is it not?

3 SAMUEL MILKES, ESQ.: Right. Therein
4 lies the problem.

5 CHAIRMAN GREENLEAF: That's in limbo
6 right now.

7 SAMUEL MILKES, ESQ.: That's why it's
8 down so much.

9 CHAIRMAN GREENLEAF: Maybe it will
10 involve looking at different investments. Maybe they
11 need to be a little bit more risky. But how much
12 riskier can it be than now? I mean, you're getting
13 almost nothing from banks on interest right now.

14 SAMUEL MILKES, ESQ.: I want to say that
15 the Supreme Court and its IOLTA Board have been very
16 proactive and they're seen as national leaders in trying
17 to do everything they can to maximize the revenues off
18 of those IOLTA funds. I don't know that we're going to
19 do too much better than that. I will say the one thing
20 that makes a difference in Pennsylvania is that in real
21 estate transactions, the more the title companies hold
22 funds instead of lawyers, the more that there are funds
23 that would have been IOLTA generated, interest
24 generating funds in the past and aren't. And I've
25 oftentimes thought that we ought to find ways to be able

1 to approach that area of funding. I don't know why
2 those funds can't be reached in some level.

3 CHAIRMAN GREENLEAF: Any other questions?

4 SENATOR FONTANA: Thank you. I
5 apologize, because I have to leave to go to another
6 meeting, too. But I think the purpose of this hearing
7 is to establish that there is a need and that need is
8 important. What I've gotten so far is there are people
9 getting turned away more than maybe we like to admit or
10 acknowledge. It's unfortunate. There seems to be a
11 lack of funding and there seems to be a lack of
12 statewide organization as -- the county by county,
13 there's some better than others for various reasons.
14 But that seems to be what I'm getting from all this and
15 hopefully, as Senator Greenleaf indicated, we'll be able
16 to get into the solutions a little bit more. I know
17 there's some talk about some task forces that have been
18 out there for awhile, since 2009 or before. We're
19 hoping that we'll get into those solutions because it
20 sounds to me like there needs to be solutions.

21 SAMUEL MILKES, ESQ.: Senator, I might
22 just say that there is some certain level of statewide
23 coordination. We offer annual training conferences. We
24 host fellowship and earned internship programs to
25 promote diversity and we administer the state funding,

1 IOLTA funding, Access to Justice Act funding and
2 according to a formula that's evenly distributed across
3 the state. But I think you put your finger on it that
4 the difference from county to county can be pretty
5 random depending upon what resources may exist.

6 CHAIRMAN GREENLEAF: Thank you for being
7 here today.

8 SAMUEL MILKES, ESQ.: Thank you.

9 CHAIRMAN GREENLEAF: Thank you for being
10 here today.

11 The next witness is Linda Yarison, a
12 North Penn Legal Services client.

13 LINDA YARISON: Hi.

14 CHAIRMAN GREENLEAF: Good morning. Thank
15 you for being here today. Do you want to identify
16 yourselves and then we can proceed with your testimony?
17 Obviously, Ms. Yarison, you're a client of North Penn
18 Legal Aid?

19 LINDA YARISON: Yes.

20 JENNIFER HEVERLY, ESQ.: My name is
21 Jennifer Heverly. I'm an attorney at the Williamsport
22 office of North Penn Legal Services and Linda was a
23 client of mine for about five years.

24 CHAIRMAN GREENLEAF: Thank you very much,
25 Mrs. Yarison, for being here today and sharing your

1 story that will help other people.

2 LINDA YARISON: My story, everything
3 started in 2005. In 2005 my husband suffered a brain
4 injury from a fall, which was very, I mean, we were able
5 to make our payments. We were fine. But with his head
6 trauma, it was a lot different. I was working full time
7 and ended up losing my job. Losing my job and being
8 diagnosed with needing a liver transplant.

9 So there we both were. It ended up being
10 some personal issues. We separated. We were trying to
11 keep our home. I contacted the mortgage company
12 numerous times. They would not talk to me due to my
13 husband's name was on the loan. There was nothing I
14 could do. I wrote letters stating he authorized me to
15 be involved in the account. I had to contact -- I had
16 nowhere to turn, nowhere to turn and I just felt
17 hopeless.

18 I turned to North Penn Legal Services and
19 today I say, I thank God for Jen Heverly, because I have
20 a home, I relate in my heart. We worked on this. She
21 had helped us work with the insurance company. We were
22 excited because they had made us an offer and they were
23 going to send the paperwork. We were just ecstatic.
24 The paperwork came with an offer about our payment and
25 about 50 percent more than we were paying, which there

1 was nothing we could do.

2 So after submitting additional paperwork,
3 making different offers, the paperwork they said they
4 never received. So as we were waiting and knowing we
5 were in the foreclosure state and we were working on it
6 actually days, we sent in any additional paperwork.
7 They came back and said they needed \$5,000 down to
8 consider, consider making an offer that would be
9 suitable for us. So as we were accepting this one, the
10 paperwork came through, but the paperwork came through
11 incomplete. So another foreclosure started on my home.

12 So after five years of dealing with this,
13 five years in 2009, the government program came through
14 and Jen had worked all the time on this case because it
15 was one case that should have never lingered out for
16 five years and the stress it put on us and my health
17 issues and my husband's was just, it was so stressful.
18 I remember going to the emergency room for anxiety three
19 times over this, started medication. I had nowhere to
20 turn. And after working with them we finally resolved
21 it in 2011 through the government program. But today I
22 would not be living where I'm living. I would not even
23 be here, if it wasn't for the help of North Penn Legal
24 Services. Like I said, I had nowhere to turn. We were
25 in touch constantly, I would say. We would never here

1 from the mortgage company. She would constantly submit
2 letters stating to them please respond to it. They
3 would give us different names to contact, different
4 phone numbers. They had no clue what we were talking
5 about. It was an endless road for me. But she kept
6 telling me to keep the faith. She was doing everything
7 she could and she was. And numerous times she called me
8 in, they needed additional paperwork. But it seemed
9 everyone lost the paperwork. Nobody knew who to talk
10 to. Nobody knew what it was about. But she never gave
11 up hope. She kept staying in the end, you know, in the
12 end, there'll be an end and we're going to work through
13 this until we can't anymore. So she stopped
14 foreclosures for us. She did everything she could and
15 in 2011 we were able to save our home and make a payment
16 arrangement we were able to afford and it wouldn't be if
17 I hadn't had help with that.

18 CHAIRMAN GREENLEAF: It sounds like you
19 have a good lawyer sitting next to you.

20 LINDA YARISON: I have, absolutely, I
21 have the utmost respect, utmost respect. Because like I
22 said, with my health injuries and my husband's, I have
23 no clue where we'd be today, no clue whatsoever. And
24 she never gave up. Never gave up.

25 CHAIRMAN GREENLEAF: That's wonderful

1 that that's happened and she was available. It's too
2 bad the public doesn't have an opportunity to see what
3 lawyers actually do in society, what they do and the
4 benefits they provide to the people in the Commonwealth
5 of Pennsylvania. All too often it's someone trying to
6 take a shot at a lawyer and it's a meaningful practice.
7 There's thousands and thousands of cases like this I'm
8 sure in Pennsylvania.

9 LINDA YARISON: I was honored to come
10 here today because it's my way to truly say thank you.
11 You have no clue, you have no clue how much we
12 appreciate it. There's absolutely no way to explain how
13 much help they gave us and what they have done for us.

14 CHAIRMAN GREENLEAF: So you wouldn't want
15 to like to see what would have happened if she hadn't
16 been there and if legal aid had not been there for other
17 people. We just have to make sure that it's available
18 for other people in the community as well.

19 LINDA YARISON: I wanted to also say
20 during this I voluntarily had to give up my car. Like I
21 said, nobody was working with us and she just never gave
22 up. She just told me to keep the faith. And she's God
23 to me. I mean, my home, my husband is in there and
24 everything has turned out fine.

25 CHAIRMAN GREENLEAF: I'm glad you came

1 forward here to tell your story. It's important because
2 it hopefully will help many, many thousands of other
3 people to find services.

4 LINDA YARISON: Thank you.

5 JENNIFER HEVERLY, ESQ.: Senator, if I
6 could just add, in spite of my voice going away. In
7 Linda's case the legal issues were initially we
8 litigated the ownership of the mortgage and note, which
9 I know later on became a very nationwide, a very
10 scandalous sort of issues for the five major banks. But
11 that's one way that we stopped the foreclosure sale was
12 that they didn't have the appropriate paperwork to
13 foreclose. And had she not had an attorney, certainly
14 that issue would not have been raised by her or probably
15 anybody could give her advice other than an attorney.

16 And then she had a modification agreement
17 with the bank that they reneged on and were refusing to
18 honor that we helped her negotiate. And we had to use
19 the court system to enforce the modification agreement
20 and force them to meet their obligations under the
21 modification agreement. So even after years of
22 negotiating, they turned around and sort of did a double
23 take on her and refused to honor their own agreement
24 with her. And all this while, she had sufficient income
25 to be making a mortgage payment. We weren't just

1 causing delay or anything like that. We were trying to
2 convince them to take her money and let her make a
3 significant mortgage payment all those years, which she
4 was in a position to do. So I just wanted to add that.

5 And if I could just add that legal aid
6 along with those issues was also in the foreclosure
7 crisis on the forefront of attacking predatory lending
8 in the courts, where low income people were getting
9 these horrible high interest rate loans that started off
10 with a two-year low interest rate that looked affordable
11 to them and two years later turned into a high interest
12 rate loan and they immediately went into foreclosure.
13 So we were attacking lenders when that crisis started
14 and defending those lawsuits.

15 We were attacking lenders when the
16 Robo-signing crisis started based on their lack of
17 appropriate paperwork and lack of appropriate
18 assignments. And legal aid was on the forefront of
19 that. We're on the forefront of enforcing the Home
20 Affordable Modification Program, the federal program and
21 making the banks do what they need to do under that
22 program. And in helping implement, I don't know if
23 you're aware there are foreclosure diversion programs
24 and many of the courts in the Commonwealth and legal aid
25 has been very involved in setting up those.

1 CHAIRMAN GREENLEAF: I think Philadelphia
2 has one.

3 JENNIFER HEVERLY, ESQ.: Yes.
4 Philadelphia was, I believe, the first in the model for
5 most of the rest of the counties. So legal aid has been
6 very involved in setting those up. They have been very
7 successful. In Lycoming County I think it's 75 percent
8 right now of the cases that go to our diversion program
9 and resolution with the defendants keeping their homes.
10 And we use, by the way, pro bono attorneys in Lycoming
11 County to represent people in a lot of those foreclosure
12 diversion conferences and it really strains our pro bono
13 program to its absolute limits in that county.

14 CHAIRMAN GREENLEAF: Do many people end
15 up going in front of the court by themselves because
16 there's not enough resources for these types of things?

17 JENNIFER HEVERLY, ESQ.: Absolutely. We
18 hear complaints from our local judges all the time
19 saying why aren't you involved in this? Why weren't you
20 here? And our response is always, we only have so many
21 resources. The judges are very frustrated by the low
22 income people that have to come before them without
23 representation, especially when there's an attorney on
24 the other side.

25 CHAIRMAN GREENLEAF: Don't the banks

1 understand they take the house and a lot of times they
2 won't be able to sell it? It gets turned over to a
3 service. They have to maintain it. Or if they don't
4 maintain it, then it ends up, what do they do, they tear
5 them down like they're doing in Ohio. Isn't that a
6 factor now?

7 JENNIFER HEVERLY, ESQ.: Absolutely. And
8 the banks I think are willing to engage in a lot of
9 these settlement conferences because they know they're
10 losing more money by taking the house than working with
11 the homeowners. But it's the large banks that mess it
12 up the most that cause this kind of chaos that Ms.
13 Yarison came across where they wouldn't even acknowledge
14 that she was on the loan. They wouldn't even talk to
15 her, even though she was a borrower and a homeowner. It
16 was just that kind of chaos because the bank was so
17 large and the mortgage foreclosure crisis was underway
18 and they were overwhelmed.

19 SAMUEL MILKES, ESQ.: Senator, if I may
20 just interrupt.

21 CHAIRMAN GREENLEAF: Sure.

22 SAMUEL MILKES, ESQ.: We have Judge
23 Hoover and Mr. Rothman who we hoped for you to hear from
24 and they're on very tight schedules. So with your
25 permission --

1 CHAIRMAN GREENLEAF: Sure. Okay. Thank
2 you very much for being here today.

3 JENNIFER HEVERLY, ESQ.: Thank you.

4 LINDA YARISON: Thank you very much.

5 CHAIRMAN GREENLEAF: They are next. The
6 Honorable Todd A. Hoover, President Judge, Dauphin
7 County Court of Common Pleas. Judge, thank you very
8 much for being here today. Sorry for the delay. We got
9 into a little side discussion there. But it's a success
10 story, so it's good to hear those things.

11 HON. TODD HOOVER: I will be short and
12 sweet. There are 12 jurors back at the courthouse
13 waiting.

14 CHAIRMAN GREENLEAF: Well, thank you for
15 taking the time to be here.

16 HON. TODD HOOVER: Thank you for giving
17 me this honor and this privilege. My name is Todd
18 Hoover. I'm currently President Judge of Dauphin County
19 and I have been on the bench for 20 years. And I want
20 to get right to the point.

21 Some statistics that you just addressed,
22 Senator Greenleaf, the biggest area where we see in the
23 court is the family law arena that has expanded
24 incredibly over the last four years. I agree with
25 Mr. Wilkinson. Since 2008 our numbers are up 33 percent

1 and I'll talk about that a little later. But in 2012,
2 this is in custody cases only, there were 1145 custody
3 orders entered in Dauphin County. Of those 1145 custody
4 orders, in 325 cases there was one self-represented
5 party, where someone else had the attorney. In 471
6 cases there was more than one self-represented party.
7 Again, that could be a grandparent, you could have two
8 or three. So that is 69 percent of the cases were
9 without -- 471 without any attorney or maybe one or two.
10 But those statistics to me were surprising.

11 CHAIRMAN GREENLEAF: And the fact that we
12 don't resolve a custody issue, there's other problems
13 that come out, like protection from abuse actions which
14 result from that. So all types of problems result when
15 the parties try to solve the problems by themselves and
16 it's not working out to well. You see it some other
17 way.

18 HON. TODD HOOVER: And in addition, from
19 2008 to 2012, there's been a 33 percent increase in
20 family law cases. That to me is the most significant
21 area for the court and the most challenging. The
22 attorney who was here and just testified, the
23 frustration for judges in a custody hearing or a
24 contempt or modification when the parents aren't
25 represented, you don't get the true picture. You don't

1 get the real picture of what's going on in the family.
2 The parties, you know, it's more of a, I don't want to
3 say tirade, but it's just a rambling discourse of what's
4 wrong with the other person. That's what we hear from
5 the other parent.

6 Dauphin County does have a custody
7 attorney that is paid with private funds and fortunately
8 gaming funds as well are available. But she can't do
9 all of the cases. So the family law area is an area of
10 concern for the Court.

11 In deciding, you ask any judge what's the
12 most significant case they've tried. It's the custody
13 cases. Those are the ones that you take home with you
14 that you hope you do the right thing. So without
15 representation, I don't believe the Court gets the full
16 and complete picture. And it also, it's sort of a
17 catchall, an ethical catchall. You want to try and help
18 the needy and do things and you lose that neutrality
19 when one thinks you're treating them better than the
20 other. So that's a real difficulty for the Court in
21 getting out what is appropriate to make a good decision.
22 So again, we see that.

23 And also the staff time that it takes to
24 assist folks through the process and in court there's
25 more continuances because of unrepresented clients that

1 don't have their witnesses there, miss certain things
2 and again instead of hearing it, you're continuing it on
3 an ongoing basis. I had one custody case who filed,
4 every week he filed contempt petitions against the
5 opposing party. It just drains some resources that we
6 could use otherwise. So that's what the Court sees.

7 I believe the lawyers do incredible
8 things with pro bono service. They really do. In
9 Dauphin County there's a pro bono program that
10 attorneys, it's a guardianship program. It's by statute
11 that the Orphans' Court has to have jurisdiction over
12 guardianships. 69 pro bono attorneys have stepped up to
13 go out and visit guardians and wards. Where other
14 counties hire people and pay them to look at the
15 guardianship reports and things. Dauphin County
16 attorneys step up and do that.

17 And I heard something that was very
18 interesting when someone talked about the training. The
19 pro bono lawyers don't want to do the custody case or
20 divorce because they're unfamiliar with that area. So
21 there's some training I think that could be helpful to
22 lighten the burden as well. So that's my view from 20
23 years. Judge Harhut is behind me right now with many
24 more years and when I grow up, I want to be a judge like
25 Judge Harhut.

1 CHAIRMAN GREENLEAF: Thank you very much.
2 Judge, are you going to testify today or another time?

3 HON. CHESTER HARHUT: Yes.

4 SAMUEL MILKES, ESQ.: With your
5 indulgence, Mr. Rothman does have to be out of here by
6 11:30 to meet a commitment. Would that be all right,
7 Senator?

8 CHAIRMAN GREENLEAF: Yes, absolutely.

9 SAMUEL MILKES, ESQ.: Thank you.

10 CHAIRMAN GREENLEAF: Thank you for being
11 here today.

12 WILLIAM ROTHMAN: Good morning. You're
13 welcome. Thank you.

14 CHAIRMAN GREENLEAF: So I see your
15 testimony here is you formed an organization. Can you
16 tell us a little bit about it?

17 WILLIAM ROTHMAN: Yes. First of all, my
18 name is William Rothman. I'm a Harrisburg native. I
19 have been involved in real estate since 1962 and I
20 formed, I'm the founding partner of RSR Realtors located
21 in Lemoyne. And I became involved with the MidPenn
22 Legal Services through my lawyer. And he had introduced
23 me to Mr. James DeAngelo who was the president of the
24 Dauphin County Bar Association. And through that I was
25 encouraged to encourage some of my friends to become

1 contributors to MidPenn Legal Services so they could
2 hire an attorney to do work with relations and with
3 children and find some sort of a mid ground so that the
4 parents could agree on the custody of the children. I
5 thought that this was a wonderful way for a group of
6 business people in the private sector to work with an
7 organization like MidPenn Legal Services to foster
8 harmony in the homes which, of course, would overflow
9 into the workplace and make happier workers. People
10 wouldn't have to take time off to handle raising their
11 children. It would be helpful in the long run down the
12 road, so to say, for these children when they grow up
13 maybe they would be better parents. We were able to
14 raise about \$300,000 --

15 CHAIRMAN GREENLEAF: I saw that in your
16 tesitmony.

17 WILLIAM ROTHMAN: -- for a five-year
18 campaign.

19 CHAIRMAN GREENLEAF: What's the future of
20 the organization?

21 WILLIAM ROTHMAN: Well, I think we're in
22 the third year of this funding and hopefully at the end
23 of five years they'll will be encouraged to go back out
24 and renew it.

25 CHAIRMAN GREENLEAF: Okay. Thank you. I

1 have other questions, but I know we have to move on
2 here. So thank you so much for being here today and
3 giving your time to be here.

4 WILLIAM ROTHMAN: You're welcome.

5 CHAIRMAN GREENLEAF: Okay. Judge Chester
6 T. Harhut, Senior Judge, Lackawanna County Court of
7 Common Pleas.

8 HON. CHESTER HARHUT: Thank you for the
9 privilege and honor of addressing this Committee today.

10 CHAIRMAN GREENLEAF: Thank you for being
11 here.

12 HON. CHESTER HARHUT: I'm here today
13 wearing two hats. I have been a judge for 26 years.
14 Seventeen of those years I served, in fact the last 17
15 in family court and during 10 of those years I was
16 President Judge. And I will confine my remarks mostly
17 to the function of the courts and fair and equal justice
18 in those areas. I have to agree with everything Judge
19 Hoover said, except that his goal is a little misguided.
20 But hopefully he'll see the light someday.

21 But I can agree, and just a little story,
22 a side story, last week I took, I did PFAs, 15 PFAs.
23 Seven of them had lawyers in the case; five of those
24 cases was the legal aid lawyer. Two of the cases had
25 two lawyers. I don't know if they were pro bono or paid

1 attorneys. I have a feeling they were pro bono. And
2 one of them the legal aid lawyer was involved in with
3 another lawyer. And four of the cases the legal aid
4 lawyer, and there was no other lawyer on the other side,
5 all four of those cases were worked out. The legal aid
6 lawyers, they know how to negotiate cases. They are
7 well trained. They know the law, they know how a law
8 will apply to certain situations and they know how the
9 Courts will rule in those situations so they could keep
10 that process moving without bogging down the court
11 system and if you should happen to get -- Now that day,
12 let me regress to the 15. Two of them were non served
13 and the others we spent more time than we should have on
14 it and the parties, you could imagine, a witness in a
15 protection from abuse case who, even if they're
16 represented or not, they're trying to get an order of
17 protection. They're a victim and they have to face the
18 abuser in court. Perhaps if they're not represented but
19 examining the abuser on the stand or being
20 cross-examined by the abuser, it's an awful situation.
21 And I have to say that judges in Pennsylvania in the
22 last few years have been trained in how to deal with
23 unrepresented litigants. But believe me, the problems
24 are multiple for both litigants and for the courts.
25 It's a tremendous burden when you have to ferret out

1 these cases. Not to mention, just on cases where
2 they're unrepresented, they're so serious sometimes that
3 I will send a member of the staff into the halls to try
4 to find a pro bono lawyer just so that we could assure
5 that some of the facts are in, because especially when
6 they have children involved, we want to make sure the
7 children are safe and their well-being is involved. And
8 we're not always successful in the hall, but we might
9 have to continue that case, as Judge Hoover said, just
10 to make sure that somehow they could get representation
11 somewhere. Because when judges, you're in a case with
12 witnesses who they have no idea of how to present
13 evidence or witnesses and you're not, you're sitting
14 there saying I'm not getting the full story, no matter
15 how it is. And there's a crisis in the legal system
16 when you can't get the full story. You don't get a fair
17 and equal, the parties don't get a fair and equal share
18 of justice.

19 Lawyers, I find legal aid lawyers know
20 the law. They know how to negotiate and they represent
21 clients well. When I look at, the first thing I do when
22 I go in court and look at my list, how many lawyers,
23 which lawyers are involved, how many lawyers do we have
24 today? You get an idea of how long we'll be there today
25 and how difficult it's going to be. And so I think, I

1 could go on and on. But in my observation when lawyers
2 are involved, whether legal aid or regular lawyers, paid
3 lawyers or pro bono lawyers, the system works better.
4 Justice is served.

5 CHAIRMAN GREENLEAF: I'm so glad you're
6 here today, Judge, because after listening to all this
7 today, it's clear that really the only people who really
8 know how bad the situation is are the judges, because
9 the lawyers are not there every day. You're there every
10 day all day in the courtroom watching this and seeing
11 this. Maybe you could just elaborate a little bit on
12 how bad it is and the number of people who are not
13 represented. Let's say the average day, how many people
14 come in without attorneys?

15 HON. CHESTER HARHUT: Well, I often count
16 and I don't keep numbers after 50 percent and it's in
17 excess of 50 percent.

18 CHAIRMAN GREENLEAF: For all cases?

19 HON. CHESTER HARHUT: Well, in these
20 cases. I primarily do protection from abuse, custody,
21 child access, in which what they used to refer to as
22 visitation, and child neglect and abuse. Most of those
23 are, the children are at least covered because of the
24 system.

25 CHAIRMAN GREENLEAF: But they're serious

1 cases and they affect the children of our Commonwealth.

2 HON. CHESTER HARHUT: Pardon?

3 CHAIRMAN GREENLEAF: They're serious
4 cases because they are involving the children of our
5 Commonwealth.

6 HON. CHESTER HARHUT: You know, strangely
7 enough, I've stayed in family court because it's, well,
8 one, judges aren't anxious to do it. And it's such an
9 important area. You're dealing with the safety of
10 people, well-being of children, and legal aid lawyers,
11 even that part about the housing, the mortgage
12 foreclosures and evictions, that's family housing. And
13 I read an article recently where there are more and more
14 homeless families, not just individuals, entire families
15 in our area that are homeless. And if we don't have,
16 our society, I think we're looking at the wrong end of
17 society. We should be looking, we'll succeed if we
18 start paying attention to the most troubled in our
19 society instead of worrying about the top of society.
20 Because that pool gets bigger and bigger. In my
21 experience, there seems to be more and more
22 self-represented litigants in our court system. And as
23 I said, I don't count over 50 percent. I don't go to 70
24 or 80 because it could be that high on some days.

25 CHAIRMAN GREENLEAF: But it's increasing

1 every year I saw.

2 HON. CHESTER HARHUT: Yes.

3 CHAIRMAN GREENLEAF: That's what we want
4 to establish here. It's clear what the consequences are
5 to the people that appear there, to the judge, to the
6 litigants. It's jeopardizing our justice system.

7 HON. CHESTER HARHUT: If you could
8 imagine, a litigant, they want to tell their story.
9 They don't have an idea of how to cross-examine a person
10 or call witness or even ask a question. Most of them
11 just want to tell their stories. And we're formal
12 courts, Common Pleas Court is a formal court. Judges
13 and litigants are bound by rule of law. And for
14 instance, if I ruled, pass over a hearsay objection and
15 either not admit or deny evidence. And just simply
16 because a party could not, did not have the skill or
17 reasoning to understand how to deal with it, that could
18 be, that issue could be subject to reversal and change
19 the outcome of the case because the party just didn't
20 know how to do it.

21 And you're always, as a judge, you're
22 always, wow, wow, wow, I think I know how to deal with
23 this, but we've got rules of law and that's the forum
24 we're in. And that's why if we're in that forum, we
25 need attorneys, parties need attorneys. They've got a

1 lot of education. And these parties, they might have
2 some television education, but it's not real education.
3 And most of them don't even have the television
4 education. They have no idea how to proceed.

5 CHAIRMAN GREENLEAF: Well, it's putting
6 the judge in a very difficult position to be in to try
7 to be the impartial arbiter and then have to make sure
8 that justice is done at the same time. So we appreciate
9 you being here, Judge, and thank you for your input.

10 HON. CHESTER HARHUT: Thank you for the
11 opportunity.

12 CHAIRMAN GREENLEAF: The next witness is
13 George Dingler, New Holland MidPenn Legal Services
14 client. Thank you both for being here today. Do you
15 want to identify yourself so we have it on the record?

16 GEORGE DINGLER: Good morning, Ladies and
17 Gentlemen. My name is George Dingler. I was born in
18 1950.

19 JAMES KEARNEY ESQ.: My name is Jim
20 Kearney. I'm the development director of MidPenn Legal
21 Services. I don't want to come across as representing
22 George, because I wasn't the attorney that handled his
23 case. But I did drive him up here today. And I'd like
24 to just briefly point out that the most recent Lancaster
25 United Way video, George's story was the lead story.

1 They recognized just the power of his story and I told
2 George that if he could get through the filming of that
3 process, he can get through this. So take it away.

4 GEORGE DINGLER: Thanks for the ride up
5 here but I'm not paying for the gas. Like I said, I was
6 born in 1950. I'll try to make this as brief as
7 possible. This isn't the Academy Awards.

8 I was always trying to do the right thing
9 by me and myself and my family. And being born in 1950,
10 you can obviously do the math, I was a candidate for the
11 Vietnam War. I volunteered and I volunteered into the
12 military and I also volunteered to go to Vietnam. I did
13 my tour of duty. I got out of the service unscathed
14 body and hopefully mind. Got married. Had a couple
15 kids. Moved upstate New York. And as luck will have
16 it, 17 years later divorce hit. Well, that brought me
17 to Pennsylvania.

18 And upon arriving in Pennsylvania, got a
19 job within the first week, a large company. I guess I
20 don't need to mention its name. But I was in my 50s
21 then. And about '07, '06, I almost fell at work. Ended
22 up in an ambulance. Ended up in the hospital. Come to
23 find out I needed surgery. They stuck a pacemaker in my
24 chest. Found out I had heart problems, high blood
25 pressure, a heart disease, lung problems, none of this I

1 knew. But I healed a little bit, went back to work.
2 Well, guess what, in the upper 50s I couldn't do the job
3 that I was doing. I was getting dizzy, tired. They
4 fired me. I collected unemployment. I went to collect
5 unemployment. It was denied. I had to fight it. Well,
6 I fought it in a court not as big as this, but I won.

7 In the meantime I'm collecting
8 unemployment, I am trying to get a job, Wendy's,
9 McDonald's, Walmart, no one would hire me, maybe because
10 I was 58, 59 years old, I don't know. But I couldn't
11 get a job. I didn't tell them I was sick. Just put
12 applications in. What can you do? I can fix a crane.
13 I was a crane mechanic in New Jersey. So it's not like
14 I don't know what I'm doing. I'm a mechanically
15 inclined individual, but I couldn't get a job to greet
16 you at Walmart. And unemployment ran out. Okay. With
17 Obama, I got an extra six, eight weeks, or whatever it
18 was, and I took it. Still trying to get a job. Can't
19 get a job. Well, your unemployment ran out. I have a
20 little home. I got a mortgage, I got lot rent. Can't
21 pay any of that. Got nothing. I was able to get food
22 stamps. The only thing that sustained me.

23 I was back probably four, five months in
24 my lot rent and mortgage. One nice rainy day, the
25 sheriff's department come knocking on my door. Opened

1 the door and I said, "Yes, gentlemen, what can I do?"
2 And they said, "Well, Mr. Dingler, don't get upset. But
3 this is the first of the paperwork that you're
4 receiving. You're going to get evicted. I would advise
5 you to move the stuff that you can move. Put it in
6 storage. Put it into somebody's house because we can
7 come back next week, next month, two months. When we
8 come back next time, you have one hour and you're gone."
9 It's his job. I didn't like what he was saying. But
10 everybody got to do something.

11 Well, if anybody has ever lost a loved
12 one, and I've lost a lot, the feeling that went through
13 my right then and there was unbelievable. It's not like
14 losing a loved one, but it's damn close. Here I am, 59
15 years old, going to be homeless. First time in my life.
16 I had more luck in Vietnam than I had that day. But I
17 didn't know what to do. I started calling the
18 commercials you see on TV. Rollins and this one and
19 that one and that one. We can help you. I was
20 physically, I was chewed up. We can help you get social
21 security. I called each and every one of them up. All
22 I got was a recording. Left my name and number. Nobody
23 ever called me back. Started going through the
24 paperwork. Well, guess what? MidPenn was on there. I
25 said what the hell. I gave them a call. Come on down.

1 Gave me a date. I went down there. They set me up with
2 Linda Timberlake. Went in. Told them my problems and
3 talking to her, she was looking dead in my eyes. And
4 when I was talking to her, she was dead in my eyes. She
5 wasn't a lawyer at that -- well, she is a lawyer. But
6 after 10 minutes with her, it's like I knew her for 10
7 years. She says after about, I don't know 15 minutes
8 maybe, 20 minutes, she says, "Mr. Dingler," I said,
9 "George." She says, "Okay, George," she says, "I can
10 help you. Not "I think I can help you. I can help
11 you."

12 So, the paperwork I have been getting,
13 mailed it in, filled it out three times. Every time I
14 called them up, "We never received the paperwork." I
15 brought in the fourth set of paperwork to Linda after
16 it's all filled out. She says, "Good. Let's go." We
17 got in her car. Went to social security. Handed it to
18 the person behind the desk. And she says, "Oh, you
19 could have mailed it." I says, "I did three times."
20 You know. And Linda said, "Excuse me, can we have a
21 receipt here?"

22 Within 10 days I started getting results.
23 I started getting stuff in the mail. I started filling
24 them out. I started getting appointments to go here, go
25 there. See this doctor, see this psychiatrist. And

1 Linda said, "Don't miss a damn appointment, George. Go
2 and see everyone." And I did. Well, the long and the
3 short of it is approximately, I'm going to say six to
4 eight weeks later I'm backed up now a year, almost a
5 year in mortgage and lot rent, actually eight months.
6 That's a lot of money. And I got some letter from the
7 social security and I'm so fed up. I just opened it up,
8 oh, yes, okay, fine. Went over to my neighbor, faxed it
9 over to Linda. And not 10 minutes later Linda calls up
10 because she knew where I was and she says, "Hey,
11 George," she says, "how do you feel?" I said, "Linda,
12 still with my hands," you know. Everything is still --
13 and she said, "No, about that paperwork you just faxed
14 me." I says, "Linda, honestly, I didn't read it." She
15 says, "Well, guess what, we won."

16 I got some of my arrears in social
17 security and I'm getting money each and every month. As
18 of today, I don't owe my lot rent anymore, I don't owe
19 any taxes. My mortgage is almost, well, it's not paid
20 up. That's going to take quite some time. My PP&L bill
21 was over \$600. I'm on the plus right now. My taxes are
22 paid. I don't owe \$800 in taxes anymore. I am to date
23 on everything except my mortgage. Thank you, God, for
24 Penn. Because if it wasn't for these people, I'd become
25 a statistic. I didn't become one in Vietnam by the

1 grace of God and I didn't become a statistic by the
2 grace of MidPenn. And there's not a damn thing I can
3 say anymore. I'm sorry for the language. I'm nervous.
4 But it is what it is.

5 CHAIRMAN GREENLEAF: Well, you did a
6 pretty good job being nervous. That was quite a
7 compelling story. Thank you for telling us that because
8 it will be helpful to other people. We can use that
9 account on numerous occasions in our battle for equal
10 justice.

11 GEORGE DINGLER: Well, if there was a way
12 that people that are out there that could actually find
13 these people -- if it wasn't for the sheriff's
14 department, I wouldn't be here because MidPenn was on
15 that paperwork. And there's a lot of people out there
16 that need help.

17 JAMES KEARNEY ESQ.: We really appreciate
18 you listening to us, Senators. Thank you very much.

19 CHAIRMAN GREENLEAF: Thank you so much
20 for being here today.

21 Our next witness is Elaine Strokoff,
22 Executive Director, Downtown Daily Bread. Thank you
23 very much for being here today.

24 ELAINE STROKOFF: Good morning. Thank
25 you for having me. I'm Elaine Strokoff. I'm very happy

1 to follow Mr. George Dingler because he told a story
2 that perhaps our clients at Downtown Daily Bread would
3 tell if they were lucky enough to have the
4 representation before they became homeless. Many times
5 we see clients who are already homeless because they
6 haven't had the representation that you were lucky
7 enough to have. So thank you for that. And now I'll
8 backtrack.

9 I'm the Executive Director of Downtown
10 Daily Bread, which if you don't already know is a soup
11 kitchen just two blocks away from the Capitol Building.
12 We're on South Street. We've been there for 30 years.
13 For 30 years we have been feeding those living in
14 poverty and the homeless of the city.

15 When I came to this position 17 years
16 ago, we were feeding between 65 and 70 people a day.
17 Now we're feeding between 100 and 150 people every day
18 of the week, 365 days a year. So that just gives you an
19 idea of how our client base has grown just in terms of
20 wanting to have a meal. Now, a huge portion of those
21 100, 150 people are homeless. The others are the
22 working poor. Of the homeless people we see, many have
23 become homeless because of unfortunate situations,
24 traumatic situations which have taken place in their
25 lives. They may become homeless because they have

1 mental illness issues, because they are suffering from
2 drug and alcohol abuse that may also be a co-occurring
3 disorder with the mental illness. They have gone
4 through a life situation, such as divorce or the death
5 of a parent or a spouse. They have problems with a
6 child custody or domestic abuse. They may be veterans
7 who are suffering from post traumatic stress disorder.
8 They may have lost a job because of an illness. Most of
9 them, if they are working, they're working at a minimum
10 number wage. They don't have health insurance. So when
11 they do become ill, they have to miss work and then they
12 find themselves in a very short time not being able to
13 pay their rent. They can't afford a car and they're on
14 the street. Very similar situation that George has just
15 described.

16 I think what's important to note is that
17 many people don't even know that if you are in a
18 situation and you are living in poverty and you don't
19 have legal services, it can be a very short trip from
20 having a home, an apartment, a room, to becoming
21 homeless. That not having legal representation, not
22 having a lawyer by your side when you go for a hearing,
23 when you have a legal problem, it makes a very great
24 difference. And George is articulate. Maybe some
25 clients who go and represent themselves they have been

1 educated. Many of our clients are not educated. They
2 are not articulate. Some of them are not literate. How
3 they could possibly advocate themselves, I do not know.
4 I mean they couldn't. There's no question. And as the
5 Judges have said before, they just want to tell their
6 story. And believe me, when I talk to the clients, you
7 have to get through so many layers of dialogue to just
8 get to the core of what they're trying to say. I mean,
9 the judges must be going through -- well, I feel for
10 them, believe me.

11 So the more opportunities that people
12 have who are living in poverty and who don't have the
13 wherewithal to hire an attorney, the more opportunities
14 they have for legal services, the better the whole
15 community, the whole society is going to be because the
16 bottom line is they can become homeless. They will
17 become homeless and that puts a tremendous drag on our
18 resources, on all of our resources. And the soup
19 kitchen down on the corner is feeling it.

20 Now, we say in our philosophical state
21 that we believe that all humans are created equal. We
22 believe that all humans had a right to have food,
23 shelter and clothing, and maybe we should add to that,
24 and legal services, because we see the end result. And
25 these folks that we work with, we established a program

1 called the Lunch Plus program where we offer, in
2 addition to the food that we serve every day, we offer
3 lockers and showers and clothing and employment
4 counseling. We have collaborations with organizations
5 all over the city so that our clients can be connected
6 with the services they need and a very great partnership
7 we have is with the Dauphin County Bar Association and
8 their Homeless Outreach Project. And we're so grateful
9 for that because lawyers come to us on a volunteer basis
10 and they meet with our clients and they give them legal
11 advice. They don't become lawyers for them. But they
12 give them advice on domestic issues and issues about
13 paying rent and their mortgages and just anything in
14 general, any questions that our clients may have. And
15 our clients are so very eager for that information.
16 Then the lawyers can refer them to go to MidPenn Legal
17 or wherever. And I can't thank Dauphin County enough
18 for those services. And of course MidPenn Legal
19 Services are a great, great value for our clients. But
20 I know that these services are all being stretched and
21 there's just not enough to go around. Because, I mean,
22 so often we see clients who are living on the streets
23 and if you talk to them they will tell you about the
24 problems that they have had and we know that if they had
25 had an attorney by their sides with these legal

1 proceedings, they would not be where they are. And I
2 would like to give you some examples:

3 Had a free attorney been available to
4 assist a low-income person with limited English -- and
5 that's another issue. They're not articulate. They may
6 not even speak English well -- facing an illegal
7 eviction, that's a big issue for our clients, one less
8 client may have needed our help. So we're talking about
9 an illegal eviction.

10 Another issue may have been a person who
11 didn't have time to relocate. Like George, he had just
12 been, said, okay, sometimes our clients are served and
13 said, okay, you have to leave. And the landlord says,
14 you can't take anything with you. You're out. You have
15 a room, you can't pay your rent or you have an alcohol
16 problem, I don't like it, you're out. I'm keeping all
17 your possessions. And clients come to us and they say,
18 I have nothing. All my possessions are locked up in my
19 room. Well, I don't know, is that legal? They don't
20 know. And they have no one to advocate for them.

21 Had a free attorney been available to
22 help a young unemployed spouse divide the marital assets
23 in an equitable fashion, maybe this client would not be
24 homeless. If an attorney had been available to help
25 establish a fair child support, maybe this client would

1 not be homeless. Again, a working adult with unpaid
2 credit card debt and this client then had car
3 repossessed and he couldn't get to work. So he lost his
4 job. He couldn't pay his rent. He became homeless.

5 An Iraq war veteran had his veteran's
6 benefits denied. He didn't have an attorney to help.
7 This happens quite often. Veterans, something that I
8 didn't know, but veterans who have not served more than
9 two years are many times not helped by the Veterans
10 Administration. So we've been referring vets to the
11 Veterans Administration. We figure you're a vet, great.
12 We refer you to the Veterans Administration. Well, if
13 they haven't served two years or they had a dishonorable
14 discharge, they're not going to be helped by the
15 Veterans Administration. I don't know all the ins and
16 outs of that, but I know they come back to us. So we
17 work with them. Many times there's just a glitch in
18 that whole, you can imagine, the whole federal
19 regulation and they need an attorney. Sometimes it's a
20 medical review that has to be done. They need an
21 attorney and without an attorney they just figure
22 they're out on their luck and these vets are out on the
23 street.

24 Over and over again, we've learned that a
25 person may have lost a job and they come into us and

1 they say it was a bad fire. That's what they call it.
2 They were let go for an unjust reason. They go to an
3 unemployment hearing. They don't get compensation.
4 They don't get their unemployment compensation because
5 they didn't have a lawyer.

6 Now, I know if I'm working and some poor
7 uneducated person is working and I get fired and he gets
8 fired, chances are I'm going with my attorney and I have
9 a case, I'm going to get my compensation. This person
10 is not going to get any compensation. And he may
11 deserve it as much as I deserve it. There's just no
12 question about. And this person is going to be
13 homeless, because he can't afford to not be working and
14 to not have compensation. Someone who's sick or gets
15 injured on the job, or doesn't file the paperwork
16 properly, that person needs an attorney or he will be on
17 the street. We just hear these landlord issues,
18 employment issues, housing issues. Sometimes a public
19 drunkenness issue that gets lodged as a legal issue and
20 then gets recorded and then the person has a record.
21 Just all these issues that just keep building.
22 Unfortunately, if you're poor and you're not represented
23 and the legal issues keep building, one issue leads to
24 another issue and I think that those who are homeless
25 have more issues than those who are well off. It just

1 seems that it's a piggyback of issue upon issue upon
2 issue. So I would just say that, I think that for
3 society as a whole, we have to help those who cannot
4 help themselves in order for all to be helped. Because
5 it will make for a better, more healthy society for all
6 of us.

7 CHAIRMAN GREENLEAF: Thank you so much
8 for your activities and your charitable activities in
9 the Harrisburg area. It's wonderful endeavor. And you
10 have a wonderful insight into the overall picture, which
11 has been very helpful today showing what happens, your
12 version of it. This is what happens when they don't
13 have help, they end up at your facility with all those
14 problems. When they could be possibly helped to be a
15 productive member of society and having housing, and
16 paying taxes which the Commonwealth always likes and we
17 want to see them rehabilitated. So thank you so much
18 for your services.

19 ELAINE STROKOFF: Thank you.

20 CHAIRMAN GREENLEAF: Thank you for being
21 here today.

22 The next witness is Ms. Claire Smith from
23 Williamsport, North Penn Legal Services client.

24 Mrs. Smith, thank you very much for being
25 here. Thank you for being patient. I know you have

1 been sitting there for while. But we're waiting to hear
2 what you have to say. Thank you so much for being here.

3 CLAIRE SMITH: How are you today?

4 CHAIRMAN GREENLEAF: Pull the microphone
5 as close as you can so we can hear you.

6 CLAIRE SMITH: I'm Clair Smith and I'm
7 from Williamsport, Pennsylvania. I have been a resident
8 in Williamsport for going on 39 years. Originally from
9 Connecticut. I'm a widow and have two children. I have
10 raised them. But through all the years I've done a lot
11 of community service work and right now, three years ago
12 I opened a soup kitchen and we started with eight people
13 in one day and now I serve between 150 and 175 on a
14 daily basis. And last year we served 15,089 people.
15 And here about two years ago I had problems. I had to
16 have a hip replacement and a knee replacement and the
17 doctor said no more stairs. You have to find a house on
18 one floor. So looked in the newspaper and found this
19 house that was just perfect. But from the day we moved
20 in, we had nothing but trouble. We moved in in October
21 of 2009 and we had to pay \$1,000 a month for the first
22 year and then it went up to \$1200 a month at the end of
23 that first year. All during that time, first it was the
24 hot water tank. We had rusty water. There was no way
25 to cook with it. The only way we could cook with the

1 water was to use the cold water and boil it. We
2 couldn't wash our clothes in the rusty water, either.

3 During that time we also had trouble with
4 being sick from headache and sinuses, because there was
5 mold in the house. The gentleman that rented us the
6 property said there was nothing wrong with the property,
7 it was our imagination. But I was at wit's end. We
8 were paying \$1200 a month, nothing was being done. I
9 wrote him all types of letters asking him to fix these
10 problems. Nothing was fixed. Even went as far as the
11 toilet was leaking in the house and his comment to us,
12 the reason why the toilet was leaking was because my son
13 was so fat he broke the toilet.

14 If it wasn't for Legal Aid Services with
15 this problem with this landlord, I don't think I would
16 have been able to do anything. Because I had pulled
17 our, I had pulled our money in order for him to get
18 anything done and then he didn't want to do it then,
19 either. So it got to the point where we took them to a
20 magistrate, showed the magistrate all the problems that
21 were going on. The magistrate ruled in our favor. And
22 instead of him ruling in our favor, the landlord was
23 told he had to fix the problems. Instead of fixing the
24 problems, he gave me an eviction notice. So we appealed
25 it, we took it back to court and once again we won the

1 case again. But this landlord just didn't want to do
2 anything. He was always there at your house looking to
3 see what was wrong. He would walk into the house
4 anytime he wanted to. Be in the yard in the middle of
5 the night checking things out. I didn't know what to
6 do, being on social security, I can't afford a lawyer.
7 It's too expensive for me. So I contacted Legal Aid and
8 I knew John Persun from Legal Aid, because he worked
9 with me with another kitchen that I had worked with. He
10 was on the board of directors down there. I worked with
11 him, but he handled this part. But I started off with
12 Danna and they told me from which attorney to go do.
13 One attorney handles one thing and one attorney handles
14 another thing. But through it all, we won the case and
15 we're still fighting with this landlord to receive the
16 compensation that he's supposed to give to us. But he
17 wants to give you a nickle on a dime. He thinks it's
18 unfair. But here again, if it wasn't for Legal
19 Services, we wouldn't be getting anything at all. He's
20 a very stubborn person. He goes head to head with the
21 attorneys in there and they go right back with him. But
22 legal aid has helped me in more than one way and I'm
23 thankful for them. Being on social security and almost
24 70 years old, you really need somebody to fight for you.
25 And I don't know what we'd do without them. I really

1 don't.

2 CHAIRMAN GREENLEAF: What would have
3 happened if you had to do without?

4 CLAIRE SMITH: We wouldn't have a place
5 to live. By the grace of the Good Lord, though, I
6 happened to look in the newspaper and found a house on a
7 Sunday. We went to look at it at five in the afternoon
8 and the landlord liked us from the very beginning and on
9 Monday morning he gave us the keys. By luck we were
10 there. But that's only the work of the Lord working for
11 us. But we would have been without a house. I didn't
12 know where I was going to put everything. We were
13 putting it in storage and we got the house before we got
14 everything out of the house and into storage.

15 CHAIRMAN GREENLEAF: That's wonderful
16 testimony. Thank you so much for being here today and
17 taking the time to wait for us.

18 CLAIRE SMITH: That's okay. I'm used to
19 waiting.

20 CHAIRMAN GREENLEAF: Have a good day.

21 CLAIRE SMITH: You, too. Thank you.

22 CHAIRMAN GREENLEAF: Our next witness is
23 Andrew Susko, Esquire, Chair of Pennsylvania IOLTA,
24 Board of Directors. Mr. Susko. We were talking about
25 you a little bit before.

1 ANDREW SUSKO, ESQ.: Thank you, Senator
2 Greenleaf. I do not intend to repeat the written
3 testimony. But I would like to just mention a few
4 items. One, that the IOLTA Board is very appreciative
5 of the Senators' efforts in conducting these hearings.

6 We have very limited resources to the
7 IOLTA Board because as Your Honor mentioned, the
8 interest on lawyer trust accounts has declined roughly
9 70 percent in the last, over the last five years. If
10 you measure 2007, we were distributing about \$12 million
11 annually. Based on interest on lawyers' trust accounts,
12 that number is down to around 3 million. That makes the
13 Access to Justice Act monies that are from legislative
14 enactments so critical and it means that efforts of our
15 Pennsylvania Supreme Court under the leadership of its
16 Chief, Ron Castille, are also critical. He has taken
17 some significant measures, including the increase of the
18 attorney registration fee, the implementation of
19 increases in pro hac vice fees, the class action
20 residual set aside for legal services, all of which have
21 brought Pennsylvania into the forefront and national
22 light as a model for finding and locating scarce
23 resources for legal services.

24 But the essence of what I want to bring
25 to you today and to the Committee is that there is, in

1 addition to the argument that fundamental fairness
2 requires that our courts be accessible, the fact of the
3 economic story which you just heard so eloquently about
4 from Mr. George Dingler and Elaine Strokoff. Martin
5 Luther King has a famous quote that "Justice denied
6 anywhere diminishes justice everywhere."

7 Part of the IOLTA mission is to assure
8 equal access to our justice system. Because legal
9 rights without protection have no meaning. And when
10 individuals as you've just heard fall outside of those
11 rights and don't have the protection of the advocacy of
12 a lawyer, there are huge societal costs. The IOLTA
13 Board commissioned a study and two important points came
14 out of that study. This was by the Resource for Great
15 Programs out of Michigan, a consultant hired by the
16 IOLTA Board studied the economic consequences of legal
17 representation. And we heard Mr. Dingler talk about his
18 receipt of social security benefits. This study
19 estimated for Pennsylvania approximately \$118 million
20 annually are received in social security benefits by
21 people who cannot afford them. Similarly about \$59
22 million in Medicaid benefits are received. Not every
23 one of those individuals are having legal representation
24 through legal services, but the economic impact of
25 providing a lawyer in a time of need to receive social

1 security benefits or other federal benefits are
2 estimated to be about \$584 million a year. In addition,
3 the economic impact of reduced state payouts is
4 important to look at. As Elaine Strokoff just said,
5 it's a very short trip from having a home to
6 homelessness. And when individuals lose their homes,
7 they rely on state and federal programs to provide them
8 shelter, when having legal representation offers them a
9 meaningful potential to stay in their home.

10 And we've seen it time and time again
11 in county after county in Pennsylvania, that when there
12 is an alternative program like the mortgage foreclosure
13 diversionary project where private lawyers pair with
14 legal services, entities, they meet lenders and work out
15 problems that the societal costs are saved. Those costs
16 are estimated in various studies across the country.
17 None has been done in Pennsylvania. But in Texas there
18 was a study that suggested for every dollar spent in
19 legal services, \$4.00 are returned in reduced state
20 expenditures. That study led the Texas legislature to
21 fund legal services to a greater extent.

22 I would close by saying Senator Fontana
23 asked this question about the criminal Wainwright versus
24 Gideon, the criminal Gideon right. The history of that
25 is instructive. The criminal right was called for by

1 practitioners at the bar organized around ethnic
2 societies in the late 1800s, early 1900s issuing a call
3 in the legal community, that individuals who are losing
4 their right to their life, who were going to be jailed,
5 have their liberty taken away, had a right to counsel.
6 And so these societies provided that right pro bono, but
7 advocated that the criminal system was not fair unless
8 there was legal representation.

9 The legal community here stands together
10 believing that on the civil side losing one's home,
11 losing healthcare benefits, losing the permanent custody
12 of a child are all circumstances that fundamentally
13 deprive people of their liberty and that the state
14 legislature and the federal government should support a
15 right to counsel in a case on the civil side when basic
16 human liberties are at stake. Thank you very much.

17 CHAIRMAN GREENLEAF: That's a good point.
18 To narrow it down to where the need is the most and I
19 guess that's started with the first witness and has
20 ended with the last witness. Just one question since
21 you are the Chair of the Board of Directors of IOLTA.
22 Is there any way we can get innovative with the monies
23 that are placed in these accounts? Obviously we have
24 the lawyers put their monies in the account and then you
25 get the interest. Is that how it works?

1 ANDREW SUSKO, ESQ.: Yes, sir. And I
2 heard Your Honor make that point earlier. Certainly the
3 IOLTA Board has become more aggressive in a time of
4 lower interest rates with regard to what it collects and
5 keeps. The interest on lawyer trust accounts refer to
6 the sweep accounts is the interest sometimes collected
7 only for a matter of days before the lawyer turns the
8 money over. These are set by the financial
9 institutions. We are working hard and there are
10 platinum leader banks in Pennsylvania that give us the
11 highest sweep account rate and there are other banks
12 that do not. So various programs are looking at how to
13 better encourage banks to give legal services the full
14 amount of the sweep account interest.

15 CHAIRMAN GREENLEAF: So you are looking
16 into ways of increasing that return, obviously?

17 ANDREW SUSKO, ESQ.: Yes, sir.

18 CHAIRMAN GREENLEAF: Nice to see you
19 again. Thank you for being here today.

20 We do have written testimony from Arthur
21 Gomersall, Lebanon County, a MidPenn Legal Services
22 client, which will be made part of the record. This is
23 the first of three hearings that we'll be having. The
24 next one will be on May 23rd of this month at the
25 Philadelphia Bar Association offices in Philadelphia.

1 So thank you all for being here today.
2 It was very helpful and we will continue these hearings
3 in Philadelphia. Thank you very much.

4 (The written testimony of Arthur Gomersall
5 is appended to this transcript record.)

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8 (The Senate Judiciary Committee Public
9 Hearing concluded its May 7, 2013 meeting at 12:07 P.M.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Dated in York, Pennsylvania this 22nd day of May 2013.


Gail D. McLucas, Notary Public
Registered Professional Reporter



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