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Testimony before the House Judiciary Subcommittee on Family Law

Public Hearing on HB 1250 and HB 983

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Good Morning and thank you for allowing me this opportunity to speak before the Committee.

First, I'd like to say I appreciate this opportunity to share my story, or at least a small piece of it, with the hope that the current laws can change, possibly preventing the next person from going through what I and others before me have endured. When divorce became inevitable, I was of the opinion that it would hurt me if I was the one who filed for divorce. After all I didn't want the divorce, it was my wife who wanted a divorce so I felt she should file. As time went on a colleague of mine learned of my situation and advised me to file as soon as possible. He explained to me that my wife, as advised by her attorney, would likely stall the entire procedure for the full 24 months for purposes to receive the maximum amount of Alimony Pendente Lite (APL) she could get. I basically ended up filing solely to get the 24 month clock ticking. At the time, my wife told me that she understood how hard I worked to obtain my business and that I was a great husband and father, but it was time for her to move on. At that time I presented her with a settlement proposal which she didn't know what to do with. Eventually she took it to attorney and that's when everything changed. Ironically, the attorney she had selected represented the ex-wife of a colleague of mine. The next time I spoke to my wife about the divorce her attitude had changed. Her statement to me was that her attorney took my colleague to the cleaners and she would do the same to me.

This began an ordeal that I never expected. Regarding APL, I would like to provide a little background first in regard to our family's financial situation. As a married couple, we were raising an elite athlete. Our oldest son is a snowboarder and has been training at an elite level since age 8. At age 12 he resided in Vermont part time through the winters and at age 14 he moved there on a more permanent basis for the winter and currently lives in Salt Lake City Utah continuing to pursue his dream. Our decision to allow our son to pursue this passion put a financial burden on our family. We still lived comfortably, but had little extra. All during this time, my wife was fully supportive of the extra money we were spending on our son's schooling and training costs. This money was highly supplemented by my end of year bonus. I distinctly remember a time when I was driving to Vermont and back sometimes more than once a week I suggested to my wife that we needed to stop this lifestyle. I vividly remember her response, which was "you need to keep going or you will crush our sons dream. We've come this far, you need to keep going."

My wife is a stay at home mom by choice. Prior to having children, she maintained a few jobs but never really had a career. She always wanted to be a stay at home mom. When she decided our marriage wasn't working any longer, she immediately started dating another gentleman that made substantially more money than our current household income. She testified in court that she was living with this gentleman without making any financial contributions to her new household.

Once my wife applied for APL, the standard formula was applied. My income was based on my total annual income which included my end of year bonus. This bonus can typically be a relatively large percentage of my annual income. I do not have those funds available until the end of year. My wife opened a consignment shop a few years ago which is only open 24 hours a week. She provided to the

courts that her income was only \$5,000 per year. When questioned why she does not work 40 hours per week she responded that she didn't need to.

This is where things became very difficult as the formula for APL is based on each individual's salaries. In my case, I maintained the same salary as when we were married. I also had full financial responsibility for our two children who continued to live with me. I maintained the mortgage payment, the utility bills, taxes, summer camp costs, counseling, attorney fees, etc. In addition to this I began having approximately \$1500 per pay period, i.e. over \$3000 per month garnished from my paycheck for my wife's APL. I was also paying approximately \$1500-\$2000 per month to my attorney, I was paying over \$600 a month for my wife's health care, I was paying over \$450 per month for the vehicle my wife continued to drive while living with her boyfriend and having no expenses. I made minimum contributions to my 401K.

As you can imagine, my quality of life drastically declined due to expenses. I live in a modest house (\$1300 month mortgage) and I drive a \$25,000 car. We take minimal vacations. I ended up borrowing money from family members to pay my bills. All of this was going on while my wife would call our youngest son to let him know that she would be in Aruba, Cancun, Florida, etc. She had no interest in finding additional work beyond her 24 hours a week. In addition to my every day expenses, I now had to find a way to continue with my oldest son's extracurricular activities as my wife no longer took interest. One of the major frustrations of the system is that I had to continue to pay this monthly payment with no chance of my wife agreeing to a settlement. I have to strongly question not only the system but also the thought process of my wife's attorney. I believe the current system allows the dependent spouse, being blind to her true financial situation, to continue to collect because of the basic formula and the waiting period. There is absolutely no incentive from either the dependent spouse or the dependent

spouse's attorney to settle. In my case our marriage was over some 24 months ago with no chance of reconciliation. But my wife refused to respond to any of the five settlement proposals I gave her. Her standard answer was "it's not time to settle". Obviously this means "why would I want to settle and stop getting your payment?" Additionally, why would her attorney encourage any such settlement as obviously her service would no longer be needed.

This was not only very frustrating financially, but also emotionally, and in my opinion detrimental to both of my children who had to live for over two years, and remain living today under these stressful conditions. They watched me work 55 hours a week and care for them full time as their mother lived somewhat extravagantly compared to what was normal for them.

It is my opinion the tactics used by my wife and her attorney were an attempt to break me financially and emotionally. A colleague of mine, who went through something similar, opposing this same attorney, has the same opinion. In his case, he gave in on a settlement just to terminate the monthly APL because he was on the verge of bankruptcy.

From my understanding this is truly not the intent of APL, actually it's my understanding it's just the opposite. APL is to provide a level playing field; to allow the dependent spouse the opportunity to reasonable attorney fees and a reasonable standard of living. If I recall correctly my wife testified that her attorney fees were on average \$3500 per month. That is \$84,000 over a two year period. I don't consider this reasonable.

I encourage all of you to revisit the methodology of determining APL. Rather than a standard formula based on respective incomes, I would encourage that a real assessment of economic need be visited. In

my case, having been the breadwinner, and in my opinion, providing for a stable home for my family, I feel as if I was extremely taken advantage of by the current laws. To know that I was paying my wife a substantial amount of money each month while she refused to increase her employment and her income to something reasonable, all while she continued and still lives somewhat lavishly, all while I am taking loans to pay my bills. It's ironic that as I sit here today, she has once again just returned from Florida vacation.

I'm a strong believer that if the APL was appropriately determined and a set timeframe for which I was obligated to provide payments was more appropriate, I would no longer be waiting for the divorce to be final. I truly understand and respect the notion that a system should be in place to encourage divorce to not always be handled in the courts. I don't believe the best decision for your family is always made by a judge, but sometimes made by the participants in the marriage. The current system highly encourages the dependent spouse to delay the divorce process for as long as possible, and truly discourages a collaborative approach by both parties. In addition, I also feel, as do others I have spoken with, the current APL system aids in the further breakdown of what may be left of the relationship as it creates an environment for resent and disrespect between the two parties. This again aids in the detrimental effects of others involved, including the children.

Also, I find it appalling that an attorney would not discourage this behavior especially where there are children involved. But at \$3500 a month billing, why would you? As predicted by my colleague, I received a settlement proposal from my wife approximately one week ago..... Just before the two year date. I believe the entitlement attitude is in full swing, as with a total combined net worth of approximately \$725,000 including all of our retirement, of which her 50% share would be \$362K, she has

asked for almost \$1.1 million. This entitlement attitude has been encouraged for over two years due to an inappropriate, APL ruling.

In closing I would like to quickly identify some things that burden the party who chooses to be responsible during this process.

1. Saving my credit. I could walk away from the mortgage and responsibilities, I didn't.
2. When I felt the APL ruling was unjust I made an appeal. This is still unsettled after 19 months.
3. This system may work for the irresponsible bread winner who decided to abandon the marriage. It is just the opposite and very detrimental if the breadwinner is the responsible person.
4. I suggest any previously agreed upon marital continuing joint expenses come off the top. These are real expenses someone must be responsible for.
5. With an APL award that is very one sided, there is no incentive for the receiving party to settle. This also opens the door for an attorney with questionable ethics to take advantage of the system for his/her financial gain.
6. It is my belief that between my wife and I, we have spent over 20% (\$140,000) of our combined net worth on legal fees. I had no choice, and we have not yet started the actual divorce. That is insane.

I strongly encourage you to re-evaluate how APL is calculated and please help fix the system. If I can provide any further input on this matter or any other items as they relate to the current divorce laws please do not hesitate to contact me.

Thank you.