

**Supreme Court of Missouri
Committee on Access to
Family Courts**



**Report to the Supreme
Court of Missouri**

July 2012

Committee on Access to Family Court Members

The Honorable Douglas Beach, Judge, 21st Judicial Circuit

Kathleen Bird, Esq., Dispute Resolution Services, 7th Judicial Circuit

The Honorable Kelly Broniec, Judge, 12th Judicial Circuit

Karen Brown, Esq., Jackson County Family Court, Kansas City, Missouri

The Honorable Theresa Burke, Judge, 22nd Judicial Circuit

Lou DeFeo, Esq., Jefferson City, Missouri

Sandy Dowd, Circuit Clerk, 6th Judicial Circuit

The Honorable William W. Francis, Jr., Judge, Southern District Court of Appeals

Denise Gable, Assistant Attorney General, Jefferson City, Missouri

Richard Halliburton, Esq., Kansas City, Missouri

Richard Holtmeyer, Esq., Tipton, Missouri

Lori Levine, Esq., Jefferson City, Missouri

The Honorable Larry Luna, Judge, 38th Judicial Circuit

Kelly Martinez, Esq., Missouri Coalition Against Domestic and Sexual Violence

The Honorable Joel Miller, Judge, 4th Judicial Circuit

The Honorable Brent Powell, Judge, 16th Judicial Circuit

Patricia Scaglia, Esq., Independence, Missouri

The Honorable Leslie Schneider, Judge, 13th Judicial Circuit

Deanna Scott, Esq., Legal Services of Southern Missouri

The Honorable Dennis Smith, Judge, 21st Judicial Circuit

Allan Stewart, Esq., St. Louis, Missouri

Mary Jane Schweitzer, Circuit Clerk, 22nd Judicial Circuit

The Honorable J.D. Williamson, Judge (retired), 16th Judicial Circuit

Lori Levine and the Honorable Dennis Smith serve as co-chairs of the committee.

Bob Stoeckl, The Missouri Bar, serves as staff liaison between the committee and The Missouri Bar.

Kelly Cramer, Debbie Eiken, and Terri Norris serve as staff liaisons between the committee and the Office of State Courts Administrator.

Summary

In April 2008, the Supreme Court of Missouri created the Committee on Access to Family Courts (CAFC). The committee was charged with developing specific ways to insure access to justice for Missouri families in the family court divisions of this state, consistent with the eight recommendations of the Joint Commission to Review *Pro Se* Litigation.

Since 2008, much has been accomplished to assist self-represented litigants and the courts that handle their cases. Initially, the primary focus was to prepare educational programs, forms and proposed rules for dissolutions of marriage. However, during the past year, the activities of the committee have expanded to address change of name cases, both through forms and educational programs as well as convert much of the existing educational materials into a plain language format. The Committee has also addressed the potential need for rule revisions, particularly regarding limited scope representation, special needs of rural communities and circuits, expansion of the public's knowledge about the resources available, and broadening the Committee's scope.

A review of the activities and projects undertaken or continued by the committee and its various subcommittees in 2011-2012 to implement the original recommendations is as follows:

Recommendation #1

***Pro se* litigants in specific types of cases should be required to participate in an education program that describes the risks and responsibilities of proceeding without representation.**

The litigant awareness program continues to be updated with current and new information. The paternity establishment component of the program is now on the website. The CAFC paternity brochure has been linked to the website in both English and Spanish. The litigant awareness program website content has been revised in plain language English and Spanish to a grade level of 6-7.

Recommendation #2

Guidelines should be developed for court staff that clearly defines what information is and is not considered legal advice. The guidelines should be made available to each circuit court with the option of also distributing the guidelines to *pro se* litigants. A curriculum and training program for court staff and advocates who interact or assist *pro se* litigants should be developed.

The court staff education subcommittee is developing modules to be posted on JEWELS for court clerk and staff self-directed training. One program will provide an overview of handling self-represented litigant issues and resources available. A second program will provide specific training to court clerks and staff who have direct contact with self

represented litigants. Both modules are based on court clerk training created by the Michigan Supreme Court.

Recommendation #3

The Judicial Education Committee should develop a curriculum and training program for the judiciary on effective court management techniques in cases involving *pro se* litigants. The curriculum should include education concerning ethical dilemmas created by *pro se* litigation and should consider the development of standard protocol for handling hearings involving *pro se* litigants.

Committee member Judge Brent Powell is a member of the Trial Judge Education Committee and represents CAFC's interest on this judicial education committee.

Judge Brent Powell and Judge David Chamberlain made a one-hour presentation about limited scope representation and dealing with self-represented litigants in family law cases at the 2011 summer and fall judicial colleges. The presentation was well received by trial judges across the state.

In addition, Judge Alan Blakenship and Judge Sandra Hemphill presented a one-hour presentation about dealing with self-represented litigants at the new judge orientation seminar conducted January 23-27, 2012. Judge Hemphill's presentation included a section on limited scope representation and dealing with self-represented litigants in family law cases. The Trial Judge Education Committee is planning on including Judge Hemphill's presentation at the next new judge orientation seminar scheduled for January of 2013.

Recommendation #4

An internet-based centralized clearinghouse should be developed and maintained to serve as a repository for information concerning all *pro se* services and programs available statewide.

The website subcommittee continues to monitor activity on the self-represent website and review user comments to make the website more user-friendly. The website homepage has been reorganized to clarify content for the user. Information components linked to the litigant awareness program and forms have been standardized to reduce confusion and facilitate use. The website content (except forms) is now in plain language at a grade level of 6-7. Some information is now available in both English and Spanish. The survey developed for the Representing Yourself website continues to provide data about the effectiveness of the site and the forms provided for use by self-represented litigants.

Recommendation #5

A pamphlet or brochure should be developed and made available for distribution in each circuit court describing the resources available to educate and inform the *pro se* litigant of the risks and responsibilities of proceeding without professional legal representation.

The brochure was completed during 2009-2010. The brochure was distributed along with the litigant awareness program DVD to all judicial circuits with permission to duplicate it for local use.

Recommendations #6 and #7 – Alliances with State and Local Bar Associations / Pro Bono Initiatives Subcommittee

The circuit and family courts should strengthen alliances with state and local bar associations throughout Missouri to encourage, promote, and support lawyer referral programs that will link those in need of legal representation to lawyers who are available to provide some services in family law cases at reasonable or reduced rates.

The court system and organized bar should proactively encourage lawyers within the state to offer *pro bono* services annually and encourage initiatives to provide more sources of *pro bono* legal assistance.

Many low-income families face legal problems without legal representation. The 2002 study by Professor Greg Casey for The Missouri Bar indicated that approximately 50,000 households needed help but could not be served by existing legal assistance programs. The recent recession has only increased the number in need while government funding cuts have decreased the resources.

Last year The Missouri Bar returned to voluntary reporting of pro bono contributions. For 2011, 221 attorneys reported 27,392.57 hours of pro bono service. Of these hours 15,504.4 were spent directly helping 2,376 needy individuals without compensation. This reporting is voluntary and obviously under reports the pro bono work presently being done. But the gap between the need and the available help is great.

The CAFC began addressing the needs by developing self-representation forms and web based information. Having laid a solid foundation in these areas, the CAFC has established new subcommittees to focus on other means of meeting the needs for access to justice, one of which is focused on pro bono services.

The Pro Bono subcommittee will begin the path towards the goal of strengthening alliances with state and local bar associations throughout Missouri by identifying local bar leaders and communicating with them on a regular basis on pro bono resources (e.g. Tool Kit) and activities. We will invite all local bar associations to establish a pro bono committee or taskforce to communicate and collaborate with the CAFC on pro bono efforts. We have already begun collaboration with the Young Lawyers Section of The Missouri Bar.

The Pro Bono subcommittee is also inviting law schools in Missouri to designate representatives who will consult with the CAFC Pro Bono subcommittee on projects to integrate pro bono service in the activities and instruction of law students.

In 2010-11, the CAFC developed and the Court approved the Judge's Tool Kit on Pro Bono Legal Practice. We have begun the process of making judges and lawyers more aware of the Tool Kit as a resource to increase and support pro bono. A brochure was

distributed to attorneys attending the bi-annual Missouri Bar committee meetings, ESQ announcements have been made, and email information has been sent to all judges. Initial steps have been taken to invite appellate judges to be more active in “talking up” pro bono in their districts.

A second new subcommittee was established under Recommendation #6 to specifically address the issues of self-help centers and the needs of rural clients. In September and October 2011, a survey was sent to all Presiding Judges in the State of Missouri requesting feedback on *pro se* litigant needs in each circuit. The primary purpose of the survey was to assess what services were available in each circuit for the *pro se* litigant and what each court needed in order to further assist the *pro se* litigant, as well as identifying the frequency of *pro se* litigants appearing in court. In November 2011, the CAFC received the report from OSCA. The following is a short summary of the results:

- *Pro se* cases require additional court time and resources beyond those provided to represented litigations.
- Inability of *pro se* litigants to understand legal service of process was vexing and time consuming to court staff.
- Forms, especially judgments were inadequately prepared by the *pro se* litigant.
- *Pro Se* litigants are totally unable to proceed in any contested litigation.
- Lack of access to computers and printers in each courthouse poses a problem for litigants without access to computers.
- Lack of pro bono legal services for those who do not qualify for Legal Services Corporation representation yet are still indigent remain a serious problem.

Although the adopted forms are being used and accepted by the courts, there appears to be a real need for additional assistance with form completion and case presentation. Based on comments received, the preferred method would be personal assistance with the forms and case. We are in the process of determining what model would be most effective in facilitating access to family courts.

Recommendation #8

The Supreme Court of Missouri should develop and approve plain language, standardized forms and instructions that are accepted in all state courts and made available to *pro se* litigants.

Within the last year the Supreme Court approved various new family law forms required for use by Rule 88.09 for *pro se* litigants. The approved forms are available on the Representing Yourself website and may be completed online and printed, or printed and then filled out.

The following new forms were adopted for use as of July 1, 2012, and are available:

- CAFC 371 – Judgment of Non-Paternity
- CAFC 401 – Petition for Change of Name
- CAFC 470 – Change of Name Judgment
- CAFC 701 – Notice of Change of Address

- CAFC 711 – Request for Personal Service
- CAFC 712 – Request for Service by Publication

Under Rule 88.09, these forms “**shall be accepted by the courts of this state.**” Every party not represented by counsel in proceedings for dissolution of marriage, legal separation, parentage or the modification of a judgment in any such proceedings **shall use** the approved forms unless waived by the trial court. “Mail order” or online forms (other than the approved forms) are no longer acceptable in Missouri courts for *pro se* litigants. If a litigant is represented by an attorney in the preparation of pleadings and documents, the approved forms are not required.

Recommendation #9

The Supreme Court of Missouri should establish a *Pro Se* Implementation Committee responsible for the implementation of the approved recommendations of the Joint Commission.

This committee was established on April 15, 2008, to improve access to family court division cases with particular focus for self-represented litigants. To accomplish the goals set out by the Supreme Court, the recommendations of the Joint Commission were essential and serve as areas of focus for this committee. Subcommittees were formed as needed to carry out the recommendations and/or revise and improve on past actions.

A subcommittee focused on communications and networking was also established. The subcommittee did not meet formally during the year but did produce a press release describing the activities of the CAFC. The press release was delivered to the Supreme Court, but we have not heard of any further use or publication of the release. Committee members have been discussing the collaboration with other subcommittees on getting the word out about activities of the CAFC and specifically have considered the possibility of merging with the subcommittee on Alliances with State and Local Bar Associations/Pro Bono Initiatives - Limited Scope Representation. The membership of the two subcommittees overlap considerably, and activities carried out or contemplated by both seem to be very similar. We contemplate a meeting of the two subcommittees in the near future to discuss a merger.

Respectfully submitted,

Lori J. Levine
Committee Co-chair