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**TESTIMONY OF SAMUEL W. MILKES
BEFORE THE PENNSYLVANIA SENATE JUDICIARY COMMITTEE**

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

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

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

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

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

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

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

A client has been physically abused by her husband, and she is in fear for her own safety and that of her children. The local legal aid program represents this client and obtains a Protection from Abuse Order. While criminal charges will punish the conduct, they will not resolve the questions of who should live in the family home or how custody is handled, and they

do not provide the immediate relief of a Protection from Abuse Order which can be enforced arrest if its terms are violated. Many of these cases require in-court appearances and they can often involve contested hearings.

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

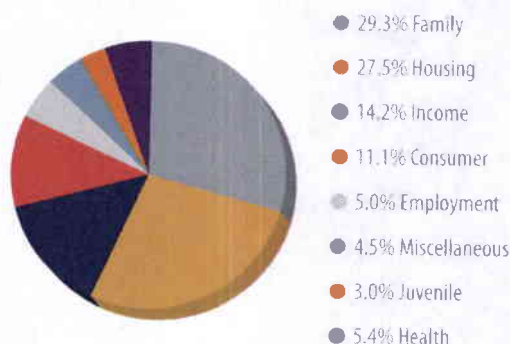
The parents of two young children have split up and they are unable to agree upon the custody arrangements for their young children. As a result, the children are getting bounced around, sometimes missing school, and suffering from the tension between the parents, each of whom believes him or herself to be the proper parent to have custody. The local legal aid program represents the father of the children by filing an emergency custody petition, alleging inappropriate behavior of the mother when the children have been in her care. An immediate but temporary custody order is entered and a conference with a custody conciliator is scheduled quickly. The legal aid program will continue to represent that client at a hearing if necessary and in the end, a judge will be able to determine what is in the best interests of the children..

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

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

dismissal of the foreclosure case, saving of the family home, based on a renegotiation of the terms of the debt and help from Pennsylvania's HEMAP program.

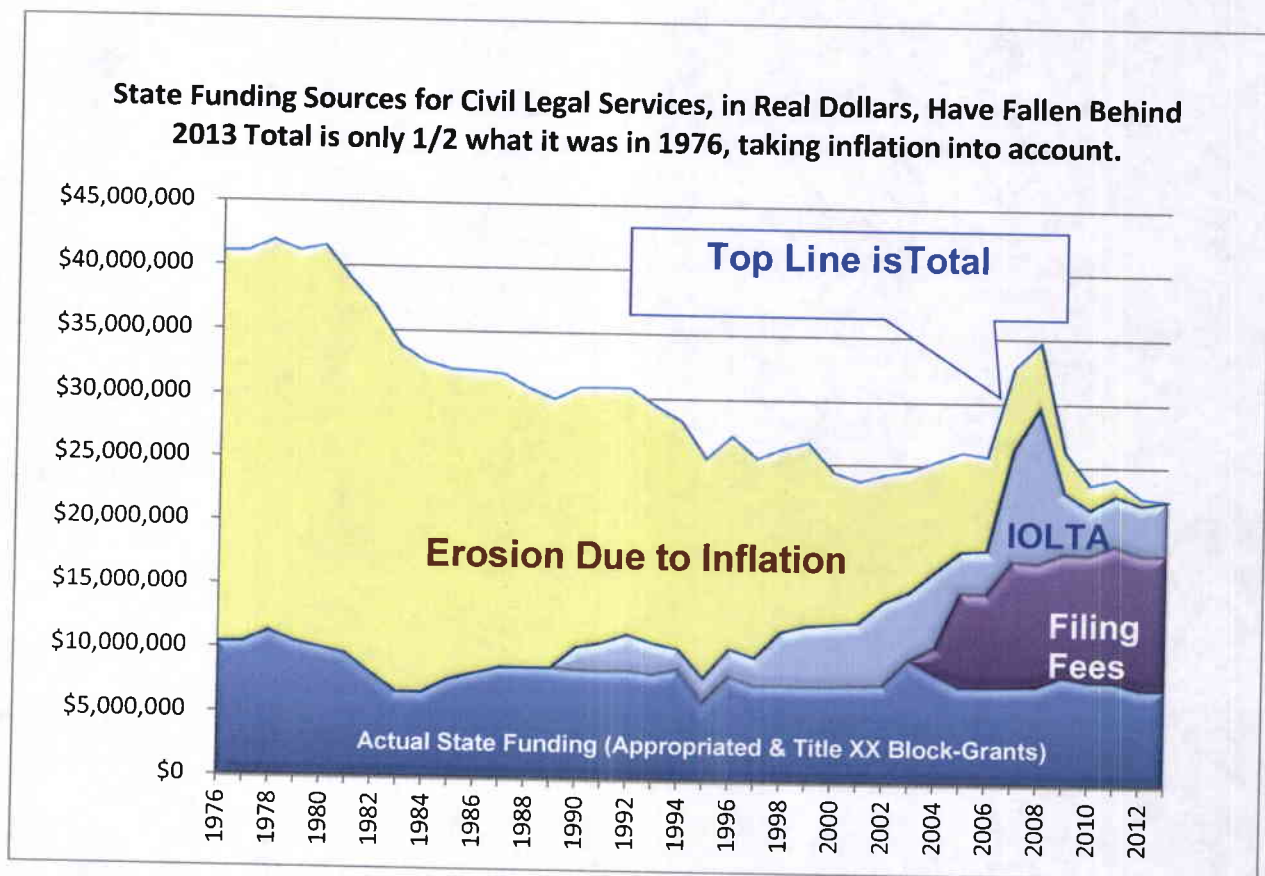
I am supplying a piechart displaying theses and other types of cases handled by PLAN programs during fiscal year 2011-2012:



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

As we celebrate this year the 40th anniversary of the start of state funding for legal services, the graph included in my written testimony displays how modest a celebration that really is. Funding today is about the same as it was 40 years ago. Adjusted for inflation, that puts

our state funding at about $\frac{1}{4}$ of where it started. We are very appreciative of the added support from the \$3 filing fee surcharges to help support legal aid. We are very appreciative of the IOLTA funds which come from interest generated from lawyer trust accounts. The Supreme Court has been very supportive by adopting a number of initiatives to help fund legal services. Every lawyer, for example, is assessed \$25 when they renew their annual registration. This generates about \$1.5 million. But as this graph portrays, even taking these sources into account, funding today is still only about half of what it was at the outset, adjusting for inflation:



We are proud today to be able to offer the vital services provided by civil legal aid programs. We are very appreciative of the support provided by Pennsylvania's General Assembly and particularly the support of this Committee and its Chairman, who have often been the origin of efforts to help fund civil legal aid. But once again this year, our state funding will

be flat. In recent years, it has remained flat or has been cut by as much as 10% in a single year. It is amazing to me that the total state dollars appropriated for civil legal aid are only \$2.5 million

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

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

In 2001, Mr. Milkes began his current position as Executive Director of the Pennsylvania Legal Aid Network. From 1986 to 2002, he was Executive Director of Central Pennsylvania

Legal Services, an eight-county legal aid program based in Lancaster, which has since merged with other legal aid programs to become part of MidPenn Legal Services.

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

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

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

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