

SENATE JUDICIARY COMMITTEE PUBLIC HEARING:
**“Civil Legal Representation of the Indigent: Have We Achieved Equal Access
to Justice?”**

Thursday, May 23, 2013
Philadelphia Bar Association, 11th Floor Conference Center
1101 Market Street, Philadelphia PA 19107
9:30 a.m. to 12:30 p.m.

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**KATHLEEN D. WILKINSON, CHANCELLOR, PHILADELPHIA BAR
ASSOCIATION
TESTIMONY BEFORE THE PENNSYLVANIA SENATE JUDICIARY COMMITTEE
MAY 23, 2013 PUBLIC HEARING:
CIVIL LEGAL REPRESENTATION OF THE INDIGENT:
HAVE WE ACHIEVED EQUAL ACCESS TO JUSTICE?**

Good morning, Senator Greenleaf and members of the Senate Judiciary Committee. I am Kathleen Wilkinson, partner at the Philadelphia law firm of Wilson Elser Moskowitz Edelman & Dicker LLP and Chancellor of the Philadelphia Bar Association. On behalf of the 13,000 members of the oldest association of lawyers in the United States, welcome to our Bar headquarters.

I thank our Chief Justice for making opening remarks about the civil justice gap in Pennsylvania. I am honored to be here today to continue the conversation about the crisis of the unmet need for civil legal services in Pennsylvania.

The Philadelphia Bar Association has a long history of promoting access to justice for low-income people and in partnering with legal services programs, courts and other key stakeholders to launch successful initiatives that have made a profound difference in Pennsylvania and throughout the nation. The Association served as a co-sponsor of the 2006 American Bar Association (ABA) Resolution 112, which urges states and local jurisdictions to provide counsel as a matter of right for the indigent in civil matters involving basic human needs.

The Association has also been a leader in sponsoring measures to implement the ABA resolution. In 2009, then-Chancellor Sayde Ladov appointed the Civil Gideon and Access to Justice Task Force, and the Association officially declared that representation by counsel should exist as a matter of right and at public expense to low-income persons in those

categories of adversarial proceedings where basic human needs are at stake, such as shelter, safety, child custody, health and sustenance. The Task Force was charged with developing and implementing strategies to address the civil justice gap crisis and improve access to justice in the short term and working toward the implementation of a civil right to counsel for low-income people in cases where basic human needs are at stake.

Among other accomplishments, the Task Force envisioned and developed the Philadelphia Landlord/Tenant Legal Help Center, a court-based, independent collaborative project that was launched in January 2012 in conjunction with Municipal Court leadership, SeniorLAW Center, Philadelphia Legal Assistance, Community Legal Services, and other key stakeholders and members of the Task Force. You will hear more about this innovative project that improves access to justice for low-income tenants later today from Michele Cohen, supervising attorney of the Help Center.

We have also built public awareness of the problems faced by unrepresented individuals; and the economic and social benefits to the entire community that flow from providing free legal services to low-income people in areas of critical need. We have developed an online resource known as the [Civil Gideon Corner](#), which contains information about the civil right to counsel movement and activities of our Task Force, available at philadelphiabar.org.

We have also sponsored numerous educational forums on the topic and Task Force members have authored many articles about these issues, including a cover story titled [“Money Well Spent”](#) published in fall 2012 edition of *The Philadelphia Lawyer*. In this article, Penn Law School Professor and Task Force member Louis Rulli reports on an economic impact study prepared for the Pennsylvania Interest on Lawyers’ Trust Accounts (IOLTA) program. The study, dated April 2012, found that for every \$1 of aid in Pennsylvania, \$11 in quantifiable

economic outcomes and savings were realized for Pennsylvania. According to the study \$53 million was spent on civil legal services in Pennsylvania in 2011, which yielded \$594 million in income and savings for Pennsylvanians and supported 2,643 jobs. I am attaching copies of the IOLTA report and the article to my written testimony.

In 2011, the Task Force started to explore additional statewide strategies to address the ongoing civil justice gap crisis. Our efforts to secure public hearings on the crisis began in late 2011 when the Philadelphia Bar Association hosted New York's Chief Judge Jonathan Lippman. Chief Judge Lippman spoke about the powerful effect of public hearings on raising public awareness of, and finding solutions for, the civil justice gap crisis in that state. The Task Force decided that we would take similar steps in Pennsylvania by supporting focused and inclusive public hearings. In 2012, the Task Force's newly created Statewide Strategies Work Group began forming a broad-based statewide coalition of key stakeholders to work collaboratively on exploring strategies to improve access to justice. In 2013, we finalized the formation of the statewide Civil Legal Justice Coalition, which is today a partnership among the Philadelphia, Pennsylvania and Allegheny bars and other stakeholders throughout the rest of the Commonwealth.

The Coalition continues to gain momentum. We were extraordinarily grateful that we found an ally in Senator Greenleaf who brings his own vision, compassion and energy to this problem. Today, I am most pleased and honored to announce the most recent addition to our forces: Chief Justice Ronald Castille has agreed to serve as the honorary chair of the Coalition. The Chief Justice has consistently advocated for increased public funding for legal services and has encouraged the private bar to assist in the effort. We are honored that he has agreed to join this critical effort.

Today's hearing will present a snapshot of the economic and social benefits of increased access to civil legal services as well as the harms to individuals, the community and the courts when critical civil legal needs are unmet. We will also hear about some innovative but interim solutions to address the unmet need for civil legal services. Following this hearing, the Coalition also plans to hold a series of statewide meetings to explore additional strategies to address this problem and consider recommendations on some possible creative solutions to improve access to justice and access to the courts. Among other things, we need to focus on developing a solution to increase public funding to support the hiring of more civil legal services staff to represent low-income individuals and families in critical cases involving basic human needs. The Coalition will report on these efforts at the next hearing that will be held in Pittsburgh.

Thank you for the opportunity to address the Committee on this issue of vital importance to our lawyer members and our community.

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Justice Gap

The Value of Civil Legal
Assistance to the Poor

BY LOUIS S. FULLI



10 Questions for
Richard L. Schuff

BY LAWYER JAMES F. SANCHEZ



The Damnders
of Summer

BY ANITA LANE

MONEY WELL SPENT

THE VALUE OF CIVIL LEGAL ASSISTANCE TO THE POOR

By Louis S. Rulli

In the almost 50 years since the establishment of a federally funded legal services program for the poor, we have learned many important lessons about the value of civil legal assistance. Access to legal help for the poor has made our courtrooms fairer and has engendered trust in the rule of law among the disenfranchised. Representation in individual cases has protected personal safety, preserved homes, secured public benefits and remedied discrimination that weighs families down and prevents them from moving out of poverty.

Being on the front lines of poverty has allowed lawyers to identify systemic injustices that prey upon the poor and to educate the public about entrenched problems that demand broader solutions. Path-breaking legislation and innovative court projects, such as Pennsylvania's Protection From Abuse Act, and Philadelphia's Mortgage Foreclosure Diversion Program, are the tangible results of successful partnerships between lawyers for the poor and public officials, to the benefit of everyone.

We have also learned much about the vital role that lawyers play in our civil justice system. Ethical rules urge all lawyers to perform pro bono legal assistance, and legal aid programs have worked closely with bar associations, law firms, non-profits and law schools to build innovative pro bono projects that deliver high-quality representation. All lawyers have much to contribute regardless of career path or substantive expertise and the legal profession is stronger because of the voluntary contributions of diverse segments of the bar. As business-

driven decisions increasingly dominate legal practice, pro bono legal assistance keeps the profession centered on core values like equal justice under law and the fair administration of justice that the Conference of Chief Justices calls the "cornerstones of our democracy."

LEGAL NEEDS STUDIES

Unfortunately, we have also learned during the past several decades that the legal needs of the poor are substantial and largely unmet. As *The New York Times* noted just last year, "most low-income Americans cannot afford a lawyer to defend their legal interests, no matter how urgent the issue." Sustained cuts in federal funding, reductions in legal-aid staffing, and a recession that has swelled the ranks of the poor, have all contributed to pushing access to legal help beyond reach for most in need. The alarming gulf between client need and availability of legal help is descriptively called the justice gap.

Legal needs studies in Pennsylvania have generally found that only one in five low-income people who experience a legal problem are able to get legal help from any source. In 2009, the Legal Services Corporation conducted a study of all federally funded legal services programs and found that for every client served another person who seeks help is turned away because of insufficient resources. Over the past five years, at least nine states have conducted comprehensive legal needs studies to document the extent of the justice gap. These studies affirm that only a small amount of legal problems are handled by an attorney (less than one in five) and that even

among the most serious legal problems, most are not addressed by any legal help. Even more troubling, the poor who seek legal help represent only a fraction of those who actually need civil legal assistance.

Today, with ample documentation provided by legal needs studies, no one reasonably questions the existence of a serious justice gap. Judges must cope with this gap as they are called upon to make fundamental decisions about the best interests of children or the fate of family homes without having the benefit of legal counsel in the courtroom.

While the findings of legal needs studies are disturbing, the studies themselves have proven vital to helping us better understand the justice gap and to identify tangible solutions. One response has been to find new ways to fund civil legal assistance through statewide IOLTA programs, filing fee surcharges, *cy pres* awards, and *pro hac vice* and attorney registration fees. The Supreme Court of Pennsylvania is a national leader in expanding access to justice through these types of innovations. Another response has been to foster innovation in legal services delivery systems through telephone hotlines, self-help materials on the Internet, help centers in court houses, law student projects and unbundled legal assistance at points of contact in low-income communities. The studies have also helped legal aid programs set priorities for the most efficient and effective use of limited resources. And, without question, the alarming size of the justice gap has fueled growing demand for a right to counsel at public expense in adversarial civil proceedings where basic human needs of the poor are at stake.

An overarching lesson from legal needs studies is that empirical research plays an important role in enhancing access to justice. Our society relies heavily upon empirical data to assess the efficacy of public initiatives and to chart future directions. Law is no exception. While empirical research has given us reliable data about unmet legal needs, we have only recently begun to quantify the economic impact that our investment in civil legal assistance has upon states and local communities.

ECONOMIC IMPACT STUDIES

The maturation of legal aid programs has made possible a new frontier of empirical studies designed to measure economic impact. With improved tracking of legal aid outcomes, researchers are beginning to quantify the overall economic benefit derived from civil legal assistance. These studies are at an early stage of development and rely on assumptions that merit continued study and refinement. With more experience in tracking advocacy outcomes and increased rigor applied to financial models, the studies will sharpen. Still, important findings are rapidly emerging from economic impact studies around the nation, including a recent study in Pennsylvania that deserves our close attention.

THE PENNSYLVANIA ECONOMIC IMPACT STUDY

The Pennsylvania Interest on Lawyer Trust Accounts program (IOLTA) is the Pennsylvania Supreme Court-designated fiduciary for IOLTA and state Access to Justice Act (AJA) funds. The IOLTA program is entrusted with collecting and managing funds from several sources and awarding grants to programs that provide civil legal assistance to persons who cannot afford to engage private legal counsel. In 2002, Pennsylvania enacted the Access to Justice Act to provide supplemental funding for legal aid programs through a modest filing-fee surcharge on users of Pennsylvania's civil justice system. Originally slated to sunset five years after passage, the General Assembly extended the Act and required the Pennsylvania Legislative Budget and Finance Committee to conduct a performance audit of AJA funds and the statewide civil legal aid network.

Conducted in 2011, the performance audit found that case outcomes were generally positive and the large majority of clients appeared satisfied with the services of legal aid. The audit recommended that the Pennsylvania Legislature consider making the AJA fee and surcharge for legal services permanent. In anticipation of the state audit, the Pennsylvania IOLTA program commissioned a five-year report to examine the accomplishments achieved



**2,643
JOBS**

**\$594
MILLION
INCOME
& SAVINGS**

with filing-fee funds, and to report on the overall economic impact resulting from the provision of free legal help in civil matters. They chose The Resource for Great Programs, a Michigan-based corporation with experience in legal services management and research, to conduct this study.

The results were illuminating. In a report dated April 11, 2012, researchers found that for each dollar spent on legal aid, "\$11 of quantifiable economic outcomes and savings were realized for all residents of the Commonwealth." According to the study, a total of \$53.6 million from all sources was spent in 2011 on Pennsylvania's civil legal services programs that, in turn, yielded \$594 million in income and savings for Pennsylvanians and supported 2,643 jobs for Pennsylvania workers.

With an 11-fold return to the local economy from monies spent on legal aid, the Pennsylvania study suggests timely questions about lost opportunity. By not providing adequate funding to meet client need, is Pennsylvania losing out on tens of millions of dollars each year as unrepresented Pennsylvanians are unable to assert rightful claims to federal benefits? Are Pennsylvania taxpayers incurring large safety-net expenditures that could be avoided if

legal help was made available in the first instance? These are important questions yet to be answered.

**THE METHODOLOGY AND
SPECIFIC FINDINGS OF THE
PENNSYLVANIA STUDY**

The Pennsylvania study, which is available on Pennsylvania IOLTA's website, first reviewed all sources of funding for civil legal services in 2011 to get an accurate fix on the total number of dollars spent on legal aid. Second, it quantified the amount of direct benefits flowing to state and local communities from successful legal advocacy and from federal grants received by legal aid programs. To compute direct benefits, the study utilized outcome rates in legal aid cases and applied a standard economic multiplier that captured economic activity generated from the circulation of federal benefits in the state and local economy. Third, the study computed cost savings to taxpayers by totaling the amount of public expenditures for safety-net items, such as emergency shelter or assistance to domestic violence victims, which were avoided because of legal intervention. Finally, the report identified other potential savings from legal aid representation that were not quantified at this time.

The first step of the study revealed that Pennsylvania's legal aid programs received \$53.6 million during 2011 from all public and private sources. In the second step, researchers examined case outcomes achieved with legal assistance. For example, lawyers for the poor assist low-income individuals obtain Social Security and Supplemental Security Income benefits. When they are successful, clients receive ongoing monthly federal benefits and are often entitled to back payment awards. Successful outcomes direct substantial federal benefits to the state and local economy.

Pennsylvania researchers borrowed case outcome results from a standard linear regression analysis conducted on data obtained from 15 general civil legal aid programs in New York State and Virginia. Applying average success rates from the regression analysis to the number of Pennsylvania cases completed in this practice area,



**LEGAL AID PROGRAMS
HELPED
66,658
FAMILIES
SECURE CIVIL PROTECTION
FROM ABUSE**

the study was able to quantify the total revenues obtained by legal aid clients from monthly awards and back payments when standard averages for benefits and back awards as reported by the Social Security Administration were adopted. This step of the study concluded that legal aid representation generated \$118 million during 2011 in Social Security and Supplemental Security Income benefits for low-income Pennsylvanians.

The economic impact of these federal benefits is actually magnified since recipients of Social Security Disability and Supplemental Security Income benefits are automatically eligible for Medicaid coverage, and the health-care coverage they receive qualifies the commonwealth to receive millions of additional federal dollars under the Federal Medical Assistance Percentage. Utilizing annual Medicaid reimbursement statistics compiled by the Centers for Medicare and Medicaid Services, the study found that for each dollar in Medicaid reimbursements made on behalf of legal aid clients, there was a flow of 57 cents in federal revenue to Pennsylvania. Applying successful outcome rates, researchers calculated that Pennsylvania received an additional direct economic impact of \$59 million in 2011.

In short, Social Security and Supplemental Security Income benefits, Medicaid reimbursements and federal grants obtained by Pennsylvania's legal aid programs collectively yielded a total of \$191 million in federal funds to

the Commonwealth in 2011. According to the study, this flow of federal funds produces an even greater economic impact when the government's standard "economic multiplier effect" is taken into account.

The U.S. Department of Commerce's Bureau of Economic Analysis has developed an Input-Output Model that has determined that each federal dollar coming into a state circulates 1.86 times in state and local communities before leaving the state. Applying this economic multiplier effect, the Pennsylvania study found that \$191 million in direct federal revenues to Pennsylvania attributable to legal aid produced \$355 million for local communities before it left the state. Additionally, the Input-Output Model calculates that 13.84 jobs are produced for each \$1 million of federal dollars coming into low-income households in the state. Applying this standard, researchers concluded that civil legal services supported 2,643 jobs for working Pennsylvanians in 2011.

In the third step of the study, researchers examined cost savings to the public from legal aid representation. Here, they determined that Pennsylvania taxpayers obtained an additional \$48 million in cost savings from successful representation in cases involving domestic violence and housing.

In 2011, Pennsylvania legal services programs helped 6,658 families to secure civil protection from abuse. Based on a 2006 economic study that found that each incident of domestic



The bottom line of the Pennsylvania study is that \$53.6 million invested in legal aid yielded \$594 million in direct economic benefits and cost savings to the state and local economy in 2011.

violence carried with it attendant costs of \$3,201 in quantifiable items, such as medical care for injured victims, special education and counseling for affected children, police resources and prison for perpetrators, the study concluded that successful representation to victims of domestic violence resulted in savings of \$23 million during 2011. According to the study, this figure likely underestimates savings because it does not take into account reasonable cost savings for items that are more difficult to quantify, such as time lost from work or school or longer-term trauma costs resulting from domestic violence.

Similarly, legal aid programs provide a high volume of housing representation intended to help low-income families preserve their homes or apartments and thereby avoid homelessness. Pennsylvania legal aid programs completed 22,174 housing cases in 2011. With a representational success rate of 18.7 percent, the Pennsylvania study concluded that legal aid helped 4,147 low-income households to avoid eviction or foreclosure. Applying economic data from a New York study that found that 41 percent of households removed from their homes due to eviction or foreclosure ultimately require emergency shelter at a public cost of \$14,794 per household, researchers concluded that legal aid representation in housing saved the public approximately \$25 million in 2011.

The bottom line of the Pennsylvania study is that \$53.6 million invested in legal aid yielded \$594 million in direct economic benefits and cost savings to the state and local economy in 2011. The total economic impact is likely to be even greater when cost savings in other areas of legal aid representation,

such as health care, disability and community development, are quantified in future studies.

ECONOMIC IMPACT STUDIES IN OTHER STATES AND LOCALITIES

The results of the Pennsylvania study are largely consistent with that of other economic studies conducted around the country. In a 2009 Texas study, researchers found that for every dollar spent on providing indigent civil legal services, the Texas economy gained \$7.42 in total spending, \$3.56 in gross output and \$2.20 in personal income. For only \$4.8 million in state and local funds expended on legal aid, Texas state and local governments benefited from approximately \$30.5 million in yearly fiscal revenues. Similarly, a 2011 study commissioned by the Massachusetts Legal Assistance Corporation found that Massachusetts received an economic boost of \$53.2 million from the state's appropriation of \$9.5 million for legal aid.

New York State's Task Force to Expand Access to Civil Legal Services concluded that civil legal assistance brings substantial federal funds to clients and to the New York economy, with significant cost savings to the state and local governments. The New York study completed last year found that civil legal assistance produced an overall economic impact of \$980 million to New York state. Based upon an investment of \$216 million in funding to legal aid from all sources, this represented an almost five-fold return to the state on each dollar spent on legal aid.

In 2010, a Florida Bar Foundation study found that civil legal assistance had a significant impact on the Florida economy by creating more than 3,300

jobs, producing \$250 million of output in the state economy and providing \$297 million of disposable income. The Florida study concluded that for every dollar spent on legal aid, the state received an economic impact of \$4.78.

Finally, a 2012 economic study by the Chicago Bar Foundation and the Illinois Equal Justice Foundation examined 8,000 closed cases from seven legal aid providers in Illinois and found that legal aid representation produced substantial economic benefit to the state. Karen Hasara, president of the Illinois Equal Justice Foundation called legal aid a "good investment of government and private dollars" in which the economic data demonstrates "the good that legal aid organizations do for their low-income clients as well as the community at large."

BEYOND ECONOMIC BENEFITS

Over the past five decades, the delivery of legal services to the poor has produced many tangible benefits to the legal profession and to our civil justice system. Until recently, however, there has been little attempt to measure the economic impact to state and local communities from such work. Economic impact studies are now underway in many jurisdictions and though at an early stage of development their research findings are significant. They point to highly favorable economic returns to local economies from each dollar spent on legal aid.

It is possible that these early studies slightly overstate the amount of economic impact. However, many believe that they more likely understate economic impact because they do not yet capture all costs savings. Future studies will provide more complete answers, but available empirical evidence from

current studies documents the value of legal aid's role in fostering equal access to justice that, as Georgia Chief Justice Carol Hunstein recently wrote in a leading newspaper, "contributes to healthy communities and a vibrant economy."

The Pennsylvania study is an important addition to this growing body of knowledge. It presents a convincing case that legal aid to the poor helps everyone's pocketbook and that underfunding does economic harm to all Pennsylvanians. Many agree in principle with the call for a right to counsel in important civil cases, but ask how the public can afford additional legal help in such difficult economic times. However, economic studies that document such strong financial benefit to state and local economies from legal aid representation suggest a better question: How can we not afford to pay for additional legal help?

As important as these economic impact studies are, the value of civil legal assistance should never be measured solely in economic terms.

We must not lose sight of fundamental values fostered by civil legal assistance that are essential to the well-being of our society, even if they cannot be measured in dollars. For example, helping homeowners save their homes from mortgage foreclosure does much more than achieve cost savings; it provides families with needed stability, avoids educational disruption, prevents families from plunging deeper into poverty and helps communities remain intact. Helping domestic violence victims obtain legal protection saves lives, protects safety and gives children a healthy environment in which to nurture and grow. Helping senior citizens or disabled persons obtain public benefits promotes independence and restores dignity to vulnerable citizens. Financial benefits are certainly gained in each of these legal aid practice areas but, more importantly, vital interests are advanced that define the type of society we value.

Perhaps the most important lesson about the value of civil legal assistance is that it bolsters the poor's view of our

justice system and holds government accountable to make sure that everyone is treated with respect and fairness. This guiding principle fosters trust and hope that keeps low-income families connected to mainstream society and enhances their ability to move out of poverty. In the final analysis, the relationship between ordinary citizens and their government is much more important to the long-term success of our democracy than any short-term economic gains. As we quantify economic benefits derived from civil legal assistance, we must be careful not to undervalue those enduring qualities that are not measureable in dollars, but that are the bedrock of a just legal system and a humane society that remain a beacon of hope around the globe. ■

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

In 2011¹, \$53.6 Million Invested in Pennsylvania's Civil Legal Services Yielded \$594 Million in Income and Savings for Residents and Communities and Supported 2,643 Jobs.

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

The Unmet Need for Legal Aid Costs the State Money

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

The 2011 Economic Impacts Include:

- **\$546 million in direct economic benefits for Pennsylvania's local communities.**³
Each federal dollar coming into Pennsylvania as the result of Legal Aid's work circulates 1.86 times through local economies. The payoff is more sales for local businesses and more jobs for Pennsylvania workers. In 2011, the impacts were:
 - \$118 million in Social Security benefits and Supplemental Security Income attained for low-income residents;
 - \$59 million in the federal share of Medicaid benefits attained for low-income and disabled residents;
 - \$14 million in federal grant funds received from the Legal Services Corporation; and
 - \$355 million for communities via the economic multiplier effect (1.86 times \$191 million in total federal funds above).
 - 2,643 jobs for Pennsylvania workers, with every million dollars in federal funds brought in supporting 13.84 jobs.⁴
- **\$48 million in additional cost savings⁵ for Pennsylvania taxpayers and communities.**
These savings include:
 - \$25 million in savings in emergency shelter costs. During 2011, a total of 1,715 low-income Pennsylvania families successfully avoided the need for emergency shelter thanks to assistance by Legal Aid advocates. Studies show an average cost savings of \$14,794 per family. In the five-year period 2007-11, Legal Aid helped 7,534 families avoid the need for emergency shelter and saved \$111 million in emergency shelter costs.
 - \$23 million in savings in costs related to domestic abuse. Legal Aid advocates protected 6,658 Pennsylvania families from domestic violence during 2011. Studies indicate an average savings of \$3,462 per family in the costs of medical care for injured victims, targeted education and counseling services for affected children, and law enforcement resources. In the five-year period 2007-11, Legal Aid protected 31,550 families and saved \$109 million.
- **Additional Benefits (not quantified):**
 - Savings linked to crime prevention and reduction in law enforcement assistance.
 - Savings realized by keeping children in school whose attendance would otherwise have been interrupted by homelessness and/or domestic abuse.
 - Revenue for Pennsylvania hospitals and other health care providers from Medicaid reimbursements for services they would otherwise have to write off.
 - Efficiencies in Pennsylvania courts due to Legal Aid's assistance to clients and self-represented litigants through materials and trainings on how to follow court procedures.
 - Additional tax revenue from jobs preserved in Pennsylvania as a result of Legal Aid employment cases.

¹ All years refer to fiscal years ending in the stated year.

² A total of \$53.6 million from "all funding sources" included \$15.5 million in local efforts and direct IOLTA grants; \$13.8 million in federal funds; \$11 million in state Access to Justice Act (AJA) filing fee funds; \$6.1 million in state block grants (Social Services and other), disability project funds, and special allocation funding; \$3 million from the state general fund; \$2.5 million from other sources; and \$1.8 million from IOLTA.

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

⁴ Ibid.

⁵ For more information on calculations, assumptions and data sources, visit http://www.paiolta.org/Grants/Grants_Reports/INDEX.htm

Damon Clay

Client of Community Legal Services
(Accompanied by: **Sam Brooks**, Staff Attorney at
Community Legal Services)

Testimony of Damon Clay
Client of Community Legal Services
Before the Senate Judiciary Committee
May 23, 2013 Hearing

My name is Damon Clay. I am veteran of the United States Army. I am here today to tell you about what happened to me when I tried to deal with the legal system myself and then the help I received from Community Legal Services.

In the winter of 1983, I was stationed in West Germany. My job was to set up advanced fueling stations for helicopters. I was called a petroleum supply specialist. We trained often for this task. On one training mission I was air-lifted into Germany and dropped into sub-freezing temperatures. Due to a supply mistake, I was not provided with the appropriate clothing or equipment to keep warm. To make matters worse the Army lost track of me and a fellow soldier for 36 hours. When we were found, I had to be medevaced to a hospital. I suffered severe frost-bite in both of my feet. I was lucky that I did not die of hypothermia. After my injury, I received an honorable discharge.

Because of my injury, I began receiving a small disability pension from the Veteran's Administration when I left the Army. It was roughly \$120 a month and certainly not enough to live off. After that, I would get notices from the VA at random times: the VA would sometimes raise the pension and sometimes they would lower it again at a later date.

After I left the service, I had several jobs. However, because of my frostbite injury, I was unable to work outside in the winter and was forced to leave many jobs. Additionally, during this time I was experiencing severe symptoms of Post-Traumatic Stress Disorder, which included flashbacks, anxiety, and nightmares. These symptoms increased in the winter and when I heard helicopters. In July of 2010, almost 25 years after I left the Army, I was receiving \$720 per month. I received a letter from the VA stating it was going to cut my pension in half. The letter stated that I was getting better and that my benefit would be

decreased to roughly \$370 per month. At this time, both my frostbite injury and my PTSD symptoms were preventing me from working at all. I was relying solely on my VA pension to survive. Over the years, I had received these letters before. I always tried to deal with them by myself. I would go to the VA but nobody there would be willing to help me. I would fill out forms stating that my condition had not improved, but it seemed like they did not listen to me. The process was so confusing, I always became frustrated and gave up.

I went to the VA myself to try and address this problem. I told them I was not getting better and I needed my entire pension in order to live. Unfortunately, I was not able to convince them to not reduce my benefits. I was ready to give up. I tried to explain to them that my feet still bothered me and that I did not even leave the house in the winter. I was told I needed to get a doctor to sign some forms. I was never told which doctor needed to sign the forms and what the forms needed to say. It seemed like no matter how hard I tried with the VA, I could not be successful. Ultimately, I just felt like giving up. Nobody at the VA seemed to want to help me. It made me angry and frustrated. I had heard from family members and other veterans about Community Legal Services. So, I took the notice from the VA to CLS and met with attorney Samuel Brooks. Mr. Brooks agreed to take my case and file an appeal of the decrease in my pension. Mr. Brooks filed an appeal on my behalf and also requested my complete VA file. When I met with Mr. Brooks again, he suggested I seek treatment for my PTSD from the VA. Although I had been diagnosed with PTSD, I did not think that it was a major problem in my life. I had not been seeking treatment for PTSD and was focused mostly on my frostbite injuries. Through Mr. Brooks, I was able to meet James Grassi a counselor at the VA. I began to meet with Mr. Grassi at least once a week, and sometimes twice. Mr. Grassi recommended that I seek more intense treatment for my PTSD, and I was able to receive six weeks of inpatient treatment.

While I was in treatment for PTSD, Mr. Brooks was asking the VA to increase my pension. Mr. Brooks gathered all of my medical information and worked with my counselors at the VA. Amazingly, last year, I learned that my request for an increase had been granted. Indeed, instead of receiving \$370 per month, the VA was going to give me \$2,900 per month. I also was going to receive a lump sum for payments that the VA owed me. I was very pleased.

Today, I am doing much better. I receive treatment every week at the VA. I now volunteer to help other veterans. I counsel them and talk to them on the phone. I assist them with filling out documents and helping them to navigate the VA system. I am not afraid to leave the home anymore. I am able to spend time with friends and family. I am the happiest I have been since leaving the Army. My quality of life has increased immensely since seeking help from Community Legal Services.

Gabriel Ononuga

*Client of Philadelphia Landlord/Tenant Legal
Help Center*

*(Accompanied by: **Michele Cohen**, Esq. Supervising
Attorney of the Philadelphia Landlord Tenant Help
Center)*

Testimony of Gabriel Ononuga
Client of the Philadelphia/Landlord Tenant Legal Help Center
Senate Judiciary Committee Hearing
May 23, 2013

My name is Gabriel Ononuga. I am 54 years old and live in Philadelphia. I have two boys, ages 18 and 22 years of age. I am employed as a loss prevention officer for a security company.

In 2011, I rented a room at the property located at 547 Walnut Lane in Philadelphia. I had an oral agreement with the landlord to rent a room in the house for \$500 a month. I had been paying my rent. I did not know that my landlord did not have a renter's license. Since he did not have a renter's license he was not allowed to collect rent.

In the beginning of 2013 someone illegally entered my room and stole a bracelet. When I reported the theft to the police department, my landlord threatened to kill me. I then went to report this to the District Attorneys. There was an arbitration hearing and I got a restraining order against my landlord.

Immediately after I got the restraining order, the landlord filed an eviction action against a person that I had never heard of and who did not live at the property, and "all occupants." The landlord got a default judgment and started to go through the eviction process.

Luckily, I saw a letter laying around on the second floor. I opened it and it said there was a default judgment against a person I never heard of with my address. I got very nervous as I felt in my heart that something was not right. I did not understand what was going on and was unable to sleep. I started wondering around the City looking for some legal help. I missed a few days from work. I was very anxious and felt very vulnerable. I prayed for help.

I eventually found the Philadelphia Landlord/Tenant Legal Help Center and met with Michele Cohen, the attorney there. She explained to me that this was a trick to have me

evicted as an “occupant” without the landlord giving me notice of the eviction. It seemed that the landlord was hoping that I would never find out about this until too late. Ms. Cohen advised me that I had to file a Petition to Intervene. I had no idea what that was. Michele Cohen showed me how. She actually prepared the papers and all I had to do was file them. She also prepared me for the hearing. When I went to the hearing, the judge removed the "all occupants" from the eviction order so the landlord could not evict me.

Had I not been able to find legal services, I would have been on the street without any notice and would have not have had any where to go. All of my possessions would have been locked in the room. I would have had to go into a shelter which would be very devastating for me. I have never been in a shelter before and pride myself on being able to support myself. I have never collected welfare or any government benefits. Going into a shelter would have shattered me.

After the judge removed the "all occupants" from the eviction order, my landlord filed an eviction case against me for non-payment of rent. He claimed that I owed money for rent for five months even though I was completely up to date with my rent. I had all of my receipts and knew that I could prove that I didn't owe him any rent.

I went to Court without a lawyer because my case was closed at the Philadelphia Landlord/Tenant Legal Help Center. I did not know that I could open a new case. I also thought that I could show the judge that I didn't owe the landlord anything. I have all of my receipts because I carry them in my car because someone had been illegally entering my room and taking my personal things.

When I went to Court, I did not meet with a judge. Instead I met with the landlord's attorney who told me that I would not have to pay anything if I agreed to move out by May 31,

2013. Since I wanted to move out I agreed. The landlord's attorney asked me to sign an Agreement electronically on the computer. After I signed the Agreement, I got a printed copy, and saw that what I had signed on the computer was a Judgment by Agreement, and it stated that I owed the landlord \$2,875. I was fooled. I told the attorney that I did not agree to this. I did not owe the money as I was fully paid. In addition, for many of the months the landlord was not allowed to collect rent because he did not have a renter's license. The lawyer walked away. I never got to go to see the Judge.

I am going to move out so I do not have the judgment against me but I feel like I was tricked. This feels really horrible and I am concerned about my credit report. When I was making this statement, Ms. Cohen advised me that I must have this Agreement marked Satisfied or it will prevent me from finding new housing and will hurt my credit. I am afraid that the Judgment even marked satisfied will hurt me when I did nothing wrong. I know now to ask Ms. Cohen how to do this so that I am protected.

Michele Cohen, Esq.
*Supervising Attorney, Philadelphia
Landlord/Tenant Legal Help Center*

SENATE JUDICIARY HEARING
MAY 23, 2013
PHILADELPHIA, PENNSYLVANIA

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TESTIMONY OF MICHELE F. COHEN, ESQ., SUPERVISING ATTORNEY
PHILADELPHIA LANDLORD/TENANT LEGAL HELP CENTER

My name is Michele Cohen. I am the Supervising Attorney of the Philadelphia Landlord/Tenant Legal Help Center, a court based, independent collaborative project that was envisioned and developed by the Philadelphia Bar Association's Civil Gideon and Access to Justice Task Force in conjunction with Municipal Court leadership, Philadelphia Legal Assistance Center, SeniorLAW Center, Community Legal Services, private attorneys and other key stakeholders and members of the Task Force. The project was launched in January 2012 with seed funding provided by the American College of Trial Lawyers, Gerald McHugh, Esq. and other Fellows of the College which covers my salary as the part-time (30 hours per week) supervising attorney. The project is administered by SeniorLAW Center.

The Legal Help Center is a triage type pilot program that operates inside Municipal Court two days a week for several hours each day, providing free legal information, advice and limited legal representation to unrepresented, low-income individuals of all ages who are facing eviction and other legal rental housing problems in Philadelphia. The overarching goal of the Help Center is to assist tenants who are not otherwise able to locate legal services. We strive to help low-income individuals and families facing eviction resolve their housing crises and remain in or obtain safe, habitable shelter. We also try to assist with the preparation of

documents but are unable to do this on a consistent basis due to the lack of staffing. We focus on those most in need: those living at 200% or less of poverty, those with children, the disabled, elderly, and those with limited literacy and/or or limited English.

The needs of the tenants range from basic information to representation in Court. However, the Help Center does not provide representation in Court, which is desperately needed in over half of the cases that we see. Some tenants are able to effectively and fairly resolve their disputes with just legal advice. However, most tenants lack the skills to negotiate and represent themselves and are so intimidated by the landlord's attorneys that they can not effectively represent themselves in Court. Because of their lack of skills and knowledge, they often sign Judgments by Agreement in which they waive their rights to remain in their homes and pay monies that are not owed.

Because of limited staff capacity, the Center is only open 5 hours a week. Several volunteer lawyers and law students assist at the Center. In addition to providing the client services, I am responsible for training and supervising the volunteers.

In June 2012, we opened a telephone help line for tenants to call for individualized legal advice. We average 10 calls a day on the telephone line, which is particularly helpful for the employed and vulnerable populations who have mobility, disability, and transportation issues, and others who can not afford the bus fare to travel into town for assistance. Because of the overwhelming volume of calls and limited staff availability, this operation has been closed for the last month.

Since we opened the Help Center, the flood of tenants needing assistance has consistently overwhelmed our capacity. During our first year, the Help Center provided limited assistance to over 1,000 families who could not obtain full legal representation from

any other legal services agency in Philadelphia. We are often forced to provide reduced or no service to many, many tenants who qualify. Because of this demand and our limited capacity, we have not been able to advertise our services to the general public. It is devastating to turn tenants away when we know that a short amount of time and information from an attorney results in the difference between a family living on the street or in substandard housing and them remaining in their homes.

The Need - Statistics

The numbers of tenants needing legal assistance in eviction cases is startling in Philadelphia. According to data provided by Municipal Court, there are approximately 30,000 eviction actions filed a year in Philadelphia. Of the 30,000 evictions actions, 85% of the landlords choose to hire an attorney. In public housing eviction cases, an attorney is always present. In stark contrast, only 3-5% of tenants in eviction cases have legal representation. There is a clear imbalance of power in these cases.

The numbers, however, do not tell the complete story. While there are 30,000 eviction cases filed a year, there are many many other tenants who are illegally locked out of their properties or face serious, life threatening habitability issues in their homes such as lack of heat and/or water. These tenants also need legal assistance. The need is not close to being met as there is only the equivalent of 5-6 full-time legal services attorneys that handle the 30,000 plus cases in Philadelphia.

Tenants Need for Representation– The Practical Reality

The practical reality is tenants come to court with little knowledge of the process, they are very anxious, and often have vulnerabilities such as limited education, language and cultural barriers, and disabilities. They are intimidated by the legal process and the fact that the landlords are represented by counsel. They do not know how to prepare and present their

positions in a manner that complies with the law. The tenants usually know little about the law, and what they do know is general or often inaccurate.

When the tenant arrives in Court, the landlord's attorney calls the tenant to a room to "negotiate." The landlord's attorney sits at a computer provided by the Court and tells the tenant how the landlord wants to resolve the dispute. Tenants are often intimidated by the attorneys and afraid to challenge them, viewing the attorneys in a position of power. In my eight years as a legal service attorney I have seen little negotiation. In the vast majority of the cases, tenants agree to sign a Judgment by Agreement electronically without the opportunity to review a hard copy. Many tenants are so intimidated that they agree to pay thousands of dollars they do not owe. The Agreement cannot be appealed. The tenants then leaves the courthouse without ever having seen a Judge.

There are many procedural barriers and legal complexities that unrepresented tenants face in eviction cases. The majority of the eviction cases are called by a trial commissioner Court at 9:00 a.m., and many tenants lose their cases just because they arrive a few minutes after 9:00 a.m. One client, a single father of two young children, arrived at court at 9:01 a.m. because he had to drop his children at school and is not allowed to do so before 8:30 a.m. A default judgment had already been entered against him. The defaults happen on a daily basis. While a tenant may file a Petition to Open a Default Judgment, tenants generally fail to properly draft the Petition, which results in it being denied. Other tenants just give up. Most unrepresented tenants have no idea how to obtain licensing information about the landlord or how to ask for the rent to be abated because the rental property is not in safe or habitable condition. Tenants do not know that they may file a counterclaim against the landlord or how to present evidence in court to support a counterclaim.

Types of Landlord/Tenant Cases That Require Legal Assistance

At the Help Center, we see a broad array of landlord/tenant cases, each representing their own challenges for tenants, which are outlined below. The need for legal advice or full legal representation depends on the facts of the case and the complexity of the legal claims at issue. The level of service can only be evaluated by an attorney who is familiar with the law and the court process.

- General Advice – many tenants come to the Help Center seeking information about both their rights and their responsibilities. Some have habitability problems and want to know what legal remedies are available to them as they want to make sure they comply with the laws. Other tenants have received letters from their landlords about a problem and want to know how they should proceed. After reviewing the documents I discuss with the tenant their options, including their responsibilities. I offer practical suggestions about how they can effectively communicate with their landlords with the goal of developing a healthy relationship to resolve both the current and future problems.
- Illegal Lock-out – Many non-corporate landlords refuse to obtain a rental license to rent their property, which costs \$50. In Philadelphia, landlords may not legally file an eviction action without a valid rental license and they are prohibited from just changing the locks on a tenant's unit instead of filing an eviction complaint in court. Many landlords ignore this law and tenants come home to find their doors locked, preventing access to their family's clothing, medicine, school books, furniture, pets and school uniforms. As a result the children cannot go to school and the parents cannot go to work. In most of these cases the most urgent issue is lack of medication. One client had a seizure in the corridor at Municipal Court Clerk's office as she was leaving my office because the landlord illegally locked her out and refused to allow her to entrance

to her home to obtain her medicine. This family was fully paid on the rent. This family could not obtain legal representation to file an emergency action in court to regain possession of their home and/or their belongings. Eventually we were able to assist the family but it took weeks. Full representation by an attorney would have remedied this situation much quicker and helped this family avoid numerous hospital and doctor's visits.

- Utility Shut-Offs – Landlords often turn off utilities in order to pressure tenants to move, again without going through the legal process. Representation by an attorney can remedy these situations by filing emergency petitions in Court.
- Habitability issues – This is a huge problem in the City of Philadelphia. Some landlords choose not to maintain their properties. Many of the tenants we see live in bug and rodent infested units with peeling walls, water coming in through the roof, mold, windows that do not close, insecure exterior doors, etc. We had one family – a disabled father, working mother and three small children – whose sole toilet did not work for over a month. When the family withheld the rent, the landlord locked them out. Because they did not have an attorney, they were never able to regain possession. Equally horrifying is the story of the working mother and two children who demanded that a broken heating pipe be fixed. Rather than fix the pipe, the landlord called the Department of Human Services to report the mother for housing her children in a property without heat in the winter. To avoid having her children placed in foster care, the tenant had to move to a shelter, at the City's expense. If legal services were available, landlords would be forced to repair uninhabitable properties, preserving both the individual home and our neighborhoods and communities.

- Eviction cases –Most of the eviction cases are filed on the basis of non-payment of rent. Tenants do not pay their rent for many reasons, including legally withholding their rent when there are serious habitability issues in the property. When tenants exercise this legal right, landlords often react by illegally locking them out of their home or filing an eviction action. Those facing eviction actions are too afraid to come into Court because they do not understand the process and do not have the skills to defend themselves. When tenants fail to appear a default judgment is entered against them resulting in their eviction and damage to their credit and landlord tenant records, a problem that follows them for years to come. Other tenants, not knowing how to prepare and present their cases, and "negotiate" with landlord's attorney, often sign Judgments by Agreement terminating their right to live in the property and paying money they do not owe. Some tenants owe rent but cannot organize their receipts or understand the landlord's ledger and, therefore, can not present them to the Court effectively..
- Post Municipal Court – Many tenants receive default judgments against them either because they did not receive notice of the hearing (it was posted on an exterior door of a multi-unit complex) or they were late for Court. Tenants who file their own Petitions to Open are often denied a new hearing just because they do not understand how to fully complete the paperwork. When we help tenants redraft their Petitions to Open, they are generally granted.
- Appeals to the Court of Common Pleas – The Court of Common Pleas is a very formalized Court that requires extensive knowledge of legal procedure and the law. In my experience, tenants are not successful in representing themselves in this Court. Representation of an attorney is almost always needed by tenants in this Court. We

have had to decline pleas from the Court to assist more tenants because of the lack of resources.

Impact on Tenants

There are thousands of low-income families in Philadelphia forced to live in shockingly substandard housing every year because their landlords will not comply with state and local landlord tenant laws and make necessary repairs and/or because the landlords illegally shut off utilities or self-evict. Thousands of low-income tenants find themselves wrongfully evicted because they could not present their cases adequately due to lack of legal counsel. Tenants often find themselves evicted from rental units in which they have complied with all of the lease terms (as written by the landlord) and are fully paid on their rent. Families and individuals evicted from their homes often end up in homeless shelters, making it extremely difficult to retain a job or send children to school every day. In Philadelphia the shelters are full on a regular basis. Families living in substandard housing or on the street face losing custody of their children because of the inability to provide a safe and sanitary home. Elder tenants are often forced into nursing homes, the streets or other inappropriate institutions or facilities due to the lack of suitable shelter for their special needs and vulnerabilities.

The harm to tenants and their families does not stop at being evicted. The negative impact remains on their housing record indefinitely, significantly diminishing their prospects of obtaining suitable housing in the future as many landlords now screen tenants with the use of landlord tenant reporting agencies. In addition, tenants are prevented from accessing subsidized housing with a negative housing record. The information becomes part of the public record with access to potential employers, further spiraling their already fragile lives out of control.

The cost of homelessness to our community and the impact of eviction on families is severe. When families are being threatened with eviction, parents, children, and grandparents suffer. All members of the family are more likely to experience poor health and are more likely to suffer from depression. Children have an increased risk of asthma, infectious diseases, development delays, are less likely to be immunized, and are more likely to have behavioral and academic problems. By preserving their home life, children, parents and grandparents have the opportunity to maintain their daily routines, such as attend school, work, access health care and supports, and be part of and contribute to their community. If tenants are not able to stay in their homes, prompt referrals to human and social service agencies help address their needs, and allow their transition to be smoother and more organized.

Benefits Beyond Individual Cases

Providing legal representation to tenants in eviction cases not only benefits individual tenants, but it also benefits our neighborhoods and the community at large and improves the efficiency of the court system. When landlords know that a tenant may obtain legal representation, they are more likely to maintain their properties in better condition, preventing houses and neighborhoods from falling into disrepair.

Providing legal representation in eviction cases also provides economic benefits to our communities as families are more likely to remain in their homes or transition more smoothly to new housing, which benefits the City and State economically, avoiding costly shelter costs. As noted in the Pennsylvania IOLTA study, for each dollar spent on legal services, \$11 of quantifiable economic outcomes and savings were realized for the residents of the Commonwealth. This study is consistent with other studies in other states.

Summary

More than 95% of low-income tenants in Philadelphia face eviction and the loss of their homes *on their own*, without an advocate, attorney, or representation, or even information about the legal process or their rights under the law. While landlords are almost always represented by counsel, tenants and their families rarely are, resulting in a clear disadvantage to the tenants. This is true despite the high stakes and consequences: loss of shelter and its many attendant activities (access to employment, education, safety, heat, water, healthy lives).

Every day, Philadelphia tenants are forfeiting important rights, are denied meaningful access to justice, and are losing their homes or being forced to live in uninhabitable homes. Their plight is not due to the governing laws or facts of their cases, but due to the absence of counsel, an advocate, and empowering tools of knowledge and information about their rights. The laws for the most part have already been enacted. The problem is that the tenants do not know about them and most are not equipped to enforce them on their own without legal representation.

Biography

I am the Supervising Attorney of the Philadelphia Landlord/Tenant Legal Help Center. Prior to the establishment of the Philadelphia's Landlord/Tenant Legal Help Center, I worked as the Coordinator of Consumer and Tenant Rights at SeniorLAW Center, a nonprofit organization that protects the rights of older Pennsylvanians. I have been a practicing attorney since 1984, beginning with a clerkship in New Jersey, then working at Wilson, Elser, Moskowitz, Edelman and Dicker, Montgomery McCracken, and the Law offices of Joseph H. Tucker. I received a B.S. from the Pennsylvania State University and my J.D. from the Washington College of Law.

Joe Miller

*Client of Legal Aid of Southeastern
Pennsylvania*

*(Accompanied by: **Deborah Steeves, Esq.**, Staff Attorney
for Legal Aid of Southeastern Pennsylvania- West
Chester Office)*

Statement of Joe Miller
Client of Legal Aid of Southeastern Pennsylvania
Before the Senate Judiciary Committee
May 23, 2013 Hearing

Our oldest son, Ted, is autistic. He has a form of autism known as Asperger's Syndrome, that makes it impossible for him to care for himself but that does not always "show" in a traditionally "disabled" way.

We didn't always know that Ted had Asperger's. We just knew that, from a very early age, something was very wrong. We tried everything to help Ted. He didn't fit in at school, so we home schooled him. When we had the money, we tried to get medical help for him. But without health insurance, it was a financial disaster. First, they'd try one medicine at \$500, then, when that didn't work, another \$300 three weeks later. Because at that time Ted could not be left alone, only one of us could work and we lived on the edge of bankruptcy. If it wasn't for financial help from a relative, we literally might not have been able to afford groceries.

This went on for the last decade until, finally – physically, emotionally, and financially exhausted – we decided we could go no longer on our own. When Ted reached 24, we turned to the only place we could think of: County Assistance.

County Assistance was chaotic like no other organization we had ever experienced. Documents were submitted, only to be lost. Five times we submitted the same half-dozen papers, at one point. And every time the result was the same: a letter from County Assistance saying that Ted's request had been denied because we had failed to submit the requested documents.

We were desperate and just about to give up when we noticed a small item in the denial letter about Legal Aid of Southeastern Pennsylvania. We took a chance and called.

The one thing I remembered best about meeting Legal Aid attorney Deb Steeves was that we had finally met someone who not only listened to us but understood our desperate situation.

And it wasn't long before, to our amazement, that we suddenly got attention at County Assistance! It was Deb, working behind the scenes, who was doing what we could never, ever have done. What a difference!

Soon, Ted had both cash assistance that allowed him some independence and, most importantly, medical assistance. When this ran out, it was Deb Steeves and LASP who was again there for us, helping us to negotiate the Social Security Disability appeals process that got Ted medical help. This not only freed us from the crushing financial burden of trying to carry all of his bills, medical and otherwise, but it got him the help he desperately needed but that we could not afford.

Today, things are still not what anyone would call "easy" but they are definitely on an upward curve. That same young man who was, when we first came to Legal Aid of Southeastern Pennsylvania, essentially non-functional, this month graduates from Community College with an Associate's Degree. While taking classes, he has been holding a part-time weekend job, decreasing his reliance on County Assistance and moving toward total independence.

There are those who scorn such assistance but this is one story where it truly was an investment, one that is already paying off. It is about lives changed, an entire family changed. And it wouldn't have been possible had it not been for Deb Steeves and Legal Aid of Southeastern Pennsylvania.

Thank you.

Denise and Anthony Bellita

*Clients of Legal Aid of Southeastern
Pennsylvania*

*(Accompanied by: **Kesha James, Esq.**, Staff Attorney for
Legal Aid of Southeastern Pennsylvania-Norristown
Office)*

Statement of Anthony and Denise Bellita
Clients of Legal Aid of Southeastern Pennsylvania
Before the Senate Judiciary Committee
May 23, 2013 Hearing

We, Anthony and Denise Bellita, are residents of Bridgeport. We reside in the home that Mr. Bellita's brother previously owned. We purchased it from his mother and father in 1990. We refinanced the home in 2006 and received a high 30-year adjustable rate mortgage with a minimum interest rate of 9.850%. We fell about 3 months behind in our mortgage because of a few unexpected bills, but were able to get the money together to reinstate the mortgage in accordance with the terms of the Act 6/91 Notice. We submitted the reinstatement funds in full compliance with the provisions of the notice, but the mortgage company unlawfully returned the funds and filed a foreclosure action. We went to Legal Aid of Southeastern Pennsylvania for help. This case is still ongoing. LASP has done discovery and has clear documented proof that the loan servicer received the reinstatement funds and returned them.

Last year, we reluctantly accepted a loan modification that fixed our interest rate at 9.850% and added over \$5000 in foreclosure fees and costs to our modified loan balance. This was because we were afraid of losing our home that we have lived in since 1983 and our kids grew up here. However, in efforts to resolve the counterclaims filed by LASP, the mortgage company is in the process of reviewing us for a much better modification. We are awaiting those terms to determine whether LASP will move forward with our claims under Act 6/91 and the Unfair Trade Practices and Consumer Protection Law, which allow recovery of actual and punitive damages and attorney's fees.

Honorable Margaret T. Murphy
*Supervising Judge Philadelphia Court of
Common Pleas – Family Division*

SENATE JUDICIARY HEARING
MAY 23, 2013
PHILADELPHIA, PENNSYLVANIA

TESTIMONY OF MARGARET T. MURPHY, SUPERVISING JUDGE
DOMESTIC RELATIONS - PHILADELPHIA FAMILY COURT

Thank you, Senator Greenleaf, and all of the distinguished members of this Panel, for allowing me to appear today and give testimony regarding the unmet needs for legal services for low-income litigants involved in civil actions regarding basic human needs.

By way of introduction, my name is Margaret T. Murphy. I am currently the Supervising Judge of the Domestic Relations Section of Philadelphia Family Court, a position that I have held for the past seven years. My career in Family Court has spanned twenty-eight years. Initially, I served for twelve years in the Master's Unit, as a Support Master, and as a Divorce Master, and simultaneously for six years as Chief of the Master's Unit. From 1996 until receiving an appointment to the Court of Common Pleas in 2000, I was the Deputy Court Administrator of the Domestic Relations Section. Since 2000, I have had the privilege of serving as a Judge in the Philadelphia Court of Common Pleas, assigned to the Domestic Relations Section of Family Court. Therefore, my perspective on the issues and challenges of providing access to justice for self-represented litigants comes from my experience as a Master, as an Administrator, as well as a Judge.

Under the leadership of Administrative Judge Kevin M. Dougherty, it has been my distinct honor to serve as the Supervising Judge of the thirteen Judges of the Court of Common Pleas who preside in Philadelphia's Domestic Relations Section. The Domestic Relations Section is responsible for processing all cases involving child support, spousal support, custody, divorce and domestic violence. The volume of domestic relations cases in

Philadelphia is significant, and the availability of legal services for low-income parties is limited.

The court is charged with insuring a fair trial for all cases, including those cases involving self-represented litigants. Self-represented litigants are not learned in the law, the rules of evidence or the rules of procedure. During the course of conducting any trial or hearing involving self-represented litigants, the court must remain impartial, while also providing each individual with the opportunity to have his or her case fairly heard. The court must question the parties to determine what their cause of action may be, and hopefully elicit the necessary responses that are relevant to the pending complaint or petition. In complex cases, the court will require counsel to submit a pre-trial memorandum, which should outline the history of the case and set forth the issues before the court, in addition to attaching witness lists and a list of documents intended to be introduced at trial. In cases involving unrepresented parties, it is rare to receive an appropriate pre-trial submission, so the trial is a step by step attempt to develop the pertinent facts by a jurist with little, if any, background of the case. The dilemma occurs when the unrepresented party does not have the ability or the opportunity to present the significant facts which would otherwise be determinative of the outcome of the case. In such instances, justice is not served.

Often, litigants have language barriers, physical and/or mental impairments, limited education, inadequate housing, in addition to being involved in a contentious and volatile conflict over a domestic relations matter. A significant portion of the litigants filing petitions in the Domestic Relations Section are poor and unemployed. As of December, 2012, the unemployment rate in Pennsylvania was 7.9 percent while Philadelphia's unemployment rate was 10.6 percent. Twenty six and seven tenths (26.7) percent of the population of Philadelphia live at or below the poverty level. Philadelphia is one of the poorest big cities in the entire country. Clearly,

the population we serve in Philadelphia's Family Court would greatly benefit from any and all additional funds that could be appropriated to supplement the extremely overburdened providers of legal aid in our city. Simply stated, less than twenty percent of our domestic relations cases have parties who are represented at all stages of the proceedings. In Philadelphia, thousands of litigants are unrepresented in domestic relations cases each year. Their lack of knowledge and understanding of the legal system creates a multitude of significant problems, including litigants leaving court with the perception that they were not treated fairly in a proceeding, whether or not that is the reality of the circumstances of their individual case.

The legal community in Philadelphia has made great strides to provide *pro bono* legal representation to litigants in many cases types, including domestic relations cases. Private attorneys who are not family lawyers are reluctant to handle a difficult family law case, despite the peer assistance readily given by other private counsel. Private counsel who are family lawyers must make sure they do not have a conflict of interest when volunteering to assist in a case, which can also be problematic since many domestic relations cases last the lifetime of a child and may involve custody, support, divorce and domestic relations dockets. Referrals to the legal service providers are made by court personnel, but the demand for the excellent services of the legal aid providers greatly exceeds their available resources. Despite providing assistance in filing petitions in our Intake Unit, and our Domestic Violence Unit, self-represented litigants cannot seek legal advice from court staff. When staff correctly decline to provide legal advice, litigants complain vehemently to administrators regarding unhelpful and discourteous staff. Repeated and inappropriate filings clog the court dockets, most notably when parties continue to re-file petitions rather than appeal a decision with which they disagree.

As Supervising Judge, I regularly receive *ex-parte* telephone calls and letters demanding a judge be removed from a case because a litigant disagrees with the outcome. Rather than file an appeal or a petition for reconsideration, the litigant will file a Judicial Conduct Board complaint regarding the judge who heard the case and a new petition to begin the litigation process again. Clearly, this is frustrating to the litigants and to the court. Unquestionably, it would be beneficial overall if litigants who appear in Domestic Relations cases could have the benefit of legal representation. In my experience, custody cases are the most significant cases negatively impacted by the lack of legal representation.

Custody cases involve the most sensitive and personal issues, and custody cases require the court to determine what is in the best interest of the children who are the subjects of the custody case by considering many statutory factors. Some of the factors include consideration of the present and past abuse committed by a party, or by a member of the parties' household, as well as whether the party or a member of the parties' household has been convicted of certain enumerated offenses, and whether that party or household member poses a risk of harm to a child. Additional considerations are the history of drug or alcohol abuse of a party or a member of a party's household, and the mental and physical condition of a party or the member of a party's household. If any of these factors are present, the unrepresented party is rarely prepared to introduce evidence to alleviate the concerns or substantiate the claims that an individual is or is not one who may pose a risk of harm to a child. Therefore, cases are delayed and continued for further evidence that may or may not be forthcoming. Access to the child may be interrupted, which may or may not be in the child's best interest. While issues of alleged neglect and abuse of a child may be similar to those issues litigated in the Dependency Court, the difference in Domestic Relations Court is that the parents and child are not represented by court-appointed counsel, nor are resources and services available to the parties,

as they are in dependent proceedings. Therefore, the Domestic Relations Judge must rely on the testimony presented by the unrepresented litigants and whatever evidence they present, with few additional resources available for investigation or assessment.

Routinely, when parents cannot agree, a judge must determine what access, if any, a parent or grandparent or third party may have to a child, what school a child should attend, where a parent may travel or relocate with a child, as well as determining issues regarding medical and psychological treatment for a child. Custody cases are fraught with extremely emotional issues, including a child's stated preference of one parent over another. When parties begin questioning one another during the trial, without the "buffer" of an attorney, the tensions are heightened and outbursts often follow. Agreements are much more difficult to reach without attorneys, and the litigation process itself seems to intensify the discord between the parties, which is not in the best interest of the children involved in the case.

Our Domestic Relations Judges conduct hearing in claims for primary physical custody, contempt of custody orders, expedited and emergency matters and exceptions to proposed orders for partial custody and visitation. In 2012, custody petitions filed in Philadelphia totaled 27,302, including 13,577 new complaints in custody, plus petitions for modifications, contempt and interim relief. The number of individual custody cases processed totaled 11,359 with 36,605 custody petitions being resolved. The volume of custody petitions in Philadelphia is staggering, and less than 20 percent of the parties are represented by counsel.

In addition to custody matters, Domestic Relations Judges also hear the cases involving domestic violence between family members or between parties who have had an intimate relationship. The Domestic Relations Judges in Philadelphia also conduct hearings to vacate or extend restraining orders, and contempt of PFA orders, both civil and criminal. In 2012, PFA petitions seeking the entry of an order totaled 11,993, and 12,108 cases were processed, in

addition to the contempt cases and the modifications filed. In 2012, the Domestic Relations Judges in Philadelphia also conducted approximately 3,600 hearings in criminal abuse cases, where a defendant is charged with indirect criminal contempt for a violation of a civil protection order.

In addition to custody filings and domestic violence matters, the Domestic Relations Branch handles support filings which totaled approximately 39,500 matters in 2012, as well as another 12,951 divorce filings. As set forth in the chart hereafter, you will see that the volume in Philadelphia is significant with total filings in the Domestic Relations cases being 91,733 in 2012 with dispositions of 104,629 petitions resolved. Therefore, any additional funding to provide legal representation to low-income litigants would certainly be an enhancement to the parties' ability to access justice, as well as assisting the courts in processing an ever-increasing caseload involving unrepresented individuals who are litigating matters of significance to them, such as the custody of their children.

Thank you for allowing me to participate and for considering my testimony.

**Philadelphia Family Court
Domestic Relations Division
Calendar Years 2010-2012**

Total DR Filings				
		2010	2011	2012
Custody Filings	Custody/Confirm Custody	6,780	7,608	8,311
	Partial Custody/Visitation	582	535	547
	Modify Custody	4,188	4,358	4,719
	Contempt of Custody	2,105	2,055	2,224
	Subtotal	13,655	14,556	15,801
	Custody Exceptions	79	73	30
	Motions & Other Filings	10,701	11,088	11,471
	Total Custody Filings	24,435	25,717	27,302
Support Filings	New Complaints	18,373	22,390	23,617
	Modifications	11,489	10,771	10,710
	Contempt Petitions	10,343	4,471	2,550
	Support Exceptions	1,022	997	1,080
	Support Motions	1,733	1,726	1,530
	Total Support Filings	42,960	40,355	39,487
Domestic Violence New Petitions		11,623	10,981	11,993
Divorce	New Petitions	1,928	1,887	1,743
	Misc. Filings (Contested & Uncontested)	12,541	12,467	11,208
	Total Divorce Filings	14,469	14,354	12,951
Total DR Filings		93,487	91,407	91,733

Total DR Petitions Processed				
		2010	2011	2012
Custody	Interim, Master and Judicial	34,147	35,998	36,605
	Support Establishment only. Disposition of contempt and motion hearings are not counted on statewide child support system - PACSES	31,512	27,696	28,795
Domestic Violence	Interim & Final	33,278	33,839	35,252
Divorce	Final & Interim Orders only	3,728	3,673	3,977
Total DR Dispositions		102,655	101,206	104,629

Margaret T. Murphy

Judge Margaret T. Murphy has been a judge in the Philadelphia Court of Common Pleas since November, 2000, when she was assigned to the Family Division - Domestic Relations. Since 2006, she has served as the Supervising Judge of Domestic Relations, where she is responsible for supervising all aspects of the processing of Domestic Relations cases in Philadelphia County, including custody, divorce and equitable distribution, domestic violence, and support matters, including the annual collection of approximately \$170 million in child and spousal support payments. Her career in Philadelphia's Family Court spans 28 years. Initially, she served as a Permanent Master in Support for six years. Thereafter, she was a Permanent Master in Divorce for an additional six years, while she simultaneously served as Chief of the Masters Unit. From 1996 until her appointment to the bench in 2000, she was the Deputy Court Administrator of Domestic Relations.

Judge Murphy currently serves as a member of the Pennsylvania Supreme Court's Domestic Relations Rules Committee. She previously was a member of the Board of Directors of the Domestic Relations Association of Pennsylvania (1996-2000).

In 2012, Judge Murphy received the DRAP (Domestic Relations Association of PA) President's Award, for her dedication and leadership in the statewide child support enforcement program. In 2009, Judge Murphy was appointed by the Pennsylvania Supreme Court to serve as one of the two judiciary representatives in the negotiation of a new IV-D Cooperative Agreement among the state, the judiciary, and the counties. In 1999, she became the first recipient of the Herbert R. Weiman, Jr. Award from the Philadelphia Bar Association's Family Law Section for her contributions and achievements as Court Administrator of Philadelphia's Domestic Relations Division. In 1993, she received an award from the Philadelphia Bar Association's Family Law Section for her dedicated service to the public and the Bar.

Judge Murphy is a frequent lecturer on the topic of Family Law for many organizations and law schools, including the Pennsylvania Conference of State Trial Judges, the Pennsylvania Bar Association, the Philadelphia Bar Association, and the Pennsylvania Bar Institute.

Judge Murphy received her Master of Law in Taxation (LL.M) from Villanova University School of Law, her Juris Doctorate (cum laude) from Widener University School of Law, and her Bachelor's Degree from Chestnut Hill College. Her academic honors include membership in Phi Kappa Phi Honor Society and the Moot Court Honor Society, and she served as associate editor of the *Delaware Journal of Corporate Law Review*.

Dolores Barnes

SeniorLaw Center Client

*(Accompanied by: **Wendy Bookler, Esq.**, Managing Attorney, and **Joanna Jarzebowska, Esq.**, Staff Attorney, SeniorLAW Center)*

Testimony of DOLORES BARNES
Client of Senior Law Center
Before the Senate Judiciary Committee
May 23, 2013 Hearing

Good morning. My name is Dolores Barnes. I am 79 years old. I was born in New York in 1934. I moved to Pennsylvania in 1953 and never left. I live at 51 N. Yewdall Street in West Philadelphia and I have lived there for the last 32 years, since my aunt's death in September 1980. It was her home and I am one of the heirs. It's a row home. Even though I have lived there for all these years, my house is still in my aunt's and uncle's names, Andrew and Minnie Mauldin. My uncle died in 1960 and my aunt died in 1980. I had three sons, but they are all deceased now. So are all my siblings. I really have no family to help me with my problems and the choices I have to make I have to make by myself. I am lucky that I have some neighbors across the street who help take care of me. I call them my caretakers. I don't really go out unless they can go with me. I had an aneurism in 2005 and I have some other health problems that make it hard for me to get around. I mostly stay home.

I worked as a seamstress for one company for more than 45 years -- from the time I came here to Philadelphia until I retired in 1999. Before my aunt died, I helped her with paying her bills for the house. I had her power of attorney too. The real estate taxes on the house were paid out of her Social Security check so there was no problem there. But after she died, things got difficult for me. I only earned \$180 a week and \$20 of that went to the person who took me to work, so I really didn't have enough money to pay the taxes and all my other bills. I had to make choices, hard choices. I did my best but I fell behind on the taxes. I had been paying just \$25 a month toward the taxes but after I stopped working, I had to spend my money on things like food, heat and medical expenses and insurance so I stopped paying the

taxes and the amount I owed started going up and up. I think it went as high as almost \$14,000. I don't know how it got so high.

I went to the City several times starting around 2000, I think, to try to get help with the taxes, but they wouldn't help me because the house was still in my aunt's name, not mine. I know that you can get a hardship agreement for taxes if you don't get much money every month. I kept going back to a city office, I think at 1234 Market Street, to try to get the taxes straightened out, but they said they couldn't help me because it wasn't my house. They said I had to be the legal owner to get a hardship agreement, even though I had lived there for such a long time and paid all the bills for the house. I had a girlfriend who worked at City Hall and she tried to help me, too. But I didn't know what to do because no one could tell me how to get my house into my name even though my aunt always said it would be mine. And I knew I would have to pay those inheritance taxes too. I couldn't afford them on top of my other bills. I'm still trying to have the deed put in my name, but it's so hard since so many of my family members have died and I don't know where the children might be. I really need someone to help me with this, too. It's so complicated and even though I've tried, I can't do it alone.

But I got really lucky when I found out about SeniorLAW Center and they helped me. I had started getting notices at the house from the City. They filed a foreclosure case to take my house in May of 2012 and I found out about it in July. They said my house was going to go to Sheriff's sale. The notice was addressed to my uncle who had died more than 50 years ago. I was really scared. I didn't know what would happen to me. The company who was trying to get me to pay wanted me to pay between \$200 and \$300 a month. But I was on fixed income and there's no way I could pay that. I only get a little over \$900 a month from Social Security. They said the only way I could get a better agreement was if I was the legal owner of my home. They said my house was due for court, but I didn't get any notice before that.

One day about a year ago, when I was really worried about losing my home, I went with my caretaker to a meeting at a nursing home where his friend lived. I think it was called Covenant House. Someone was there from SeniorLAW Center and they were talking about people who take other people's houses and put them in their own names. They steal people's houses. That's how I found out about SeniorLAW Center, at that meeting. So I got the phone number and called there and spoke to Joanna, one of the lawyers. She was such a big help to me. She knew what to do. She made me feel so much better. The first thing she did was to get my hearing postponed. She explained that as an equitable owner of my home, I should be able to get a hardship agreement. I gave her copies of my utility bills to show that I lived there. So she was able to get me an agreement where I can pay 2 different amounts every month -- toward the old taxes and the new ones. I only pay a total of \$195 for both. I can pay that out of my Social Security check every month. Thank goodness for her and SeniorLAW Center. I don't know if I'd be living in this house any more if she hadn't showed me how to get an agreement. I probably would have lost it in a Sheriff's sale. The house is fully paid for, but I didn't want it to go like that! I wouldn't have anywhere else to go. And I don't know how I could afford food and utilities and the big amount they wanted me to pay toward my taxes. I'd have to give something up -- maybe my medicine. As I said before, all of my family members are gone. My three sons and all my brothers and sisters. No one to help me.

Maybe if there were more lawyers like SeniorLAW Center or more folks to assist people like me, I would be able to get my house into my name. That's what I really want. I don't want to have to move. This is my home. I've lived there for over 3 decades. I don't want to be homeless or go to a nursing home. And even though I don't pay much, I am paying my taxes now. Also there are programs to get money to make repairs to houses which I can't get

because my house is still in my aunt's name. That's not what she wanted and it's not what I want. We need more lawyers like Joanna and SeniorLAW Center.

Thank you very much for letting me tell my story. I hope you can help more people like me with legal problems.

Honorable Annette M. Rizzo
*Philadelphia Court of Common Pleas-Civil
Trial Division*

SENATE JUDICIARY HEARING
MAY 23, 2013
PHILADELPHIA, PENNSYLVANIA

THE HONORABLE ANNETTE M. RIZZO
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COUNTY
673 CITY HALL
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COMMENTS OF ANNETTE M. RIZZO, JUDGE
COURT OF COMMON PLEAS PHILADELPHIA

"TO THE WORLD YOU MAY BE ONE PERSON, BUT TO ONE PERSON YOU MAY BE THE WORLD."

Senator Greenleaf and distinguished members of the Pennsylvania Senate Judiciary Committee, I am Judge Annette Rizzo from Philadelphia. I have had the honor and privilege to serve as a judge in that County for almost fifteen years and have borne witness to the impact one attorney can have in the life of his or her client.

I appreciate the opportunity to lend my voice to the chorus of so many to highlight for you what the impact has been on the courts with the ever -widening gap of the delivery of legal services in our civil justice system. Through the prism of a trial judge overseeing large dockets in certain caseloads, I experience first-hand, as do my colleagues throughout the Commonwealth, the challenges of adjudicating cases with self-represented litigants. The inherent judicial duties of "leveling of the playing field", of assuring that "due process" and "opportunity to be heard" are being met for all parties before the court present unique "challenges" when there are pro se litigants.

Since 2008 I have overseen the development and operation of the FJD's Mortgage Foreclosure Diversion Program. Within weeks we will approach a five year marker of the Program. Since that time I have spoken in a variety of settings, here and abroad, and have even brought the "Philadelphia Story" to the White House. It has been touted as the "National Model" in being the first and one of the most effective in fighting the onslaught of personal and public devastation resulting from the well documented and unrelenting tide of foreclosures caused by the home financing meltdown. I can report that some twenty-one (21) other counties in the Commonwealth maintain some version of a mortgage foreclosure diversion program and invite you, Senator and others from the Committee to visit Philadelphia to witness the Program first-hand. The foreclosure problem is not specific to one area of our Commonwealth and as such I strongly encourage the remaining jurisdictions that do not have a diversion program to consider

implementing one in their county. There are many varieties of programs already in effect that can be adapted to fit the needs of each county. In the last two years, the Administrative Office of Pennsylvania Courts (“AOPC”) has established a standing committee to promote the establishment of diversion programs throughout the Commonwealth and to that end, has sponsored two state-wide seminars for Commonwealth Judges regarding this topic. This effort is lead by the committee’s chair, The Honorable Edward D. Reibman, of the Lehigh County Court of Common pleas.

Our Program mandates that no homeowner in the City facing foreclosure will lose the home in which he resides without first going through a "Conciliation Conference" with his lender in order to "right the ship" and keep that person in their home. We are a mandatory Program- that is our story- and we're sticking to it!

Since 2008 over 24,000 cases have come through the Program- with approximately ninety- five percent (95%) or more unrepresented. Seventy-percent (75%) of homeowners participate due to the efforts of community outreach- literal "door-knocking" to get them into the "Chute". Easy read notices go out with the served Complaint in Foreclosure with a very simple message- call the “Save Your Home Philly Hotline”, staffed by Philadelphia Legal Assistance (PLA). Approximately 60% of Program participants call this hotline number. That nexus, that point of entry, connects them with seasoned and extremely dedicated lawyers and legal assistants who perform in-depth triage of their cases at the outset. The Hotline efforts show the positive impact of early intervention and highlight thorny legal issues for an alternate litigation track in which counsel would be needed in order to prevent the loss of a home.

On the date of the Conference, homeowners have the benefit of the support of a housing counselor, and in some cases, a volunteer lawyer. When a volunteer lawyer is involved, statistics show that a homeowner has a markedly increased chance of saving their home. In some instances a lawyer from PLA is called into the discussion for support or oversight of the case. However, the support of PLA does not equal full representation and the fact remains that 95% of our participant homeowners navigate this process with no legal counsel whatsoever. This is a daunting statistic when one considers what is at stake- preservation of a person’s home. These are citizens who face the very real proposition that they may be homeless.

For this burgeoning caseload to stagnate in the court system would mean only protracted proceedings with homeowners at further risk to become homeless and neighborhoods becoming destabilized. It speaks to further congestion of the courts wherein court proceedings are punctuated by struggling homeowners trying to represent their interests as best they can before judges who do their very best to properly inform the parties and conduct fair proceedings.

Our results show that approximately thirty-five percent (35%) of those through the Program receive a resolution, with over eighty-percent (80%) of that group not re-defaulting. It is worth considering what sort of resolutions would be possible if instead of only 5% of our cases

having counsel for the homeowner, all of our 24,000 cases had counsel. We could halt the devastating effects foreclosure has on entire communities, lowering property values for everyone, causing homelessness, exacerbating, and in some instances, causing additional medical problems related to the stress of the situation.

There are devastating stories to be told of those who navigate the foreclosure world without any legal advocate. There are senior citizens who are unable to understand the complexities of this area of law and may have legal defenses with no one to advocate for them. There are individuals with mental health problems who do not have alternative housing, but no way to advocate on their own to stay in their current home. This area of law is considered to be a "boutique" practice with very few trained lawyers having the necessary knowledge to navigate through the endless banking regulations that LITERALLY change every single day. Expecting a pro se homeowner to put forth their own legal defenses in these cases is asking the impossible and creating an incredible burden on the legal system as the volume of foreclosure cases has increased dramatically since 2008.

During my tenure on the bench I have overseen countless matters with self represented litigants, outside of the mortgage foreclosure arena. The cases not only involved legal issues, but often the "unbundling" of attendant issues for the pro se litigants- family struggles, pressing financial issues, ongoing medical and sometimes mental health issues, unstable housing, among others. So often in those cases, judges must stretch the bounds of their judicial roles to explain the proceedings and the assertions raised by opposing parties who may be represented by counsel, as well as their rulings and the ultimate consequences of such proceedings. For judges these are delicate "balancing acts" in the face of "all parties standing equally before the court". Clearly the attachment of counsel in civil cases where basic human necessities are at risk would alleviate these concerns for the bench.

The recent surge in the number of pro se litigants entering the court system has required a "retooling" of the delivery of justice in the United States and here in Pennsylvania, not just by the judges, but by court administrations as well. New course study is available to assist judges in the handling of cases involving self-represented litigants. Stream-lined procedures, availability of "easy-read" legal documents, help desks, language services, etc. all act as acknowledgement that adjustments must be made within the courts to address the overwhelming legal needs of our underprivileged citizens, as well as our new immigrant populations. We as the judiciary are guided by the mandate of the Supreme Court in the seminal 2011 case of Turner v. Rogers to provide additional safeguards for pro se litigants but that is not enough. A direct and demonstrated "fix" to the problematic issues presented would be an acknowledgement that civil cases putting at risk basic human need require legal representation- it is that fundamental.

As Chief Justice Lippman of the New York Court of Appeals shared with the Philadelphia Bar Association in June of last year, "Civil legal aid to the poor is a basic responsibility of state government, every bit as important as other fundamental priorities of a civilized society...".

In the face of diminished budgets the need for legal services has grown by inverse proportion. We, as the judiciary, are for so many, the last gatekeeper before their lives are completely broken apart- loss of family, housing, and other necessary services.

For the individuals at risk, their families and communities statewide- a "Call to Arms" must be sounded to provide necessary legal counsel for those most in need!

May the force be with all of us!

Honorable Annette M. Rizzo Biography

Judge Rizzo was appointed to the Court of Common Pleas bench in Philadelphia in 1998 by then Governor Tom Ridge. Since that time, she has served in the Trial Division in both the Criminal and Civil Programs and now sits in the Civil Major Jury Trial Program.

After receiving her B.A. in Public Policy and Italian Literature at The University of Pennsylvania, she completed her legal studies at Temple University School of Law.

Judge Rizzo worked in both the public and private sectors prior to her tenure on the bench serving first with the Philadelphia City Solicitor's Office and then with the law firm of Rawle & Henderson. Just prior to taking the bench the Judge served as Senior Counsel at CIGNA Companies.

She has been active in many community organizations serving on many non-profit boards and she remains committed to public service as an emeritus board member of the Philadelphia VIP, (pro bono arm of the local bar association), and presently sits on the board of the historic site of Eastern State Penitentiary, Casa Farnese, a senior citizen residential complex and Temple Law Alumni Association. The Judge also currently serves on the Board of the Temple American Inn of Court as the Past President and sits on the Philadelphia Bar Association's "Civil Gideon Task Force" which is exploring means to expand legal representation in civil matters which impact basic needs in housing and domestic affairs.

Since the spring of 2008 Judge Rizzo has been involved with the development and oversight of the First Judicial District's Mortgage Foreclosure Diversion Program which mandates that no residential owner-occupied property in Philadelphia may go to Sheriff's sale without a Conciliation Conference being held. In conjunction with the Program, Judge Rizzo has spoken at a variety of different consumer, government, and lender conferences across the nation and has been the recipient of various awards for her work with the Program, including the Community Legal Services "Champion of Justice Award," and the "William J. Brennan Distinguished Jurist Award" from the Philadelphia Bar Association, as well as the Pennsylvania Bar Foundation Louis J. Goffman Award.

Beyond her participation in community organizations and professional associations Judge Rizzo also serves as an Adjunct Professor for the Temple University School of Law State Court Clinical Program, sits on a variety of court committees which involve in-house education for the bench on civil and procedural issues, the Civil Rules Committee, the FYI Committee as well as the FJD Pro Bono Committee which seeks to expand volunteer service of the local bar in the courts.

J. R.

*Client of Women Against Abuse Legal Center
(Presented by: **Deborah Culhane, Esq.**, Staff Attorney,
Women Against Abuse)*

Testimony of J. R.
Client of Women Against Abuse Legal Center
Presented by Deborah Culhane, Staff Attorney
Before the Senate Judiciary Committee
May 23, 2013 Hearing

My name is Deborah Culhane and I am a staff attorney at Women Against Abuse (“WAA”) Legal Center. I am here today to present the testimony of my client, J.R., who could not appear in person because she is fearful that her ex-partner, the father of her son, will recognize her testimony and retaliate. Here is my client’s statement.

The picture I had of going into court was not what happened at all. When I went in for my first Protection From Abuse (“PFA”) hearing against my son’s father, I was petrified and didn’t know anything about it except for what the Judge and the woman in the waiting room told me. No one ever told me to bring my witnesses and I didn’t know I could subpoena witnesses who saw the abuse I experienced. At this hearing, my son’s father had an attorney, but I didn’t. After the hearing, the Judge dismissed my case and said she didn’t believe what I said.

I also filed for a PFA for my son against his father, which was scheduled for another day in front of a different Judge. As far as protecting my son, I wouldn’t have known what to do at all. I was told to get an attorney – not fill out a form online or anything like that, just get an attorney. I knew nothing about the law except that attorneys are appointed to you and if not, and if you can’t afford one, contact legal aid. I kept calling and kept calling. Even the people around me knew that without an attorney, I wouldn’t be able to see the light of day.

I was already afraid because my son’s father told me that he had connections and all he had to do was walk in and walk out of court to get what he wanted, and there was no way to circumvent him. That’s the reason I stayed with him so long - I was afraid I’d lose my son. I knew I’d have an uphill battle. When I met my son’s father, he said he was a former Philadelphia cop who was wounded on duty – he showed me a wound that he said was from a bullet. He had this elaborate lie for something that never happened – it was a picture he had painted of himself. It wasn’t until I met my attorney for my son’s PFA case that I found out he was never a cop. I didn’t know there was a way to find out whether it was true.

At the PFA hearing for my son, it was different because my attorney asked the right questions and she knew when to say “objection” to questions that were irrelevant. Her

questions helped me explain why I believed what I believed about him being an officer, for example. Her questions also helped me to explain the details of how my son's father had been violent toward my son and why I was afraid for my son. This judge granted a PFA for my son and told me she believed everything I said. But she still had questions about whether my son's father should be granted supervised visitation.

My attorney had to file more paperwork to request an additional hearing about custody and to make more legal arguments, and to prepare my case so that I could appeal if necessary. The Judge allowed us to have an additional hearing. During that hearing, the attorney for my son's father objected to me testifying about the abuse that I suffered. But my attorney quoted some laws to allow me to testify and explain how my abuse caused me to be afraid to take my son to the hospital at one point. I know that it made a big difference for me to be allowed to testify about these things.

At the end of this trial, the Judge granted the PFA again, but only gave my son's father supervised visitation. She explained that she didn't want him near us other than at the supervised court nursery and that he is not to know where we live. Without an attorney, I wouldn't have even known that I could keep my address confidential.

Also, the first time I heard that you need to write down the date and time of when you've been abused was from my attorney. Being a victim, no one ever tells you you're supposed to write down the date and time – nobody knows that. It's not in lifetime movies. It's not written in those pamphlets they have in hospitals – they just say "get out." But once you get out, then what? I blocked a lot of things out to survive the 8 years I had to deal with him. I had to write down what he wanted for dinner – if I asked him a second time, I'd get punched in the face. But these are not the things the court wanted to see. They want the date and time he hit you. They need to have billboards that tell victims of abuse to write the exact date and time!

There are a lot of things that no one tells you and that you don't know going into court. And it's not what you expect - you can't rely on what friends and family tell you, even if they have experienced it, because their case might be nothing like yours. There's a lot I learned for the first time thorough my attorney. If I didn't have an attorney, I think I would have had a nervous breakdown.

Dabney Miller

Associate Director, Women's Law Project

SENATE JUDICIARY HEARING
MAY 23, 2013
PHILADELPHIA, PENNSYLVANIA

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**Testimony of Dabney Miller
Before the Senate Judiciary Committee
May 23, 2013**

The Women's Law Project (WLP) is a non-profit, public interest, legal advocacy organization dedicated to creating a more just and equitable society by advancing the rights and status of all women throughout their lives. To this end, the WLP engages in high-impact litigation, advocacy, and community education. The WLP operates a Telephone Counseling and Consumer Education Service, through which we provide information about laws and court procedures and make extensive referrals to other community resources. The vast majority of calls to our Telephone Counseling Service are from women who must turn to the court system for resolution of major decisions regarding the custody and support of their children and safety of their families. Most of these women are unable to afford private legal counsel or obtain free representation. They come to Women's Law Project as a last resort for the limited informational counseling we can provide to assist them in navigating the complicated maze of Philadelphia Family Court.

Since our Telephone Counseling Service began keeping computerized records in 2004, we have responded to nearly 7,000 inquiries regarding custody, over 5,000 on domestic violence, nearly 5,000 on separation and divorce, and over 4,000 on child support. Over 8,000 callers sought help in finding a free family law attorney. We are not surprised at the number of individuals who seek our assistance. In Philadelphia, it is estimated that at least 80% of family law litigants are *pro se*. In 2011, over 56,000 domestic relations petitions were filed in Philadelphia Family Court: 12,500 custody petitions, 11,700 PFA petitions, 30,000 support petitions, and 1,900 divorce complaints. These numbers translate into some 44,800 unrepresented litigants in Philadelphia alone in 2011. We reach only a small fraction of those litigants, and the general information we provide is far more limited than legal counsel could offer.

Figuring out where children will live and who will make decisions about the most important aspects of their lives is challenging even when parents communicate effectively and share a commitment to the children's best interests; skilled legal counsel can make the difference between a constructive custody arrangement and a future fraught with stress and fear. Obtaining a divorce is very difficult to do without legal assistance; inability to afford a lawyer often means that property is not divided fairly, access to pensions is lost, and one party or the other unfairly retains marital debt. Although the child support system is designed for *pro se* litigants, it is quite difficult for unrepresented litigants to assure that their testimony and evidence are properly entered into the record, and they rarely understand when and how to object to a decision or to the evidence being presented by the other party. Perhaps most critical, individuals seeking protection from abuse orders must know what remedies the law permits them to seek, how to present evidence and witnesses, and when and how to cross-examine their opponent's witnesses. At the WLP, we frequently speak to women who do not

understand their protection orders and cannot distinguish between their petitions and their orders. Our callers are confused and anxious about whether children are covered by the order or the abuser is evicted from the family home.

The cost of representation makes it unavailable to many people. Fees alone for private counsel are high. When we last surveyed family lawyers about fees in 2003, we were told that litigants could expect to pay \$1,000-\$25,000 for a custody case, \$2,500 to \$5,000 for a divorce, and \$1,500 to \$2,500 for a support matter. Ten years later, these costs have surely risen. Beyond lawyers' fees, there are other costs to family law litigation. Custody evaluators and other experts cost tens of thousands of dollars, putting those resources far beyond the reach of most of our callers, and many citizens more generally. These self-represented litigants face economic circumstances that make them unable to afford counsel and other costs involved in pursuing litigation. In our experience, women seeking to protect their children from domestic violence experience true panic when they learn that, most likely, they will not be able to retain lawyers.

The opportunities for free legal representation are limited in Philadelphia. Philadelphia is home to nationally-respected legal services programs for low-income individuals, but these services are insufficiently funded to represent all who need their help. Community Legal Services and Philadelphia Legal Assistance have been forced to eliminate whole categories of representation in an effort to identify and serve the neediest clients. Women Against Abuse Legal Center and other public interest programs offer critical services to discrete populations facing specific problems, but also have limited resources. Philadelphia VIP works hard to identify pro bono representation from the private bar for those who need it. While the bar's pro bono service is impressive and appreciated, it simply cannot meet the enormous need. The Philadelphia Bar Association also operates the Modest Means Program, through which private

attorneys offer discrete services at reduced prices. Unfortunately, even these lower fees are beyond the reach of most of our callers. While we refer our callers to all of these programs and others, they are rarely able to obtain representation. We even refer large numbers of callers to the Women’s Resource Center in Wayne PA, which provides a free 20-minute legal consultation once per individual each year. Despite the costs and time it takes them to get there, we know our callers do it because it is one of few available resources for them.

The least desirable option for coping with family law litigation—but often the only one—is for parents to litigate *pro se*. The Family Court process is complex. The people we talk to are often in crisis, attempting to flee abuse, fearful for the safety of their children, and lacking the economic wherewithal to establish new residences, much less hire attorneys. Frequently they are distraught, making it very difficult to engage productively in understanding the law; having been abused, they often do not believe in themselves, making the court system all the more intimidating.

In addition, many parents lack the most fundamental communication skills. A 2003 study by the National Center for Education Statistics found that 13% of Pennsylvanians lack “*basic* prose literacy skills.” This figure jumps to 22% for Philadelphia.¹ In some neighborhoods, it is much higher. The WLP’s Counseling Service assists callers from every neighborhood in the city, but most reach out to us from its poorest neighborhoods, where significant numbers of residents do not even go to high school. The resulting literacy or language capacity impediments further compromise their ability to represent themselves. Most of the women we speak with have no experience speaking in public, much less developing an argument and identifying the information needed to support their argument. To be successful

¹ National Center for Education Statistics, National Assessment of Adult Literacy, State and County Estimates of Low Literacy (2003), <http://nces.ed.gov/NAAL/estimates/StateEstimates.aspx> (search for Philadelphia County in Pennsylvania).

in the courtroom, they must be able to do this and then engage with the legal process, knowing how to examine and cross-examine witnesses effectively, when and how to introduce evidence, and how and when to object so as to preserve their right to appeal adverse decisions. They desperately need legal advice and representation in the courtroom.

The WLP has long advocated for systemic improvements to the Philadelphia Family Court's response to the needs of *pro se* litigants. When necessary, we pursue litigation and engage in policy advocacy to address systemic problems relating to child support, custody, and domestic violence. Our April 2003 publication, *Justice in the Domestic Relations Division of Philadelphia Family Court: A Report to the Community*, the result of a two year study, made recommendations to improve the court's responsiveness to litigants. These recommendations included—in addition to expanding opportunities for representation—the development of court assistance programs, brochures, and other materials to help *pro se* litigants. We have followed through on many of those recommendations, operating a project where trained law students provided one on one assistance to individuals filing petitions for protection from abuse, as well as developing brochures and form packets that include line by line instructions for filing various petitions for relief in family court. However, nothing we do can substitute for representation by counsel.

Dabney Miller, a licensed social worker with a master's degree in law and social policy, has operated the Women's Law Project's Telephone Counseling and Consumer Education Service since 1985.

Honorable Margherita Patti- Worthington

*President Judge, Court of Common Pleas
Monroe County*

SENATE JUDICIARY COMMITTEE HEARING
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Honorable Margherita Patti-Worthington, President Judge
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**Testimony of Margherita Patti-Worthington, President Judge, Court of Common Pleas,
43rd Judicial District, Monroe County**

Good morning Senator Greenleaf and honorable members of the panel. Thank you for allowing me the opportunity to comment on the very important topic of civil legal representation of the indigent. I come before you as the President Judge of the 43rd Judicial District, which encompasses Monroe County. You may be familiar with the growing-pains our area has experienced over the last fifteen years. At the same time, we are all suffering through a period in which the economy has become debilitated, leaving a devastating impact on our community and on our Court. I also come to you as a member of the board of the Pennsylvania Interest on Lawyers Trust Accounts which funds, through the interest on said accounts, programs which provide civil legal services to the poor. In both of these capacities, I have been in a position to observe and experience the crisis created by the insufficient availability of legal representation for indigent individuals in civil cases where basic human needs are at stake.

I have been on the bench for 13 years, hearing all types of cases, from family court to juvenile court to criminal court. I was the administrative judge of family and juvenile court prior to becoming the president judge in January 2012. Prior to becoming a judge, I worked as

a private practitioner in state and federal courts, as a part-time public defender, and as a hearing officer for our court in custody and dependency proceedings. During my time in private practice I volunteered as a “judicare” attorney through legal services – a program which is no longer in existence due to a lack of funding. Over the last 13 years on the bench, I have observed and experienced the troubles and perils of self-represented litigants as they try to access justice in the legal system. The increasing number of pro se litigants is troubling for all parties involved, for the litigant, the Court, its staff and the community at large.

Why do I say this? I first make the observation that in the 28 years that I have been in the legal profession and have spoken to various groups of citizens in community organizations, clubs and to school children, I have seen the extent to which an understanding of the law and of the court system is severely lacking among our citizens. This is certainly true among those who have very limited education, but it is also true among business owners and professionals, such as teachers and doctors, who have certainly benefitted from more formal education. Even people who have undergone a formal education and who have obtained a college degree don’t have the knowledge or understanding that is necessary to be able to navigate through the legal system effectively. How can we expect those who are less educated and unable to afford counsel to navigate that same system alone?

As we well know, many of the most vital issues relating to basic human needs are decided in the Court of Common Pleas, which is a formal and structured court, often the only court of record, and which operates by following many technical, procedural rules. Trying to protect one’s legal rights in this forum without legal counsel is a formidable, almost insurmountable, challenge. A litigant must be able to follow the Pennsylvania Rules of Civil

Procedure, the Rules of Evidence, along with the requirements of whatever substantive laws apply to their particular case. These rules and statutes are not easily learned on the fly. They are studied by law students for years and then tested on the rigorous Pennsylvania Bar Exam before those well-educated graduates are allowed to practice competently in this court. The notion that an untrained person will understand how to use and apply these rules is almost preposterous to contemplate. Nevertheless, the law requires that all litigants, even the unrepresented ones, are bound by the same rules. We, as judges, are also obligated to follow the same rules. This, of course, puts the trial judge in an untenable and difficult position – how to be fair to both parties to a dispute without being perceived as an advocate for the unrepresented. It requires that the Judge walk a fine line so as not to overstep her ethical boundaries while also making sure that she provides equal access to justice to the unrepresented litigant.

This dilemma also extends to the court staff. No court staff or court-related county staff may give legal advice to an unrepresented litigant. And yet, our staff members are often the obvious and first point of contact for the numerous confused and anxious citizens in need of help in the courts. The increasing and constant barrage of questions from a population truly in need of assistance puts an enormous strain upon the already limited and over-burdened resources at the Common Pleas level. In our current underfunded circumstances, the lack of sufficient physical space and financial resources for the county courts presents the court staff with a situation that is challenging at best. Each and every day, they are faced with unrepresented parties presenting inquiries that are extremely time-consuming; as a result, these staff members are placed in the same difficult ethical dilemmas as the judges.

Having an attorney available to represent a litigant in court presents many benefits to the litigant and to the court, as well. One of the benefits to the court is that the paperwork submitted on behalf of the litigant can be understood by the judge. Much time is lost in trying to decipher pro se filings because these filings are often illegible or make no sense under the law. On the other hand, when parties are represented, cases can proceed much more efficiently. In many cases, one of the first orders of business is to obtain the necessary discovery and then work with the parties toward a resolution that actually keeps everyone out of court. Again, this is virtually impossible for a pro se litigant. Court time is often wasted as cases are delayed due to procedural problems, such as a lack of proper service or incorrect and incomplete filings. Again, valuable court and staff time and resources are wasted because of the litigants' unfamiliarity with process and inability to present the facts and law in the case. Many of these cases are ultimately dismissed, but only after much court time is used. The inability to have meaningful settlement negotiations and discussions often leads to trials that would otherwise be unnecessary, are lengthy and could be avoided with better results for all, if only the litigant had been represented by counsel.

When a case actually goes to trial, the difficulties encountered by the parties and the court continue, and even increase. The judge, as fact finder, can not be an advocate and, therefore, must ascertain the facts from the evidence that is presented. The unrepresented litigant does not understand what needs to be presented or how it needs to be presented, consistent with the rules of evidence. Often, the lay person believes that certain "facts" are relevant, because they might be relevant in a real life situation, when in fact they are irrelevant under the rules of evidence and therefore, are inadmissible. Much time is spent trying to explain the "why" of what is being done in a courtroom to insure that the pro se litigant leaves

the court feeling heard, while at the same time trying to preserve the strict rules by which we are governed. If the opposing side is represented by counsel, that party is often frustrated and annoyed by the fact that they have to pay their lawyer even while they perceive that somehow the unrepresented litigant is being given more opportunity to present a case. All of this appears “unfair” to either, or both, parties, each from their own perspective. Ultimately, these difficulties reduce the legitimacy of the legal system in the eyes of the public.

How many of our courts’ litigants are without counsel, and therefore, present these issues to the court? While we don’t have complete statistics, we do have one representative example. In the last 17 months, over 57% of the litigants in our Custody Conciliation program were unrepresented. This presented the court with over 1800 individuals who did not have the benefit of counsel as they tried to navigate our complex process while dealing with the serious consequences of a child custody matter.

Finally, the types of cases in which unrepresented parties find themselves often involve their access to basic necessities, such as housing, medical assistance, the care and custody of their children, maintenance of their basic finances which is imperiled by credit card or other consumer debt problems, and other similar cases. Low-income people are more likely to come to court when the economy is in crisis and are dramatically impacted by legal problems that are less likely to affect those of greater economic means. In most cases these issues directly impact those who are most vulnerable, our children.

The legal aid lawyers in our Commonwealth are outstanding. They do so much with very few resources. I have found them to be doing their work as a calling – certainly not as a

means to accumulate wealth or benefit themselves. They do a great service to their clients and to the Courts and their representation results in better access to and equal justice in the courts. They assist their clients while also assisting the court system in providing a forum for justice and in preventing the system from coming to a grinding halt. In addition, many conscientious lawyers provide their services in representing indigent clients on a pro bono basis. We appreciate their generosity and rely on the services they provide. Nevertheless, pro bono attorneys will never be able to make up the gap that currently exists in order to meet the need. The lack of sufficient funding for civil legal services has an enormous and adverse impact not only on litigants but on the justice system as a whole. This crisis directly impacts an already overburdened court system, court and court-related staff and jeopardizes the efficient administration of justice.

Thank you for the opportunity to present these comments to you.

SENATE JUDICIARY COMMITTEE HEARING
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Biographical Summary of Judge Margherita Patti-Worthington

Judge Worthington is the President Judge of the Court of Common Pleas, 43rd judicial district in Monroe County, Pennsylvania and is the Supervising Judge of the Monroe County Investigating Grand Jury. Currently, she presides over major criminal cases and administers the criminal docket.

Judge Worthington received her undergraduate degree from the University of Colorado and her Juris Doctor from the Villanova University School of Law. She was a partner in the firm of Muth, Zulick & Worthington and served as the first Custody Conciliator and Dependency Master for Monroe County. Judge Worthington was elected Secretary of the Pennsylvania Conference of State Trial Judges in 2008 and is currently the president-elect. She is an adjunct professor at Penn State Dickinson Law School for the trial advocacy program and was appointed in 2007 by the Pennsylvania Supreme Court to the Pennsylvania Interest on Lawyers Trust Account Board, currently holding the position of treasurer. Judge Worthington was recently appointed by Governor Tom Corbett to the Deputy Sheriffs' Education and Training Board.

During her tenure, Judge Worthington has instituted innovative programs in her court such as the Mortgage Foreclosure Diversion Program and the Monroe county Truancy Elimination Program. She works closely with the Monroe County Bar Association Pro-bono Committee and is developing a self-help library. In January of 2013 she launched a Court website to enable greater access of court information to the public.

Sister Mary Scullion

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TESTIMONY OF SISTER MARY SCULLION

Thank you for the opportunity to offer testimony on this important issue of access to legal services for economically and socially marginalized Pennsylvanians. My name is Sister Mary Scullion. I am a co-founder and Executive Director of Project HOME in Philadelphia, a nationally recognized nonprofit organization that develops effective solutions to homelessness and poverty.

My focus today will be on the particular challenges and needs of persons experiencing homelessness. Homelessness is a complex and multi-faceted reality, involving extreme poverty, and for many persons behavioral health issues such as mental illness and addiction. Many persons are on the streets for several years, and experience not only physical health deterioration, but deep emotional scars of shame and dehumanization and loss of dignity. Empowering persons to get off the streets requires dealing with many interrelated issues, and in many cases, legal support is vitally necessary to help overcome countless barriers.

Many persons who in the situation of homelessness have literally lost everything – and that often includes any identification. Frequently we find persons whose lack of ID represents a fundamental barrier to them getting off the streets. The inability to establish legal identity is a huge obstacle to obtaining any benefits. And the process of procuring identification documents is more problematic and complicated than one might think. That is an area where legal support is critical and, when available, has been able to streamline a complex process and open the doors for persons to take concrete steps out of homelessness.

Even when a person experiencing homelessness at least has ID, the process of applying for benefits can be complicated and filled with obstacles. Whether its disability benefits, housing,

healthcare or other critically needed public supports that can empower a person to break the cycle of homelessness, the application process is not always smooth or obvious. Many persons who have been on the streets for years have obstacles in their past history, perhaps criminal background or other violations or unresolved problems, and legal representation and support can be invaluable to dealing with these. Especially for persons with physical and behavioral health issues exacerbated by conditions on the streets, which is the case of the majority of persons who experience chronic homelessness, access to benefits and health care are utterly necessary, and are often only possible with legal support.

A particular concern for many persons who are homeless, and one that does not get sufficient attention, is the matter of citations simply for being on the streets. In many cities, there are laws specifically targeting those who are homeless, including variations on anti-vagrancy and anti-panhandling laws; even in the absence of those, we know that many persons on the streets are cited for vague laws like obstructing the highway or loitering. Sometimes this is part of an underhanded strategy by the municipality and/or the police to move people out of downtown areas. Whatever the case, persons who are chronically homeless sometimes have multiple citations in their record, and that alone functions as an obstacle to benefits and services. Here is an area where legal representation is absolutely necessary: both to handle the cases of individual clients with citations; and also to do the broader public advocacy against illegal, inhumane, and counterproductive policies of policing persons on the streets.

Legal aid can also be a valuable asset in preventing homelessness. Many people become homeless because of eviction. Many of these evictions are wrongful and preventable, and with appropriate legal representation, they might have been avoided. Similarly, legal representation can help with foreclosure prevention, which can also prevent homelessness.

An exemplary program in all these matters is Philadelphia's Homeless Advocacy Project. For over two decades, they have brought pro bono legal service to Philadelphia's homeless population, to deal with the kinds of issues I have outlined here. They have helped thousands of persons link to benefits, get IDs, maintain or procure housing, or otherwise take concrete steps toward overcoming homelessness. On a daily basis, they demonstrate the urgent role of legal services as part of the solution to homelessness. But they are only one small nonprofit,

with limited capacity, while the needs are immense and growing. Also worth noting is the tremendous work of Community Legal Services who is the single most important legal organization in preventing homelessness.

It should also be stressed that legal services play an important role in the development of supportive housing. Without appropriate housing, those who are homeless will have nowhere to go but the streets and shelters. Right now we are facing an enormous gap in the amount of supportive housing for current homeless population. Over the past almost twenty-five years, Regional Housing Legal Services has been an invaluable partner in helping Project HOME develop a range of supportive housing, now almost 600 units, to meet the need. They have likewise done tremendous work with other nonprofits in negotiating the complicated legal and financial issues of housing development. RHLS has greatly expanded the capacity of Project HOME and other not-for profits in addressing the housing needs of adults with special needs who are homeless as well as families who are homeless. In addition RHLS has been a strategic leader in advocating for just public policy affecting homelessness within the Commonwealth of Pennsylvania. RHLS has helped to leverage significant government resources as well as resources from the private sector to combat homelessness.

Simply put, legal aid is a critical and necessary part of the solution to homelessness. Without it, individual persons will continue to live in subhuman conditions, while the problem will persist, and all of us and our communities will be diminished by it.

Thank you for the opportunity to present this testimony, and thank you for giving attention to these issues.

Catherine C. Carr, Esq.
Executive Director, Community Legal Services

SENATE JUDICIARY HEARING
MAY 23, 2013
PHILADELPHIA, PENNSYLVANIA

TESTIMONY OF CATHERINE C. CARR, ESQ., EXECUTIVE DIRECTOR
COMMUNITY LEGAL SERVICES

I am Catherine Carr, Executive Director of Community Legal Services, the largest civil legal aid provider in Philadelphia. CLS has existed since 1966 and provides a wide range of legal services. We employ about 100 people and have about 50 lawyers and 25 paralegals who assist people who walk into our two offices or call us on the phone, needing help with an urgent legal problem. We work in partnership with Philadelphia Legal Assistance, our sister organization located just across the street from us, which receives federal funding while we receive state and city and private funding. There are a variety of excellent public interest legal organizations in Philadelphia and we collaborate with them in a variety of ways, including through a meeting of all the Executive Directors and other partners at the Bar Association once a month.

CLS is known as one of the very best legal aid programs in the nation. We not only help thousands of people who contact us individually, but we also pay attention to the patterns of the problems they have and the policies or practices that cause those problems and try to address those underlying issues. That way we help not only the people we see but the many people we do not see or we cannot afford to help.

And that is what I want to talk about today, the many people we cannot help. In these hearings you have heard from a sampling of the people our system has served with their problems. There are thousands of those people across the state. They come into our offices scared and anxious, stressed and alarmed, sometimes depressed and beaten down, other times courageous and determined to move their lives forward. And when we have the resources we

help them save their home, a home that is threatened by a mortgage foreclosure or the eviction filing of an abusive landlord. We help them get their lights turned back on so their children can read at night and their heat turned on so they can stay warm in the dead of winter. We counsel them when they receive a notice that their disability benefits are going to be stopped, or their bank account is going to be frozen. We assist them when they are afraid their essential cancer treatment will stop because they were turned down for medical coverage. We help them when they fear hunger, homelessness, harm and destitution.

You have heard from them, but you have not heard from the many people we do not help. There are many many such people and their numbers are growing as we face reduced funding, laid off staff, and closing offices across the state. My program is currently looking at a \$2 million budget gap out of a \$10 million budget for our fiscal year starting July 1st. If we cannot figure out how to close that gap, we will once again be downsizing. We have already shrunk in recent years, from 126 staff people in 2010 to our current 100 staff. And this downsizing corresponds of course with a recession putting more people out of work, and at risk of losing their incomes and homes.

So whom do we not help? Study after study shows that only one in five low income people with a legal problem gets the help they need. Unfortunately, we do not spend the time to track every person who tries to get help from us and we turn away. We just have too much else to do. But we have tracked it on occasion and we have learned that we turn away approximately one out of two of the people who actively contact us to seek help from us. But that is only part of the story. There are so many people who never get to us, and that is partly by plan. To put it bluntly, we often must simply hide from potential clients. We just do not have the funding to help everyone who has a legal problem and meets our income eligibility requirements. Note that we have strict income eligibility requirements. My program helps the

poorest of the poor, that is people who have income below 125% of the federal poverty line. For one person that means they must have an annual income under \$14,400. Despite this strict requirement, we have too many people who would seek our assistance if we made ourselves very visible. We do not have enough staff to even meet and greet them all, say nothing of represent them in court or otherwise provide legal help. So how do we deal with this? The truth is we make it difficult for them to access our services.

- We used to have offices all across Philadelphia, in the neighborhoods. Now we only have two. When you shut down offices in neighborhoods, people in the neighborhoods stop seeking help, even though they have immediate legal problems. Our data shows that most of the people who walk into neighborhood offices live nearby.
- Our doors and intake phone lines are only open to new clients at certain limited times. In North Philadelphia, we only see people three mornings a week. If you have a landlord problem, you must show up on one of you specific days a week. If you have a mortgage problem, you cannot walk in, but must call a phone hotline and talk to a counselor before you get to a lawyer. If you have a custody problem, you cannot walk into an office, but must call by phone during certain hours.
- We used to do lots of community education and legal training. We cut that back as it takes staff resources and it only increases access to us by people who need our help.

Mind you, we still help thousands of people. Last year we helped about 14,500 people. But there are about 500,000, a half million, Philadelphians poor enough to qualify for our services. We are not happy or proud that we avoid clients and make access hard. But if we made it easy to get into our offices, we would not be able to handle the deluge, and we would spend all our time giving quick advice to many people, without any chance to assist people in court or elsewhere.

We repeatedly cut out certain kinds of work and constantly try to set priorities about which cases are the most important for us to handle. I will give you some examples:

- Up until last month, we ran a welfare law phone line, where someone who ran into problems accessing public assistance checks or medical assistance or food stamps could call for help. We recently closed that down because we do not have the people to staff it. For people who have welfare problems and walk into our office, we only serve the first eight people who get there, two mornings a week, sending the rest away. This means sending people away who have no income or no medical benefits and who would qualify, but need legal help to show they are eligible.
- We used to assist people whose utilities were threatened with cut off, helping them access low income programs, or sort our legal snafus to their eligibility. Now we only represent people whose utilities have already been shut off, and give the others quick advice and send them on their way. Our statistics show this year we will help 200 fewer people facing utility cutoffs than we did two years ago, simply because we cannot handle the increasing volume of requests.
- We used to assist people who were having their disability payments cut for alleged overpayments. Now we turn them away, even though we know we could make a legal case to stop the reduction, because we have decided that it is more important to use our limited resources to help the many people seeking to establish initial eligibility for the disability benefits to which they are entitled.
- We used to give advice and assistance to people whose landlords won't make repairs or won't refund their security deposits. Now we give them a paper handout and turn them away, so we can focus instead on evictions.

- We used to handle many mortgage foreclosure cases; now we carefully screen for the ones where the homeowners are in the worst situations or have the best case, turning others away to get advice from housing counselors, but not the legal representation they need to defend their case.
- We used to help elderly people with pension benefit problems, with problems with nursing home collections, with huge disputed medical bills, and with denials of long term disability benefits. We no longer can. This year we will handle approximately half as many elder law cases as we did in 2010, meaning that 210 fewer elders in need of help will get it.
- Our SSI disability intake system is closed this month. Our staff is too swamped to take on more cases for awhile, even though this means turning away disabled people who have legitimate legal claims for this benefit.
- We only occasionally help people with identity theft issues or other fraud cases, such as home improvement contractor fraud, or the fallout from someone stealing and passing a bad check which results in an elder's bank account being shut down. We do not have the resources. We have had to reduce the number of people facing consumer law problems whom we help by one third over recent years; unfortunately this is not because such problems are happening less frequently, but solely because we do not have appropriate staff resources.
- Many years ago Philadelphians could get help with custody cases or divorce or adoption. Now these cases are handled with an educational clinic or passed on with the hope that a volunteer lawyer may help out. The intake system for all Family Law cases at our sister organization Philadelphia Legal Assistance must be periodically closed

down because of lack of staff capacity; indeed such a closure notice is being circulated in our community this week.

- Our Employment Unit has seen a huge increase in requests for assistance over the past decade, many by people seeking help to overcome barriers to work such as bad credit reports, or arrest or minor criminal records, some of which are erroneous and many of which can be legally overcome. Others have been illegally cheated out of wages by employers. While ten years ago we could handle almost all such requests, now we are turning about a quarter of such cases away.

These are just samples of the way we have had to cut back. The bottom line is that we have many more requests for assistance that we can handle, and we try to take on the most serious cases.

I will close by pointing out how irrational it is for our system to be failing to assist the many clients who seek our services in order to stabilize their situations and move their lives forward. A study of the economic impact of our work found that every dollar spent on legal services brings in an \$11.00 return in revenues and savings, including about \$180 million of Medicaid and Social Security benefits. However, the most important value of our work is of course in enforcing America's promise of "Justice for All", the promise we all learn as young children as we pledge allegiance to this nation. That is the work that the legal aid community does every day for Pennsylvania's most vulnerable residents.

Bruce N. Kuhlik, Esq.
*Executive Vice President and General
Counsel, MERCK & Co., Inc.*

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May 20, 2013

Honorable Stewart Greenleaf
State Senator
Chair, Judiciary Committee
Senate Box 203012
Harrisburg, PA 17120-3012

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

Dear Senator Greenleaf:

As the General Counsel of Merck, I am pleased to provide my perspective on the importance of legal representation in advancing equal access to justice for those less fortunate.

Merck, known as MSD outside the United States and Canada, is a global healthcare leader working to help the world be well. Our mission is to discover, develop and provide innovative products and services that save and improve lives around the world. Through our medicines, vaccines, biologic therapies, and consumer care and animal health products, we work with customers and operate in Pennsylvania and beyond, reaching more than 140 countries to make a difference in people's lives. We are committed to increasing access to medicines and healthcare through far-reaching policies, philanthropy, programs and partnerships that advance the interests of patients and improve public health. We work to achieve our business objectives responsibly, sustainably and with integrity.

At Merck, we believe that with corporate success comes social responsibility, and we strive to make a difference in our local communities, here and around the world. Earlier this year, the Pro Bono Institute recognized the Merck legal department with the 2013 Laurie D. Zelon Pro Bono Award for our outstanding commitment to pro bono service. Since our pro bono program was created in 1994, our outreach has increased substantially and we've forged partnerships with organizations and companies that share Merck's mission of enhancing their neighbors' well-being. Merck's pro bono program currently includes more than 175 attorneys, paralegals and administrative associates from our offices worldwide. In Pennsylvania, we are proud to partner with Legal Aid of Southeastern Pennsylvania (LASP) and the Homeless Advocacy Project, among others, to provide services to the communities in which we work and

live. Our support is both financial and in-kind direct services with Merck employees volunteering their time and expertise to serve those without resources.

Together with the Legal Aid of Southeastern Pennsylvania, Merck attorneys operate an outreach clinic weekly in Lansdale. This clinic allows LASP to fulfill its mission to provide quality legal representation to underserved and vulnerable people in Bucks, Chester, Delaware and Montgomery Counties, to empower them to solve problems without legal representation through legal education and increased access to the courts, and to change community practices and systems that cause or aggravate poverty. Without Merck employees, LASP would have no outreach in Lansdale and many clients facing eviction, domestic violence and other significant legal concerns would not have access to justice.

More can and must be done to improve the access to justice for all. The availability of civil legal aid is critical to our communities and provides tremendous benefits. Individuals in need can rely on civil legal aid to help them obtain basic human needs, such as housing, sustenance, and medical care. Whether it is assistance with domestic violence, divorce, custody, eviction, bankruptcy, Medicaid and prescription drug coverage, SSI and SSD benefits and access to other health care services and benefits, the ability to have legal representation with these major life events materially improves outcomes. By providing this support to those least fortunate among us, we strengthen the fabric of our communities.

Merck is committed to continuing its support of access to justice, both financially and through the volunteered time of our talented workforce. But Merck, and other companies and private law firms, rely heavily on legal service providers like LASP with whom we can partner to provide assistance. Legal service providers are in the best position to triage the legal needs and they play a vital role in terms of organizing and leveraging the volunteer efforts of corporations, law firms, and individuals. Legal service providers are the foundation of the delicate networks that deliver civil legal services to those in need every day, making such a tremendous impact in the lives of so many.

Very truly yours,



Bruce N. Kuhlik

Colleen F. Coonley, Esq.

*Laurel House, Norristown, PA and Adjunct Clinical Professor, Domestic Violence Law Clinic,
Temple University Beasley School of Law*

**THE EFFECT OF THE LACK OF CIVIL LEGAL
REPRESENTATION ON LOW-INCOME PENNSYLVANIANS WHO ARE
VICTIMS OF DOMESTIC VIOLENCE:
LAWS ARE NOT SELF-IMPLEMENTING; LAWYERS ARE
NEEDED**

Colleen F. Coonelly, Esquire

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5/10/13

Legal services are key to enabling a survivor to stay independent of an abuser and to obtain self-sufficiency.² I often hear from my academic colleagues, “There is a protection in that law for victims domestic violence.” True, there are some important protections and remedies in our laws, but without civil legal representation, individuals are unable to avail themselves of them. They might as well not exist.

² <http://www.abanet.org/domviol/statistics.html> (Nationally, some 86% of women who received a protection order reported the abuse either stopped or was greatly reduced.); See also Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 Contemp. Econ. Pol’y. 158-72 (April 2003) (“the provision of legal services significantly lowers the incidence of domestic violence.”). A reduction in domestic violence will contribute to the public welfare. The public health costs of domestic violence are tremendous. “With an estimated economic cost of \$5.8 billion, and the untold intangible costs, intimate partner violence against women is a substantial public health problem that must be addressed.” http://www.cdc.gov/violenceprevention/pub/IPV_cost.html

While various state and federal laws offer protections and remedies for victims of domestic violence, these laws are not self-implementing. Survivors need a lawyer to identify and pursue protections and remedies.

Forget “special” treatment for survivors of domestic violence, without legal counsel they are at a disadvantage in the legal system, especially in child custody cases. I describe one case study below.

In and around Montgomery and Philadelphia Counties, the unmet need for legal services for domestic violence survivors is great. The vast majority of domestic violence victims (about four of five) represent themselves in filing for a protection from abuse order (PFA) and at trial.³ The process is complex; particularly for the more than one in five Philadelphia residents who lack basic literacy skills. See *Violence Against Women in Philadelphia – A Report to the City*, Evelyn Jacobs Ortner Center on Family Violence, School of Social Policy & Practice, University of Pennsylvania, PA (11/16/12). <http://quickfacts.census.gov/qfd/states/42/42091.html>

In 2011, 11,714 new PFA cases were filed in Philadelphia County; 1,649 were filed in Montgomery County. In the same year, 12,492 new custody cases were filed in Philadelphia; 4,718 were filed in Montgomery County.⁴

Child custody cases are even more complex than PFA cases and the need for legal representation in such cases is acute. Representation in child custody cases can enable a survivor to separate from an abuser, recover, parent in peace, and live

³ Women Against Abuse, Philadelphia Legal Assistance and Legal Aid of Southeastern Pennsylvania provide free representation in some cases, but have limited capacity.

⁴ 2011 Caseload Statistics of the Judicial System of Pennsylvania. <http://www.pacourts.us/news-and-statistics/research-and-statistics/caseload-statistics> (2011 is the most recent year for which these statistics have been reported). Philadelphia has a population of approximately 1.5 million people, nearly a quarter of who live in poverty. Id. Montgomery County has a population of approximately 808,460 people.

free from abuse. The current economic recession has been linked to increased domestic violence, so the need for legal assistance is even more critical.

In 2010, I developed and launched the Temple Law School External Domestic Violence Clinic together with Laurel House, a highly respected and long-standing, non-profit domestic violence shelter and supportive services agency in Norristown, PA. I have nearly 25 years of experience in civil litigation, clinical law teaching, and the creation and administration of public interest legal programs.

Laurel House's service area is Montgomery County, Pennsylvania, including women who come to the Laurel House shelter from neighboring counties (Philadelphia, Bucks, Delaware, and Chester).⁵ Our client population is diverse racially and socio-economically.

If Laurel House had funding, it would provide free civil legal services for women and their children residing in Laurel House's domestic violence shelter or transitional housing or participating in area programs for domestic violence survivors. Laurel House had federal funding from HUD for this work between 2003 and 2008. HUD discontinued that grant program in August 2008 and, despite many attempts, Laurel House has been unable to replace that funding.

From 2003 through 2008, Laurel House's HUD-funded legal project provided legal assistance or direct representation to 170 victims of domestic violence. During that period, the Project attorney represented domestic violence victims at 325 individual hearings in Montgomery, Bucks, Delaware and Philadelphia Counties and obtained over \$200,000. per year in child or spousal support for represented clients. Because of the support they received, nearly 95% of such clients were able to

⁵ 70% of the families seeking shelter come to us from Philadelphia

increase their level of self-sufficiency. Of the 170 people served, only 9 (5.3%) failed to complete the comprehensive Laurel House program and returned to their abusers.

Montgomery County is fortunate to already have an excellent protection order project headed by volunteers at The Women's Center of Montgomery County (WCMC). Through its Legal Advocacy Project, The WCMC provides court accompaniment assistance and legal options counseling, by volunteer non-lawyers, to thousands of individuals per year. Each year, though, The WCMC and Laurel House see thousands of individuals who have legal needs aside from or in addition to their need for a protection order.

Child custody litigation is the most devastating and intractable legal need of the community we serve.⁶ Our clients desperately need free legal representation in custody cases. Even if a survivor does have financial resources, the resources are often controlled by the abuser/perpetrator at the most critical time: the time when an initial custody determination is made. In addition to representing individual survivors, lawyers are needed to develop materials and to convene support groups and workshops to aid survivors in protecting their parental rights and in sharing parenting, when court ordered, while supporting the survivor's efforts to recover and live free from abuse. This would enable survivors to engage in peaceful, positive, parallel parenting.

We see the same scenario over and over. Our clients are harmed because they lack legal representation or even accurate legal information. The legal system is

⁶ While Laurel House serves both women and men who have been the victims of domestic violence, over 95% of people who come to us are women and their children. Accordingly, we use routinely female pronouns when referring to our clients.

complex, self-contradictory and can be especially punishing to an unrepresented survivor of domestic violence.

The case of a woman who came to our shelter in November 2012 epitomizes the situation. D.M. fled, with her two minor children, the home she shared with C.P., on 11/20/12, after C.P. physically and verbally assaulted her. C.P. had previously abused D.M. on numerous occasions. C.P. and D.M. had a court order from years earlier (2007), awarding her primary physical, and C.P., the father of one of the children, partial physical custody of that child. For all of his 8 ½ years of life, the child lived with his mother and brother. For a total of 19 months of that time (8 months in 2004 and 11 months in 2011), father also lived with mother and the children. The child of D.M. and C.P. never lived alone with C.P., except for staying with C.P. every other weekend under the 2007 custody order. Other than these weekends, the child never stayed overnight away from his mother and brother in his life. Shortly after D.M. fled, on 12/5/12, Father filed a Petition for Contempt and to Modify the 2007 Custody Order, requesting that primary physical custody be taken from mother and awarded to him. Father was represented by counsel. Mother was unable to secure counsel. D.M. filed for and obtained (ex parte, per the law) a temporary civil protective order on 12/5/12. The Order prohibited Father from contact with Mother and child. Mother was still unrepresented at the hearing for the final order on 1/15/13. Father was represented by counsel, who was also his counsel in the custody case. A final Protection Order was entered by agreement on 1/15/13. It covered only mother; not child. The following week, on 1/23/13, while mother and her children were still in our shelter, a hearing was held in custody court. Again, father was represented by counsel; mother was not. This Judge did not have the case when it went to court

years earlier. The Judge held that mother violated the 2007 custody order by removing the child and “keeping the child from father.” The Court awarded father primary physical custody, holding, “it is in the best interest to have a stable home life and that father at this time is best able to provide that.” The Court awarded partial physical custody to mother, but made her responsible for providing transportation. Mother does not have a car or access to one; father owns a car. Following the Court’s Order, Mother travels via public transportation to retrieve her child in order to exercise her partial custody. The trip takes 3 hours. It would take approximately 45 minutes to make that same trip in a car. Of course, D.M.’s case is a painful answer to the oft-posed question about women who remain in abusive relationships: “Why doesn’t she just leave?” Women frequently report that they don’t leave an abuser because she fears losing custody of her child. That fear was fully realized for D.M.

What would have been different if Mother had legal counsel? A lot. Among other things, counsel would have opposed the contempt petition on the grounds that (1) the 2007 Order should be declared null and void because the parents cohabitated throughout 2012; (2) mother’s conduct was brief and was justified by her serious concerns for her safety and that of the children; and (3) a Court Order prohibited Father from contact with the Child. (It appears that the custody judge believed the order only covered mother). Not surprisingly, without counsel, mother did not raise any legal issues in her defense.

The temporary civil protection order, which prohibited Father from any contact with Child, was in force for 7 weeks- from 12/5/12-1/15/13. It was during this time that the Custody Judge found that Mother “kept the child from father” in contempt of the 2007 custody Order. (The hearing was initially scheduled for 12/13/12, but was

moved to January at the request of Defendant's lawyer). Thus the child was with mother for a total of ten weeks- from 11/20/12- 1/15/13. He continued to attend school, which was nearby to father's home. Counsel would have represented Mother at the hearing on the final protection order and would have sought to have it continued until after the Custody hearing and/or would have sought to have the final order cover the Child. Counsel would have advised against an agreed Order that did not cover the child. Counsel would have represented mother at the custody hearing and would have ensured that the Court was presented with evidence of what a radical change Father was proposing. It appears from the transcript that the Court never heard that the Child had lived with mother for his entire life. A layperson would not know how crucial this evidence was and might believe, incorrectly, that the Court "already knew" it. Father's counsel constantly claimed that mother took the child to a homeless shelter. Mother never pointed out that Laurel House is not a homeless shelter. If the Court nonetheless awarded primary physical custody to father, counsel would have asked that father be ordered to provide the transportation and would have elicited the facts regarding the parties' disparate access to transportation.

Legal representation would have made a huge difference for D.M. D.M.'s case is typical of the experiences of clients we see in our shelter and in our counseling program for abused women in the community.

Child custody is an area in which lack of legal representation is enormously impactful. Not only does the lack of representation in a custody case undermine other efforts by the survivor to get free from abuse, but unrepresented survivors are often punished and retraumatized in custody cases. Survivors do not have a real choice as to whether to go to court for a custody action (as contrasted, e.g., with civil protection

order cases). If the other parent wants to exercise his parental rights, she must deal with the custody law and system. Of course, some abusers sincerely want to pursue the best interest of their children and/or be involved with their children; others use the child custody system to harass, intimidate and control the survivor. The costs of competently litigating a custody case can be a severe hardship or entirely prohibitive for the survivor. In addition to filing fees, there are fees for evaluations and studies (e.g., physical or mental examinations, mediation, conciliation fees, master fees, guardian ad litem fees, counsel for child fees, drug testing, and home studies). While a pro se petitioner is entitled to file an *in forma pauperis* (IFP) motion asking to have some fees waived, this option is obscure and the process is complex. Even in this process, which should protect vulnerable litigants, unrepresented parties are at a disadvantage. The pro se party must surmise that there is a way to request that fees be waived, must make a formal request, and must submit detailed financial information. Pa. R. Civ. P. 240 (h). Often, a fleeing survivor does not have ready access to this information. In contrast, a lawyer needs only certify that he or she believes the party is unable to pay the costs and that counsel is providing free legal services to the party and the court “shall allow” the party to proceed *in forma pauperis*. Pa. R. Civ. P. 240 (d)(1).

Our clients, like most laypersons, do not understand that parental rights can only be lost in a child custody case; there is no “winning.” A survivor needs legal counsel in order to obtain an outcome in a child custody case that is best for her and her children. As stated, the system is stacked in favor of represented parties, and yet survivors often lack (or lack access to) the financial resources to secure legal representation. Unrepresented parties in a child custody case are playing a “game” in

which they don't know the rules and in which the consequences of a "false move" may be substantial and long lasting. Unrepresented survivors often mistakenly conclude that the child custody case is the litigation of her valid grievances against the abuser. This approach can lead to disastrous results in the child custody case.

In our county and surrounding counties, the father more frequently has (or has access to) the financial resources needed to obtain legal representation at the time of the first custody determination. Once the first Court determination is made, the law favors continuity for the child. Thus, if mother is not awarded primary physical custody at the initial determination, her chances of obtaining primary custody may be inalterably diminished. Consequently, the system is even more stacked against the survivor.

Survivors need legal representation in order to navigate the child custody system in which her valid grievances against the abuser are given minimal weight as against the constitutionally guaranteed, fundamental parental rights of the abuser and the legal and social presumption that it is in the best interests of the child to have a parent/ child relationship with both parents (unless a parent is a demonstrably "unfit parent").

The vast majority of domestic violence victims in Montgomery and Philadelphia counties represent themselves in child custody cases. The process is complex. There is no volunteer project to assist child custody litigants and indeed, unlike PFA cases in which non-lawyer advocates are statutorily entitled to accompany a litigant in court, in custody court, the pro se litigant is on her own.

Domestic violence survivors have several disadvantages in custody cases, all of which are compounded if the survivor is not represented by counsel. The survivor is

often traumatized by the abuse and is consequently disadvantaged in psychological testing. The survivor may seem overwhelmed and disorganized to the custody evaluator and/or the judge.

In comparison to the survivor, the abuser is typically not traumatized and may seem quite stable and sympathetic. If he is skilled at manipulation and intimidation, he may use those skills to affect the testimony or statements of the children and others.⁷

Apart from the societal costs of domestic abuse, individual economic self-sufficiency affects the rate of recidivism among female domestic violence victims because: 1) women are more likely to be economically dependent on their abusive partners; 2) women with children lack the legal resources to obtain custody of their children or secure child support, forcing them to remain in an abusive situation in order to keep their children; and 3) women who do leave have more difficulty in maintaining an adequate standard of living for themselves and their children.

The most frequent question asked about women who remain in abusive relationships is “Why doesn’t she leave?” The more appropriate question is “If she does leave, where can she obtain the legal assistance and legally informed counseling she will need to achieve the self-sufficiency and safety necessary to keep from returning?” Government funding of civil legal representation is needed.

⁷ <http://www.lundybancroft.com> (“Even if the batterer does not win custody, his attempt can be among the most intimidating acts possible from the victim’s perspective, and can lead to financial ruin for her and her children”.) See also 10 Myths about Custody and Domestic Violence and How to Counter Them <http://apps.americanbar.org>

Molly Callahan, Esq.

*Legal Director, Women Against Abuse Legal
Center*

SENATE JUDICIARY HEARING
MAY 23, 2013
PHILADELPHIA, PENNSYLVANIA

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TESTIMONY OF MOLLY CALLAHAN, LEGAL CENTER DIRECTOR
WOMEN AGAINST ABUSE

Each day Women Against Abuse attorneys and advocates see the impact that domestic violence has on victims and their children. We see, first-hand, the long-term effects of violence on adult victims and children and we see the difference that attorney representation can make in breaking the cycle of violence. We are grateful for your work on access to justice and appreciate this opportunity to present testimony regarding this issue.

Women Against Abuse provides shelter, transitional housing, behavioral health and legal services to victims of domestic violence in Philadelphia. WAA is the leading domestic violence service provider in Pennsylvania and the Legal Center is the first legal center in the nation to exclusively serve domestic violence victims. Currently the Women Against Abuse Legal Center has six full time staff attorneys who represent clients in a variety of family law matters, including protection from abuse, child custody and support cases. The Legal Center also has civil and criminal court advocates who provide options counseling, safety planning and referrals to victims of abuse. Last year, WAA staff attorneys represented 855 clients and WAA court advocates served 3363 clients. While these numbers are impressive, the scope of domestic violence is staggering. In Philadelphia, more than 11,000 Protection From Abuse petitions are filed each year and approximately 85-90% of petitioners do not have legal counsel.

Victims of domestic violence are particularly vulnerable

The court process can be particularly intimidating for a pro se victim of domestic violence. Many victims have endured years of abuse and are isolated and unsure that they will be believed. Additionally, when victims attempt to leave their abuser or access the court system, they are often threatened and intimidated by their abuser. The threats include threats to harm or take the children, threats to kill the victim as well as threats to take their own life. The cycle of violence makes the legal process an incredibly intimidating experience for a victim. She⁸ is frightened of the abuser, and now she must stand next to him and tell a judge extremely personal, traumatizing details about her life and the lives of her children. Additionally, research shows that the most violent and dangerous time for victims is when they leave the relationship or exert independence. It is not surprising that without attorney representation some victims simply feel they cannot go through with this process, thus disappearing from the system all together.

Attorney representation helps protect victims and their children

The legal representation that WAA provides to victims is vital – to the victim, to her children and ultimately to the wider community. Studies have shown that victims with attorney representation are much more likely to safely leave and remain free from their abuser.⁹ The protection from abuse statute offers important remedies, such as prohibiting the abuser from having any contact with the victim, evicting the abuser from the residence, and granting temporary child custody and support to the victim. Similarly, the child custody statute offers

⁸ Because the vast majority of domestic violence victims are women, I will refer to the victim as she and the abuser as he, although there are certainly male victims and female abusers.

⁹ Udell, David, and Diller, Rebekah. *Access to the Courts: An Essay for the Georgetown University Law Center Conference on the Independence of the Courts*. 2007. Brennan Center at the New York University School of Law. Farmer, Amy, and Tiefenthaler, Jill. *Explaining the Recent Decline in Domestic Violence*. 2002. Brennan Center for Justice.

important protections to victims of abuse and their children. However, without a dedicated and skilled attorney, victims are often unaware of such safeguards and are unable to meaningfully access the court. Thus they are unable to avail themselves of the protections which make it possible to safely leave a dangerous relationship.

Time and again WAA sees the difference that skilled representation makes. In one recent Protection From Abuse case, a victim who had endured years of abuse filed for a Protection From Abuse order when the abuser began to threaten her. She appeared at the first listing of the case pro se and presented limited testimony but was not granted a temporary PFA order. One of WAA's attorneys represented her at the next listing and the client was eventually granted a final Protection From Abuse order. Similarly, in a recent custody case, prior to having representation, the victim, a mother of 3, was awarded shared legal and physical custody with her abusive partner. Despite the fact that she had separated from him, the abuse increased. She attempted to modify the custody order but was unable to do so on her own. A WAA staff attorney then became involved and after a full hearing, the client was granted sole physical and legal custody and the abusive partner was granted supervised visitation and ordered to undergo drug tests and mental health counseling. In our daily work we often see cases like this which illustrate the importance of attorney representation in helping victims and their children find safety and begin to heal.

Without an attorney the court process is confusing

Pro se victims do not know the law and are not sure what evidence is relevant or how to present it. They may not know whether it is important for the judge to hear of past abuse and they do not know the rules of evidence – many think that a signed letter from a witness will suffice and do not know that it is inadmissible hearsay. They may not know to bring in medical records or pictures or to have their witness present. WAA sees the difference that attorney

representation makes in individual cases. For example, a victim of stalking represented by an attorney will present a much fuller case than an unrepresented victim. The attorney ensures that evidence is properly presented to the court and that the victim has looked at a calendar to figure out when the incidents occurred. The attorney is able to properly present and authenticate text messages and Facebook evidence. Moreover, stalking often appears relatively innocuous if the whole picture is not presented and victims of stalking are often particularly traumatized and may appear disorganized or highly emotional. In reality, stalking is not innocuous behavior and is an indicator of lethality. The attorney is able to present a more complete picture to the court and thus we have seen cases with similar fact patterns result in different verdicts depending on whether there is attorney representation.

Attorney representation is more efficient

Studies show that legal representation saves the courts time and thus money. An attorney is able to sift through the case and pick out the relevant pieces of information. The court cannot, and should not perform, this function. The court does not have the time or ability to do so. Our system is an adversarial one and works best when all parties know the rules of the system. It is clearly beneficial to have an attorney at trial. However it is just as important to have an attorney during settlement negotiations. We have also seen that it is often easier to settle a case when both sides are represented and both parties tend to be more satisfied with the outcome when they feel that they have been heard and treated fairly. Without attorney representation, victims are more likely to have to return to court. Indeed, lack of representation often leads to both parties asking for more judicial intervention. Each time the parties return to court, adds uncertainty and stress to the victim and, particularly in custody cases to the child.

In Philadelphia, we are overburdened by the sheer number of petitions filed and cases listed each day. Skilled attorney representation makes a difference in individual cases and it

helps the court function more efficiently. WAA Legal Center has recognized the need for early legal intervention and in order to intervene earlier and to increase representation, last year the Legal Center launched the Attorney Fast Track program, in which a WAA attorney is stationed in each of the PFA courtrooms each day to provide assistance to victims of abuse. The attorney is able to immediately assist many victims and to refer others for longer-term representation when the case is more complicated. This program has allowed us to more than double our representation. It has also illustrated what we long suspected – intervening earlier not only better protects the victim, it is also more efficient. The attorney is able to seek immediate relief and is able to prevent mistakes from occurring. For example, in a recent case, a client filed for a Protection From Abuse order after suffering years of abuse and was granted a temporary order. After speaking with her, the fast track attorney learned that the abusive partner had snatched her three month old twins who she had left with a relative when she went to file for the PFA. The attorney was able to ask the court to grant the client custody of the children and order that the police enforce the custody order. The police were eventually able to track the abusive partner down outside of Philadelphia and to reunite the mother and children. If the attorney had not been on the spot to speak to the client, the client would not have known to request this relief. Had she eventually made her way to an attorney, she would have had to either file a petition to modify the PFA or an expedited custody petition, either of which would have been more time consuming for the client, the attorney and the court. Immediate attorney representation allowed the case to be disposed of more quickly and for the mother to obtain the relief she needed.

There is not enough funding for attorney representation

Despite the success of the fast track attorney program the funding for this program may not be renewed and we will be forced to make difficult decisions about cutting services.

Additionally, even with this program, we are unable to help the majority of those who desperately need legal help. Sustainable funding for legal services is extremely rare. Every day we are faced with impossible decisions – do we represent the victim with more complicated legal issues or do we represent the victim who has a relatively straightforward case but has been so traumatized that it is unlikely that she will present her testimony coherently? Do we choose to represent the mother whose child has visible bruises or the mother whose child “only” witnessed abuse but is suffering from nightmares and acting out in school? These are not decisions that should have to be made.

While funding is decreasing, the need for services is increasing and while the troubled economy does not cause domestic violence, it can exacerbate it. Additionally, the troubled economy makes it less likely that family members who previously provided a safety net can still do so. Family members who may have been able to scrape together enough money to hire an attorney or who may have been able to offer a place to stay for a family member fleeing domestic violence can no longer do so because of their own economic situation. It should also be noted that those least able to represent themselves are also the least likely to be able to afford an attorney. Those victims who have less education or do not have basic literacy skills will have an almost impossible time representing themselves and yet, without free legal services, they will be unable to afford an attorney. Many of our clients are unemployed or underemployed at the time that they seek representation. Often, the abusive partner would not allow them to work and while he is able to afford an attorney, without organizations such as WAA, she would not have any assistance. Even those who are employed simply do not make enough to hire an attorney. In one of my own cases, my client worked as a home health aid. After caring for her patient, she would come home and take care of her own elderly father and

her four young children. Though she worked as hard or harder than anyone I know, she never would have been able to afford an attorney.

There is an overwhelming need for attorney representation in custody cases

The need for attorney representation in custody cases can not be overstated. Each month WAA turns away victims who need help in their custody cases simply because we do not have the capacity to represent them. In rare instances, we will refer someone to another legal services agency but we know that each month those agencies are also turning away victims who are desperate for help. We know that the lack of skilled representation in custody cases puts children and adult victims of domestic violence at risk.

Decisions about child custody are among the most important decisions that a court can make. These decisions affect the daily life of the child and have far reaching impact on his or her long-term well-being. Given the consequences of such decisions, it is vital that victims have access to attorney representation. The Pennsylvania custody statute has many important safeguards for victims of abuse and their children. However, to benefit from the law, the victim must be aware of it. All too often, victims of abuse are not aware of these safeguards and are therefore unable to build their case on their own.

The custody cases which end up in court are the ones in which the parties most desperately need representation. Only a relatively small number of families turn to the court to decide custody arrangements. About 80% of parents are able to work through custody issues on their own. The cases which need judicial intervention are the cases in which parents are least able to work together. Moreover, in the 20% of families who use the court to decide custody,

domestic violence is a major factor in between 50 -75 % of those cases.¹⁰ The cases that end up in front of a judge, are the cases in which there is most likely to be a power imbalance and in which victim access to an attorney is of paramount importance.

Attorney representation helps break the cycle of violence

Finally, without effective legal help, we will see a need for costlier, less effective interventions down the road. WAA Legal Services helps ensure physical safety. And WAA does more than that. Our legal services help victims and their children remain in their own homes. Without legal representation, victims and children are more likely to end up homeless, which has consequences now and in the future. Legal representation helps ensure that the non-abusive parent gets custody of the children. It ensures that safeguards, like supervised visitation, protect children who have been abused. Without effective, early legal intervention children are more likely to end up in foster care, which costs more money in the long run and has serious long-term effects on the child. The lack of dedicated attorneys for victims means that more children will grow up experiencing violence in their homes. Children are profoundly affected by experiencing or witnessing domestic violence. Research shows that young children who have been exposed to violence in their homes are more likely to struggle with depression; exhibit anger and aggressive tendencies; they also suffer from post-traumatic stress disorder and nightmares; and experience developmental delays.¹¹ All of this will end up costing society now and in the future.

If we are serious about ending domestic violence, we must recognize that legal interventions work. In order to help break the generational cycle of violence, we must provide

¹⁰ See J. Johnston *et al.*, “Allegations and Substantiations of Abuse in Custody-Disputing Families,” 43 *Fam. Ct. Rev.* 284 (2005).

¹¹ Strategies to Address Violence in the Lives of High Risk Youth. Wolfe, Wekerle, Reitzel and Gough, 1995.

victims with true access to justice and this means ensuring that they have competent legal representation.

James Daly
Client of Community Legal Services

Testimony of James Daly
Client of Community Legal Services
Before the Senate Judiciary Committee
May 23, 2013 Hearing

My name is James Daly. Thank you for allowing me to tell you how having a lawyer saved me from becoming homeless. I am 53 years old and used to work as a house painter, but I started having episodes of passing out. In the fall of 2011, I passed out and hit my head on the job. I was in and out of several hospitals for a few months getting a battery of tests to try to find out what was causing me to pass out and have a lot of other neurological symptoms. Then I was transferred to a nursing home for rehabilitation.

I was having a lot of pain in my neck and arms and very bad vertigo, which made it hard for me to do the physical therapy. My doctor put me on a new steroidal medication and advised the nursing home that my physical therapy should be put on hold for a couple of weeks until the new medication could take effect. On a Friday, the nursing home social worker came into my room and told me that I didn't need to be in a nursing home and that they were going to send me to a homeless shelter the following Monday. I had medical coverage to pay for my stay at the nursing home, but they said I had to go anyway. I had been staying with a friend before my accident, but he no longer had room for me and I had nowhere to go. I still could not walk very much and was using a wheelchair because of the vertigo and balance problems. I was panicked that if the nursing home sent me to the shelter I wouldn't get the rehabilitation and other care that I needed. I was also worried that I wouldn't be safe in the shelter because of my physical condition.

I called the long term care ombudsman, trying to find help. They referred me to Community Legal Services (CLS). I called CLS that afternoon and was connected to a lawyer in their Aging and Disabilities Unit, who said that she would represent me. She explained that

the law says that nursing homes can only discharge residents involuntarily in certain circumstances and that nursing homes have to give residents a written notice 30 days in advance of the discharge explaining that the resident has the right to appeal the decision to discharge them. She also explained that if the nursing home wanted to discharge me, they had to send me to a place which could meet my needs. The nursing home had not done any of this.

At 9:00 am on Monday morning, the lawyer faxed an appeal of my eviction to the Department of Public Welfare (DPW). By 10:30, she had received an order back from DPW barring the nursing home from evicting me until further notice. When she called and told me that they would not be discharging me that day, I was very relieved. I had been afraid that I would end up on the street in my wheelchair.

DPW told the nursing home that it could not evict me without giving me an advance written notice like the law required, so the nursing home gave me a written notice saying that they were going to discharge me in 30 days to the big men's homeless shelter in Philadelphia. My lawyer appealed this notice, too. The welfare department scheduled a hearing. In the meantime, my lawyer talked to the nursing home administrator and their lawyer about my case. After they negotiated, the nursing home agreed to cancel the discharge and let me stay so that I could get the rehabilitation I needed.

I had no income because my Social Security Disability hadn't been approved yet, and I was not going to have anywhere to go when I was ready to leave the nursing home, so an organization called Liberty Resources started helping me look for housing to move to when I was ready. A couple of months later, while I was still having rehabilitation, the nursing home social worker started talking again about discharging me to a homeless shelter. My lawyer told her and the nursing home administrator that they could not do this, because it would not be a

safe place to send me because of my continuing physical problems. After that, the nursing home stopped threatening this.

Earlier this spring, I moved to a beautiful apartment that Liberty Resources found for me. I am so happy that I have my own place. I feel like a different person. If I had not had a lawyer to explain my rights and stop the nursing home from discharging me, I don't know where I'd be now. I probably would have ended up on the street. It gave me a chance to get the rehabilitation I needed and then to have housing in place when I was ready to leave so I wouldn't become homeless. I am more able to take care of myself now and I am very happy to be living in the community in my own apartment.

Adrienne Trice

Client Philadelphia Legal Assistance

Testimony of Adrienne Trice
Client of Philadelphia Legal Assistance
Senate Judiciary Committee Hearings
May 23, 2013

I am writing to let you know about my experience with Philadelphia Legal Assistance. My name is Adrienne Trice. I am a 47-year old mother to a 3-year old daughter, Laila Williamson. On December 24, 2011, Christmas Eve, Laila and I were asked to leave the home we had shared with her father. There was no negotiation: he wanted us out, immediately. Prior to that day, I had stayed with him hoping to build a family for our daughter, despite the fact that it really was a bad relationship. When he kicked me out he said our relationship was over and that he was already involved with another woman.

So, we left. In one arm I had a bag of clothes for the baby, bottles, and her Christmas gifts; in the other arm I held my child. I told the father that I had nowhere to go. He took me and my daughter to my mother's home, even though he was very aware that my mother would not allow us to stay. He knew that my mother was already taking care of other family members and there was no room for us there at all. Even still, he dropped us off in the cold night, said goodbye, and left. I didn't know what to do next. I was in a state of shock.

We stayed with my mother that night, and as predicted, she asked us to leave the next day because the house was overcrowded. There was no bed for either of us to sleep in. I had no other friends or family in Philadelphia that would take me in. I reached out to some relatives I have in New England, and they took me and my child in, and provided us with shelter. They even paid for our bus tickets up to Connecticut. After we arrived, I slowly rebuilt my life. I helped around the house; nursed a sick older relative; put my daughter in school; and started making connections with family I had been distant from. I was happy and Laila was happy.

While all this was going on, the father filed for custody of Laila back in Philadelphia. More than eleven months after Laila and I were thrown out of the house on Christmas Eve, we finally went for a hearing in front of a judge. It was at that time that I found out that when I took Laila up to New England to stay with my family there, I didn't follow the law. I had to file a paper with the court asking for permission to leave the state, and I didn't do that. The judge was very angry at me, and told me that if I didn't file the papers right away, she would make me give my daughter back to her father in Philadelphia, even though I would be stuck in Connecticut, having nowhere in Philadelphia to live. I would be separated from my daughter. In the meantime, the judge ordered me to bring my daughter to Philadelphia for two weeks of every month to be with her father. For the first time ever, my daughter was out of my care. We had never before spent a night apart.

This was a very dark time for me. I tried reaching out to numerous law firms in Philadelphia for assistance, but they all told me "Sorry," and redirected me because I could not afford them. This was serious! I needed immediate help and no law firm would assist me. This was a process that I was completely overwhelmed, confused, and intimidated by. I tried one last telephone call, to Philadelphia Legal Assistance in Center City. I left a message and to my surprise, I received a call back from a woman stating that she had heard my message and she would like to help. FINALLY, I said to myself.

My attorney prepared the documents that were to be filed with the courts that I didn't understand. She requested telephone appearances for me because I could not afford to travel to Philadelphia for the court dates, and did not want to lose my daughter because of it. She

reached out to the father and his attorney. She gained my trust when I thought I could trust no one. She made me feel like I was her only client, and gave me the utmost attention and provided me sound advice. I ended up receiving a final custody order permitting me to reside with Laila in Connecticut.

I was very uncertain how to advocate for myself, just like so many people. The Philadelphia Court system and the process can be emotionally, physically, and spiritually a scarring experience. Philadelphia Legal Assistance functions as a voice. It offers services to people who have no voices themselves. I hope Philadelphia Legal Assistance never stops, because there are so many people in this great city that require assistance, just like me. I can tell people now, there is a place where you can go for help, and I know this because I witnessed it firsthand.

Pei Hung Zhen

Client of Philadelphia Legal Assistance

Testimony of Pei Hong Zhen
Client of Philadelphia Legal Assistance
Senate Judiciary Committee Hearings
May 23, 2013

I came to Philadelphia from a small village in Southern China. I came here by myself, with no family, no money, no job, and I do not speak English.

My husband and I were married in China and had two young sons. After we married, my husband moved to Philadelphia for work for several years, returning to visit us as much as possible. While my husband visited us in China, we fought and he physically abused me. One night I fled from his abuse, and when I returned the next morning I found he had left China with our sons, and all my documents. It took me a long time to find out where he and the children were and how to contact them, and I did not see my sons for almost two years.

During those two years, I saved and borrowed money to come to the United States and first arrived in San Francisco, California. I was able to eventually come to New York in 2006, when I was finally able to locate the children and learned their address in Philadelphia. When I finally came to Philadelphia in August, 2006, but my husband would not let me see the children. The first time I went to their house, he slammed the door in my face.

Philadelphia was a very new place to me. I didn't understand the law, how to ask the court to help me, or how to find an attorney. In my most helpless moment a friend took me to a church, and a pastor referred me to an attorney at Philadelphia Legal Assistance (PLA). I was very frightened and helpless. Before coming to PLA, I did not know I could file a custody petition asking the Court to allow me to see my sons and I had no idea how I would try to convince the court to let me see them.

During the time my husband kept the children away from me, he told them many bad things about me. This made things very hard for me. My oldest son in particular was very difficult and angry with me. I now know they were angry because they did not understand why I had not seen them in so long, and my husband had told them lies, and said I did not care about them.

My attorney helped me get into court quickly so I could begin to see my sons again on a regular basis. She helped me speak in court, with an interpreter, and fought against my husband's accusations against me. After many court hearings, I was able to gain primary custody of one of our children. My attorney made sure we asked for counseling for the children and I. The counselor helped me rebuild my relationship with my sons. I now have good relationships with both my sons, and see them both regularly.

I would not have been able to do any of this on my own. The legal system here is completely foreign to me. I did not know what rights I had as a mother. I did not know how to file for custody. I did not know how to present my case to the court. I would have been very afraid to stand up to my husband in court without a lawyer. I am very thankful for this service and for what I have received. When I first came to Philadelphia and was not able to see my children, it was a very difficult time period for me, but with the attorney's help I have gotten custody and am able to see my sons and I am much happier.

I want more unfortunate woman to receive the help I received. I do not want other parents to be forced to be separated from their children, not knowing their rights as parents and how to enforce those rights.

L.S.

Client of Women Against Abuse Legal Center

Testimony of L. S.
Client of Women Against Abuse Legal Center
Before the Senate Judiciary Committee
May 23, 2013 Hearing

I had a lot going on in my life with a Protection From Abuse (“PFA”), custody, and child support cases. My head was spinning. I called so many services in Philadelphia and no one was able to help me or answer my questions. I felt so helpless in the court because you don’t know what’s going on or what’s going to happen. You don’t know how to help yourself or what direction to go in. There is so much at stake, but you don’t know where to start. It can be so hard to grasp how the legal system works or understand the language of court. I knew what I wanted to do but not how to go about doing it. There was no one to answer my questions. You have no guidance or help unless you have the privilege of hiring someone to defend you.

When I found out that an attorney from Women Against Abuse (“WAA”) was going to represent me, I cried of happiness. I felt so relieved because I had someone to help and protect me. This attorney could help me help myself. My attorney represented me with my PFA case, but also answered my questions and gave me advice about my custody and child support cases. What you need is someone to make sense of it all and my attorney helped me do that. She was: helpful, patient, instrumental, kind, thoughtful, and wonderful. She is such a good person. How it all turns out is so dependent on who helps you along the way.

The opposing party wanted to extend his PFA against me. I wanted it vacated because he was using the PFA to have me wrongfully arrested when he was the one following me around. He once called the police claiming that I broke windows in his home. The police came to my house with guns drawn when my kids were home and scared them. He also had me arrested when I happened to drive by him one day. He told the police that I stopped the car and threw a water bottle at him, when that wasn’t true. He had a lawyer representing him and I needed help fighting the extension. I wanted the truth to come out but he was lying and playing the victim. I had turned to the court for help but he was using the court to control my life.

My attorney gathered evidence I would not have been able to get a hold of, like a court order from landlord tenant court and the opposing party’s arrest record. Opposing party lied about both of these things and my attorney was able to prove he was lying and prove that I was not present at the time of one of the incidents. She got all the paperwork filed and helped me stay organized. The extension was dropped because of my attorney’s help. She got the

outcome I wanted and I felt free. Finally I could feel the air around me and breathe. She also gave me advice in my other cases. She told me to continue with the custody agreement, even if the opposing party was not holding up his end. She helped me to make a record that showed I was bringing my son for visits even when the opposing party didn't show up. She told me to request a drug test and psychiatric evaluation for myself and the opposing party to clear up any false claims. It turned out that the opposing party tested positive for high amounts of drugs. As a result, I got full custody of my son. I don't know what I would've done without her help. I would've lost my son, lost everything. There was so much at stake and she helped me get my life back. I am so grateful to what my attorney did for me.

Patricia Tarawally

*Client of Philadelphia Landlord/Tenant Legal
Help Center*

**Testimony of Patricia Tarawally,
Client of the Philadelphia Landlord/Tenant Legal Help Center
Senate Judiciary Hearing
May 23, 2013**

My name is Patricia Tarawally. I am 47 years old, and have three grown children and five grandchildren. I live with my daughter and help her care for my three grandchildren.

I moved in the property at 2331 Watkins Street in Philadelphia in August of 2011. When I rented this house, I had paid first month's rent in the amount of \$725, and a security deposit of \$1,000, for a total amount of \$1,725. The day I was moving in a neighbor told me that my basement was infested with fleas and that there was a roach problem. I did not see any fleas at first so I ignored what she said. Two or three weeks later my dog had fleas. I immediately called my landlord and he said that I was entitled to one extermination. Sometime in October of 2011, a few months after I reported the problem, a man came with a can and sprayed the whole house. I don't know if it was a professional exterminator. He told me not to go down the basement for two days so we didn't.

Everything was fine for a few days, but then my dog started having fleas again. Then we saw the fleas come up the basement steps to the main floor. It was really disgusting. It was very hard for our family to have these fleas all over. Everyday I had to de-flea my dog so the grandchildren would not get bite. We could not let the grandchildren just roam the house, especially as it got hot.

As it started getting cold in early October, we also learned that we had a rat problem. We originally thought they were mice but they were actually baby rats. The rats ran all through my bedroom. I saw them all over the house, eating the dog food, and running on my dresser and on my bed. They actually chewed the leg of my dresser. We were all scared that

they would crawl on us while sleeping. I called the landlord repeatedly to complain, but the landlord refused not fix the problem.

I adopted a stray cat hoping it would cure the problem. The cat had a litter in the basement. A few days after the kittens were born, all but one of the kittens was missing. The one kitten that stayed in the basement was dead. Of course, the fleas were all over the dead kitten.

The situation got so bad that I called Licensing and Inspection and the Board of Health. The Board of Health refused to go into the basement because of the amount of fleas. I also called the exterminator and began withholding the rent money. I paid an exterminator \$513 to come out and work on my house for 5 sessions. The exterminator made us leave the property because of the chemicals.

The exterminator found the source of the problem. It was an unsealed drain pipe that was leaking in the basement. The rats were coming in through the pipe. The exterminator could not exterminate the basement until the landlord fixed the problem.

While I was living in the house, I was often nauseous. This problem went away when we moved. My 3 year old grandson has G6PD deficiency and asthma. From January of 2012 until the time we left the property in November of 2012, my grandson was rushed to the hospital three times with asthma attacks.

We did not know how to get the landlord to fix the problem. Had we known there were legal services available, we would have gone and tried to get the problem fixed much quicker. Instead we had to live with fleas and rats.

Instead of fixing the problem, my landlord filed an eviction action against me for non-payment of rent. I learned about the Legal Help Center from the court paper so I went there

before my court hearing to see if I could get some help. The Legal Help Center told me that they would not be able to represent me in Court, but they tried to help me prepare my case for Court on my own. I was disappointed, but I did leave knowing a little about my rights

At the day of the hearing I was nervous but came in with my arguments. We were told to go to this room and I thought I was speaking with a judge. I have now learned that I never did see a judge. The person I thought was a judge was in fact the landlord's attorney. For all of our heartache and fears, the landlord's lawyer placed a judgment on me for \$2,517 but said I would not have to pay it if I agreed to move. I was fed up, scared and thought that I had no choice but to move. I moved out in November of 2012 and didn't get any of my rent money back from this landlord.

I have just learned that the landlord still has an outstanding judgment against me in the amount of \$2,517 and has never marked my case satisfied even though I kept my part of the agreement and moved. So this judgment is now showing on my record. I did not know that this could happen as I am not a lawyer. If a new landlord looks at my record, they will think that I still owe \$2,517, which I don't owe. I do not know how to get this off my record. I need an attorney to help me do this.

Alina Patterson
Client of Community Legal Services

My name is Alina Patterson and I am 43 years-old. In August 2011, I was diagnosed with Multiple Sclerosis by Neurologist, Dr. Grant Liu at Hospital of University of Pennsylvania. When I received this diagnoses I was devastated and in complete shock. Prior to my diagnoses I would experience eye blurriness or numbness or muscle stiffness. I just equated these symptoms as something minor. Usually, I would stop the physical activity until I felt better. My mind and body went into shock, to the point, I stared at him as if he spoke in Japanese. My life immediately changed at that moment.

I went from a person who enjoyed several physical activities and worked a full-time and part-time job. Unfortunately, I was in a Septa bus accident back in March of 2007. The accident left me physically unable to continue my job to the capacity I did prior to the bus accident and was terminated from the job. I was an Employment Specialist for one of the Earn Center in Philadelphia. My main responsibility was to pursue employment for the Welfare recipients. The travelling and stress got to be too much to deal with on a regular basis. My part-time job I still work today. I am a Line Dance Instructor for the West Philadelphia YMCA. I have eight years behind me.

My physical activities entailed boxing, kickboxing, palliates, butt and guts, line dancing, belly dancing, and total body fitness classes. My workouts were at least 2 or 3 classes a day on Mondays-Fridays. In addition, I would go into the weight room at work out on the Nautalis equipment. I was able to achieve great weightless goals. My goal was to weigh 125lbs. I started working out weighing 250lbs. I never let the weight stop me. After the bus accident I just assumed I would start working to full capacity in about 3-5 months, but that never happened and I noticed certain body parts breaking down on me. I never went back to work full-time ever again.

MS completely changed my life. Physically, I could not continue to do the leg work involved going to different places or talking with the various people involved with my medical records or information. Financially, I could no longer work a full-time job. As a result, I had to move in with my parents since I could not afford to pay my bills and live on my own. Walking is still a struggle for me, and I have difficulty doing day to day activities.

I applied for SSI so I could afford healthy food, rent, and medical care. However, my application was denied. I spent some time gathering medical records and doctor information on my diagnoses but I decided I needed legal assistance to help me appeal my case. I tried to appeal on my own, but was told I couldn't get a hearing for an entire year. In the meantime, I was suffering from severe back pain, numbness and tingling in muscles, muscle spasms, and headaches, not to mention the pain of having to leave my home and move in with my parents.

My biggest challenge was to find legal representation that would not cost me an astronomical amount of money. I knew I could not afford an attorney who specializes in Social Security Disability claims, but I also knew I could not handle this case on my own. I contacted the National Multiple Sclerosis Society, which referred me to Community Legal Services. I met with attorney Rebecca Vallas and, although she told me that CLS only takes a handful of SSI cases, she agreed to represent me. She told me to keep a diary of my MS symptoms, which I never would have thought to do on my own.

In January 2013, Ms. Vallas went into my Social Security Appeal Hearing and she received a favorable judgment for me, using the diary I kept as evidence for my case. She remained calm especially when faced with any opposition or interruption by either the judge or appointed vocational expert. She was a cool cucumber from the start to end of my appeal case. I believe due to her work ethic, knowledge, and professionalism all played a factor in a favorable decision for me. I will always remember and forever be grateful to both Ms. Vallas.

Ms. Vallas assisted me in gaining a portion of my life back. My life is more purposeful today. I have the finances needed to pay bills, so I can remain independent, and medical insurance needed for doctor appointments and medical procedures. My life is no longer as stressful as it was behind not having the finances to take care of my responsibilities. My appeal case brought me peace of mind and confidence in the justice system. I sleep more restfully through the night now. My life is more structured in terms of knowing I have the finances needed to meet my basic financial needs. My food menu is healthier and I still workout to the best of my ability. My bills are caught up now and I feel relieve about all the hardships experience to get to where I am today.

Community Legal Services is paramount in our communities. Especially urban communities, because Community Legal Services provides legal aid to low income residents. In general, several people believe low income people do not want to live better or are lazy and have no motivation to aspire toward a better lifestyle. So, Philadelphia needs Community Legal Services to even the playing field or provide low income residents with a basic human right which is to obtain legal representation. Community Legal Services is the voice for low income residents who don't have the access to resources needed to assist them in legal matters. It is my belief CLS operates on the right side of justice.

As a low income person, my life is just as relevant as a wealthy person. The primary difference between a low income people versus a wealthy income person is access to resources such as: information, contacts, etc. CLS provides the access to legal aid needed in low income communities. My daily life is filled with joy. I have a comfort never experienced prior to my CLS experience. CLS helped me to grow and become mentally stronger than I ever knew was possible for me. I feel secure knowing no matter what the obstacle in life is if you pray and follow thru there is nothing you cannot achieve. I feel complete. I did not have the follow thru

confidence before CLS got involved in my case. It is imperative to fight for what you believe in.

For me, I feel good knowing there are legal resources available to low income Philadelphia residents. Community Legal Services lets low income residents know that someone cares and sees them as a human being as well. It is not about how much or little money a person may have, but the mere fact CLS wants to help by offering their legal aid. I believe if Community Legal Services was not involved I would not have won my case. Yes, I would recommend Community Legal Services to others.

Harbee Johnson

Client of Community Legal Services

**Testimony of Harbee Johnson
Client of Community Legal Services
Before the Senate Judiciary Committee
May 23, 2013 Hearing**

My name is Harbee Johnson. Thank you for the opportunity to tell you about how important it was for me to have a lawyer to represent me in my VA appeal. I am 84 years old and I am a veteran of the Korean War. I was in the Army infantry. We were in combat, fighting from hill to hill, for many months. We would take a hill, then sometimes we would get pushed back, and then we'd have to retake the hill again. We slept in foxholes at night, in all kinds of weather – rain, sleet, snow and ice. During one of the long, cold winters, I suffered frostbite and was evacuated to an Army hospital in Japan. I could not walk on my feet or use my hands for a long time because they had been frozen. I remember a doctor using a long needle to draw fluid out of my chest. I was in the hospital for more than a month. After I got out of the hospital, I was reassigned to light duty with the Quartermaster for the rest of my time in Korea because my body was too deteriorated to return to combat.

After the war, I came back to Philadelphia. I raised a family and worked as a construction laborer. I always had problems with my hands and feet after I had the frostbite, and eventually, I had to stop working in construction. As I got older, the problems kept getting worse. I developed painful arthritis with deformities in the joints in my hands and feet. I had to wear braces for my ankles, then I got special orthopedic shoes and I use a cane. The arthritis has twisted the joints in my hands and it's hard for me to use them.

After I couldn't work anymore, I started receiving Social Security, but it was such a low amount that my income was right around the poverty level. At one point, my house went into foreclosure because I couldn't keep up with my mortgage. I got a reverse mortgage to stop the foreclosure, but I was constantly worrying about how I would pay my property taxes

and my fire insurance was cancelled because I wasn't able to pay the premiums. My house is old and needed a lot of repairs which I couldn't afford. I had water running down the walls inside my house because of busted plumbing.

In 2005, I applied for service-connected VA disability benefits for my frostbite injuries. A man from a veterans' service organization helped me fill out the forms. I don't think he was a lawyer and he did not talk to me about getting any medical evidence to help my case. After about a year, my application was denied. The VA told me that all of my Army medical records had been destroyed in a big warehouse fire in 1973, so they had no record that I had ever had frostbite. The veterans' service organization helped me file an appeal, but they didn't tell me that I needed to get more evidence for my case. I waited another year, and then I got a notice saying that my appeal had been denied. The notice said that I could appeal to the United States Court of Appeals for Veterans Claims in Washington, DC. The veterans' service organization told me that they could not help me appeal to the court. I could tell that I would not be able to do the court appeal by myself and that I needed a lawyer. I went to Community Legal Services in Philadelphia and asked for help.

A lawyer listened to my story and agreed to represent me. She filed the appeal with the court and then filed a brief arguing that the VA had made mistakes in deciding my case by ignoring my statements about my injuries and not helping me to get medical evidence to support my claim. The VA then agreed to send my case back to the local office for a new decision. My lawyer got more evidence to help my claim, including a statement from my primary care provider which said that the problems with my hands and feet were caused by the frostbite. I had not known that I needed a statement from my doctor in order to show that my physical problems were service-connected, so I had never asked for one.

After they looked at the new evidence, the VA awarded me benefits. My income went from just \$12,000 a year to more than \$40,000 a year. And I won back benefits for all the time since I first had applied – nearly \$150,000. With this money, I was able to fix all of the problems with my house and pay back all of the money that I owed. I was also able to stop worrying constantly for the first time. I could not have won my case without the help of a lawyer. I think that everyone who needs it should be able to get the help of a lawyer like I did.

Irene Stone

*Client of Philadelphia Landlord/Tenant Legal
Help Center*

Testimony of Irene Stone
Client of the Philadelphia Landlord/Tenant Legal Help Center
Senate Judiciary Committee
May 23, 2013

My name is Irene Stone. I am 72 years of age. I worked as an officer manager and in a few part times jobs until I retired at age 71. I raised three children who are all working and are raising families. I also raised a granddaughter who is now 28. I am proud that she just got her LPN nursing license.

I moved into 157 W. Sparks Street in Philadelphia on May 1, 1993. In December 2010, my original landlord at Sparks Street sold the property to a new owner. I had no problems with my old landlord of 17 years.

My new landlord immediately told me that the rent was going to go from \$545 to \$900 that very month. He gave me no written notice of the rent increase. At this time I was on Social Security and could not pay a \$355 increase in the rent. I knew I had to look for a new place to live. Of course, I fell behind in the new rent, though I continued to pay \$545 rent each month, which was the amount of my old rent.

When I did not pay the new rent, the new landlord filed an eviction against me. I did not know what I was going to do. I could not possibly pay the huge increase and was looking as hard as I could for a new place but it takes some time. From the time I received the eviction complaint to the time of the hearing there was just 14 days. I was so frightened that I would not know what to do in court and that I would be put on the street with no place to live.

I went to The SeniorLAW Center and they referred my case to a pro bono attorney. At Court, I entered into an agreement to pay what I owed, end my lease and move. The agreement said I would also get my security deposit in the amount of \$535 back.

I moved on May 1, 2011, 13 days before I was required to and left the place in good condition. The landlord agreed to return the pro rata portion of my security deposit but never did.

While I knew I never received a return of my security deposit, I did not know there remained a problem. When I went to Casa Franese to apply for senior housing, I was denied because when they checked the records this lawsuit looked like I never did what I was supposed to. Casa Franese told me I had to clear this up or they would not rent to me. They would not accept my application. I had no idea how to fix this problem.

I cried so hard when I found out that I had this on my record. My credit report has always been clean and I had never been denied any apartment or credit before. It was embarrassing. I also felt that it was really unfair – I had done what I was supposed to.

In addition, the place I had moved into was dump. The place was an efficiency, was infested with mice and roaches, mold in the basement, and asbestos around the pipes that was falling apart. It was dirty no matter how much I cleaned, there was a lot of mold and it was in a very unsafe neighborhood. I went out during the day but was scared. I never went out at night. I had to go to the hospital because of breathing problems. I wanted very much to go to senior housing and felt scared that I would not get in because of the judgment that I had complied with. I had no idea how to clear up my record.

Casa Franese told me to contact Michele Cohen at the Philadelphia Landlord/Tenant Legal Help Center. Ms. Cohen explained to me that I had to send my old landlord a letter demanding that he mark the judgment satisfied. I sent two letters. When the landlord didn't answer me twice, Ms. Cohen showed me how to file a Petition to Mark Satisfied, which I won. Without her help, I would never have been able to do this.

Ms. Cohen also helped me explain the situation to Casa Franese in words they understood. She sent them the court paperwork, my receipts and the lease for my new apartment, showing that I did what I was supposed to.

I am now so happy that I live at Casa Franese. The place is clean and safe. My rent is \$558, a rent that I can afford.

When I filed the Petition to Mark Judgment Satisfied, I also asked that the Court order the landlord to return my security deposit. Because I did not have an attorney with me in Court and I was too nervous to bring this up, the judge never discussed this. Had I had an attorney they would have known what to do. Ms. Cohen is going to help me file a new claim.

Filing these claims is very confusing and requires a lot of work. It is overwhelming. It also costs money to send letters certified and to file documents which is costly to me.

Without legal services I would have not been able to move into Casa Franese and would still be living in a dump. I would have had trouble finding a decent place to live anywhere because of the judgment on my record.

Michelle Evans

Client of Community Legal Services

**Testimony of Michelle Evans
Client of Community Legal Services
Before the Senate Judiciary Committee
May 23, 2013**

My name is Michelle Evans, and I am a student at Temple University. I am in the process of obtaining my Masters of Social Work degree. I want to help children and families in need of supportive services. I spent 22 years working in retail sales but changed careers in 2003 to work in behavioral health and human services. I obtained an Associate's degree from Community College of Philadelphia in 2007 and a Bachelor's degree in social work from Temple University in 2011.

My Master's degree program has an internship requirement, for which I needed a clean record. I found out in February of 2012 that I was listed in the child abuse registry because I did not file paperwork in time to appeal the decision of being accused as a perpetrator of child abuse more than 13 years ago. I never received the said appeal letter and I sent an endless amount of letters to the Bureau of Hearing and Appeals at Pennsylvania Child Protective Services.

I needed my record expunged so that I could do an internship for school as well as clearing my name on the registry. I went to Community Legal Services and met attorney Suzanne Young. Right away she showed an interest in my case and she was eager to try to help me. During my initial interview I also met an attorney named Brian Murray who helped Ms. Young find answers to help me with my situation.

They worked diligently on my case and they both showed up for court with me. DHS determined that the child abuse flag on my record was unwarranted. My record and my name have been cleared and I am 3 days away from completing the first 300 hours of my internship.

I am looking forward to receiving my Master's degree this year and starting my career after that.

Ms. Young and Mr. Murray had a great deal of concern for my problems and they both showed compassion towards me. They did a very good job of representing me in my situation. In addition, I have recommended that several of my friends and family members, who, like me, cannot not afford the high cost of a paid lawyer, seek help from Community Legal Services. Discontinuing services provided by Community Legal Services would be a disservice to the citizens of Philadelphia.

Lisa Frederick

Client of Face to Face

**Testimony of Lisa Frederick
Client of Face to Face Germantown
Before the Senate Judiciary Committee
May 23, 2013**

My name is Lisa Frederick. I am 50 years old and have lived in Germantown all my life. I spent 14 years working for an accountant who was also involved in real estate.

Three years ago, my son was murdered. I needed to move away from the neighborhood and I moved into a small apartment building in Germantown. It is four stories, with two apartments on each floor. Lots of people complained about the building but at first I thought it was ok. But then, there was a nest of roaches. I've never had roaches and it was terrible. They were on the ceiling and everywhere. Then, in August 2011, Hurricane Irene came and there was water damage. This brought more roaches and flies, even tiny baby flies. I've never seen baby flies before. Upstairs, there were holes in the ceiling.

So I refused to pay my rent. Other people did too. The landlord sent me a letter that said I had to leave the apartment. Because I had worked for the accountant, I knew something and knew that the letter wasn't official. One lady who was in a wheelchair didn't have a lawyer and didn't know that the letter wasn't official, so the landlord kicked her out. I let the landlord know that I knew the letter wasn't official, so he went downtown and got the eviction notice that said I had to leave in 30 days.

I didn't have a lawyer and didn't know what to do. But luckily, I went to court on another case, for a friend, to testify. At court I met Niki Ludt [of Face to Face Germantown]. I told Niki everything that had happened and she said she would represent me. We went to court. The landlord was shocked to see that I had a lawyer. Niki negotiated an agreement for me that gave me three months to stay in the apartment, an even got him to allow me to use my security deposit as last month's rent so that I was able to save up money to use as the security

deposit I would need for the new apartment I would move to. That gave me time to find a new place to live. I was lucky. In court that day there were 11 cases, but I was the only person to have a lawyer representing me. All of the other lawyers in the room represented the landlords.

I do not know what I would have done if I hadn't had a lawyer. I would have had to move back into the neighborhood with my parents, where my son was killed. I think I would have had a mental breakdown and I would probably be in jail.

A. L.

Client of Women Against Abuse Legal Center

Testimony of A. L.
Client of Women Against Abuse
Before the Senate Judiciary Committee
May 23, 2013 Hearing

When I came to Women Against Abuse (“WAA”), it was for help with a protection from abuse case. The abuse that led to my filing took place during a child support hearing. When the hearing officer stepped out of the room, my ex-husband attacked me, trying to strangle me. He was furious because the amount of support he would have to pay increased. There had been abuse in the past, but it had been 15 years since I was in that relationship. My ex-husband was a prison guard. He had been arrested for the incident. A final protection order could also affect his job so he hired an aggressive attorney. All of this made it difficult for me to return to court.

I sought legal representation for my protection from abuse case from WAA. They were able to find me an attorney. My attorney not only provided legal representation on my case, but she was able to talk to my children and walk me through the entire court process. This was important because my 19-year old daughter had to testify too. She was the first person to enter the room when my ex-husband was attacking me. If it were not for having an attorney to walk me through the case and help me see that I could be safe, I honestly feel that I would have never gone through with it. I remember that I had moments when I wanted to just blurt out things in court, and my attorney was able to have me write my thoughts down and express them for me in her way. My attorney was able to communicate the things I wasn’t able to say to the court. I wasn’t prepared to communicate the way that she was. My attorney was also able to find out which security guards responded to the incident at court. She also subpoenaed the police officer to testify about making the police report that documented my injuries. It was the police officer’s testimony that ultimately proved my case.

In this situation, I would never have thought that I would or could have people in court to testify on my behalf. Without attorney representation, I don’t feel that I would have been able to defend myself in the court system, especially with the defendant already having such an aggressive attorney on his side. After the incident that occurred during the support hearing, I wouldn’t have been able to return to court without my attorney. Having my attorney there provided additional security for me, and she made sure that we were never put in the same room with the defendant. She informed me that there would always an officer in the court going forward, and there always was. My attorney also made sure that she called, spoke with

me, and met up with me on a regular basis. She guided me through the step-by-step process and really educated me on the system. I know that if it weren't for her, the outcome would have been much different. The legal assistance that WAA provides is great. I wish that there were more legal assistance available to women because it truly does work on their behalf.

S.H.

Client of Women Against Abuse Legal Center

Testimony of S.H.
Client of Women Against Abuse Legal Center
Before the Senate Judiciary Committee
May 23, 2013 Hearing

Fear of the unknown is a powerful force. Some people don't understand medicine and are petrified to go into hospitals; myself, I have a hard time with court houses. I was never in one until I had to file for a 'protection from abuse' order, also known as a PFA. I don't understand the legal system; therefore I am petrified thinking about going into a courthouse. Every time I step inside a court house my stomach starts turning, I get physically ill and I just want to retreat back home. The unknown of the legal system was scary but my stomach pain got worse when I thought about standing in front of a powerful judge and more so, my intimidating abuser. At my first PFA hearing I was a wreck; and that's when I met one of Women Against Abuse's advocates. She held my hand and told me that I wasn't alone. She explained to me that Women Against Abuse was an organization that helps women just like me. She explained that Women Against Abuse might be able to provide me with any attorney.

After my PFA hearing was continued, I would not stop calling Women Against Abuse's hotline. I will admit, I called too many times to count, but I didn't give up because I was petrified of my situation and I knew I needed help. I knew I needed an attorney. Luckily, Women Against Abuse was able to provide me with an attorney that helped me obtain my 3 year PFA. At my second court date, my abuser did not show up, but I still had to have a trial in front of the Judge to get my final order. My attorney practiced questions with me beforehand, but I was still very scared. I knew it would be really hard to talk about the private details of my abuse, but my attorney knew the right questions to ask me if I started to struggle. My attorney also knew to ask the Judge to clear the courtroom of extra people when my testimony got very personal. The Judge granted her request and that made it a lot easier. After I finished testifying, the Judge found me credible and granted my request for a final PFA. I was so relieved.

Unfortunately, my abuser broke it too many times to count, and it was my fault for not calling the cops every time due to being scared of being turned away or looked down on. My attorney from Women Against Abuse helped empower me to enforce my PFA and had the same advocate in the Criminal Justice Center when he was convicted again for violating the PFA. Despite the continuous harassment, the PFA kept the degree and amount of harassing

minimal enough to allow me to empower myself, obtain an associate's degree, and become a registered nurse. If Women Against Abuse did not help me obtain my PFA, I might not have been able to separate myself enough from my abuser and graduate nursing school. I currently have sole legal and sole physical custody of my child, which is truly a blessing for two reasons. One, I know at this time she is safe. Two, Women Against Abuse was not able to represent me in my custody case, but I was able to find a low fee attorney who could. I had heard horrendous personal stories on how custody cases were handled without attorneys. This made me determined to find help again. Luckily, the low fee attorney found pity on me and charged me with a flat fee of \$500, per hearing. Five hundred dollars is pennies when paying for legal help, but to me that is a lot. Being a single mom, full time student, with a part time job and the father not paying child support, without Women Against Abuse's help, getting an attorney seemed impossible. I did use my own paychecks to pay for the attorney but the rest of my bills fell onto my parent's shoulders and I became an even greater burden upon them. Since, I became a Registered Nurse and have gone through psychiatric therapy to help with the side effects of being abused, I came back to Women Against Abuse and asked to be a volunteer so that I could help others and show that they are a survivor and not just a victim.

My next goal is to become financially stable so that I can move to a confidential address and decrease my chances of being stalked and harassed by my abuser. My attorney from Women Against Abuse helped me make a safety plan in addition to getting my PFA, and I would not be where I am today without her legal representation.

Tehran Freeman

*Client of Legal Aid of Southeastern
Pennsylvania*

Testimony of Tehran Freeman
Client of Legal Aid of Southeastern Pennsylvania
Before the Senate Judiciary Committee
May 23, 2013

My name is Tehran Freeman. I have a one year old son who lives with me four days a week. He lives with his mother the other three days. Sometimes, when his mother would get upset with me, she would decide to keep my son from me. I believe it is important for both parents to be a part of their children's lives, even if the parents don't live together. I am very close to my son and love him very much. I want/need to spend as much time with him as I possibly can. I want my son to know both sides of his family and to have a stable home under the circumstances. I believe this is possible as long as both parents are involved and love their children.

When the threats of keeping my son from me began to occur more often, I decided to contact Legal Aid of Southeastern Pennsylvania who advised me that without a custody order both parents had equal rights. I did not know this and thought that because I was his father, she could not keep him away from me. I was informed that without a custody order the police would not get involved if she refused to let me see him. I talked to my son's mother and tried to convince her to sign a custody agreement so that we could both be a part of his life. She refused and out of fear of losing my son, I requested Legal Aid to assist me with filing for custody.

I attended a very informative custody class at Legal Aid, along with several other individuals. I was given advice on custody law and procedures in Delaware County and instructions on how to complete, file and serve a pro se custody packet, which I did. I was assigned an attorney to represent me through Legal Aid. The attorney who appeared with me at the hearing talked to the mother before court. While she would not listen to me, she did

listen to him and realize that a custody order was in the best interest of our son so that he can have a relationship with both sides of his family. The attorney did an excellent job in explaining to the mother the benefits of having a custody order. As a result we were finally able to reach an agreement and it was presented to the court and approved.

Because of Legal Aid, we will both share custody of our son and time with him. I no longer have to worry about his mom keeping him from me which has allowed me more time to focus on employment and providing for my son.

Helen Whittington
*Client of Legal Aid of Southeastern
Pennsylvania*

Testimony of J. R.
Client of Women Against Abuse Legal Center
Presented by Deborah Culhane, Staff Attorney
Before the Senate Judiciary Committee
May 23, 2013 Hearing

My name is Deborah Culhane and I am a staff attorney at Women Against Abuse (“WAA”) Legal Center. I am here today to present the testimony of my client, J.R., who could not appear in person because she is fearful that her ex-partner, the father of her son, will recognize her testimony and retaliate. Here is my client’s statement.

The picture I had of going into court was not what happened at all. When I went in for my first Protection From Abuse (“PFA”) hearing against my son’s father, I was petrified and didn’t know anything about it except for what the Judge and the woman in the waiting room told me. No one ever told me to bring my witnesses and I didn’t know I could subpoena witnesses who saw the abuse I experienced. At this hearing, my son’s father had an attorney, but I didn’t. After the hearing, the Judge dismissed my case and said she didn’t believe what I said.

I also filed for a PFA for my son against his father, which was scheduled for another day in front of a different Judge. As far as protecting my son, I wouldn’t have known what to do at all. I was told to get an attorney – not fill out a form online or anything like that, just get an attorney. I knew nothing about the law except that attorneys are appointed to you and if not, and if you can’t afford one, contact legal aid. I kept calling and kept calling. Even the people around me knew that without an attorney, I wouldn’t be able to see the light of day.

I was already afraid because my son’s father told me that he had connections and all he had to do was walk in and walk out of court to get what he wanted, and there was no way to circumvent him. That’s the reason I stayed with him so long - I was afraid I’d lose my son. I knew I’d have an uphill battle. When I met my son’s father, he said he was a former Philadelphia cop who was wounded on duty – he showed me a wound that he said was from a bullet. He had this elaborate lie for something that never happened – it was a picture he had painted of himself. It wasn’t until I met my attorney for my son’s PFA case that I found out he was never a cop. I didn’t know there was a way to find out whether it was true.

At the PFA hearing for my son, it was different because my attorney asked the right questions and she knew when to say “objection” to questions that were irrelevant. Her

questions helped me explain why I believed what I believed about him being an officer, for example. Her questions also helped me to explain the details of how my son's father had been violent toward my son and why I was afraid for my son. This judge granted a PFA for my son and told me she believed everything I said. But she still had questions about whether my son's father should be granted supervised visitation.

My attorney had to file more paperwork to request an additional hearing about custody and to make more legal arguments, and to prepare my case so that I could appeal if necessary. The Judge allowed us to have an additional hearing. During that hearing, the attorney for my son's father objected to me testifying about the abuse that I suffered. But my attorney quoted some laws to allow me to testify and explain how my abuse caused me to be afraid to take my son to the hospital at one point. I know that it made a big difference for me to be allowed to testify about these things.

At the end of this trial, the Judge granted the PFA again, but only gave my son's father supervised visitation. She explained that she didn't want him near us other than at the supervised court nursery and that he is not to know where we live. Without an attorney, I wouldn't have even known that I could keep my address confidential.

Also, the first time I heard that you need to write down the date and time of when you've been abused was from my attorney. Being a victim, no one ever tells you you're supposed to write down the date and time – nobody knows that. It's not in lifetime movies. It's not written in those pamphlets they have in hospitals – they just say “get out.” But once you get out, then what? I blocked a lot of things out to survive the 8 years I had to deal with him. I had to write down what he wanted for dinner – if I asked him a second time, I'd get punched in the face. But these are not the things the court wanted to see. They want the date and time he hit you. They need to have billboards that tell victims of abuse to write the exact date and time!

There are a lot of things that no one tells you and that you don't know going into court. And it's not what you expect - you can't rely on what friends and family tell you, even if they have experienced it, because their case might be nothing like yours. There's a lot I learned for the first time thorough my attorney. If I didn't have an attorney, I think I would have had a nervous breakdown.

Russell Freeman

*Client of Legal Aid of Southeastern
Pennsylvania*

Testimony of Russell Freeman
Client of Legal Aid of Southeastern Pennsylvania
Before The Senate Judiciary Committee
May 23, 2013

My name is Russell Freeman. I was a 46 year old healthy individual who suddenly developed several serious medical conditions. I have been unable to find employment and I do not have health insurance. As a result of my medical conditions, I was hospitalized on several occasions. I had two heart attacks within a 3 month period. I had no way of getting medical care or medication needed to treat my serious medical problems.

I went to different pharmacies to see what programs might be available to supply me with different prescribed medications. I currently take ten pills per day. I was having awful chest pains until I came to Legal Aid of Southeastern for assistance. I was told to apply for a medical card which I did and was denied. Legal Aid filed an appeal on my behalf and a telephone hearing was held. It was discovered, during the appeals process, that I was placed into the wrong Medical Assistance category by the Department Of Public Welfare. As a result, I won my appeal and began receiving benefits. I have been receiving life sustaining medical care and have applied for SSI and am receiving assistance from Legal Aid with my claim for SSI benefits.

Had Legal Aid not assisted me I would have never known that I was put in the wrong Medical Assistance category and would have had no access to needed medication to keep me alive. It is impossible to understand the DPW regulations and Legal Aid is needed to assist individuals like myself to work through the process to obtain benefits.

Statement of the Office of Councilwoman María Quiñones Sánchez



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May 23, 2013

Statement of the Office of Councilwoman María Quiñones Sánchez on the Urgency of Expanding Access to Civil Legal Representation

Councilwoman María Quiñones Sánchez represents the residents of Philadelphia's Seventh Councilmanic District. The district encompasses some of the poorest areas of the city of Philadelphia, including zip codes with poverty rates close to and even surpassing 50%, and as part of the First Congressional District it has the second-highest hunger rate in the nation.

As a lawyer and legislative aide in this City Council office, I regularly confront both the urgent human need for access to civil legal representation, and the current shortfall in access to such assistance. Our office is open to all residents, and thus we often see those who cannot find help from other sources. It is agonizing to sit with an abused woman who is struggling to navigate the child custody system, who clearly needs ongoing legal advice and representation but cannot afford it. Often we hear from the same people again and again; they know that we can only provide basic information and support regarding their unresolved legal issue, but do not know where else to turn. Although our office works hard to effectively match constituents with existing resources, although we cajole individual lawyers and organizations to stretch their capacity to take cases, and although we try to informally broker resolutions whenever possible – it is not nearly enough.

The absence of sufficient access to civil legal representation fosters fraud, abuse, and limits the ability of impoverished communities to build wealth. Without lawyers to assist with most estate and real property matters, in our district there is an epidemic of unauthorized deed transfers and countless properties with increasingly "tangled" title. Homebuyers who fall prey to forged deeds or rent-to-own scams are frequently on their own to try to get legal redress, and are unable to master the complex procedural requirements of Common Pleas Court – a common problem in a City where 22% of adults cannot read at an elementary school level and fully over half of adults are "low-literate." I saw one quiet title case with two unrepresented litigants that was in court for over a year; in the end, due to mutual confusion, the case was determined "settled" with the forged deed still in place and continuing to obstruct marketability of the property. Business and lending disputes are also commonly dealt with outside the law, allowing illegal contracts to flourish and limiting small-business growth.

Because economic abuses below a certain scale are typically not prosecuted by the state Attorney General and the local District attorney's office, the civil legal system is generally the only possible source of redress for those losses. In Philadelphia, over the years that minimum threshold has officially or unofficially moved between \$25,000 and \$50,000. In a city where

fully 1/4 of all households make less than \$15,000 per year, very many residents are effectively unprotected. As former longtime District Attorney Lynne Abraham testified to City Council in 2006, about many victims of economic crimes, “Their only recourse is civil lawsuits or just to accept their loss.”

In this vacuum, many of our constituents fall prey to non-lawyers, like notaries (or “notarios”) and so-called expeditors, who charge for quasi-legal services and often target our non-English speaking Puerto Rican or immigrant population. These non-lawyers may mishandle cases, as I have seen with some immigration claims that were fatally prejudiced due to inaccurate advice having been provided.

Councilwoman Sánchez, with her legislative colleagues, has supported a range of approaches to bridging this gap in access to civil legal representation. At a time when CDBG and HOME funds have suffered sharp annual decreases, she is advocating for new funding to Community Legal Services, as well as for preserving City funding for VIP’s “tangled title” work that uses private pro bono lawyers. Our office assisted in establishing a “Landlord Tenant Help Desk” at Municipal Court, where a large proportion of tenants are unrepresented and too often do not know their legal rights, creating an unbalanced playing field. We encouraged and continue to fund Philadelphia’s nationally-recognized mortgage foreclosure diversion program, which uses housing counselors to supplement lawyers in assisting homeowners facing foreclosure. We have been pursuing the possibility of expanding a similar hybrid lawyer-counselor model to help homeowners facing property tax debt.

We need all stakeholders working together to continue to expand these efforts, to both increase funding for full representation and to innovate approaches that allow for us to have the widest possible impact. As a country, state, and city, we cannot afford in either economic or human terms to allow whole communities to continue to exist largely outside of our civil legal system.
