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EDITOR’S NOTE

We are pleased to bring you a collection of articles and issues related to the growing presence of self-represented litigants in our courts.

Our lead article is from two trial judges in Maryland, Dorothy Wilson and Miriam Hutchins. They deal with self-represented litigants daily in Baltimore and bring nearly 30 years of combined experience to the task of telling you what works best. They review the concept of neutral engagement, in which judges remain neutral but help to make sure cases are fully presented; discuss the ethics rules that apply to what the judge can and should do; and go step by step through how to handle a case involving a self-represented litigant on one or both sides.

Our second article looks at helping self-represented litigants outside the judge’s presence through a courthouse help center. Keven O’Grady, a trial judge in Kansas, takes you sequentially through the work his court did in the past two years in setting up a help center in their courthouse.

Our third article considers whether self-represented litigants are at a disadvantage in the presentation of their cases. Two Missouri researchers, Anne Janku and Joseph Vradenburg, took a look at available data regarding the outcomes of cases in that state in which self-represented litigants handled a variety of cases in the Missouri state courts. They found some evidence to support the conclusion that self-represented litigants are more likely to lose their cases, especially in certain case types.

We also have an essay on issues involved in counting the number of cases involving self-represented litigants. Data seem to show wide variation in how states count these cases. Researchers Richard Schauffler and Shauna Strickland review some of that data and urge a consistent approach so that the data will become more meaningful.

We close our issue with a Resource Page devoted to resources for judges concerning self-represented litigants, including training materials for judges and staff, background research and information, and how to get technical assistance to provide better access to justice.

As always, if you have suggestions for articles or authors or subjects you’d like to see in Court Review, please contact me (sleben56@gmail.com) or my coeditor, Eve Brank (ebrank2@unl.edu). Thanks for your continued membership in the American Judges Association and for reading this issue of Court Review.—SL.
In my first column in Court Review, I wrote about how the American Judges Association (AJA) was taking a serious look at improving the Association. Since the annual meeting in Las Vegas, a number of committees have been thinking long-term about the organization's structure. The goals are to strengthen the relationship between Canadian and American judges, to expand membership so that it reflects all of the judiciary, and to improve the already excellent conferences. At the midyear meeting held at Fort Myers, Florida, the Executive Committee and the Board of Governors reviewed proposed changes to the bylaws.

The most important proposal would change how judges are elected to the Board of Governors. The current system, devised in the 1950s, created 14 districts based upon the number of active judges in the district. By way of example, a state like New York has two representatives on the Board of Governors, while Alabama, Georgia, Florida, the U.S. Virgin Islands, and Puerto Rico have shared representation. Besides this basic unfairness in state representation, a structure based on active judges is difficult to change when judges from a particular state are not as active as they once were. Another problem is that judges from Canada have no separate representation. Under our current structure, they are part of districts made up of multiple states and provinces. This creates the possibility that no Canadian judge will serve on the Board of Governors.

These new districts would be based on population and structured in the following way: District 1 (Canada) would be composed of all of the provinces of Canada; District 2 (Northeastern) would be composed of the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia; District 3 (Southeastern) would be composed of the states of Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, and the territories of Puerto Rico and the U.S. Virgin Islands; District 4 (North-central) would be composed of the states of Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, Missouri, and Kansas; District 5 (South-central) would be composed of the states of Alabama, Mississippi, Texas, Arkansas, Oklahoma, Nebraska, New Mexico, Utah, and the country of Mexico; and finally District 6 (Western) would be composed of the states of Colorado, Washington, Idaho, Montana, Alaska, Oregon, Wyoming, Arizona, California, Nevada, Hawaii, and the territories of Guam, American Samoa, and the Commonwealth of Northern Mariana Islands.

All members of the Executive Committee would be members of the Board of Governors, as would the historian and parliamentarian. In addition, three new at-large positions, appointed by the president, would be created. These changes increase total membership of the Board of Governors from 42 to a maximum of 49. The primary reason for this slight increase is to ensure diversity in the AJA.

The provision in the current bylaws that all past presidents in good standing are voting members of the Board of Governors is left unchanged. Also left unchanged are the staggered three-year terms for the Board of Governors. However, consideration is being given to eliminating term limits.

Other changes include the elimination of the district representative and the requirement that two of the president's appointments to the Executive Committee must come from members of the Board of Governors. The provision that allows the Board of Governors to elect one member from the body to the Executive Committee remains unchanged. Certain standing committees contained in the bylaws, such as the student essay committee, will be eliminated.

All of these proposals are just that—proposals. Neither the Executive Committee nor the Board of Governors has the authority to change the bylaws, but I think it's important for you, as members, to know what was discussed. This summer you will receive an e-mail directing you to the AJA website, where you will find a proposed draft of the new bylaws. There will be a 30-day comment period after the bylaws are posted to allow for input from our entire membership. These proposals will be presented at our annual membership meeting in Seattle on October 6, 2015.

These changes are important and can potentially guide our organization for the next 50 years, so I would urge you to read the proposals and then add your voice to the discussion.
The Case for Counting Cases

Richard Schauffler & Shauna Strickland

Reliable, consistent statistics on the number of cases with self-represented litigants do not exist. To address this knowledge gap, the National Center for State Courts, supported by a grant from the State Justice Institute, recently designed a reporting framework for state courts to count cases with self-represented litigants. At the most basic level, the framework includes two ways of counting cases: (1) a snapshot of current or last-known representation status at the time of disposition and (2) a retrospective analysis of representation status by party over the life of the case. The snapshot approach can be used by courts whose case-management systems overwrite the representation status of a party each time it changes, while the retrospective approach can be used by courts whose case-management systems keep a record of changes to the representation status of each party throughout the case.

Preliminary data provided by five states show wide variation in the percentage of cases with self-represented litigants (SRLs), underlining the need for more states to report these statistics so that an accurate national picture can be developed. Consistent with anecdotal reports, the data show that domestic-relations cases are more likely than civil cases to have self-represented litigants.

Table 2 shows that the percentage of civil cases with SRLs is generally less than one-third of the outgoing cases for each case type.

The variation in these data demonstrates the need to develop a more complete picture of SRL caseloads. Whether and how these differences are reflected in the degree to which SRLs are provided with tools and support for proceeding on a pro se basis is a question that can only be answered with more information. Differences could also reflect policies toward the availability of limited legal representation in each state and, where it is allowed, the ability of a state’s case-management system to accurately report that.

Some court case-management systems have the ability to track representation status over time while others do not. In those courts that do not keep a record of the changes, a party that was self-represented for part (or even most) of the case would be counted as represented if that was the party’s representation status at the time of disposition. Similarly, if a court does not record that the legal representation obtained by a party was limited in scope, the party might be viewed as having representation when, in fact, that party was self-represented but received legal assistance for very specific events in the case. The reporting framework developed by the Court Statistics Project is designed to ensure states count these cases similarly and eliminate apparent differences that simply reflect different definitions and counting rules used by states.

Greater insights are possible if courts are able to move beyond this most basic statistical reporting to document the representation status of each party, by event, for all events over the life of the case. This would allow judges and court administrators to see patterns of representation and evaluate whether parties are seeking representation at the most appropriate points. When combined with timeliness data, courts could see where SRLs stall out during their cases. Knowing this would allow the court to provide focused assistance to litigants to help them succeed.

The purpose of establishing a consistent approach to reporting cases with self-represented litigants is to allow comparative data to be produced within and among jurisdictions, facilitating the understanding of the nature and extent of self-representation in the state courts. While the data provided in this

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ND=Data not available.

FIGURE 1: PERCENT OF OUTGOING CIVIL AND DOMESTIC-RELATIONS CASES WITH SRLs, 2012

These five states were also able to provide data by case type. The range of SRL caseloads is very wide for domestic-relations cases. For example, Table 1 shows that adoption cases vary from a low of 1% in State B to a high of 81% in State A. Civil-protection/restraining-order cases seem to be the most consistent across states, with four of the five states reporting an SRL caseload of between 38% and 48%.
article are preliminary, they provide a quantitative glimpse into differences and similarities across states. As more states are able to report SRL-related data, our ability to quantify the impact that self-represented litigants have on the courts will continue to improve.

(For more information on counting cases with self-represented litigants, see the Court Statistics Project website at www.courtstatistics.org.)

Richard Schauffler is Director of Research Services at the National Center for State Courts. He is Project Director of the Court Statistics Project and is a member of the NCSC’s Court Tools performance measurement development team and its extension into the High Performance Courts Framework. He joined the NCSC in 2003; previously, he was Assistant Division Director at the California Administrative Office of the Courts, where he was responsible for statewide policy research. Schauffler holds a bachelor’s degree from the School of Criminology, University of California at Berkeley (summa cum laude, Phi Beta Kappa), and an M.A. in sociology from Johns Hopkins University.

Shauna M. Strickland is a Senior Court Research Analyst with the National Center for State Courts. She currently works on the Court Statistics Project, collecting data and assisting both trial and appellate courts with implementation of the State Court Guide to Statistical Reporting. Additional projects include Improving Completeness of Firearm Background Checks, State Court Organization, Warrant and Disposition Management Toolkit, and NICS Improvement Amendments Act: State Records Estimates Development and Validation. She also served as project director for Self-Represented Litigants: Standardized Definitions and Counting Rules, which developed the definitions and reporting methods discussed herein. Strickland holds an M.P.A. from Old Dominion University, a B.S. in Government Administration from Christopher Newport University, and a B.A. in Political Science from Christopher Newport University. She has worked at the NCSC since 2002.

### TABLE 2: PERCENT OF OUTGOING CIVIL CASES WITH SRLs

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As the society around us evolves, so too has the notion of justice and the role of judges in the court system. The need for such an evolution has never been greater than now. As the number of court filings increases and the ranks of the self-represented continue to rise, there is an increased desire for courts to take an approach that more adequately addresses the circumstances of self-represented litigants. Yet, the tension between accommodating individuals who often lack basic knowledge about the court process and the traditional role of the judge as the objective, neutral arbiter remains. The struggle is born out daily in courtrooms across the country, in all types of cases, leaving judges with the challenge of how best to proceed. Fortunately, through a concept called neutral engagement, judges now have a way to accommodate the needs of self-represented litigants while maintaining neutrality throughout the process.

NEUTRAL ENGAGEMENT
What is neutral engagement? Neutral engagement is an approach to cases involving self-represented litigants that permits the judge to make decisions based upon the merits of the case. By conducting the proceedings in an even-handed manner and providing explanations for what the judge is doing, the judge can "ensure that the evidence gets before them and that the process is neutral." Used appropriately, neutral engagement promotes the elements of procedural fairness by affording the parties voice, neutrality, respect, and trust. While at first blush you may think that neutral engagement involves nothing more than judicial passivity, upon further analysis, the two could not be more different.

Judicial passivity, unlike neutral engagement, is "characterized by a responsive and reactive attitude, in which the judge does no more or less than acts as an umpire, responding only when asked to do so by counsel." In this way, the judge merely rules on objections, leaving it to the parties to get the facts and evidence before the trier of fact. By contrast, neutral engagement requires the judge to actively interact with the parties, not just by eliciting the necessary facts and evidence or ensuring that each side gets to tell their story but by creating an atmosphere in the courtroom that allows the parties to be heard.

Utilizing this approach, the great concern is that the judge may appear to be an advocate or may appear to be non-neutral or biased. However, judicial passivity itself can create a lopsided process by which a non-neutral outcome might come from:

• the judge not hearing facts or evidence because of the litigant's lack of understanding of its relevance to the ultimate issue;
• the judge not hearing facts or evidence because of the litigant's lack of knowledge of how to get it in front of the judge, in terms of establishing admissibility, foundation facts, etc.;
• the judge not understanding the relevance of facts before him or her because of the judge's lack of the litigant's failure to explain and the judge's failure to elicit their relevance;
• the litigant being too intimidated from getting the story in front of the judge;
• the litigant not raising issues because he or she did not know they could impact the outcome or did not understand the legal analysis relating the two;
• the litigant getting so tangled in the story that he or she is unable to communicate a coherent version of events to the judge; or
• the litigant being intimidated or confused by objections raised by the opposing party, or, more likely, opposing counsel.

Non-neutrality from judicial passivity may be observed from behaviors demonstrating a non-neutral attitude or approach. Such behavior might include:

• asking questions from which a judicial state of mind might accurately or non-accurately be inferred;
• comments on the law or on required evidence, from justifying decisions that address the litigants' needs.

Footnotes
2. Id.
3. Kevin Burke & Steve Leben, Procedural Fairness: A Key Ingredient in Public Satisfaction, 44 CT. REV. 4, 6 (2007) (“Voice: the ability to participate in the case by expressing their viewpoint; Neutrality: consistently applied legal principles, unbiased decision makers, and a ‘transparency’ about how decisions are made; Respectful treatment: individuals are treated with dignity and their rights are obviously protected; Trustworthy authorities: authorities are benevolent, caring, and sincerely trying to help the litigants—this trust is garnered by listening to individuals and by explaining or

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which similar accurate or non-accurate inferences might be drawn;
• interruptions or redirection of witnesses, counsel, or parties, from which similar accurate or non-accurate inferences might be drawn; or
• tone of voice or other body language.10

All of these and perhaps more are potential non-neutral manifestations that may flow from judicial passivity.11

While neutral engagement may appear non-neutral, when properly utilized, it can provide a level field that ensures the parties are heard by:
• providing the parties with a general road map that informs all parties of the procedures the judge will use and how the hearing will be conducted;
• providing an explanation of evidentiary rulings and other legal issues, such as burden of proof or the elements of the cause of action or the ultimate decision reached;
• eliciting the necessary information from each party by allowing each party to give an initial opening statement or overview of their case;
• probing for more details through the use of non-confrontational questions such as “tell me more about . . .” or “give me some specific details about . . .”; and
• treating each party the same.12

Neutral engagement, therefore, provides the fact-finder with as much evidence as reasonably possible to create a complete and reliable record to support the decision.13 To the extent that irrelevant evidence is admitted, the fact-finder need not rely upon it or even cite it in the decision.14 Decisions are based upon the merits of the case rather than a procedural or technical deficiency.

ETHICAL CONSIDERATIONS

But what about the ethical considerations? How far is too far? How little is not enough?

The tension between accommodating self-represented litigants and maintaining neutrality necessarily raises the ethical dilemma: how does a judge do both without breaching the boundaries of the Code of Judicial Conduct? Fortunately, the United States Supreme Court, along with the 2007 ABA Model Code, has provided much-needed guidance and clarification in resolving this dilemma.

Although yet to be adopted in all states, the concepts embodied in the 2007 ABA Model Code have been included in most states’ judicial code of conduct.15 The ABA Model Code assigns one of the most important tenets of procedural fairness and due process, namely, the right to be heard, to judges for safekeeping.16 Pursuant to Rule 2.6, “a judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to the law.”17 The rule expressly makes the right equally applicable whether it is the “person . . . or that person’s lawyer,”18 and thus it is intended for self-represented litigants as well as represented litigants. It is not characterized as a lesser-included subcategory or as a reduced right when applied to self-represented litigants. Both self-represented litigants and represented litigants stand on equal footing, one with the other, when protecting the litigants’ due-process right to be heard.19 This does not mean that both must be treated the same.

Judges are required “to uphold the law and decide all cases with impartiality and fairness.”20 This means that “it is not a violation of this Rule, however, for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.”21 Pursuant to the ABA Model Code, judges are authorized to “make reasonable accommodations” for self-represented litigants.

The case of Turner v. Rogers22 further expands upon this concept. In Turner, a self-represented litigant sought to have his civil-contempt order for non-payment of child support reversed on the ground that he was not represented by counsel at the hearing. In fact, the petitioner who sought the civil-contempt order was not represented either. The contempt order resulted in the litigant’s incarceration. While the Supreme Court rejected a civil right to counsel as argued by Turner, the Court did recognize that there were a set of “substitute procedural safeguards” . . . which, if employed together, can significantly reduce the risk of an erroneous deprivation of liberty. . . . Those safeguards include (1) notice to the defendant that his “ability to pay” is a critical issue in the contempt proceeding; (2) the use of a form (or the equivalent) to elicit relevant financial information; (3) an opportunity at the hearing

[What about the ethical considerations? How far is too far? How little is not enough?]

10. Id.
11. Id.
12. NATIONAL JUDICIAL COLLEGE, BEST PRACTICES IN HANDLING CASES WITH SELF-REPRESENTED LITIGANTS, ELICITING THE RIGHT INFORMATION (June 2012).
13. Id.
14. Id.
16. AMERICAN BAR ASSOCIATION MODEL CODE OF JUDICIAL CONDUCT, Rule 2.6 (2007).
17. ABA MODEL CODE OF JUDICIAL CONDUCT, Rule 2.6 (2007). The comment to rule 2.6 further states, “The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.”
18. Id.
19. Id.
21. Id. at Rule 2.2 cmt. 4.
for the defendant to respond to statements and questions about his financial status, (e.g., those triggered by his responses on the form); and (4) an express finding by the court that the defendant has the ability to pay. . . . The record indicates that Turner received neither counsel nor the benefit of alternative procedures like those we have described. . . . Under these circumstances Turner’s incarceration violated the Due Process Clause. 23

Furthermore, the Court made it clear that it is not just appropriate for judges to engage a self-represented litigant by asking questions to elicit relevant information; more may be required, especially in situations where the litigants’ liberty is at stake. 24 After Turner, judges are expected to make reasonable accommodations for self-represented litigants.

So, which accommodations are reasonable, and which are not? Here again, the Supreme Court offers guidance. After Turner, it is clear that the use of forms to help self-represented litigants provide relevant information to the court is a permissible reasonable accommodation. 25 Judges are permitted to ask litigants questions and to provide the litigants with an opportunity to respond to statements contained on forms they have submitted. 26 Judges can inform self-represented parties about the issues that are critical to the outcome of the proceedings. 27 Other reasonable accommodations may include any of the following:

• using plain language rather than legalese or terms of art;
• explaining the reason for your rulings;
• allowing the parties to make amendments freely;
• allowing the parties to continue their case to get legal assistance or to gather evidence; and
• informing the parties about legal resources such as self-help centers, pro bono services, court-developed pamphlets, and court websites. 28

Still, there are some accommodations that judges should avoid as unreasonable. These include, among others:

• telling the parties what claims or defense to raise or pursue;
• telling the parties what to write in pleadings; and
• ignoring the law. 29

BEFORE YOU TAKE THE BENCH

Handling cases with self-represented litigants begins before you take the bench. As the judge, the litigants will look to you for direction and guidance regarding the procedure to follow; the information to submit, and the manner of interacting with other parties and witnesses, so it helps to be prepared.

In Maryland, a self-represented litigant will likely be female, with a high school education and an income of less than $30,000. 30 Self-represented litigants may appear in domestic cases or landlord-tenant and consumer-debt cases. For these litigants, especially those with limited resources, much is at stake; they may be at risk for homelessness, bankruptcy, or other life-altering outcomes. The numbers of self-represented litigants who are middle class or small businesses are increasing as well. 31 They may also be exposed to significant economic risks. The self-represented litigants who appear in court have expectations about the judicial process, how it operates, and what they need to do to present their cases effectively, which have been informed by prior experience in court, advice from friends, websites, and legal-service providers. Television programs about the law also play an important role in public expectations. 32

There are many reasons why someone may be or decide to be self-represented in a court proceeding. These reasons include a lack of funds to pay a lawyer, a distrust of lawyers, a belief that he or she does not need a lawyer to handle the case because it appears uncomplicated, or a cost-benefit decision that the amount of money at stake in the case is less than the cost of retaining counsel. While some self-represented litigants are able to effectively present their civil cases, others realize, at some point just before or during trial, that they need a lawyer to represent their interests. This article will also discuss those situations and how the court can respond.

1. READ THE COURT FILE

It seems an obvious beginning, but its importance cannot be overstated. Reading the court file before you begin any case involving self-represented litigants can be tremendously helpful. At times, it can be a challenge to figure out what is being disputed when the parties are representing themselves. Unlike

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23. Id. at 2511, 2514, 2516, 2519-20.
24. Id.
25. Id.
26. Id.
27. Id.
30. The District Court Self Help Clinic (DCSHC) Walk-In Survey—FY 2014. The District Court of Maryland has a self-help resource center that provides limited legal assistance by telephone, online chat, or walk in to individuals who are not represented by counsel. Of the 3,449 who responded to the survey, 56.1% were female, 37.5% were African-American, 58% had an income of less than $30,000 per year, and 43.7% had a high school education or less.
32. Burke & Leben, supra note 3, at 11.
pleadings filed by lawyers, pleadings filed by self-represented litigants may contain rambling narratives about any number of matters covering a range of potential issues. They may include attachments from internet websites or may contain e-mail communications, text messages, photographs, or other documents. In short, the pleadings may consist of a hodgepodge of documents and information that expresses the litigant’s dissatisfaction and upset but is only loosely woven together. Reading the court file in advance may help you to garner a better understanding of the issues to be presented in the proceeding. As the fact-finder, you will have a better starting point, after reading the court file, from which to elicit the facts relevant to the dispute. It is more likely that the resulting decision will be based upon the merits of the case rather than upon a procedural or technical deficiency.

When reading the court file, the pleadings should be construed liberally. Sometimes self-represented litigants use forms and terms that they have obtained from internet sources other than your court’s website. Occasionally, forms from office-supply stores are used by self-represented litigants. Although handy, these forms may have nothing to do with the dispute at hand. Even when using forms obtained from your court’s website or clerk’s office, litigants may misunderstand which forms are appropriate for their specific issues. Greater attention and focus should be placed upon the substance of these submissions rather than the form or terminology used within. Sometimes the substance of a filing can only be gleaned from reading the information contained in other documents within the court file.

Through a liberal reading of the pleadings, you may discover that a litigant has sued an individual employee of a company, when it is apparent that the litigant intended to bind the company. Or the self-represented litigant intended to sue the company but only included the company’s trade name rather than its legal corporate name. As a consequence of reading the court file in advance, the self-represented litigant can be permitted to amend the incorrect party name to reflect the proper party and to pursue the dispute against the correct legal entity. The ultimate decision rendered is based upon the merits of the case with the proper parties included rather than upon a technical deficiency. All in all, through a liberal interpretation of the filings, you may be able to clarify the real issue in dispute or, at a minimum, identify the range of potential issues, even though they may not be expressly stated.

2. HAVE A PLAN AND TELL THE PARTIES

With popular “reality” TV shows such as Judge Judy or award-winning dramas such as Boston Legal, the public has a skewed and inaccurate impression of the legal system and the court process. Some people may have learned about the court process through the foggy lens of friends, neighbors, relatives, or coworkers who had confusing experiences with cases that may be nothing at all like theirs. As a result, potential litigants come to court with the notion that their experiences will be like the images portrayed in the media or like someone else’s experience. Unfortunately, this may be the only impression that a potential litigant has of the legal system or the court process.

Although self-represented litigants may derive their expectations about the judicial system from a variety of sources of differing reliability, what they care about is respect and procedural fairness. As Burke and Leben have stated, “Most people care more about procedural fairness—the kind of treatment they receive in court—than they do about ‘distributive justice,’ i.e., winning or losing the particular case.”

To overcome such misimpressions, it can be helpful to develop a plan for how you will approach each docket, generally, and each stage of the case, specifically, and to inform the litigants as the case progresses. No need to create a complex strategic blueprint. In fact, a simple approach can be far more effective.

If there are preliminary matters, explain that they will be heard first because they can be handled quickly. You can encourage the parties waiting for trial to organize the documents, records, or photographs they want to introduce into evidence. This helps those sitting in the courtroom understand the order in which cases are called and demonstrates that the judge respects the time of everyone. It also sends the message that the judge expects the litigants to have their evidence ready when their cases are called. Additionally, you can mention that if the parties do not want to participate in mediation but want to try to settle the case themselves, they can go outside and talk. If they do not agree, they can have the trial, and nothing they discuss outside can be used against them.

Consider the types of cases that you will be handling on the docket assigned to you for that day. It is likely that a general announcement can be made at the start of the docket to provide an overview about the general procedure you will use to handle the docket of cases. Drafting a script or opening statement to introduce the docket can lay the foundation for what the parties should expect. Thereafter, when a specific case is called for trial, you may wish to provide more detailed procedures for the parties in that specific case. At each stage of the case as it progresses, you may wish to provide further information to the parties about the specific procedures being used. This not only helps everyone to become familiar with the process, thereby dispelling any misimpressions about court procedure, but also helps you to engage the parties in a fashion that maintains neutrality and transparency. In other words, you can explain the neutral reasons behind each procedure, making sure that all parties understand what is happening at each stage of the case and why. Information given in small pieces is more likely to be understood and followed by those who are unfamiliar with the legal system and court procedure. In this way, the case can proceed in an orderly fashion.

If you include a statement about the availability of legal ser-

34. Burke & Leben, supra note 3, at 5.
After checking with the parties to see if they are ready, begin by summarizing the cause of action as well as the relief sought.

Services for those who are unrepresented in the general opening, then some self-represented litigants may decide that they want to request a postponement to obtain counsel. Have available a list of organizations that can provide or make referrals for legal services. Then be prepared to call the case as a preliminary matter to decide if you will postpone it for one or more parties to obtain counsel. This can be challenging: on one hand, the person seeking the postponement may have important interests at stake (i.e., housing or possibility of a money judgment) while the other party has comparable competing interests and needs to have them addressed expeditiously. The rationale for your decision should include a brief summary of the reasons given by the parties and what considerations were important to you in granting or denying the postponement.

3. ASK IF THEY ARE READY FOR TRIAL

Next comes the specific information and instructions relating to the trials. The first question to ask the parties when they come forward is, “Are you ready for trial?” Even if the answer is affirmative, that does not always mean the parties are prepared, so consider what you will do if, during the trial, the self-represented litigant discovers that there is a witness or evidence that he or she needs and has not brought to court. After checking with the parties to see if they are ready, begin by summarizing the cause of action as well as the relief sought. If the defendant has entered a defense, summarize that also. Explain the elements of the cause of action. This will help the self-represented litigant, plaintiff, or defendant understand what the judge is expecting to hear regarding proof and sets up a framework to use in announcing a decision.

Before starting a trial, ask self-represented litigants if there are witnesses or documents they have brought. Self-represented litigants may have witnesses and not realize that they need to testify under oath, or, indeed, fail to call a witness who is present in the courtroom. They may not have brought or summoned the witnesses they need. Sometimes self-represented litigants will bring letters or affidavits from witnesses only to learn that the other side opposes their admission. There may be leases, titles, or contracts that self-represented litigants need to present as evidence. Ask if they have them ready. While some of these questions may sound basic or patronizing toward a self-represented litigant, consider the varying degrees of preparation for trial that you have seen during your time on the bench. Even well-prepared self-represented litigants may forget something because they are nervous when they appear before the court. As a result of these questions, self-represented litigants may realize that they have not brought the necessary proof and may request a postponement. If the defendant has not appeared, consider being liberal in granting the plaintiffs’ postponement requests. Whether or not you grant it, articulate the reasons (e.g., the case was post-

poned before; the other party or witnesses came from out of town or took leave from work to be here today; or the defendant has failed to appear today, so this matter will be postponed for the plaintiff to produce additional evidence to support the claim).

Even if a self-represented litigant has not produced evidence or brought witnesses to trial, there may be a way to avoid granting or denying a postponement. The judge can decide whether to ask the parties if they can agree on certain issues (e.g., date, time, place, amount paid, and address) while making it clear to them that they do not have to agree to do this.

The parties have their witnesses and evidence. They are ready for the next step, to be placed under oath, testify, call witnesses, present evidence, and cross-examine witnesses. While we cannot tell them how to do this, let them know what they can do and when they can do it. For example, “You will each have an opportunity to testify, and when you do, show me and the other side any documents, photos, or other evidence that support your claim. The other side may object or have questions about what you are showing me. If they object, I will decide if I should consider the evidence in deciding the case.”

Tell them you may ask questions of either side if you need to clarify something, and remind them that you know nothing about the case; therefore, they must tell you what they think you need to know.

4. INCLUDE THE COURT STAFF

Court staff generally, and courtroom staff in particular, can serve an important role in helping to set the stage for the day’s docket. Self-represented litigants’ first interactions are often with a bailiff or courtroom clerk before the judge takes the bench. Whether it is reminding litigants to be sure their cell phones and other electronic devices are turned off or pointing out which trial table to stand behind or answering questions, such as the proper way to address the judge, courtroom staff can help inform the litigants about some of the logistical court procedures that may be intimidating to those who are unfamiliar.

Handing out exhibit labels to the litigants and not just to the lawyers before court begins can help self-represented litigants organize their materials and mark them ahead of time. Making extra copies of documents for the parties to use during the proceedings can make it easier for everyone to follow along. It is surprising how many litigants do not bring paper or pen to court. Providing a few sheets of paper, along with a pen, at the trial table gives the litigant permission to jot down information they want to remember to tell the judge. These seemingly small actions undertaken by courtroom staff before you take the bench begin to establish the court procedures you will use once on the bench.

Clerks are an invaluable resource when it comes to handling self-represented litigants. They are able to distribute court-developed pamphlets or other information, such as checklists and forms, to the litigants before the proceedings. Making sure that clerks know and understand the difference between legal information, which they can provide, and legal advice, which they cannot provide, is critical. In this regard, access-to-justice programs can supplement this vital function.
5. BE PATIENT

Remember your first day in court as a new lawyer? Despite your training in the law and experience in the courtroom, the first time on your own was, no doubt, a stressful time. Filled with nervousness about your ability to be effective and apprehension about the process, the unexpected, and the outcome, you likely remember being grateful to those who kindly recognized that everyone has a first day and patiently allowed you to present the case. Imagine the stressfulness, nervousness, and apprehension a litigant who has no legal training and who is unfamiliar with the court system might experience.

Remembering their own first days, many judges will afford new lawyers some leeway, patiently allowing the proceedings to unfold in a reasonable fashion. Yet the need to afford patience and leeway to self-represented litigants may go unrecognized. Going to court can be a stressful experience for anyone. Allow the parties a reasonable time to present their information. In no way does this mean that a litigant is given days and days to ramble on. However, it is likely that the self-represented litigant will need more time than a litigant represented by an attorney. Accepting this fact allows judges to be prepared for the additional time commitment. Cases involving self-represented litigants may need to be scheduled on dockets that can accommodate the additional time requirements. Rushing the self-represented litigant can sometimes have the opposite effect. Just be patient and allow the litigant a reasonable time to present his or her case.

Suppose you have a self-represented litigant who has a disability. The person is sight or hearing impaired or may display symptoms of mental illness or intellectual challenge. Perhaps the person is not fluent in English. Ask if they have spoken to an attorney or if they want to before going to trial. Postpone for an interpreter if the self-represented litigant cannot understand you. Recognize that some self-represented litigants “just want to get it over with” and will resist a postponement even though they may not thoroughly comprehend what is happening. Job, family, or transportation issues may impede their ability to get to court if the case is postponed.

Finally, the Code of Judicial Conduct requires judges to “be patient, dignified and courteous to litigants . . . and others with whom the judge deals in an official capacity . . .” 35 The comment to the rule further explains that the duty imposed upon judges “to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.” 36

6. BE POLITE

Probably all of us remember a parent or grandparent or teacher admonishing us to remember our manners when we were in grade school. Being polite is a matter of showing respect to others and treating those who appear before you with dignity. In essence, being polite means remembering your manners. Begin each case by greeting each litigant with a salutation such as “good morning” or “good afternoon.” Make sure to use the appropriate title whenever you address any litigant. To the extent possible, respect the litigants’ requests regarding how they wish to be addressed. Thank the audience in advance for following the court procedures that you outline. Simply saying “thank you” and “please” can help to humanize a process that can seem harsh at times.

Start the court day at the scheduled time. Those who appear before you are anxious and may want to “just get it over with.” The old adage is true: the sooner you start, the sooner you finish. Moreover, it is inconsiderate to keep people waiting. If, however, you encounter circumstances that delay the timely start of the docket, acknowledge your tardiness, give an appropriate explanation, provide an apology, thank the audience for its patience, and then commence the docket. People are far more understanding and accepting of delays when judges acknowledge them.

While it is natural to interact in a more familiar manner with individuals who you regularly see, such as lawyers and other representatives, remember that for those who are new to the process or unfamiliar with it, such interaction may be viewed as favoritism or bias. Avoid overly familiar interactions with lawyers and others who may regularly appear before you.

For some litigants, not only is the court process an emotional experience, but the legal dispute that causes them to be in court may evoke great emotion. Litigants may become emotional or upset when recounting the events relevant to the dispute. Offer to take a recess so that they may regain their composure. Sometimes taking a recess during the middle of testimony can be helpful in redirecting the parties’ focus when the level of emotion seems high or counterproductive.

While taking a recess can be helpful, abruptly cutting off a litigant, talking over someone, or constantly interrupting the parties can be counterproductive. Avoid interrupting the litigants unless necessary to keep the parties on track.

7. BE PROFESSIONAL

Judges are expected to exhibit a dignified demeanor and temperament at all times that reflects their role as the guardians of justice. The public’s trust and confidence in the judicial process is influenced by judges’ behavior, both on and off the bench. Derived from the Preamble section of the 2007 ABA Model Code, the Preamble to Maryland Rule 16-813 further explains this obligation: “Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and official capacity.” 37

35. MARYLAND RULE 16-813, CODE OF JUDICIAL CONDUCT, Rule 2.8(b).

36. MARYLAND RULE 16-813, CODE OF JUDICIAL CONDUCT, Rule 2.8(b) cmt.
With technology occupying a more central place in the court process, it can be easy to go through an entire court case with your eyes trained on a computer screen. personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.\(^{37}\)

We have often heard it said that it is not what you say but how you say it that leaves a lasting impression. This is certainly true when handling cases involving self-represented litigants. Albert Merabian, Ph.D., Professor Emeritus from UCLA, has conducted research regarding nonverbal communication.\(^{38}\) His research shows that, in certain situations, 7% of communication relates to the specific words that are spoken, 38% comes from vocal elements (such as tone and cadence), and 55% is through nonverbal means such as facial expressions and body language.\(^{39}\) This means that approximately 93% of the communication in certain circumstances is nonverbal. Tone, body language, hand gestures, and facial expressions can say far more than the spoken word. When interacting with litigants, keep in mind that how the information is communicated is at least as important as what information is communicated.

With technology occupying a more central place in the court process, it can be easy to go through an entire court case with your eyes trained on a computer screen. Even for those who still use paper and pen, making sure that all the boxes on the trial docket sheet are correctly completed can take your eyes away from the litigants. Eye contact is one of the best ways for litigants to assess whether the judge is paying attention or not. Although you may be able to successfully multitask—both listening to the litigants and completing docket sheets or signing paperwork—the loss of eye contact may cause any litigant to doubt your attentiveness or interest in his or her case. Try to make eye contact from time to time. This may require a conscious decision to look up and focus; however, eye contact can add to your understanding of the proceeding. Just as our body language communicates nonverbally, so too can we understand nonverbal communication through the body language of self-represented litigants. But we have to look to be able to see.

8. CONSIDER ALTERNATIVE DISPUTE RESOLUTION

Generally speaking, resolving cases without court intervention is seen as a good thing. Why wouldn't a judge welcome the opportunity to potentially remove one more case from the docket—or at least to remove one case that is likely to present a number of challenging issues? More than just resolving a dispute, Alternative Dispute Resolution (ADR) offers benefits beyond those that we typically think about. While any litigant might benefit from participation in ADR, self-represented litigants may be uniquely situated to derive benefits from it. Before you take the bench and after having reviewed the court file, consider whether ADR would be an appropriate way for the parties to resolve their dispute.\(^{40}\)

Recent research has confirmed that there are benefits to ADR whether or not the parties reach an agreement. The Maryland Judiciary commissioned a study, completed in 2014, to evaluate ADR on a statewide basis. The study was conducted by a team of independent researchers led by Lorig Charkoudian, Ph.D. \(^{41}\) “This research is unique and to our knowledge is the only one in the country that compares the attitudes and changes in attitudes of participants who went through ADR to an equivalent comparison group who went through the standard court process.”\(^{42}\) The research results demonstrate several positive outcomes related to the resolution of the issues, a sense of responsibility and empowerment, and a feeling of satisfaction with the judicial system. The following are just a few of the findings. Regardless of whether the participants reached an agreement in ADR or not, ADR participants were more likely to report that:

- they could express themselves, their thoughts, and their concerns;
- all of the underlying issues came out;
- the issues were resolved;
- the issues were completely resolved rather than partially resolved; and
- they took more responsibility for the situation than before.\(^{43}\)

Participants in ADR were also less likely to report that no one apologized or took responsibility for the situation. Finally, researchers found that ADR was more likely to leave people with a positive view of the judicial system: “Participants who developed a negotiated agreement in ADR were more likely to be satisfied with the judicial system than others, while participants who reached negotiated agreements on their own (without ADR) were not more likely to be satisfied with the judicial system than those without negotiated agreements.”\(^{44}\)

CONSIDERATIONS WHEN ONE PARTY IS REPRESENTED BY COUNSEL

One of the dilemmas faced by judges is managing the pre-
sentation of testimony and evidence when one side is represented by counsel and the other is not. In Maryland, small claims are governed by relaxed rules of evidence, so there are fewer problems in those cases. But what of self-represented litigants who have claims or are defending against claims of $5,000 or more where the rules of evidence are applied? They will face difficulty at every stage—testifying, cross-examining, presenting evidence. While the questions asked by the judge must be neutral, they should be designed to elicit the information needed to decide the case. Provide a framework—ask self-represented litigants why they brought the claim or why they are challenging the claim and what they have to show you and the other side that supports what they are telling you. Asking questions about date, time, and place can also clarify the issues. If possible, divide the trial into two parts: proof of liability and proof of damages. When self-represented litigants have completed testimony, ask if there is anything else they want to add before you move to the other side. This reinforces the structure that the judge set out initially and signals to them that if they have more information, now is the time to tell the judge. Some parties are focused on proving the cause of action and forget to prove damages. Under these circumstances, consider asking them why they are requesting the amount of damages stated in the complaint.

When an attorney objects to the testimony or evidence presented by the self-represented litigant, ask the attorney to explain the basis for the objection. The judge can then explain that the objection will be sustained and the evidence excluded, for example, unless the party can present testimony or evidence to overcome the basis for the objection.

Before cross-examination starts, explain to litigants that this is their time to ask questions of the other side about what they just said. Effective cross-examination is an art that takes attorneys many years of practice to become competent in, if not master. For so many self-represented litigants, the process of cross-examining an opposing witness devolves into denials of the witnesses’ testimony without challenging its basis or accuracy. It may be acrimonious and personal (“Why are you lying?” “Why are you doing this to me?”). Refocus the litigants by reminding them that they have the opportunity to testify and tell their “side of the story.”

ANNOUNCE AND EXPLAIN YOUR DECISION

When it is time to make a decision, either written or oral, acknowledge the interests that both parties have in the case and outcome. Use the framework you set forth at the opening of the trial to explain whether the plaintiff met the burden of proof or the defendant established a defense. Explain what was considered in calculating damages. Once the decision is made, explain the next steps for the prevailing party (i.e., collecting the judgment) or the right to appeal if they are dissatisfied with the decision. Providing this information to the litigants in person “at the time of the hearing further emphasizes the finality of the order and also provides an opportunity to clarify misunderstandings about specific terms.”

MANAGE YOUR STRESS

As stressful as it may be to represent yourself in court, being the presiding judge can be stressful too. Judges may not always recognize the signs of stress within themselves. That’s why stress is sometimes referred to as the silent killer.

Managing your stress starts the night before you take the bench. Sleep is one of the critical components to managing stress. Our lives are chock-full of responsibilities and obligations concerning work, family, and community. Making sure that you get it all done can be a struggle. It is easy to convince yourself that you can accomplish more by staying up a bit later. After all, you can usually sleep late on the weekends to make up for the sleep you lost during the week.

Research has shown that sleep deprivation not only affects a person’s response to stress but affects one’s mood. Going without sleep for up to 17 hours can be the equivalent of having a blood-alcohol level of .05%. In many states, that would be probable cause for a driver to be criminally charged with driving while impaired. Obviously, when your body is impaired, your ability to perform at an appropriate level mentally is equally impaired. Getting a good night’s sleep can be a key factor to improving your mood and your response to stress.

Not wanting to diminish the important role of healthy eating and exercise, it almost goes without saying that healthy eating coupled with regular exercise is helpful in managing stress. Simply making sure that you eat breakfast and lunch every day can be a challenge. Resist the temptation to skip lunch, regardless of the busy demands of your day. Drinking plenty of fluids and eating healthy meals and snacks (you know the ones) can give you the necessary energy to stay focused and balanced.

45. Maryland Rule 3-701(f) states: “Conduct of trial. The Court shall conduct the trial of a small claim action in an informal manner. Title 5 [Evidence] of these rules does not apply to proceedings under this Rule.”
48. Id.
50. Id. at xx: “Cognitive skills such as working memory, short term memory and logical reasoning are especially disrupted.”
energy and focus. Working out at the gym or following an exercise program is wonderful, but simply taking a short stroll on a regular basis can be helpful too.

Knowing a few techniques to implement during stressful moments can help you maintain an appropriate balance. It may seem obvious, but reminding yourself to take a recess during a trial or a challenging docket can make all the difference in your level of stress and fatigue. At first, you may think that it is a waste of valuable time to do so. However, getting off the bench for as little as 5 or 10 minutes will give you a chance to physically move around, clear your mind, and refresh your focus.

Breathing techniques are useful for stress management as well. Taking a few slow, deep breaths silently while on the bench can help to lower your heart rate and blood pressure. This helps to reduce stress and improve your focus and concentration.

Being a judge can be a lonely experience. Finding a trusted colleague with whom you can discuss your concerns can help alleviate some of the stress and burden of being the sole decision-maker. Even listening to music can have a stress-reducing effect. Again, lowering the heart rate and blood pressure helps to reduce anxiety.

Managing your stress when handling cases involving self-represented litigants should not be overlooked. Not only does it help with the overall smooth progression of the case but it can literally be a lifesaver for the judge.

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Miriam Brown Hutchins has served as a judge on the District Court of Maryland in Baltimore City for nearly 15 years. During her years as a judge and before that as a Domestic Equity Master in the Circuit Court for Baltimore City, she has heard many cases where one or both parties were self-represented. In 2013 she organized a meeting of attorneys in the Baltimore community to establish a self-help center in the civil division of the district court in Baltimore City. As a result, Just Advice, a legal-services clinic serving the lower middle class and working poor and staffed by volunteer attorneys and law students from the Francis King Carey School of Law at the University of Maryland, expanded its services to the district court civil courthouse in Baltimore. Judge Hutchins is a member of the Standing Committee of the Court of Appeals on Pro Bono Legal Service.

53. Id.
YLSCMI 2.0™


The Youth Level of Service/Case Management Inventory 2.0 (YLSCMI 2.0™) is a gender- and culturally-informed, strength focused risk/needs tool that reliably and accurately classifies and predicts re-offending within male and female juvenile populations.

Created for both genders, the YLSCMI 2.0 includes new features to address the needs of a growing adolescent offender population:

- Expanded age range - 12 to 18 years
- Large U.S. sample of over 15,000 juveniles
- Significant minority representation in normative sample
- U.S. norms by gender and setting
- Guidelines that instruct users to consider gender-specific factors, as well as, the importance of minor risk/need factors and non-criminogenic needs
- Assessment items that address gender-informed responsivity factors - such as pregnancy/motherhood issues and physical/sexual victimization issues
- Assessment items that address culturally-informed responsivity factors

In addition, the YLSCMI 2.0 provides an opportunity for users to evaluate positive offender attributes so that offender strengths may be highlighted and built upon in service delivery.

For more information on the YLSCMI 2.0 Contact client services, at 1-800-456-3003.
Starting a Help Center in Twelve Easy Steps: One Court’s Experience with Trial, Error, and Lots of Help

Keven M. P. O’Grady

Admittedly, the title of this article is misleading. Starting a help center from scratch is not easy. However, with apologies to Ringo Starr and the Beatles, you can “get by with a little help from [your] friends.” With some planning and the will to make it happen, your court can have a help center up and running.

There are multiple resources available that can make the process a little less daunting. Every court is different, and no one plan will work for everyone. The following are 12 suggestions to consider if you are thinking of starting a help center for unrepresented litigants in your court. After each suggestion is a description of our court’s experience in starting a help center.

The help center described here was established for the Tenth Judicial District in Olathe, Kansas. The Tenth District encompasses Johnson County, Kansas, which includes the southwestern corner of the Kansas City metropolitan area. It has a population of approximately 574,275 people and is the fastest-growing county in Kansas. The Johnson County District Court consists of 19 district court judges, four magistrate judges, and three hearing officers (one full-time and two half-time). The judges share three law clerks. Each judge has the help of an administrative assistant or a court clerk.

1. ESTABLISH A TEAM TO DETERMINE THE NEEDS IN YOUR COMMUNITY; IDENTIFY THE POPULATION NEEDING SERVICE AND THE SERVICES THEY NEED.

In establishing a team to consider a help center, it is important to identify key members such as judges, future help-center staff, information-technology personnel, and other courthouse leaders whose offices will be important to the help center’s success. The idea for a help center in Johnson County, in one form or another, had been discussed and considered for some time. Chief Judge Kevin Moriarty determined that the increasing number of unrepresented litigants warranted more serious consideration. In late 2013, he assembled a small team to manage the process. Members of the planning team included representatives from the family- and civil-court departments, the chief court clerk, and the director of the Justice Information Management Services (JIMS) system.

As the amount of work and areas of expertise necessary for success began to be appreciated, it became clear that the team needed to include those who would be supervising help-center staff and implementing the technology needed to operate both in a physical form and online. These new team members all brought specific skill sets and experiences that were invaluable to the process. Three deputy court clerks were selected to join the team because they would be supervising and managing the day-to-day operations of the help center. They also had extensive experience working with unrepresented litigants (“URLs”) on a daily basis. A JIMS programmer was included so that the team’s goals could be aligned with the court’s technical planning and capabilities. She was primarily responsible for coordinating and implementing the online presence and physical technology needs for the site. Other relevant individuals were added on an as-needed basis throughout the planning and implementation process.

Once established, the team began the process of determining what clients needed services and what types of services they needed. Certain dockets were experiencing particularly high numbers of unrepresented litigants. Courts dealing with divorce, paternity, landlord-tenant disputes, and debt collection had always seen substantial numbers of unrepresented parties. After 2008, those numbers increased at a faster rate. Judges were dedicating increasingly large portions of their dockets to hearings where one or both parties did not have representation. Attorneys found it increasingly difficult to balance time commitments between those cases that could be expeditiously resolved with the assistance of counsel on both sides and those that took an inordinate amount of additional time because one party was unable to get legal advice. The law librarians, court clerks, and court-trustee staff spent more and more resources dealing with those who could not afford legal representation, thus reducing the time that they could dedicate to their primary responsibilities.

As family court and limited-actions court were seeing the most unrepresented litigants, it was decided to emphasize those two areas first. Early meetings focused on the specific effort of the Tenth Judicial District Court, the Johnson County Sheriff’s Department, the Johnson County District Attorney’s office, and Johnson County Community Corrections.

Footnotes

3. Hearing officers primarily hear child-support matters in Johnson County, Kansas.
4. The Justice Information Management System, or JIMS, provides integrated information-technology services and is a collaborative tool for Johnson County, Kansas.
5. In Johnson County, family court handles divorces with children, parentage cases, and related civil protection from abuse and stalking. Limited-actions court hears landlord-tenant disputes, most creditor-debtor disputes, and other similar types of cases.
types of hearings in each court that saw the highest number of URLs and finding the forms and informational materials that would be of most assistance to them. Reviewing dockets led to a finding that the proceedings that most often had one or more unrepresented parties were:

- divorces without children;
- divorces with children;
- parentage cases;
- landlord-tenant disputes; and
- small debt-collection cases.

Divorces with children and parentage cases also had a large number of post-decree motions and hearings with one or both parties unrepresented—mostly child-support and parenting-plan modifications. Having identified these proceedings and the types of motions and pleadings needed, we decided that the help center would try to provide forms and direction for the most common and simple matters in these categories. Complex issues would not be addressed.

Forms with detailed instructions were needed because traditional legal-aid services were unable to help everyone who needed assistance. We decided that it would be important for URLs to have the option of talking to someone who could help direct them to the proper materials, make initial referrals (both legal and social service), provide information about the court system, and review documents for completeness and legibility. While many people with limited funds had access to smartphones or tablets, they did not have desktop or laptop computers or the ability to print completed forms. Providing a location for unrepresented litigants to work on a desktop computer so that they could complete, print, and file their pleadings was a priority.

Judges were finding many unrepresented people in court saying that they could not afford a lawyer. However, many people who legitimately could not afford counsel still earned too much to qualify for legal aid. As a result, the unrepresented were often confused and unsure of where to turn for help. When trying to represent themselves, they felt like they were being sent from one office to the next in an unfamiliar courthouse. This led to frustration and anxiety. A single place was needed where they could find forms and information. The help center would be that centralized contact point.

Judges wanted legible forms and the provision of basic information to litigants. Forms and instructions needed to be plainly written and easy to understand. Docket time was wasted when a URL appeared for a hearing without the necessary documents or preparation. Consequently, hearings took much longer than planned or had to be continued, much to the consternation of both the court and the litigant. URLs often had cases that could be resolved with a few simple pleadings, but busy dockets made document preparation in the courtroom unworkable.

Our judges believed that it would be more efficient to have a place in the courthouse where URLs could be sent immediately to complete paperwork and return to court on the same day. Resetting cases for a month or two later to allow for preparation of paperwork rarely resulted in the forms actually being completed. Most judges reported that many unrepresented litigants were asking for simple relief and needed just some minimal direction. While some could navigate the various websites and offices to amass the needed pleadings and documentation, many could not. Those that could not were often those who could least afford to come to court multiple times.

In addition, many URLs did not understand the type of relief they needed or that was available to them. People filing for protection from abuse or stalking and victims of domestic violence received assistance from victim-assistance units and other agencies. These persons often needed information on parentage or divorce cases as well. However, such services were beyond the scope of the domestic-violence advocate. The state Department for Children and Families would pursue child support for many parents, but, like the victim-assistance units in the protection cases, help with long-term issues, such as the establishment of a parenting plan, was not among the services they could provide, no matter how badly needed it might be.

Team members also sought input from the local bar association and Inns of Court. Some attorneys had expressed difficulties in dealing with unrepresented litigants. In many simple cases, the parties were pleasant and cooperative, but it could be difficult for the attorney to ethically represent his or her client and work with an opposing party who did not appreciate the separation of roles. Occasionally, the unrepresented party might mistakenly believe that the attorney was “working for both of us,” despite the attorney’s best efforts. Sometimes the URL did not trust the “adversary” attorney when he or she asked for documentation or the completion of required forms. Attorneys also thought it would be helpful to have a neutral source to refer the opposing unrepresented party to for information and forms.

Help-center staffing and training was also identified as an early concern. No funding was available to hire staff. Reallocation of personnel had to be considered. Finding training plans specifically for those working in a help center was, fortunately, easier than finding staff to run it. With help centers of various types and configurations already located all around the country, it was not necessary to start from scratch. Team members began to amass articles and visited the websites of various help centers and self-help outreach programs across the country. Many of these centers publish their training materials or provide links to relevant resources. But now, trained staff needed somewhere to work. With the cooperation of the county facilities management and JIMS, the group began looking for potential physical space in the courthouse.

2. **Determine what resources are already available in your jurisdiction. Do they meet your population's needs? What is missing? What can be done better locally?**

Good news: you’re not the first court to create a help center. While some are physical and some are virtual, they all aspire to the same goal.

We began looking at what resources were available online and in print. The Kansas Supreme Court website had forms and webpages designed to assist URLs. Kansas Legal Services, our state’s legal-aid provider, was assisting a portion of our target population but could not provide services to everyone in need. The Kansas Bar Association was operating a referral line
and a reduced-fee service, which had met with some success. Private vendors purported to supply court-ready forms and documents, but they were rarely acceptable and almost never complied with state and local court rules. In addition, some private forms were expensive. It was difficult for a judge to tell a person of limited means that the forms he or she had spent much of their limited funds to purchase were useless.

Many URLs were unaware of or unable to find the forms and appropriate websites. They found themselves confused and intimidated by the process. Even when forms were available and written in plain English, many unrepresented persons struggled with legal concepts such as service of process and notice. Despite detailed instructions being available for download, many would skip over them and go straight to the forms. Initial pleadings would be filed, but the final orders were often too difficult to complete or were simply not prepared. Child-support worksheets were particularly difficult for the unrepresented. Some private vendors offered cost-effective and appropriate services, but URLs often did not know how to find them.

At the local level, county and court offices recognized the need and also offered help. The courthouse law library offered form packets and research assistance. The district court trustee created forms and instructions for child-support and parenting-enforcement matters. The court clerk dedicated innumerable hours to training staff in how to deal with and assist citizens who could not afford legal counsel. Despite these efforts, however, more and more unrepresented parties were appearing in proceedings wholly incapable of dealing with issues facing them. While many excellent resources were available, there was no simple centralized way for URLs to find them.

We found several useful resources, including state-court websites with forms and resources that could be used to start and operate a help center. The National Center for State Courts provides technical assistance to those seeking to reach out to the unrepresented. The American Bar Association also has excellent resources.

3. IDENTIFY STAKEHOLDERS.

Operating a help center requires the support and involvement of many people and organizations. Include in your planning and discussions all judges in your district, the court clerks, court administrative staff, law-library workers, your IT department, local and state bar associations, Inns of Court, and local legal-aid providers. Talk about the plans and ideas openly. Good ideas can come from anywhere.

All judges in the district should be kept advised of progress and invited to participate. We discussed our help center at virtually every en banc meeting.

The local bar was involved early on. Local and state bar associations and Inns of Court can be very supportive if kept abreast of plans and invited to comment, contribute, and participate. We believe that the early and meaningful involvement of the bar contributed to the acceptance of the program by most lawyers.

Court staff, judges’ administrative assistants, and clerks outside the planning committee were also encouraged to discuss the upcoming plans and asked for ideas. Many good ideas and comments came from those who deal with the URLs every day.

Conversations with stakeholders allowed potential objections and negative impressions to be known early on. There will be some in the courthouse who are dead set against the idea of a help center. Typical objections will include the thought that the courts are competing with the private bar, that a help center comes dangerously close to providing legal advice, that unrepresented persons should be treated exactly the same as lawyers, and that other resources are better suited to the problem.

Some court staff were reluctant to get more involved with URLs as they had been cautioned for years about the dangers of accidentally giving legal advice. Being on the front lines, they had the experience and had been asked the difficult questions. This made it all the more clear that selecting the right staff for the help center and providing the proper training was going to be an early key to success. Allowing those who would be supervising and working in the center to get involved early encouraged an investment in success.

6. Among the helpful state-level resources were the Alaska Court System Self Help Service (http://www.courts.alaska.gov/representing-yourself.htm), the California Judicial Branch Equal Access Project (http://www.courts.ca.gov/partners/equalaccess.htm), and the New York State Access to Justice Program (http://www.nycourts.gov/ajp/nya2j/jindex.shtml). Also helpful were the web-based resources of Probono.net (http://www.probono.net), SelfHelpSupport.Org (http://www.self-helpsupport.org), and the Legal Services Corporation (http://www.lsc.gov/).

7. The National Center for State Courts offers an online Center on Court Access to Justice for All (http://www.ncsc.org/atj). For more information about it, see the Resource Page in this issue at page 84.

8. These other resources include legal aid, bar associations, and pro bono work.
The vast majority of the local bar membership was supportive from the start. Any lawyer who has litigated with a difficult URL appreciates having a place to direct his or her opponent for forms, legal information, and perhaps, a little advice. By engaging the bar early, we helped ensure that lawyers have appreciated the efforts and helped at every step. Some segments of the bar objected to assisting URLs, believing that it was taking away potential clients. Including the bar early allowed for gentle education about the services to be provided and the target clientele.

Most private practitioners don’t appreciate the sheer volume of unrepresented persons appearing in court each day. I certainly didn’t before becoming a judge. Almost everyone appearing in court would prefer to have a lawyer. The truly indigent and working poor often don’t seek an attorney, so attorneys don’t know about them, and the litigants don’t meet anyone who can refer them to services until they appear in court. Once these skeptical attorneys realize the magnitude of the problem and appreciate that the vast majority of those who will seek out the help center wouldn’t be able to afford their services, they quickly support the efforts and may sometimes become your biggest supporters. Some of those originally most skeptical have turned out to be very active in assisting with funding and support issues.

Legal-aid providers should also be consulted before opening the help center. They have the experience in working with the poor that most lawyers and judges do not. We found Kansas Legal Services to be not only supportive but excited to be actively engaged in manning and operating the proposed help center. No one understood the issues and challenges better.

Relevant governmental agencies should be involved. In Kansas, our county government provides us our workspace and most of our furnishings and equipment. Moving forward without coordination with them would have been impossible. A help center can present unique security challenges. Consulting the sheriff or other courthouse security is essential. We found our sheriff’s office to be very encouraging and interested in helping. Given the higher security risks involved in family-law cases, the sheriff’s office was interested in reducing litigants’ stress and tension. Law enforcement often must deal with frustrated people in family-law cases. Having a resource to refer those in conflict to helps officers as well. Our district attorney often assists people seeking civil orders of protection, and in many cases, the protection order is only a small portion of the ultimate relief needed. Many of these cases need a divorce or parentage case filed, as the underlying issues are better resolved in that forum. As the DA cannot help with that part of the case, having a referral source for the low-income alleged victim is very valuable.

4. IDENTIFY FUNDING SOURCES.

In a time of shrinking budgets, the idea of adding a help center can be overwhelming. Most courts will need to create and operate a help center with little or no additional funding.

The Johnson County Bar Foundation is the charitable arm of the Johnson County Bar Association and supports legally related charities.

9. Mandatory e-filing in civil cases became effective March 1, 2015, but had been voluntary for over five years.

10. The Johnson County Bar Foundation is the charitable arm of the
ing space or semiprivate workspaces for the unrepresented litigants? Can you provide computer workstations, or will the forms and instructions be provided in paper only? Meet early and often with your facilities-management provider. The more they understand what you’re trying to accomplish, the better they can assist in providing appropriate space and furnishings. We found facilities management to be creative and interested in doing what they could to help the court and the community. Simple things like rescheduling painting plans to accommodate the help center’s opening are much easier if facilities management is involved in the planning process.

A commitment from the local judiciary making the help center a priority is necessary. Our help center needed to have public space as well as a work area for our multitasking clerks. It opened as three side-by-side workstations in an area dedicated to public-records access. There were already workstations provided for public review of court records. Paper files are not kept, and not all records are available online and off site. Three of the public-access workstations were reassigned as the “Help Center.” Two deputy court clerks were moved into work places behind the public-records counter where they could see if a URL came into the area. Signage was posted directing URLs to check in at a specific place at the public-records counter. A surplus desk and computer workstation was installed in the public area to allow help-center staff to work with URLs, be present in the room while they worked, and continue multitasking if not actively assisting. Scavenged side chairs were placed in the public area for those waiting or accompanying URLs. Cooperation and consultation with JIMS and the county facilities department made the initial opening possible. Understanding the goals allowed them to make suggestions and propose workable solutions.

This initial space was not ideal but was a great start. When opened, the public area housed not only the help center and public-records-access workstations but the juvenile and probate clerk’s counters as well. Often URLS bring along supportive friends and children. Help-center and clerk’s-office staff valiantly managed the competing interests, but it was apparent that a bigger and specifically dedicated space would be preferable.

As part of a larger reorganization, our sheriff’s office was relocating to new space. Thanks to the work of the chief judge and county facilities management, a portion of the vacated space was identified as suitable for the help center. The process began anew to find appropriate furnishings. Some of the furnishings located in the vacated space could be repurposed. Surplus cubicles, chairs, tables, and desks were found and moved to the new space. The new space has a check-in counter, four user workstations, space for up to five deputy clerks to work, a waiting area, and a private office for Kansas Legal Services and volunteer attorneys to meet with help-center clients. The major costs of outfitting the center physically, in addition to the work hours contributed by many people, were in moving and reassembling cubicles and furnishings, repainting the space, and buying a copy machine and software licenses. As many of these items were available for dual purposes, the costs could be allocated among several accounts, minimizing the cost to any individual office.

6. ASK FOR HELP. START WITH THE NATIONAL CENTER FOR STATE COURTS.

You now know generally what you would like to do, who can staff your center, and how much money you have (or don’t have). Next, contact the National Center for State Courts for technical assistance. Everyone involved with help centers and access-to-justice programs are dedicated public servants who are rightly proud of and excited to share information about the specific services they provide. They have been extraordinarily generous in their time and willingness to share their experiences and work product with those interested in providing similar services. If at all possible, arrange for a site visit. Look for a court that has similar goals and provides services similar to those that you would like to provide. Seeing a help center in action and asking questions of those with real-world experience running one is invaluable. There is no better way to fully grasp what is possible, determine what you want to do, and avoid a few mistakes than to visit a fully functioning help center.

While our team was able to amass a lot of information, the actual implementation and adaptation of the various options for our particular court continued to be a concern. Fortunately, reading through the pages of Court Review, we noticed that technical assistance was available from the National Center for State Courts (NCSC) for those wanting to implement access-to-justice programs in their courthouses. We contacted the NCSC, and Deborah Smith quickly replied with a wealth of information, including links and documents suggesting how a help center could be started on a shoestring budget.

The NCSC also had grant money available to jumpstart such programs with technical-assistance initiatives. Our grant application was approved, and with NCSC assistance, it was decided that the best option was for a few of our team members to visit the New York State Access to Justice office in Manhattan. The grant provided funding for one judge, one court clerk, and one JIMS representative to travel to New York City. Our chief clerk considered the visit to be so important that she funded travel costs for two additional deputy clerks. We were privileged to meet with the Hon. Fern A. Fisher, Director of the New York State Courts Access to Justice Program and Chief Deputy Administrator of the New York City Courts. Together with our compatriots from the Montana Supreme Court, we spent a Thursday learning how New York structures its physical and online help centers, coordinates with members of the bench and bar, implements greater online and virtual access, and trains court staff and attorneys. Like any good learning experience, we learned of issues, questions, and possibilities that we had not yet considered.

On Friday, we visited Michael Williams, Clerk of the Family Court in the Bronx, New York. There we saw a help center in action and began to appreciate the need for prioritizing

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11. We also met with Rochelle Klempner, Chief Counsel for the New York State Access to Justice Program; Tracy M. McNeil, Special Counsel for Program Initiatives; and Sun Kim, Special Counsel for Technology Initiatives.
goals in designing not only an appropriate physical workspace but also the necessary workflow to allow unrepresented parties to easily find the center, locate the help needed, quickly and efficiently complete the forms, file them, and be on about their day. We were able to speak with court staff and other judges to see how a properly operating help center could increase courtroom efficiency and overall litigant satisfaction. We were shown how help-center staff interacted with litigants. They shared how completed forms were reviewed in advance. We benefitted greatly from talking with those who had been operating a help center. The practical advice was something we would not have received any other way. The participation of court staff, who would be integral to the day-to-day operation of our help center, was particularly important. Their real-world questions elicited the best advice.

7. IDENTIFY, COLLECT, AND DRAFT NECESSARY FORMS AND INSTRUCTIONS.
Forms are the bedrock of the help center. Most users come looking for forms and help completing them. You will likely find that many forms are already available. Review them to make sure they are not written in legal jargon that is difficult for the untrained to read or understand. The unrepresented litigant is often stressed and tense. He or she is in an unfamiliar setting, dealing with issues that are often frightening and very personal. Being asked to fill out a legal document or affidavit written in legalistic language may be too much to ask.

Determine whether you want your forms in a modifiable format or in a form with limited ability to modify, such as a PDF. Clear, simple, and easy-to-understand written instructions are very important. This not only makes the information available but also makes the forms easier for users to fill out after leaving the help center so they don’t have to try to remember verbal instructions.

Our organizing group began amassing forms and instructions early on. One of the biggest complaints heard in conversations with court personnel was that most of the forms brought to court by URLs were incomplete. Much of the reason for this was that the litigant could not understand the form or had trouble figuring out what was supposed to be written in a particular blank. Instructions can be long and detailed and, frankly, often go unread. Checklists can be useful as supplements to the instructions. Many courts have local rules and practices that are not contemplated by the statewide form drafters.

Our process was first to decide what forms were needed in the most basic and regularly occurring cases, next to determine if the language in existing forms could be simplified and if they complied with local rules and practice, then to decide if the instructions should be revised, and finally, once ready for use, to place them in an easy-to-find location. The computer workstations in the help center were configured to make it quick and simple to locate the forms with just a click or two. Help-center staff often assist URLs in locating the forms page on the court website. Creating a desktop or webpage that brings all the forms together in one place, regardless of their source, reduces the time each user spends at the workstation.

8. CREATE AND COLLECT HANDOUTS AND OTHER REFERENCE DOCUMENTS FOR COURT STAFF AND LITIGANTS.
Help-center staff will be working with people who, while clearly needing legal services, also need something beyond what can be provided by the courts. Resource information should be collected and placed in a format that is easy for help-center staff to access. Clerks and court personnel can become frustrated when they want to help a person in need but can’t readily find references to services.

Many unrepresented litigants don’t know what services are available or where to find them. A quick reference guide should include a good list of legal-service referral agencies, pro bono service providers, and reduced-fee and limited-scope providers. It should also have references to social-service agencies, physical- and mental-health departments and providers, utility and rent assistance, and the like.

Our help center maintains handouts for online parenting programs and services designed to aid high-conflict families. We have information about various services provided for alternative dispute resolution and supervised exchange and parenting time. Domestic- and sexual-violence referral is on site. We have information to assist new parents and new co-parents. Most providers are happy to provide handouts or business cards. The United Way can be an excellent neutral clearinghouse for information. We do not allow handouts to be placed in the help center without approval of supervisors.

9. BEGIN TRAINING COURT STAFF EARLY AND SCHEDULE REGULAR TRAINING UPDATES.
Staff training is not just necessary but vital to the success of the help center. The training should begin before the center opens and continue regularly thereafter. Training on the difference between legal information and legal advice must be ongoing and repeated. Teaching help-center staff to ask the right questions and suggesting techniques for discerning the assis-
tance needed, instead of just what is requested, will improve efficiency and increase overall customer and staff satisfaction.

Rather than trying to create an entire training manual of our own, we have used the materials made available to us by the New York Access to Justice Program and added information from several other public sources. Our staff had many questions about legal advice versus legal information. While the line between the two is blurry at best, most court clerks and court staff have been warned repeatedly about the dangers of straying across the line. It is repeated in almost every courthouse like a mantra: “I’m not a lawyer; I can give you legal information, but I can’t give you legal advice.” While this is fine in the abstract, the practical distinction is hard to apply.

We hold, at a minimum, monthly training meetings for help-center staff. Each month we try to cover a different topic, and we always talk about the difference between legal advice and legal information. Help-center staff are encouraged to keep notes of difficult situations that have arisen, and the group discusses whether particular litigants sought information or advice and how to properly respond. Handbooks and training manuals from various courts are made available to help-center staff for reference.

Of course, feeling comfortable as a staff member as to where the line might be doesn’t necessary solve the problem. URLs usually do not understand the difference and might insist that they should receive more help than staff can give. Laypersons often do not understand and appreciate the legal and ethical constraints on staff. We suggest that when pressed, staff tell URLs that they can give them information about what they can or can’t do but not what they should or shouldn’t do. They can provide the information needed for that person’s request to come before the court but can’t suggest tactics or provide opinions. Most are satisfied with such responses.

Help-center staff also need training in dealing with stressed and sometimes belligerent individuals. They need to be empowered to call security whenever needed.

Often a URL asks for one thing but really wants another. We work with our staff on reflexive listening. For example, the following is not an uncommon exchange. Court staff are trained to reply something like this:
URL: “I need forms to change custody of my kids.”
Staff: “We can help you with that. You would like a form to change how you and your child’s co-parent make major decisions for your child, is that right?”
URL: “No, I just want to see my kids more.”
Staff: “Okay, I can show you the forms for modifying a parenting plan or schedule.”

While this is an admittedly simplistic example, interplays like this are role-played and discussed regularly.

The sessions also provide feedback to judges and supervisors. Changes in policy and procedure are often first suggested and discussed in these meetings. For example, a small number of people are unrepresented not so much because they can’t afford legal service but because they are unable to work well with lawyers. If that is true, they are unlikely to work well with help-center staff. Trainings should include discussion and suggestions on how to deal with high-conflict individuals. We have also asked a local attorney to speak with staff about how to complete child-support worksheets. The topics were not about the legal niceties of child-support calculation but how to operate the child-support-calculation software loaded on the self-help workstations and how to direct users to the help files contained in the software package.

10. SET AN OPENING DATE AND START SMALL.

Even with all your research, site visits, advice, and articles, there really is no way to appreciate exactly what is needed or the kind of issues that will arise until the doors open. Frankly, we didn’t know what we didn’t know. A soft, minimally publicized opening, with limited goals and options, will allow help-center staff to become comfortable and proficient before moving on to new areas and greater numbers of users. It maximizes the likelihood of success while minimizing potential complications and staff dissatisfaction.

Upon returning to Olathe after visiting New York, everyone who had made the trip was certain that our help center could be opened soon. On May 1, 2014, the help center opened in its original space. Initially, only assistance with divorces (with and without children) and post-decree child-support and parenting-plan matters were handled.

During the first month, 116 people visited the help center. By July, the number had nearly doubled. As the community became aware of the center, more people visited. Judges began referring unrepresented litigants, as did attorneys litigating against them. As staff became more comfortable with processes and forms, new topics were added. Soon parentage cases, landlord-tenant disputes, and simple collection cases were added.

The new dedicated space was formally opened on October 1, 2014. An open house was held that was attended by the entire courthouse community, many representatives of the local bar, bar associations, Inns of Court, representatives of county government, staff of the state Office of Judicial Administration, and a number of judges from the Kansas appellate courts. By the end of October 2014, the help center was serving 300 people per month. The numbers continue to rise.

11. REASSESS AND REVISE. SOME THINGS WILL WORK RIGHT; SOME WON’T.

Even with all of the study and research, you really won’t know what community members need until they ask for it. Almost as an afterthought, the help center’s primary forms page was published to the internet, making it available not only at the center but online. We didn’t really appreciate how much the website would be used as opposed to the physical help center.

While 12 to 15 people were visiting the physical help center each day, many more were accessing forms and information via the court’s website. This has caused a reevaluation of how the website should be structured and monitored. Lawyers naturally assumed that temporary-order forms would be neces-

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12. In Kansas, legal custody refers only to decision making and not parenting time or visitation arrangements.
necessary, but we’ve found that very few unrepresented litigants seek or want them. Third-party visitation, especially grandparents, was a bigger topic of discussion than we expected. After working with the forms for several months, appropriate tweaks and modifications to the instructions are becoming apparent.

As the number of people that visit the help center continues to grow, so do the number and complexity of problems. Help-center forms and instructions were designed to handle the simplest and most common cases. Some issues are simply beyond the help-center staff’s ability to assist. A way to provide limited legal advice to those who could not afford it became a new priority.

Our county had gone for quite some time without the presence of a legal-aid office. The dedicated attorneys at Kansas Legal Services (“KLS”) had long wanted to return and provide a local presence. Thanks to the grant from the Johnson County Bar Foundation, KLS now provides attorneys for those who financially qualify two days per week. This service began in October 2014 and was a direct result of reviewing the needs of users and matching those needs to an existing provider. Appointments are made through the reception desk by phone and a referral to the KLS office. Individuals wanting to talk to a KLS attorney are prequalified so that when they arrive for their meeting, no time has to be spent assuring that they economically qualify for services. Appointments range from 30 to 60 minutes depending on complexity. The majority of KLS clients meet with an attorney one time to have questions answered and to receive limited advice. An office is available in the help center for confidential client meetings, and a desktop computer is provided to allow access to forms and other necessary resources. If the KLS attorney is not busy with an appointment, walk-in conferences are available. In the unlikely event that no appointments are pending and no walk-ins arrive, courthouse-wide free Wi-Fi is available so that the legal-aid attorneys can attend to other business.

By and large, KLS clients must not earn more than 150% to 200% of federal poverty guidelines. This leaves a gap between those who can qualify for legal aid and those who can reasonably afford legal services. Several steps are being taken to address that need. Help-center staff are learning to recognize those who cannot qualify for legal-aid services but might be suffering financial distress. Staff refer these individuals to local and state bar associations and reduced-fee service providers. In an effort to increase access, the Johnson County Bar Association, the Johnson County Family Law Inn of Court, and the Kansas Bar Association are currently working to provide on-site clinic support in the help center.

Attempting to design an appropriate volunteer-attorney project presented a new and different challenge. The NCSC once again came to the rescue. We contacted Deborah Smith for referrals and possible technical assistance in starting such a program. She quickly and enthusiastically provided referrals, which led to informative e-mail and telephone conversations with help-center operators working with volunteer attorneys in both Alaska and Minnesota.13

After several enlightening telephone calls and reviewing documents and information provided, I traveled to Minneapolis to visit the Minnesota Court Self-Help Center and the Fourth Judicial District.14 I was introduced to the help-center staff, who explained how their center worked and how they integrated volunteer attorneys into the process. I was allowed to observe both live and virtual services being provided. I met with and observed lawyers working with clients at the “Legal Access Point” clinic located in the courthouse. Volunteer attorneys are recruited through multiple sources. I was fortunate to meet with representatives of one major provider, the Volunteer Lawyers Network,15 who shared information on recruiting, training, and managing volunteer attorneys at on- and off-site locations. Later in the day, I was privileged to watch volunteer lawyers in action during Judge Jason Hutchinson’s housing court initial appearances and docket. The day ended with a visit to the Family Court Self-Help Center and a chance to meet with an attorney participating in the clinic.

Armed with information that was only made available thanks to the help of the NCSC and its referrals, the Johnson County District Court Help Center has plans for expanding volunteer-attorney projects both on site and online. The Kansas Bar Association is now providing on-site reduced-fee service.

13. The author wishes to acknowledge the valuable advice and assistance of Stacey Marz, Director of the Family Law Self-Help Center for the Alaska court system; Sarah Gonsalves, Manager of the Self Represented Litigant Service Center for the Minnesota Court Self-Help Center; Katrina Zabinski, Lead Web Content Manager for the Minnesota Fourth Judicial District; Valerie Trammell, Staff Attorney at the Hennepin County Government Center Help Center; and Mary Dilla, Supervising Attorney at the Minnesota Fourth Judicial District Family Court Self-Help Center.

14. While I very much would have enjoyed visiting the Alaska State Court program, the drive was too daunting.

15. Special thanks to attorneys Tom Walsh and Martha Delaney of the Volunteer Attorney Network.
services one day per week. Volunteer attorneys will be in the help center one or two days per month coinciding with special dockets established by the family courts to encourage the filing of parenting plans. Many cases are opened by the state for the purposes of establishing and enforcing child support. A significant number of these cases do not have a parenting plan on file. In hope of increasing parental involvement and child-support compliance, the courts will refer URLs to the help center to meet with the volunteer attorneys to prepare agreed or proposed parenting plans. Unrepresented litigants can also get information and limited advice concerning their parenting plans. An effort to encourage limited-scope representation is in the planning stages.

Another issue that came up after our opening was that judges and court personnel were referring URLs to the help center, but litigants did not always understand what they needed or why they were referred. A way to refer with specifics was needed. Help-center staff designed a referral note that can be given to URLs. When someone arrives at the intake desk with a bright orange note in hand, everyone knows that court personnel made the referral and that the needed referral information can be found on that note.

We also learned that handing out forms in hard copy for completion at home only marginally increases the number of documents that arrive in court filled out correctly and completely. The provision of computer workstations and encouraging users to take the time to work on the pleadings on-site allows URLs to ask questions and staff members to review their documents before litigants leave. We have also found that providing URLs the opportunity to file their pleadings immediately after completing them in the help center instead of being sent to another office increases the number of people who stay on-site and complete the forms. It saves them a trip.

12. KEEP RECORDS AND STATISTICS.

It is useful to know what people are using, what they are asking for, and who is using the help center. Feedback on services provided can help you improve and change your approach. From the May 2014 opening, we’ve been tracking several basic statistical points. Each user fills out an intake sheet on arrival. We keep track of how many users we have in a month, why they came to the help center, and the service we provided.

Johnson County is a large county with urban, suburban, and rural areas. We monitor the general geographic distribution of our users by zip code. Statistics are also maintained on how many users use the center in person and how many obtain phone advice. This information has been used to modify forms and procedures and to consider potential new ones.

We can also confirm or adjust our allocation of effort and resources. For example, in March 2015, divorces with children accounted for 16% of all help-center contacts. Divorces without children were 24%, and motions to modify child support totaled 21%. Parentage cases were added after opening and now account for approximately 7% of all contacts. Another 7% fall in no current category and will be the source of additions to services offered. Phone contacts are tabulated separately from in-person contacts and account for approximately 15% of all discrete contacts. We have not maintained statistics for online usage but plan to do so in the future.

After keeping statistics for a few months, we began to keep track of days and times that were busier than others to assist with staffing. By doing so, we learned that the early part of the week was the busiest time and that in-office visits decreased beginning on Wednesday. While this confirmed what staff anecdotally suspected to be true, it was helpful to see the magnitude of the differences. We also learned that in most, but not all, weeks, the afternoons were busier than the mornings. We have used this to efficiently allocate staff and volunteer-attorney resources.

CONCLUSION

Starting a help center is possible. Each courthouse is different, and every locale will have different needs and resources. The type, size, and offerings may differ, but the unrepresented litigants will have greater and better access to the justice they deserve, and your courts will function more effectively and efficiently. The few perpetually unhappy people aside, the unrepresented litigants stopping into the help center have been very appreciative and cooperative. Most understand that they would not be receiving any assistance but for help-center staff and volunteers. It is said in our courthouse that the help center has the highest number of “hugs per square foot” in the building.

We’ve been very fortunate to have the support and encouragement of the National Center for State Courts, of judges and lawyers in New York, Minnesota, and Alaska, and many others. Should you choose to start a help center, we know you’ll find the same.16 The Johnson County District Court Help Center has been a great success for the unrepresented, the bench, and the bar. There is much work to be done, but we are very happy with the results to date. We welcome anyone who would like to visit.

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They are: Chief Judge Kevin P. Moriarty, Judge Neil B. Foth, Judge Dan Vokins, Chief Court Clerk Sandra McCurdy, Court Administrator Michael McLain, Director of JIMS Timothy Mulcahy, Deputy Court Clerks Melissa Mercer, Theresa Young, and Kelly Hayden, and JIMS programmer Kathy Coggins.

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16. In addition to those previously mentioned, the author wishes to acknowledge a few of the people who have worked very hard to establish the Johnson County District Court Help Center. While this list is certainly incomplete, these individuals were all members of the original planning team or were significantly involved.
Case Study

Domestic Violence eFiling - Alamance County, NC

The unfortunate increase in frequency of incidents of domestic violence puts pressure on courts, law enforcement and state agencies to meet this challenge with urgency and efficiency. Tybera, with the North Carolina AOC, developed an eFiling wizard that significantly reduces the time it takes to file a complaint, generate a protective order and have it approved and served.

How it Works

The person seeking protection at a domestic violence service provider would ask for help from trained people in answering a few questions in an online forms wizard. Email and cell numbers are captured for e-notification to interested parties (schools, day care, etc.).

The complaint is automatically generated and filed to the court, arriving in the court clerk’s eFiling queue where it is reviewed and approved. The form data automatically generates an exparte protective order and is routed to the judge’s queue where it is reviewed and electronically signed. A text message of this status is sent to the victim.

Once the judge e-signs the order, it is posted to a queue where local law enforcement can access and download the order. The order is served and another text message is sent to the victim indicating service has been successful. At law enforcement now has access to the new order, prior violations and continuances.
Self-Represented Litigants and Civil Case Dispositions in Missouri: An Impact Analysis

Anne Dannerbeck Janku & Joseph A. Vradenburg

Access to justice is an important issue for the Missouri judiciary as it is for many other states. The issue fostered several recent national initiatives, including a 2010 Department of Justice Access to Justice Initiative. Part of the agenda for that initiative involves identifying ways to ensure fair and just outcomes for all parties to a case. Some observers of the judicial system have expressed concern that self-represented litigants may not experience fair and just outcomes. As part of Missouri’s own access-to-justice initiatives, this study was undertaken to understand how self-representation impacts outcomes in civil cases.

About half the cases filed in any given year in circuit (general jurisdiction) courts involve civil matters. To access the courts for resolution of problems with a legal nature, citizens generally need adequate financial resources to pay for legal representation and court costs. The financial crisis of 2007 to 2008 and the ensuing economic downturn created new groups of individuals facing difficult circumstances and reinforced the vulnerabilities of some groups who historically lived in impoverished conditions. The challenge for the courts in these times has been to provide access to justice when citizens have inadequate financial resources or, for other reasons, a lack of the legal resources needed to resolve their problems in court.

One result of the economic downturn is that more people with legal problems are not able to afford an attorney. While some learn to live with their problems, others try to access scarce legal-aid services, and still others are representing themselves in court. Although courts may be making some accommodations for self-represented litigants (SRLs), such as helping them fill out forms or taking time in court to explain procedures, observers have noted that they seem to be at a disadvantage in court proceedings and are more likely to experience unfavorable outcomes on their cases both because courts are not adequately prepared to accommodate their needs and because SRLs often lack the skills and knowledge to effectively seek desirable outcomes in their cases. Concerns have also been raised about SRLs’ potentially unrealistic expectations about the court’s role in solving individual problems since they have no legal counsel to temper their expectations. The potential result is that more matters could reach the court that could have been resolved without judicial intervention.

The purpose of this study is to expand our understanding of the impacts of self-representation on outcomes. A recent legal-service report on the justice gap raised some important questions for further research regarding equal access to justice and self-representation. While evidence is mounting that SRLs may experience less favorable outcomes, little is known about the types of cases SRLs bring to the court or the outcomes of those various types of cases.

Missouri courts permit self-representation. To assist individuals considering self-representation in family-law matters, the Committee on Access to Family Courts developed a website with helpful resources, including educational programming for those considering self-representation, legal forms, guidelines on the kinds of court-staff assistance available, and resources for stopping abuse and stalking. Although assistance is available for family-law matters, the same level of help is not available for other civil matters. This lack of support may impact the ability of the self-represented to pursue access to justice and receive favorable dispositions in their cases. Analysis later in this study sheds more light on this matter.

This study analyzes various civil case types involving what in Missouri are referred to as pro se parties and compares the outcomes for pro se parties to parties with legal representation at case disposition during 2011 in the Missouri state court system. The study also compares outcomes for petitioners and respondents who are pro se parties.

Self-Representation in Civil Matters

In 2012, the American Bar Association Coalition for Justice conducted a nationwide survey of judges to gauge the impact of the economic downturn on representation in the courts.

Footnotes
6. Id.
The majority of judges responded that they had experienced an increase in unrepresented litigants and that this increase negatively impacted the effectiveness and efficiencies of the court. Errors by unrepresented litigants included procedural errors, failure to present necessary evidence, ineffective witness examination, failure to properly object to evidence, non-preservation of evidence, and ineffective arguments. As a result, court procedures are slowed, case backlogs occur, and judges struggle to maintain impartiality while preventing injustice. These negative impacts on effectiveness and efficiencies of court processes may have a negative impact on outcomes for SRLs.

These observations from judges compound a perception that SRLs are vulnerable because they are believed to be poor, have a low education level, and are otherwise socially disadvantaged. Because they are perceived to be vulnerable, they are also believed to be most in need of help. Further reinforcing this image of vulnerability among most SRLs is an association of SRLs with cases in “poor people courts” (traffic, tenant, child support, and other domestic relations). The association of poverty and other indicators of vulnerability leads to a perception that SRLs place big burdens on the courts because SRLs must be incompetent. In reality, individuals do not have legal representation on their cases for a variety of reasons. While an inability to pay attorney fees is certainly a key factor in self representing, some individuals choose not to pay an attorney, some prefer to be independent of legal counsel, and in some situations, potential litigants cannot find an attorney who perceives that their case is winnable or lucrative or fits in their portfolio.

The actual burden of SRLs on courts has not been well established. When “burden” is associated with time to process a case, results are inconclusive. Some analyses actually show that cases with SRLs take less time and fewer court actions. Rosenbloom found that represented-party cases actually took the most time and had the most docket entries. A time-use study in California found that cases with SRLs proceed faster disposed with a withdrawal or abandonment and much less likely to result in compromise and settlement. While one could interpret the observation that cases with SRLs take less time and involve fewer court actions to mean that SRLs are actually more efficient (or that attorneys slow down court processes), an alternative explanation is that SRLs do not know how to use court procedures to their benefit and do not know what information to present on a case to reach a desired outcome. For instance, anecdotal evidence, such as that reported by Gillis, suggests that the SRL spends more time in court and wins lesser awards. Potential litigants need more information on the impacts of self-representation to make informed decisions about whether to proceed without legal representation.

**DETERMINING SELF-REPRESENTATION STATUS**

To study outcomes for SRLs, one must first develop an operational definition for what constitutes a self-represented litigant on a case. In its purest form, an SRL is a party on a case with no legal resources of any kind. In Missouri, a person who represents himself in court without the help of a lawyer is said to appear pro se, or “on one's own behalf.” Some scholars do not consider this to be anything other than pure self-representation throughout the course of the case. However, the real world rarely conforms to a simple definition. Pro se parties can be entirely unsupported or receive legal advice ranging from help accessing legal forms to information shared at a legal-aid clinic to some counsel. The level of legal advice associated with a case could impact outcomes. A court database rarely contains useable information on legal resources the SRL may have accessed over the course of the case, but the court records generally contain party status, which may change over the life of a case. For the purposes of this study, a party will be considered self-representing when he or she is a party on a case at disposition, the most critical point in a case.

**INTERPRETING OUTCOMES**

Self-represented status may impact the outcome of a case. One study found that cases with an SRL were more likely to be disposed with a withdrawal or abandonment and much less likely to result in compromise and settlement. One implication of this finding is that problems of a legal nature are not

17. Id.
being resolved through the court system when SRLs are involved. Another study reports that litigants are between 17% and 1,380% more likely to receive a favorable outcome in adjudication when they are represented by counsel. 23

A big question for research on the impact of self-representation on outcomes is how one defines what constitutes a “favorable” outcome. A favorable outcome could be gaining access to property, rights, or other resources. Individual satisfaction with the case outcome or with the court experience is another indicator of a favorable outcome, although not one that is typically measured. 24 Favorable outcomes are also determined by the type of case and whose perspective is considered. Using housing cases as an example, for a tenant, the lack of an adverse action such as eviction or a positive action such as repairs made could be a favorable outcome. For the landlord, not having to pay for repairs could be a favorable outcome, as could eviction of a troublesome tenant. In administrative-agency cases, receiving benefits could be a favorable outcome for a client. Family-law cases are the most complex in ascertaining favorable outcomes. Some analysts exclude family-law cases from studies because there are no clear winners or losers. In legal- and physical-custody cases, who wins in the custody decisions? When one parent is awarded more time with children, the other parent may experience a reduction in time with the children. And for the children themselves, the probability of outcomes is even less clear. In domestic-violence cases, receipt of an order of protection is considered a favorable outcome. In consumer-finance cases, a favorable judgment and the size of the settlement are considered favorable outcomes. 25

In Missouri’s electronic case-management system, the judgment in a civil claim is entered as “against” either the petitioner or respondent. Other than the amount awarded, no standardized, summary data fields are provided in the case-management system to identify the nature of the judgment. For instance, information on which judgments are full and which are partial would help in determining how “favorable” a case outcome might be; however, the database does not capture the amount sought by the petitioner (unless entered through a non-standardized text field), nor does it contain partial-judgment for/against fields. When deciding a case, the judge or jury can award whatever amount they see fit.

SELF-REPRESENTATION IN MISSOURI

Data on SRLs is available in the Missouri court electronic case-management system, the Judicial Information System. For this study, case types were grouped as closely as possible to the same categories as Missouri Legal Services uses, e.g., consumer finance, employment, family, juvenile, housing, income maintenance, individual rights, and miscellaneous. Family cases are included in this study because they constitute the majority of civil cases with an SRL and because an outcome of “judgment against” has been included with the cases. In fiscal year 2011, an estimated 76,973 litigants were pro se parties at some point during case proceedings. In contrast, at the time of disposition during the same year, 74,730 separate pro se parties (i.e., self-represented litigants) were associated with civil cases in Missouri circuit courts. 26 This count includes only those litigants who were recorded as pro se at the time of disposition, excluding those who file as pro se but later retain an attorney. Of the 379,991 civil cases disposed in Missouri in fiscal year 2011, 14% included at least one pro se party.

ANALYSIS AND RESULTS

Some judicial observers believe people who represent themselves are more likely to lose their cases because they do not have the expertise to effectively navigate the legal system. 27 Researchers analyzed this issue for Missouri pro se civil case filers from two perspectives. First, the analysis compared the manner of disposition for pro se versus non-pro se parties and then focused specifically on judgments against pro se parties. Next, the analysis compared judgments against associated with pro se respondents compared to those associated with petitioners.

The distribution of party type at disposition by case category was compared for pro se parties to those that were not pro se. In fiscal year 2011, compared to over 800,000 non-pro se parties at disposition, almost 75,000 parties to a civil case (including domestic relations) had a pro se party type code at case disposition. 28 Almost two-thirds of all pro se parties were associated with family-law cases (generally domestic relations). Family case types with a large number of pro se parties included adult- and child-protection orders, dissolutions, modifications and access, and paternity. This finding is consistent with most other studies that have found self-representation most common in domestic-relations cases. 29

The consumer-finance category (small claims, suit on account, breach of contract, etc.) and the housing category (rent and possession, landlord complaints, unlawful detainer, etc.) also had a number of pro se parties. A notable percentage of party types at disposition were pro se in cases on consumer finance (especially suit on account and breach of contract) and individual rights (especially expungement, post-conviction relief, and habeas corpus). In comparison to the distribution of non-pro se party types across case categories, pro se had a markedly higher proportion of family cases and lower proportion of consumer-finance and miscellaneous cases. 30

Next, the analysis compared the manner of disposition for non-pro se parties to pro se parties. In comparison to non-pro se party types at disposition, pro se party types had markedly different overall proportions (i.e., greater than 1% difference) for some outcomes. The “dismissed by court without prejudice,” “tried by court—civil,” and “uncontested” outcomes were higher among pro se parties primarily in family cases.

23. Engler, supra note 7.
24. GREACEN, supra note 16.
25. Engler, supra note 7.
26. Pro se party estimates reflect a count of active and distinct party IDs with a pro se party type code on cases filed during the fiscal year.
28. See supra Table 1.
29. GREACEN, supra note 16.
30. Comparison does not include criminal case categories/types.
especially protection orders and—for uncontested outcomes—dissolutions without children). The “default judgment,” “dismissed by parties,” “consent judgment,” and “change of venue” outcomes were lower among pro se parties primarily in consumer-finance cases (especially associate civil (bulk) contract).

Pro se party types had markedly different proportions (i.e., greater than or equal to a 5% difference) for some outcomes within some case categories. Overall, these differences may suggest pro se litigants are more likely to use the full resources

| TABLE 1: FY11 DISPOSITIONS, BY ACTIVE PARTY TYPE AT DISPOSITION AND CASE CATEGORY |
|---------------------------------|---------------------|---------------------|
|                                  | NON-PRO SE PARTIES  | PRO SE PARTIES      |
|                                  | COUNT               | PERCENT DISTRIBUTION| COUNT               | PERCENT DISTRIBUTION |
| CONSUMER FINANCE                 | 377,070             | 46.7%               | 13,535              | 18.1%                |
| EMPLOYMENT                       | 9,898               | 1.2%                | 75                  | 0.1%                 |
| FAMILY                           | 168,347             | 20.9%               | 48,307              | 64.6%                |
| JUVENILE                         | 1,683               | 0.2%                | 17                  | 0.0%                 |
| HOUSING                          | 123,144             | 15.3%               | 10,278              | 13.8%                |
| INCOME MAINTENANCE               | 254                 | 0.0%                | 1                   | 0.0%                 |
| INDIVIDUAL RIGHTS                | 23,611              | 2.9%                | 829                 | 1.1%                 |
| MISCELLANEOUS                    | 103,187             | 12.8%               | 1,688               | 2.3%                 |
|                                 | 807,194             | 100.0%              | 74,730              | 100.0%               |

Source: Missouri Judicial Information System

| TABLE 2: FY11 MANNER OF DISPOSITION, BY CASE CATEGORY AND ACTIVE PARTY TYPE AT DISPOSITION, FOR MANNERS OF DISPOSITION WITH HIGHEST PERCENTAGE-POINT DIFFERENCES BETWEEN PRO SE AND NON-PRO SE PARTIES |
|---------------------------------|---------------------|---------------------|
|                                  | NON-PRO SE PARTIES  | PRO SE PARTIES      |
|                                  | MANNER OF DISPOSITION | COUNT | PERCENT DISTRIBUTION | COUNT | PERCENT DISTRIBUTION |
| CONSUMER FINANCE                 | Tried by Court—Civil | 15,837 | 4.2%                | 2,652 | 19.6%                |
|                                 | Dismissed w/o Prejudice | 37,330 | 9.9%                | 2,286 | 16.9%                |
|                                 | Dismissed by Parties   | 100,301 | 26.6%               | 2,756 | 20.4%                |
|                                 | Consent Judgment       | 56,938 | 15.1%               | 1,042 | 7.7%                 |
|                                 | Default Judgment       | 145,926 | 38.7%               | 4,064 | 30.0%                |
| EMPLOYMENT                       | Other Final Disposition | 267 | 2.7%                | 21 | 28.0%                |
|                                 | Remove to Federal Court | 267 | 2.7%                | 13 | 17.3%                |
|                                 | Dismissed w/o Prejudice | 1,406 | 14.2%               | 7 | 9.3%                 |
|                                 | Default Judgment       | 2,376 | 24.0%               | 8 | 10.7%                |
|                                 | Dismissed by Parties   | 3,445 | 34.8%               | 15 | 20.0%                |
| FAMILY                           | Dismissed w/o Prejudice | 41,750 | 24.8%               | 18,874 | 39.1%                |
|                                 | Uncontested            | 29,461 | 17.5%               | 4,552 | 9.4%                 |
| HOUSING                          | Dismissed w/o Prejudice | 7,758 | 6.3%                | 1,399 | 13.6%                |
|                                 | Tried by Court—Civil   | 9,852 | 8.0%                | 1,547 | 15.1%                |
|                                 | Dismissed by Parties   | 29,924 | 24.3%               | 1,417 | 13.8%                |
| INDIVIDUAL RIGHTS                | Tried by Court—Civil   | 10,082 | 42.7%               | 457 | 55.1%                 |
|                                 | Dismissed w/o Prejudice | 2,644 | 11.2%               | 143 | 17.2%                |
|                                 | Dismissed by Parties   | 3,896 | 16.5%               | 84 | 10.1%                |
| MISCELLANEOUS                    | Tried by Court—Civil   | 8,255 | 8.0%                | 386 | 22.9%                |
|                                 | Probate Order          | 5,263 | 5.1%                | 260 | 15.4%                |
|                                 | Dismissed w/o Prejudice | 12,279 | 11.9%               | 290 | 17.2%                |
|                                 | Dismissed by Parties   | 40,346 | 39.1%               | 275 | 16.3%                |

Source: Missouri Judicial Information System
of the court, as indicated by disproportionately more “tried by court—civil” outcomes and fewer “dismissed by parties” and “consent/default judgment” outcomes. The results also suggest that pro se litigants are more likely to have their cases dismissed without resolution, as indicated by a disproportionate amount of “dismissed by court without prejudice” outcomes.

During fiscal year 2011, there were approximately 13,500 judgments against either petitioners or respondents who were pro se at the time of case disposition.\(^{31}\) This count represents 5.8% of the 232,751 judgments on civil cases (including domestic relations and probate) documented in the judiciary database. However, the proportion of judgments that are against pro se parties (5.8%) was less than the proportion of documented petitioner and respondent parties who were pro se at disposition (8.5%). These relative proportions may suggest that, in general, pro se parties are not at a greater risk of “losing their case” (defined by the judgment) than parties represented by an attorney. Almost one-tenth of judgments were against the petitioner (see Table 3). Among non-pro se parties, the judgment was against the petitioner 9% of the time, compared to judgments against them. The analysis seems to indicate that as a pro se petitioner, one has a slight disadvantage in consumer-finance, family, and individual-rights cases.

The analysis next compared judgments against respondents. Over nine-tenths of judgments (or 90.6%) were against the respondent. Among respondents, approximately 5% were against pro se parties. Almost one-half of judgments against pro se respondents were in family cases and two-fifths in consumer-finance cases.\(^{33}\) In comparison to non-pro se respondents, pro se respondents actually had a lower proportion of judgments against them.

### Table 3: FY11 Distribution of Documented Judgment Against, by Pro Se Status and Party Type

<table>
<thead>
<tr>
<th>Measure</th>
<th>Pro Se Status</th>
<th>Number Against Petitioners</th>
<th>Number Against Respondents</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Count</td>
<td>Pro se</td>
<td>2,544</td>
<td>10,972</td>
<td>13,516</td>
</tr>
<tr>
<td></td>
<td>Non-Pro se</td>
<td>19,361</td>
<td>199,874</td>
<td>219,235</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>21,905</td>
<td>210,846</td>
<td>232,751</td>
</tr>
<tr>
<td>Percent</td>
<td>Pro se</td>
<td>1.1%</td>
<td>4.7%</td>
<td>5.8%</td>
</tr>
<tr>
<td></td>
<td>Non-Pro se</td>
<td>8.3%</td>
<td>85.9%</td>
<td>94.2%</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>9.4%</td>
<td>90.6%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: Missouri Judicial Information System

### Table 4: FY11 Documented Judgments Against Petitioners, by Pro Se Status and Case Category

<table>
<thead>
<tr>
<th>Case Category</th>
<th>Number Against Pro Se Petitioners</th>
<th>% Judgments Against for Pro Se Petitioners</th>
<th>Number Against Non-Pro Se Petitioners</th>
<th>% Judgments Against for Non-Pro Se Petitioners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumer Finance</td>
<td>335</td>
<td>13.2%</td>
<td>2,207</td>
<td>11.4%</td>
</tr>
<tr>
<td>Employment</td>
<td>1</td>
<td>0.0%</td>
<td>58</td>
<td>0.3%</td>
</tr>
<tr>
<td>Family</td>
<td>1,949</td>
<td>76.6%</td>
<td>13,882</td>
<td>71.7%</td>
</tr>
<tr>
<td>Juvenile</td>
<td>133</td>
<td>5.2%</td>
<td>271</td>
<td>1.4%</td>
</tr>
<tr>
<td>Income Maintenance</td>
<td>68</td>
<td>2.7%</td>
<td>1,258</td>
<td>6.5%</td>
</tr>
<tr>
<td>Individual Rights</td>
<td>58</td>
<td>2.3%</td>
<td>1,626</td>
<td>8.4%</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>2,544</td>
<td>100.0%</td>
<td>19,342</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: Missouri Judicial Information System

\(^{31}\) See supra Table 3. Only applicant/petitioner/plaintiff/etc. and defendant/respondent/defendant/etc. with “display sort seq” codes of 3 or 4 were included in the analysis.

\(^{32}\) See supra Table 4.

\(^{33}\) See infra Table 5.
So far the analysis has examined all cases with no distinction between those with pro se parties on both the respondent and petitioner sides and those with a pro se party on just one side. To really understand any potential disadvantage in case outcomes for pro se parties, the analysis was narrowed to those cases with a pro se party on just one side. Against non-pro se respondents, pro se petitioners were consistently more likely to receive a judgment against than were non-pro se petitioners. Both instances support the proposition that pro se litigants have worse outcomes than attorney-represented litigants.

CONCLUSIONS
These results provide some evidence to support the contention that people who represent themselves are more likely to lose their cases, at least for certain case types. To fully test this hypothesis, the analyst would need more information about the nature of the cases used in the comparison to control for other factors that could impact case outcomes besides pro se status.

Those factors include the quality of representation, merits of the case, substantive law, complexity of procedures, judge, and overall operation of the court. In addition, because the

34. See supra Table 6.
35. Engler, supra note 7.
analysis focuses on outcomes, more information is needed about the nature of outcomes. Someone, most likely the judicial officer, is making a determination about who receives a judgment against, but the nature and extent of the “unfavorable” outcome is indeterminate with the available information.

Many people assume that the primary factor provoking individuals to self-represent is lack of financial resources to hire an attorney. Individuals may have other reasons to represent themselves, including desire to maintain control over their lives, views about attorneys, ease of access to relevant information in electronic formats, and a perception that matters are simple enough to handle without an attorney, especially among well-educated individuals. In considering how to facilitate access to justice, all of these reasons should inform any strategies to enhance accessibility of court procedures.

This analysis provides evidence that pro se parties may be at a disadvantage in court proceedings. More importantly, the analysis shows that a substantial number of pro se parties are associated with consumer-finance and housing cases. Currently, helpful resources are available in Missouri only for pro se parties on family cases. To promote equal access to justice, the judiciary should find ways to expand supportive resources for pro se litigants with consumer-finance and housing cases, two areas that have experienced increased activity associated with the economic downturn.

36. Massachusetts Supreme Judicial Court, supra note 13.
37. Barclay, supra note 14.
38. Swank, supra note 11.

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Joseph A. Vradenburg received a doctorate in anthropology from the University of Missouri, specializing in the analysis of human skeletal remains from archaeological sites. Subsequently, he worked in applied epidemiology of chronic and communicable diseases and substance abuse. At the time of this study, he was the statistics supervisor for the Missouri state court system, where he was responsible for court-performance measurement, assessment, and issue/needs analyses.

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Court Review Author Submission Guidelines

Court Review, the quarterly journal of the American Judges Association (AJA), invites the submission of unsolicited, original articles, essays, and book reviews. Court Review seeks to provide practical, useful information to the working judges of the United States and Canada. In each issue, we hope to provide information that will be of use to judges in their everyday work, whether in highlighting new procedures or methods of trial, court, or case management, providing substantive information regarding an area of law likely to be encountered by many judges, or by providing background information (such as psychology or other social science research) that can be used by judges in their work.

Court Review is received by the 2,000 members of the American Judges Association (AJA), as well as many law libraries. About 40 percent of the members of the AJA are general-jurisdiction, state trial judges. Another 40 percent are limited-jurisdiction judges, including municipal court and other specialized court judges. The remainder include federal trial judges, state and federal appellate judges, and administrative-law judges.

**Articles:** Articles should be submitted in double-spaced text with footnotes in Microsoft Word format. The suggested article length for Court Review is between 18 and 36 pages of double-spaced text (including the footnotes). Footnotes should conform to the current edition of The Bluebook: A Uniform System of Citation. Articles should be of a quality consistent with better state-bar-association law journals and/or other law reviews.

**Essays:** Essays should be submitted in the same format as articles. Suggested length is between 6 and 12 pages of double-spaced text (including any footnotes).

**Book Reviews:** Book reviews should be submitted in the same format as articles. Suggested length is between 3 and 9 pages of double-spaced text (including any footnotes).

**Pre-commitment:** For previously published authors, we will consider making a tentative publication commitment based upon an article outline. In addition to the outline, a comment about the specific ways in which the submission will be useful to judges and/or advance scholarly discourse on the subject matter would be appreciated. Final acceptance for publication cannot be given until a completed article, essay, or book review has been received and reviewed by the Court Review editor or board of editors.

**Editing:** Court Review reserves the right to edit all manuscripts.

**Submission:** Submissions may be made either by mail or e-mail. Please send them to Court Review’s editors: Judge Steve Leben, 301 S.W. 10th Ave., Suite 278, Topeka, Kansas 66612, e-mail address: sleben56@gmail.com; or Professor Eve Brank, Department of Psychology, 339 Burnett Hall, PO Box 880308, Lincoln, NE 68588-0308, e-mail address: ebrank2@unl.edu. Submissions will be acknowledged by mail or e-mail; notice of acceptance or rejection will be sent following review.
AMERICAN JUDGES ASSOCIATION FUTURE CONFERENCES

AMERICAN JUDGES ASSOCIATION 2015 ANNUAL CONFERENCE

SEATTLE
Sheraton Seattle

October 4-7
$189 single/double

2016 ANNUAL CONFERENCE
Toronto, Ontario

Toronto Marriott Eaton Centre
September 25-30
$214 (Canadian) single/double
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Training Materials

Court-Staff Training Materials
http://goo.gl/xN6MNH

The Maryland Access to Justice Commission has excellent resources for court staff to use in learning how they can—and cannot—help self-represented litigants. There’s a bench card and poster listing the things staff can do (such as explaining how the court works) and things it cannot do (like letting someone talk to the judge outside of court or telling someone what to say in court). Answers to questions about what staff may do often are not self-explanatory to court staff, and the Maryland Commission has offered a handy checklist.

There’s also an 18-minute training video for court staff on how to respond to inquiries from litigants. Additional materials for self-assessment and for peer training accompany the video. These materials could easily be adapted for use in other states.

Center on Court Access to Justice for All
http://www.ncsc.org/atj

The National Center for State Courts has established a web-based Center on Court Access to Justice for All, which seeks to assist judges and courts in providing better access to justice. The Center works with a number of national organizations, including the American Judges Association, to implement realistic access-to-justice solutions.

It's an 11-page paper that provides various options for providing help to the self-represented litigant, with examples of courts that have set up useful websites, courthouse desks or offices, telephone-based programs, in-person clinics, and courtroom assistance.

The Center offers three webinars: (1) Self-Represented Litigation Curriculum, covering a wide variety of materials available for judicial training; (2) Procedural Fairness and Self-Represented Litigants; and (3) Forms Development. The procedural-fairness webinar, presented by Minnesota state trial judge Kevin Burke, is available on the website without registration. The other two require registration, available by contacting the Center.

The Center also offers technical assistance to state and local courts seeking help in providing better access to justice. Click the “Assistance” tab on the Center’s home page and you’ll find more information and a link to the “technical assistance request form.”

Judicial Training Materials
Access Brief: http://goo.gl/nmWt6E
Curriculum: http://goo.gl/7VHLuk

The Center on Court Access to Justice for All has materials targeted to judges. A March 2014 “Access Brief” explains the trend toward greater judicial engagement. The paper, written by Richard Zorza and National Center for State Courts researcher Pamela Casey, discusses the approach called “engaged neutrality” (see pp. 54-55 in this issue) in which judges provide greater guidance to self-represented litigants while maintaining neutrality. The Access Brief also provides an overview of a detailed set of training materials for judges. That training curriculum is available in full on the website.

General Resources

Center on Court Access to Justice for All
http://www.ncsc.org/atj

The National Center for State Courts has established a web-based Center on Court Access to Justice for All, which seeks to assist judges and courts in providing better access to justice. The Center works with a number of national organizations, including the American Judges Association, to implement realistic access-to-justice solutions.

One key feature of the Center is a series of “Access Briefs,” short papers on key topics for access to justice. The first paper, issued in November 2012, was on self-help services (http://goo.gl/FvGvl). It’s an 11-page paper setting out various options for providing help to the self-represented litigant, with examples of courts that have set up useful websites, courthouse desks or offices, telephone-based programs, in-person clinics, and courtroom assistance.

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Court Statistics Project: Rules for Cases with Self-Represented Litigants
http://goo.gl/yeflCb

Most would agree that self-represented litigants often need some assistance if they are to successfully navigate their way through the court system. But to determine how many resources should be devoted to helping them, ideally you would want to know how many self-represented litigants you have and whether their number is growing in your jurisdiction. But it turns out that it’s not as easy to count these cases as one might initially think—something that Richard Schauffler and Shauna Strickland explain in an essay at pp. 52-53 of this issue.

For more guidance on how to count cases involving self-represented litigants, go to the Court Statistics Project website, a joint project of the National Center for State Courts and the Conference of State Court Administrators. The entry page we’ve given has detailed guidance on how to keep track of these cases.

Self-Representation Resource Guide, National Center for State Courts
http://goo.gl/UQ9t0b

The National Center for State Courts general website also has an excellent resource guide that provides links to articles, web-based resources, and organizations dealing with how to improve services to self-represented litigants.