

**Missouri Supreme Court  
Joint Commission to  
Review Pro Se Litigation**

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**Report to the Supreme  
Court of Missouri  
& the Missouri Bar**

**September 2003**

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## **Joint Commission to Review Pro Se Litigation Members**

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Lori J. Levine served as Chair of the Joint Commission.

Bob Stoeckl, the Missouri Bar, served as staff liaison between the Joint Commission and the Missouri Bar.

Jill Kingsbury, Esq. Family Court Resource Services, Kansas City, Missouri, who provided research, writing and report formatting expertise for the commission.



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## Executive Summary

### **Creation of the Joint Commission to Review Pro Se Litigation**

In October 2002, Missouri Supreme Court Chief Justice Stephen N. Limbaugh, Jr., in cooperation with the Missouri Bar, created the Joint Commission to Review Pro Se Litigation (“Joint Commission”). The Joint Commission was established in light of the growing number of litigants who are choosing to self-represent, especially in family court matters.

The Joint Commission was established to assess: (1) the extent of pro se litigation in Missouri family courts, (2) the current difficulties encountered by pro se representation both by the litigants and the courts, and (3) the measures that other states have adopted in response to the trend in self-representation. In addition, the Joint Commission was asked to identify and recommend statewide conceptual models for addressing pro se litigation in Missouri’s family law cases.

The Joint Commission members met on six occasions between November 2002 and July 2003. Four subcommittees were created: a judicial survey subcommittee, a litigant survey subcommittee, a circuit clerk survey subcommittee, and a subcommittee to study other state models. This is the final report of the Joint Commission’s findings.

### **Joint Commission Surveys**

The Joint Commission conducted three statewide surveys in order to determine the extent of pro se litigation in Missouri’s family courts. Pro se cases were defined as any case where one or more parties to the action were not represented by counsel. Juvenile delinquency, adult abuse, and child abuse and neglect cases were excluded in all three surveys. One survey was mailed to all state court judges and family court commissioners. Another survey was sent to all Missouri circuit clerks. A third survey was sent to all presiding judges in single county circuits, associate circuit judges in multi-county circuits, and family court commissioners for distribution to pro se litigants as they exited the courtroom following their court appearance during the month of February 2003. This distribution ensured that the surveys were available to every judge or commissioner who hears family court matters. While the surveys are not scientific and

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do not provide actual data on the number of pro se litigants appearing in family law cases, the results provide a framework for determining the extent of pro se litigation in Missouri. Actual data on the number of pro se litigants from Missouri's 16th Judicial Circuit and the 21st Judicial Circuit does exist, however, and is included as part of this report.

## **Project Overview**

### **Extent of Pro Se Litigation in Missouri Family Courts**

The national trend towards self-representation is particularly prevalent in the area of domestic relations. According to the Joint Commission's survey, nearly one-half of judges responding indicate that the number of pro se litigants in family law cases has increased moderately or greatly over the past two years. Missouri's circuit clerks indicate an even larger increase. In addition, the survey results reveal that pro se litigants are more prevalent in certain types of family law cases, especially dissolutions, paternity actions, and motions to modify.

Data collected by the Joint Commission's survey offers a snapshot of Missouri's pro se litigant. The typical litigant is female, white, and between 31 and 40 years of age. Sixty percent of the survey respondents had an annual income below \$30,000. The primary reasons parties choose to self-represent are the inability to afford a lawyer and the belief that they could handle the case on their own. The litigant data collected by the Joint Commission is consistent with studies from other states.

Closely related to the high cost of legal services are the challenges and obstacles encountered in making more civil legal services available to those with low incomes. Federal funding for the Legal Services Corporation is subject to changes in appropriation levels from year to year. While legislation passed during the 2003 legislative session increasing court filing fees creates a more stable source of funding of civil legal services and an increase in Missouri Bar dues replaced reductions in Interest on Lawyers' Trust Account ("IOLTA") funding, Legal Services offices within the state and nationwide are still only able to serve a fraction of low-income citizens who have legal problems.

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### **Challenges Created by Pro Se Litigation**

- **Challenges Encountered by the Courts**

Pro se litigants impact the functioning of court staff by posing more questions and committing more procedural errors. In addition, many pro se pleadings are incomplete and pro se litigants are often unfamiliar with court proceedings. For these reasons, and many others, pro se cases usually take more time in court.

Pro se litigants also create an ethical dilemma for court staff. Court staff are instructed to respond to pro se litigants' questions with the statement that they are "not allowed to give legal advice," or to advise the litigants to "consult an attorney." Without clear guidelines, court staff have concerns regarding crossing the line between giving legal information and providing legal advice, thereby engaging in the unauthorized practice of law.

Judges face ethical challenges as well. In cases in which one party is self-represented, judges indicate frustration with attempting to remain neutral and impartial while attending to the legal needs of pro se litigants.

- **Challenges Encountered by Attorneys**

Self-represented litigants present numerous challenges for opposing attorneys. The pro se litigants are usually not properly prepared for court. They normally have little knowledge of the rules of evidence or court procedures. Discovery difficulties, failure to receive proper notification, and frequent rescheduling of cases can have a significant impact on the time and expense required to complete a case. Similarly, individuals that choose to be represented by counsel may perceive unfairness in the process if the court appears to be overly accommodating to self-represented litigants.

- **Challenges Encountered by Pro Se Litigants**

The scarcity of affordable legal services is the foremost challenge facing pro se litigants. In addition, the inherent complexity of the court system is a barrier to court access. This is exacerbated by the fact that procedures and forms vary from jurisdiction to jurisdiction. Another barrier facing pro se litigants is the lack of knowledge about the court system in

general that is compounded by court staff unable to provide assistance out of fear of giving legal advice.

### **State Responses to Pro Se Litigation**

Courts across the nation have responded to the pro se litigation issue in a wide variety of ways from minimal programs that provide simplified forms to full-service self-help centers. Other states' programs may be generally classified into six categories:

- (1) Court forms and instructions;
- (2) Explanatory materials, brochures, pamphlets, and videos;
- (3) Staff assistance and family law facilitators;
- (4) Legal clinics;
- (5) Pro bono and reduced-cost legal services; and
- (6) Self-help centers.

### **Recommendations**

Based on its research, surveys, and findings, the Joint Commission believes that the following recommendations, if implemented, would prove useful in assisting Missouri's courts in responding to pro se litigation issues and ensure equal access to justice for all of Missouri's citizens. The recommendations have been numbered for reference purposes only; the numbers do not reflect prioritization by the Joint Commission.

#### **Education of Pro Se Litigants, Court Staff, and the Judiciary**

The Joint Commission strongly believes that education targeted to pro se litigants, court staff, and the judiciary is the key to successfully meeting the challenges raised by pro se litigation.

#### **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.**

Each circuit should have the authority to develop and order a mandatory program that may include videotapes, classroom presentations, internet courses, self-study booklets, or private consultations with an attorney. Litigant education will provide litigants with resources so that they can decide how to proceed. If litigants are more knowledgeable and have attained information concerning court proceedings, they are less likely to utilize clerk time with questions concerning the system.

### **Recommendation 2**

**Guidelines should be developed for court staff that clearly define 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 with or assist pro se litigants should be developed.**

### **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 a standard protocol for handling hearings involving pro se litigants.**

## **Information**

### **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.**

An information clearinghouse would ensure that individuals interested in obtaining assistance could get information about the legal and community services

available. In addition, such a clearinghouse would assist the court by providing an additional resource to court staff and judges in designing their own self-help programs.

#### **Recommendation 5**

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

#### **Encouragement, Promotion, and Support of Legal Referral and Pro Bono Services**

#### **Recommendation 6**

**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 fees.**

#### **Recommendation 7**

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

#### **Standardized Forms and Instructions**

#### **Recommendation 8**

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

**Pro Se Implementation Committee****Recommendation 9**

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

The Pro Se Implementation Committee should be responsible for continuing to monitor and adjust the initial recommendations approved by the Court and propose additional recommendations as the need arises.

**Conclusion**

The Joint Commission's recommendations place Missouri on the path with other states in responding to the challenges created by pro se litigation. The recommendations offered are practical steps that can enhance access to justice without significant cost to the judicial branch or the organized bar.

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## **Creation of the Joint Commission to Review Pro Se Litigation**

Missouri Supreme Court Chief Justice Stephen N. Limbaugh, Jr., in cooperation with the Missouri Bar, created the Joint Commission to Review Pro Se Litigation (“Joint Commission”) in October 2002. The Joint Commission was established because of a national trend showing a rise in the number of litigants who are choosing to self represent, and nowhere has this increase been more pronounced than it has been in family court matters. The Joint Commission was established to assess: (1) the extent of pro se litigation in Missouri family courts, (2) the current difficulties encountered by pro se representation both by the litigants and the courts, and (3) the measures that other states have adopted in response to the trend in self-representation. In addition, the Joint Commission was asked to identify and recommend statewide conceptual models for addressing pro se litigation in Missouri’s family law cases.

Joint Commission members met on six occasions: November 21, 2002, January 13, 2003, April 4, 2003, May 8, 2003, June 13, 2003, and July 24-25, 2003. To preserve the public trust and confidence in the court system, the Joint Commission recognizes that citizens need full and meaningful access. In order to meet this challenge and undertake the work of the Joint Commission, four subcommittees were created:

- (1) Judicial survey subcommittee,
- (2) Litigant survey subcommittee,
- (3) Circuit clerk survey subcommittee, and
- (4) Subcommittee to study other state models.

The Joint Commission’s report was submitted on September 30, 2003.

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## **Extent of Pro Se Litigation In Missouri Family Courts**

### **Number of Pro Se Litigants in Family Court Matters**

In courtrooms throughout the country, court staff, judges, and attorneys are routinely being confronted with a unique set of challenges brought about by a national

trend toward self-representation.<sup>1</sup> Self-representation is particularly prevalent in the area of domestic relations. In February 2003, the Joint Commission conducted three statewide surveys in order to determine the extent of pro se litigation in Missouri's family courts.<sup>2</sup> For purposes of this report and the surveys, pro se cases were defined as any case where one or more parties to the action were unrepresented by counsel. The first survey was mailed to all state court judges and family court commissioners. The second survey was distributed to Missouri's circuit clerks, and a third survey was distributed to pro se litigants. While the surveys are not scientific and do not provide actual data on the number of pro se litigants appearing in family law cases in Missouri's courts, the results do provide a framework for determining the extent of pro se litigation in the state. Juvenile delinquency, adult abuse, and child abuse and neglect cases were excluded in all three surveys.

Nearly one-half of the judges responding to the Judicial Survey (86 of 187) report that the number of pro se litigants in family law cases has increased moderately or greatly over the past two years, with nine percent of respondents (17 of 187) reporting the increase as great. By comparison, Missouri's circuit clerks indicate an even larger increase in the number of pro se litigants. Nearly seventy percent of the clerks responding to the Circuit Clerk Survey (69 of 102) report a moderate or great increase in the overall proportion of self-represented litigants in family law cases over the past two years; nearly thirty percent of respondents (28 of 102) indicate that the increase has been great. See Figure 1. Moreover, eighty percent of circuit clerks (82 of 102) state that pro se litigants appear regularly in their offices in family law cases.

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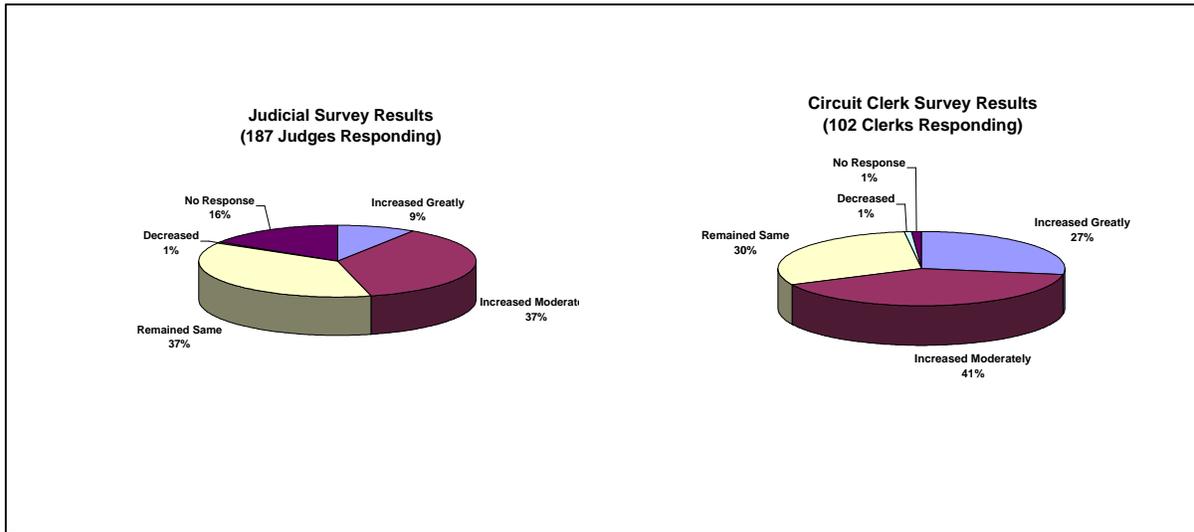
<sup>1</sup> Recognition of this challenge is aptly illustrated by the "Position Paper on Self-Represented Litigation," which was recently approved by the membership of the Conference of State Court Administrators ("COSCA"). CONFERENCE OF STATE COURT ADMINISTRATORS, Position Paper on Self-Represented Litigation, (Aug. 3, 2000) (hereinafter COSCA, Position Paper). For example, COSCA's first recommendation provides:

COSCA and/or CCJ [Conference of Chief Justices] should consider an affirmative response to needs of the self-represented litigant as a means for further building trust and confidence in the courts. Specifically, COSCA and/or CCJ should endorse having state court systems develop information programs which will allow litigants to make more informed decisions regarding self-representation, and for those who elect to proceed self-represented, an assistance program providing at least the minimum features discussed in this position paper to be defined by the individual state.

COSCA, Position Paper, at 5.

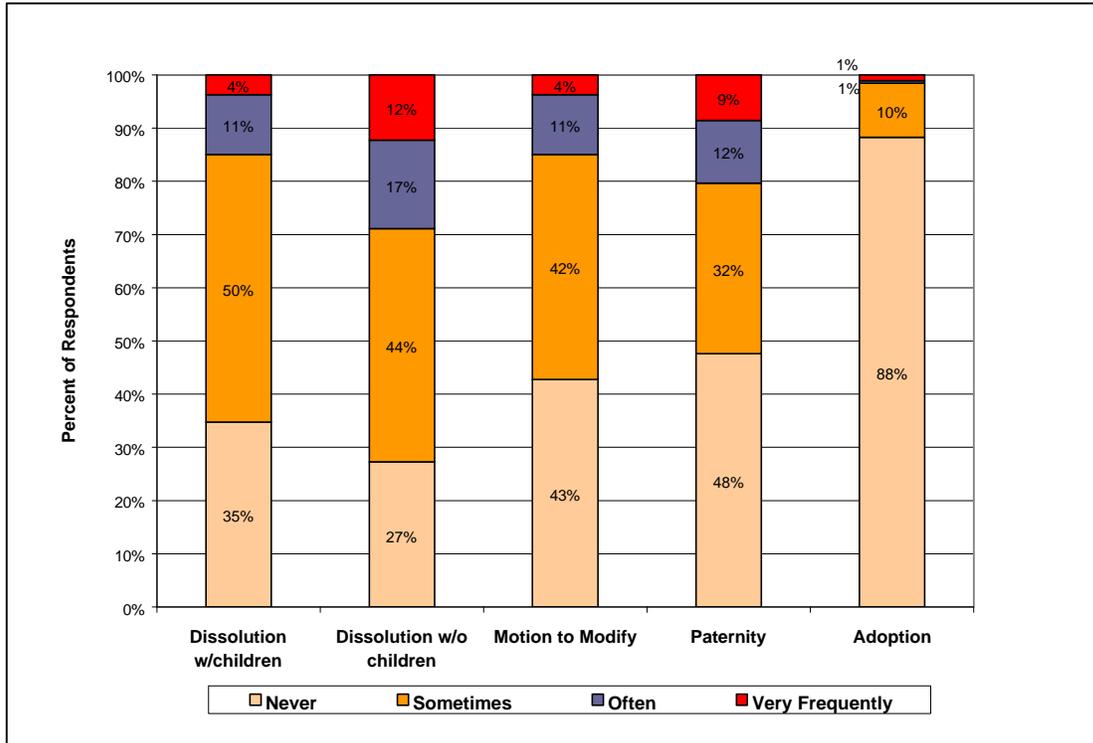
<sup>2</sup> See Appendix A for a copy of each survey including survey results.

**Figure 1: Change in Number of Pro Se Litigants in Family Law Cases During Past Two Years – Survey Results**



In addition, the survey results reveal that pro se litigants are more prevalent in certain types of family law cases. Nearly thirty percent (54 of 187) of the judges responding to the Judicial Survey indicate that they have dealt with pro se litigants in dissolution cases without children during the past two years either very frequently or often. Nearly twenty-one percent (38 of 187) of judges indicate “very frequent” or “often” dealings with pro se litigants in paternity actions. Fifteen percent (28 of 187) of judges indicate “very frequent” or “often” dealings with pro se litigants in both dissolution actions with children and motion to modify actions. Pro se litigants are rare in adoption cases, however, as over eighty-eight percent (165 of 187) of judges report that they never deal with pro se litigants in such cases. See Figure 2.

**Figure 2: Frequency of Judicial Dealings With Pro Se Litigants During Past Two Years – Survey Results**

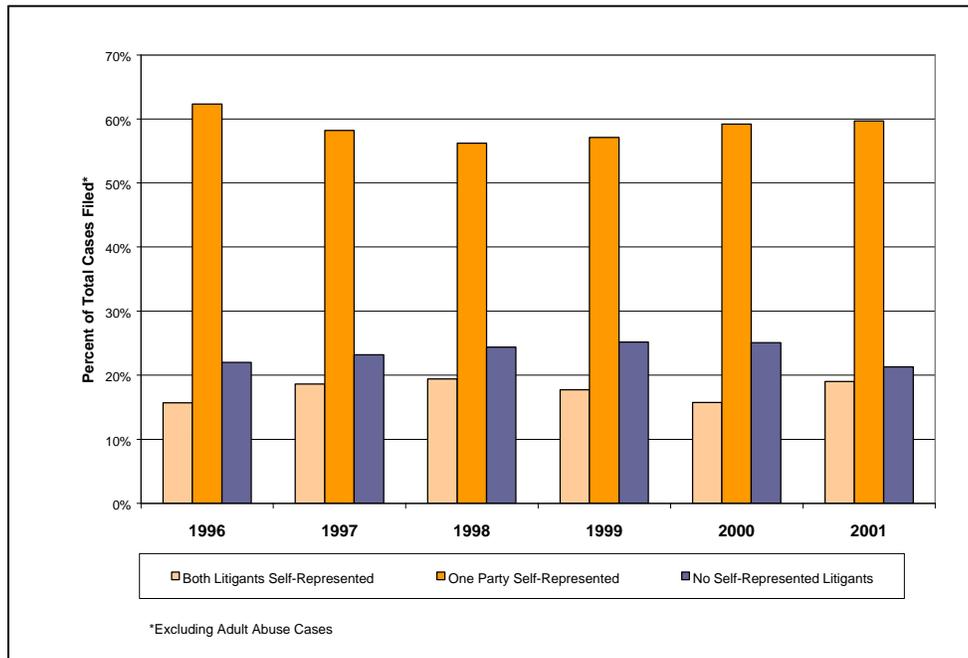


As discussed above, the Joint Commission’s surveys did not provide actual data on the number of pro se litigants. Actual data on the number of pro se litigants from Missouri’s 16th Judicial Circuit (i.e., Jackson County) does exist, however, and is consistent with national data.<sup>3</sup> From actual case data in 2001, at least one party was self-represented in seventy-nine percent of all family law cases filed in the Sixteenth Circuit, with the exception of adult abuse cases. In nineteen percent of all family law cases filed,

<sup>3</sup> For example, a study conducted by the National Center for State Courts, which analyzed data from sixteen large urban trial courts in 1991-92, found that neither party was represented by an attorney in eighteen percent of all domestic relations cases. JONA GOLDSCHMIDT ET AL., AMERICAN JUDICATURE SOCIETY, MEETING THE CHALLENGE OF PRO SE LITIGATION: A REPORT AND GUIDEBOOK FOR JUDGES AND COURT MANAGERS 8, n.8 (1998) (hereinafter Report and Guidebook) (citing Goerdt, DIVORCE COURTS: CASE MANAGEMENT, CASE CHARACTERISTICS, AND THE PACE OF LITIGATION IN 16 URBAN JURISDICTIONS 48 (Williamsburg, Va.: National Center for State Courts, 1992)). In California, a report based on court data from 1991 and 1995 found that one party appeared pro se in sixty-seven percent of all domestic relations cases and in forty percent of all child custody cases. Report and Guidebook, at 8, n.9 (citing Long and Lee, “The Pro Per Crisis in Family Law,” Memorandum submitted to the State Bar of California Board Committee on Courts and Legislation (Aug. 15, 1995) at 3-4). Similarly, a study conducted of all domestic relations cases in 1990 in Maricopa County (Phoenix), Arizona found that at least one party appeared pro se in over eighty-eight percent of all divorce cases while in fifty-two percent of the cases, both parties appeared pro se. Report and Guidebook, at 8, n.11 (citing Sales, Beck, and Haan, Self-Representation in Divorce Cases (Chicago: American Bar Association, 1993)).

excluding adult abuse cases, both parties were self-represented. See Figure 3. In 2001, at least one party was self-represented in over eighty-three percent of dissolution cases without children, while in over fifteen percent of such cases both parties appeared pro se.<sup>4</sup>

**Figure 3: Pro Se Litigants in Family Court Cases, Jackson County Circuit Court**



### Profile of the Pro Se Litigant

Demographic data on pro se litigants in Missouri is currently unknown. The data collected by the Joint Commission's Pro Se Litigant Survey, however, offers one snapshot of Missouri's family law pro se litigant. The Litigant Survey was distributed to pro se litigants by state court judges and family court commissioners as they exited the courtroom following their court appearance during the month of February 2003.<sup>5</sup> By design, adult abuse, delinquency, and child abuse and neglect cases were excluded from the survey. A total of 289 pro se litigants completed a survey. Approximately sixty percent of respondents were female (171 of 289), eighty-one percent were white (234 of 289), and forty percent were between thirty-one and forty years of age (115 of 289).

<sup>4</sup> For additional statistics on the number of pro se litigants appearing in Jackson County Family Court from 1996 through 2001, contact Jill Kingsbury, Family Law Clerkship Coordinator, at [jkingsbu@osca.state.mo.us](mailto:jkingsbu@osca.state.mo.us).

<sup>5</sup> See Appendix A for a copy of the survey including survey results.

Nearly eighty percent (231 of 289) of respondents indicate that they have annual household income below \$50,000, while sixty percent (172 of 289) indicate that they have annual household income below \$30,000.

The litigant data collected by the Joint Commission is consistent with studies from other states. A survey conducted by the American Bar Association (“ABA”) in 1990 of approximately 1,900 domestic relations cases filed in the Superior Court of Maricopa County, Arizona, provides one profile of the pro se litigant.<sup>6</sup> The study found that:

- Lower-income people were more likely to self-represent;
- Younger persons were more likely to self-represent than older persons;
- Lower-educated persons were more likely to self-represent (income and education found to be highly correlated), but “the majority of people who seek to self-represent are reasonably educated. Indeed the most common level of education for litigants who self-represent was 1-3 years of college education.”;
- Individuals with unskilled jobs were significantly more likely to self-represent than professionals or those employed in upper management, but this factor did not significantly affect the decision to self-represent;
- Individuals with no children were significantly more likely to self-represent than those with children;
- Individuals with no real estate or personal property were more likely to self-represent than those with such assets; and
- Individuals with newer marriages were more likely to self-represent than those with older marriages.<sup>7</sup>

A recent review of California’s Family Law Facilitator Program offers yet another glimpse of the “typical” family law pro se litigant.<sup>8</sup> Based on aggregate data from twenty-one California counties gathered from March through June 2000, the typical individual seeking assistance from a Family Law Facilitator is as follows:

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<sup>6</sup> Report and Guidebook, at 11-12 (citing Sales, Beck, and Haan, *Self-Representation in Divorce Cases* (Chicago: American Bar Association, 1993)).

<sup>7</sup> *Id.*

<sup>8</sup> See Frances L. Harrison et al., *California’s Family Law Facilitator Program: A New Paradigm for the Courts*, J. OF THE CTR. FOR FAMILIES, CHILDREN & THE CTS. 61 (2000).

- Equally likely to be male or female;
- Between the ages of thirty and thirty-nine;
- The parent of two children;
- High school educated;
- Employed with gross monthly income under \$1,500;
- Involved in a dissolution case;
- Referred to a facilitator by a circuit clerk, a child support agency, a judicial officer, or a friend; and
- Sought help with child support, child custody and/or visitation, starting dissolution proceedings, or getting a domestic violence restraining order.<sup>9</sup>

California’s “facilitator customers are not likely to have income sufficient to afford full-service legal representation; however, their incomes may be just high enough to make them ineligible for assistance from Legal Services Corporation or IOLTA-funded legal services programs.”<sup>10</sup>

### **Why Are Litigants Choosing to Proceed Pro Se?**

Parties choose to self-represent for two primary reasons. The most common explanation pro se litigants express is an inability to afford a lawyer. A close second is the belief that “I could handle the case on my own.”

Nearly forty-two percent of pro se litigants responding to the Joint Commission’s Pro Se Litigant Survey (154 of 289) indicate that they chose to proceed pro se because they could not afford an attorney. These findings are consistent with national data. In a report prepared by the National Center for State Courts, the Chicago-Kent College of Law, and the Illinois Institute of Technology’s Institute of Design, the authors found that at four project sites during 2000, self-represented litigants who reported that they could not afford an attorney ranged from forty percent in the Delaware Family Court to seventy-three percent in the Colorado 20th Judicial District.<sup>11</sup> A 1995

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<sup>9</sup> Id. at 75.

<sup>10</sup> Id. at 76.

<sup>11</sup> NATIONAL CENTER FOR STATE COURTS ET AL., ACCESS TO JUSTICE: MEETING THE NEEDS OF SELF-REPRESENTED LITIGANTS 8 (2002).

survey by the Unified Family Court in King County (Seattle), Washington, found that seventy-two percent of self-represented litigants were without an attorney because of cost, while only seven percent were without an attorney because of mistrust or a prior bad experience with an attorney.<sup>12</sup> Similarly, in a 1999 national study sponsored by the National Center for State Courts, only one-third of respondents agreed with the statement, “It is affordable to bring a case to court.”<sup>13</sup>

Closely related to the high cost of legal services are the challenges and obstacles encountered in making more civil legal services available to those with low incomes. The funding for the Legal Services Corporation, the federal entity that distributes funding to legal services offices throughout the nation, is at the mercy of potential changes in appropriation levels approved in the annual federal budget and from year to year can experience significant changes in revenue.

Legislation drafted by the Missouri Bar and passed with bipartisan support during the 2003 legislative session creates a more stable picture for state funding of civil legal services programs by increasing fees for circuit and appellate court filings.<sup>14</sup> While the previous two years were marked with decreases in state appropriated funding to legal services, the filing fee revenue earmarked for a “Basic Civil Legal Services Fund” is expected to consistently generate approximately \$3 million annually. For 2004, this funding source should actually result in a net state funding increase for the state’s legal services programs of approximately \$2 million dollars over the state funding level in 2002.

In Missouri, the four legal services offices have also benefited from funds raised through Interest on Lawyers’ Trust Accounts (“IOLTA”). Low interest rates within the

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<sup>12</sup> RICHARD ZORZA, NATIONAL CENTER FOR STATE COURTS, THE SELF-HELP FRIENDLY COURT: DESIGNED FROM THE GROUND UP TO WORK FOR PEOPLE WITHOUT LAWYERS 14 n.5 (2002) (hereinafter *Friendly Court*).

<sup>13</sup> NATIONAL CENTER FOR STATE COURTS, HOW THE PUBLIC VIEWS THE STATE COURTS: A 1999 NATIONAL SURVEY 22 (1999) (hereinafter *Public Views*). The 1999 National Survey reported the views of 1,826 Americans interviewed via telephone by researchers from the Indiana University Public Opinion Laboratory between January 13 and February 15, 1999. Although the public perception is that going to court is not affordable, the report also indicates that different reasons contribute to the cost of litigation. For example, eighty-seven percent of respondents believed that having a lawyer contributed “a lot” to the cost. *Id.* at 23. Over half of the respondents, however, believed that the slow pace of justice, the complexity of the law, and the expenditure of personal time also contributed “a lot” to the cost of going to court. *Id.*

<sup>14</sup> See S.B. 447, 92nd Leg., 1st Reg. Sess. (Mo. 2003).

national economy, however, reduced these funds from \$767,459 to \$386,504 in 2002. In an effort to add stability and generate funds to shore up losses due to the low interest rates, Missouri Bar dues were increased by \$20 per year. This increase is expected to generate approximately \$400,000. Despite these efforts, however, Legal Services offices within the state and nationwide are only able to serve a fraction of low-income citizens who have legal problems. A recent legal needs study conducted by Dr. Greg Casey at the University of Missouri-Columbia found that seventy-seven percent of low-income households in Missouri have faced at least one legal problem during 1998-2000.<sup>15</sup> Legal Services, however, was able to assist only twenty-seven percent of the qualifying households.<sup>16</sup> Moreover, whether assistance is available from Legal Services varies depending on the type of legal problem.<sup>17</sup>

Yet another reason posited for the increase in self-representation is a new “do-it-yourself” attitude demonstrated by many Americans.<sup>18</sup> Respondents to the Joint Commission’s Pro Se Litigant Survey clearly demonstrate this attitude. Roughly thirty-eight percent of pro se litigants responding (142 of 289) report that one reason they chose to proceed pro se was a belief that they could handle the case on their own. While it is unclear whether the various do-it-yourself products currently on the market have been the push behind or the pull forward of this new attitude, one thing is clear; the prevailing public attitude is that reasonably educated persons can easily handle some legal matters. A 1999 National Survey found that nearly sixty-percent of respondents agreed with the statement that “It would be possible for me to represent myself in court if I wanted to.”<sup>19</sup>

Finally, survey results from the Joint Commission’s Circuit Clerk Survey on Pro Se Litigation are consistent with both the results of the Pro Se Litigant Survey and national data. Circuit clerks indicate that the number one reason that litigants choose to proceed pro se is that they cannot afford an attorney. When asked to rank the reasons why litigants choose to self-represent from 1 to 4, with 1 being the most frequent reason, the weighted average of Missouri’s circuit clerks’ responses were as follows: (1) “cannot

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<sup>15</sup>Greg Casey, Interim Report: Missouri Legal Services Survey, Oct. 3, 2002, at i.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Report and Guidebook, at 10.

<sup>19</sup> Public Views, at 25.

afford an attorney” = 1.12; (2) “belief that they could handle without an attorney” = 2.25; (3) “could not find an attorney to handle the case” = 2.96; and (4) “distrust of judicial process” = 3.64.<sup>20</sup>

## **Challenges Created by Pro Se Litigation**

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### **Challenges Encountered by the Courts**

#### **Court Staff**

Pro se litigants raise several challenges for the court and its staff. Court staff, which serve as the first point of contact for pro se litigants, is confronted with a unique set of challenges. An AJS/JMI survey of court managers reveals that pro se litigants have an impact on the functioning of court staff.<sup>21</sup> For example, pro se litigants pose more questions to court staff, both at the counter and on the telephone, than other individuals in need of court staff assistance.<sup>22</sup> Questions posed to court staff range from how the court functions, to what forms to fill out, to what will happen in court.<sup>23</sup>

Circuit clerks ranked the categories of questions they are routinely asked by pro se litigants. When asked to rank the categories in the order that the public most frequently asks for assistance, from 1 to 5, with 1 being the most frequently asked question, the weighted average of the clerks’ responses were as follows: (1) “requests for information regarding legal remedies” = 1.66; (2) “requests for appropriate court forms” = 1.86; (3) “assistance in filling out forms” = 3.21; and (4) “logistical questions” = 3.32.

Responding to such questions diverts court staff time away from other job duties. Nearly forty percent (40 of 102) of circuit clerks responding to the survey spend between one and five percent of their normal workday answering requests concerning pro se

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<sup>20</sup> A concern to the Joint Commission is the proliferation of commercial non-attorney “self-help” businesses. These businesses generally prepare pleadings, separation agreements, parenting plans, and proposed judgments for individuals who intend to represent themselves. These facilities may exploit the mistrust of attorneys by the general public by touting the fact that no attorneys are required. Such businesses, however, may do nothing other than provide forms, with consumers being charged an exorbitant fee.

<sup>21</sup> Report and Guidebook, at 49.

<sup>22</sup> Id.

<sup>23</sup> Id.

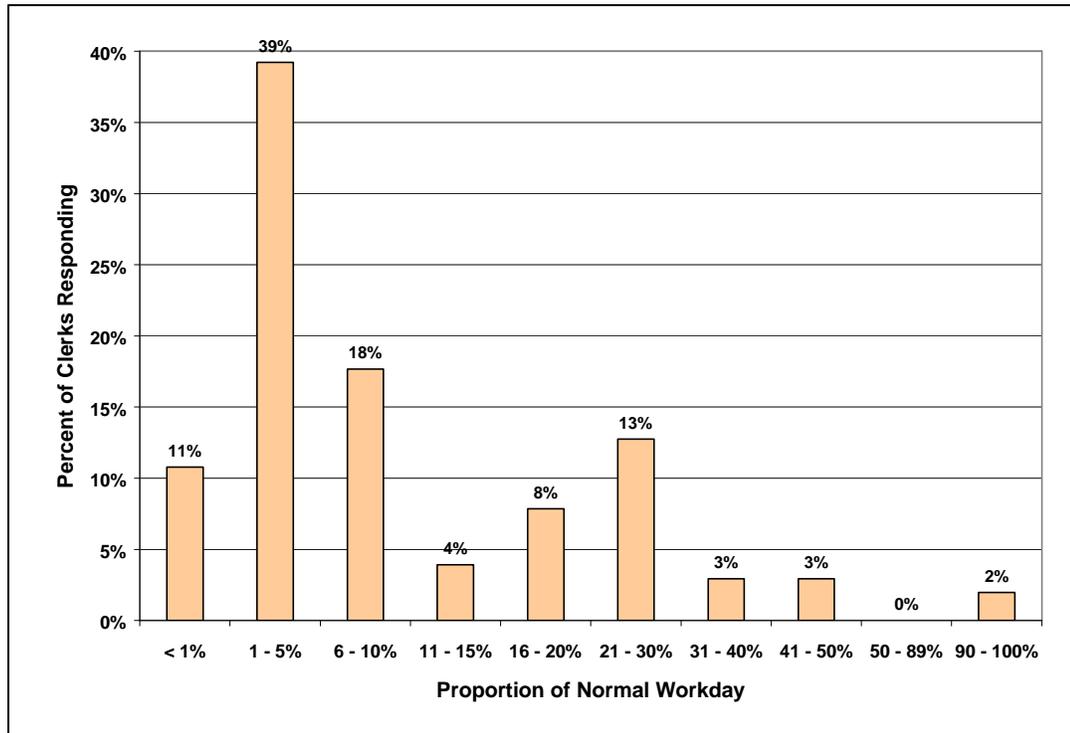
matters. Another eighteen percent (18 of 102) estimate that they spend between six and ten percent of their typical workday responding to such requests. See Figure 5. As one circuit clerk noted, “not enough time [exists] to answer all of the questions they pose to my staff. We also do not have any space to talk with them privately. If we worked to completely answer all pro se questions, I would have to devote one clerk to use approximately 25% of her time.” Yet another clerk echoed this concern, “[Responding to pro se litigants] is very time consuming. They expect you to help them with their legal situations, answer all of their questions, show or direct them in procedure/paperwork because you are to serve the public. Their lack of understanding [of] our limitations can cause problems.”

Administrative and procedural errors committed by pro se litigants create challenges resulting in additional paperwork and postage costs in the form of reminders and notices of dismissals for failure to prosecute. As one Missouri circuit clerk notes, “Staff may not be able to decipher handwriting or what kind of pleading the litigant is wanting to file and [an] item may not be entered in [the] computer properly. . . . The forms are usually incomplete or not correct when brought in for filing.” Judges agree that cases involving pro se litigants take more time. One judge notes, “Pro se litigants are more likely to miss scheduled settings; their pleadings are more often in poor form; they often have no idea how to proceed in court—for any of these reasons, the cases usually take more time for all court staff.”<sup>24</sup>

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<sup>24</sup> Supreme Court Operating Rule 17 “establishes case processing time standards to ensure the prompt and fair disposition of cases filed in Missouri’s circuit courts.” (emphasis added). S. Ct. Operating R. 17.01. Time delays and ethical dilemmas created by the problems surrounding pro se litigation will likely make it difficult for courts to comply with the “prompt and fair disposition” requirement in family law cases.

**Figure 5: Average Time Circuit Clerks Estimate Responding to Pro Se Matters**



Pro se litigants also create an ethical dilemma for court staff. Two common policies that court staff are instructed to follow when confronted with questions from pro se litigants are: (1) respond with the statement that they are not allowed to give legal advice, or (2) advise pro se litigants to consult an attorney. Such policies are unsatisfactory to both the staff who want to provide constructive assistance and litigants who view such responses as one additional barrier to resolving their dispute. This sense of frustration on the part of pro se litigants is aptly illustrated by one clerk's response to the Joint Commission's survey: "Because of our workload, we are very busy. We find pro se litigants . . . don't understand the terminology or the law and want us to spend more time with them as a result. I've been accused of being rudely impatient, heartless, and cold because of my lack of time or ability to assist them." Another clerk's frustration is demonstrated by the response, "I think we are in a tough position. We are elected to serve the people. We work for attorneys (judges). I feel we should be able to help and advise the public as much as possible. I am not interested in practicing law; I would

rather help the people.” Finally, pro se litigants are likely to be frustrated with current policies and practices because they may be accustomed to receiving constructive assistance from other government entities. As one clerk stated, “[Pro se litigants] seem to believe that it is our obligation to give them the legal information they seek. It is difficult for them to understand why we, as court employees, are not permitted to give them legal advice.”

Nearly seventy percent (71 of 102) of circuit clerks state that they have no established rules, policies, or instructions to guide them in responding to public requests for assistance. Circuit clerks unanimously report that they experience difficulties in responding to pro se litigants, i.e., crossing the line between giving legal information and giving legal advice and the unauthorized practice of law. Typical of this sentiment is one clerk’s response, “I have concerns about assisting pro se litigants. It is difficult to know where assisting stops and giving legal advice starts. It would be helpful if we had guidelines.” The vast majority of circuit clerks responding to the Joint Commission’s Circuit Clerk Survey echoed this sentiment.

### **Judiciary**

Pro se litigants present ethical challenges for judges. In cases in which one party is self-represented, judges indicate frustration with attempting to remain neutral and impartial while attending to the legal needs of pro se litigants.<sup>25</sup> This dilemma is well illustrated by one judge’s response to the Joint Commission’s survey: “It is very difficult to appear neutral when helping a pro se litigant. I have had the challenge of helping out litigants who desperately need representation when the adversary strenuously objects.”

In cases where both sides appear pro se, the challenges faced by judges are considerably different. A substantial number of judges respond that maintaining control of the courtroom is the number one challenge because of the potential for violence arising in domestic and child abuse cases.<sup>26</sup> In contrast, some judges report that when both

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<sup>25</sup> See, e.g., Report and Guidebook, at 52-53.

<sup>26</sup> Id. at 54.

parties are self-represented, the case is easier to preside over because both sides are on equal footing.<sup>27</sup>

In sum, pro se litigants raise specific challenges for the court at various points throughout the entire court proceeding. Pro se litigants are more likely to file insufficient pleadings than are litigants represented by an attorney. Consequently, additional time and resources must be expended to either explain to pro se litigants what is required and/or extend the time for submitting proper documents. Deciphering the actual relief requested or even whether a legally cognizable claim exists can become difficult. Similarly, failure to arrange for service of process on opposing parties can require numerous scheduling adjustments to court calendars resulting in an inefficient use of court time. A trial involving a pro se litigant presents its own set of challenges, often revolving around procedural and evidentiary issues.

### **Challenges Encountered by Attorneys**

Attorneys face challenges throughout the litigation process when facing a pro se litigant. Self-represented litigants usually have little knowledge of rules of discovery, procedure, evidence, and courtroom protocol. As a result, attorneys are confronted with a myriad of practical problems when opposing a pro se litigant. Pro se litigants often seek not only practical information from the attorney representing the opposing party, but they also seek legal advice. Therefore, an attorney must often repeatedly advise the pro se litigant that they cannot provide legal advice, a response that often leaves the litigant frustrated, if not angry with the attorney.

Many attorneys are often reluctant to speak to pro se litigants without their own client present, a problem that complicates even the simplest of communication. The lawyer's own client often mistakenly interprets this type of communication as their lawyer "helping" the opposing party. When attorneys do talk to a pro se litigant outside of earshot of their own client, they often find that they have been "misquoted" when the pro se litigant recounts the conversation back to the client. This problem has the potential to create mistrust between the client and the attorney. Such problems create breakdowns in effectively resolving conflict.

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<sup>27</sup> Id.

In the discovery process, pro se litigants' lack of knowledge of basic concepts often leads to a breakdown in the disclosing of important information. If the attorney pushes too hard, he is viewed as a "bully." If the attorney does not push hard enough, the client may feel that their attorney is not "working for them" or that they suffer from a lack of full disclosure.

The perception of bias and lack of trust is most often played out in the courtroom. The pro se litigant is to be held to the same standard as if he or she had an attorney. Courts often stop short of imposing this standard on such litigants, however, for fear of harsh or unjust results. This leads to the perception by the attorney and his client that the pro se litigant is receiving preferential treatment from the court. Pro se litigants often take much longer in court to present their evidence due to their lack of knowledge of the process, which is not only inconvenient to the courts, the attorneys, and the parties themselves, but also increases the cost of the proceeding for the represented client. The unfortunate result for the attorney, the represented client, and possibly the pro se litigant is that the process is often slower, more frustrating, and more expensive due to the lack of basic knowledge of the pro se litigant.

### **Challenges Encountered by Pro Se Litigants**

In the National Center for State Courts' "Access to Justice" report,<sup>28</sup> the authors identified three types of barriers pro se litigants face in seeking access to the court system. The first barrier is the scarcity of affordable legal services.<sup>29</sup> As discussed above, nearly forty-two percent of pro se litigants responding to the Joint Commission's Pro Se Litigant Survey (154 of 289) indicate that they chose to proceed pro se because they could not afford an attorney. The second barrier confronting pro se litigants is the inherent complexity of the court system and poor quality of information about the courts.<sup>30</sup> In an effort to preserve the rights of litigants and efficiently manage caseloads, courts have developed many procedures that over time have accumulated in ways that are

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<sup>28</sup> NATIONAL CENTER FOR STATE COURTS ET AL., ACCESS TO JUSTICE: MEETING THE NEEDS OF SELF-REPRESENTED LITIGANTS 7-8 (2002).

<sup>29</sup> Id. at 8.

<sup>30</sup> Id. at 8-9.

internally inconsistent or obscure their underlying purpose.<sup>31</sup> For individuals unfamiliar with court procedures, the administrative and procedural requirements of litigation can seem hopelessly complex.<sup>32</sup> The complexity is exacerbated by the fact that court procedures vary from jurisdiction to jurisdiction, from court to court, and from judge to judge.<sup>33</sup> Nevertheless, only five percent of respondents to the Pro Se Litigant Survey (14 of 289) indicate that they were “not able to proceed with [their] case because [they] did not understand the proceedings.”

The third barrier confronting pro se litigants identified in the “Access to Justice” report concerns restrictions on litigants’ ability to access the justice system effectively due to the characteristics of the litigants themselves.<sup>34</sup> For example, a major barrier is the litigants’ lack of knowledge about the court system and court procedures.<sup>35</sup> Pro se litigants’ lack of knowledge is only compounded when confronted with court staff unable to provide assistance out of fear of giving legal advice. This lack of knowledge is demonstrated by pro se litigants’ responses to the Joint Commission’s survey as to what type of assistance would have been helpful but was unavailable. Over one-third of respondents (113 of 289) indicate that written instructions telling them what to do and not to do would have been helpful. In addition, nearly one-fifth of pro se litigants (62 of 289) indicate that forms to assist with the process would have been helpful, with almost as many respondents (59 of 289) indicating that access to a website for instructions and forms would have been helpful assistance.

Public education and media portrayals also fail to provide litigants with an accurate understanding of how the courts work.<sup>36</sup> As a result, pro se litigants often begin the process with unreasonable expectations concerning such things as what will happen during their case, how much time and resources are necessary to pursue a matter, and what actual relief the court is able to provide.

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<sup>31</sup> Id. at 8.

<sup>32</sup> Id. at 9.

<sup>33</sup> Id.

<sup>34</sup> Id. at 10.

<sup>35</sup> Id.

<sup>36</sup> Id.

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## State Responses to Pro Se Litigation

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### Missouri

As pro se litigants continue to appear in family court matters, judges and court staff are confronted with the task of addressing the challenges such litigation brings. Even though only fifteen percent (28 of 187) of judges responding to the Joint Commission's Judicial Survey indicate that their court has any programs to assist pro se litigants, nearly two-thirds (118 of 187) of judges respond that the fact that a litigant is unrepresented in a family law matter affects their handling of the case. A judge's typical response to the challenge brought about by pro se litigants, however, is to explain to pro se litigants the disadvantages of proceeding without an attorney and advise them to seek counsel. Almost eighty-two percent of responding judges (153 of 187) indicate that they grant continuances in pro se cases to enable the pro se litigant to hire an attorney, and seventy-eight percent (146 of 187) of judges indicate that they generally advise pro se litigants to seek counsel. Seventy-five percent (140 of 187) of responding judges indicate that they take time to explain the disadvantages of proceeding pro se to litigants, while seventy-two percent (134 of 187) indicate that they take time to explain the nature of the proceeding. In addition to advising pro se litigants to seek counsel, two-thirds (119 of 187) of judges responding also indicate that they routinely refer pro se litigants to bar associations (52 of 187), legal services offices (98 of 187), and social service agencies (22 of 187).

Just over one-quarter of respondents (49 of 187) to the Judicial Survey indicate that their court has pre-printed form pleadings for pro se litigants, while thirty-seven percent (70 of 187) indicate that such forms should be available. St. Louis County's Legal Resource Center (21st Judicial Circuit) offers pro se litigants a comprehensive packet of forms and instructions concerning dissolution of marriage and staff assistance regarding procedural questions and case file review.<sup>37</sup> Several counties throughout the state offer a variety of forms.

General information concerning pro se representation in family court matters is available in various formats and locations throughout the state. No central repository or

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<sup>37</sup> See Appendix B.

clearinghouse for such information currently exists, however, resulting in a rather fragmented statewide approach to the availability of pro se resources. For example, public information brochures relating to family law matters are available for use by pro se litigants from the Missouri Bar and legal services offices in Missouri. The Missouri Bar has public information brochures available including the “Family Law Resource Guide,” and “Juveniles and the Law.” The Missouri Bar also provides booklets concerning domestic violence, child abuse, a Senior Citizens Handbook, which includes information on grandparents’ rights, and an Adoption Guide. Missouri Legal Services programs provide public information covering family law issues on their web site.<sup>38</sup> The Bar Association of Metropolitan St. Louis (“BAMSL”) also offers general information about family problems. Information about how to find a lawyer in Missouri is available from a variety of sources, including the Missouri Bar (i.e., “The Client Resource Guide”), BAMSL, and the Kansas City Metropolitan Bar Association.

Several legal services offices in Missouri hold periodic pro se clinics to instruct low-income participants how to represent themselves in uncontested divorce actions. Legal Aid of Western Missouri (“LAWMO”) conducts a clinic twice a month in its Kansas City office for residents of Jackson County, one class for petitioners with children and one for those without children. Classes are also conducted regularly but less often in Clay County (Liberty), Buchanan County (St. Joseph), Johnson County (Warrensburg), and Jasper County (Joplin). Private volunteer attorneys usually lead these classes with assistance from LAWMO staff that work closely with judges of the local courts.

Pro bono legal assistance is provided to low-income Missourians under volunteer attorney projects operated by the state's legal services programs in cooperation with their local bar associations. Free services are also provided to low-income clients by panels of "judicare" attorneys who contract at a reduced fee with the legal services programs. The Missouri Bar and Supreme Court offer strong support for these efforts and regularly assist in recruitment of volunteer attorneys. From individual case service to special projects such as conducting pro se clinics or doing outreach to senior centers and homeless shelters, these attorneys donate thousands of hours of pro bono legal assistance each year. A 2002 study indicated that lawyers provide significant pro bono services

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<sup>38</sup> See, e.g., [www.lsmo.org/Home/PublicWeb/Library](http://www.lsmo.org/Home/PublicWeb/Library).

within their communities.<sup>39</sup> Yet, only a fraction of those who need legal help but cannot afford to pay are being served.

### **Initiatives in Other States**

Courts across the country have responded to the pro se litigation issue in a wide variety of ways. At one end of the spectrum, courts have devised minimal programs that provide simplified forms, explanatory brochures or instruction sheets, and limited staff assistance in selecting and completing appropriate forms. At the other end of the spectrum, courts have taken a full-service approach, which may include the establishment of a self-help center that provides everything from staff assistance in the completion and filing of court papers, clinics to educate pro se litigants about court procedures, and assistance from the bar in making legal services available at little or no cost. Any number of possibilities exists in between. While the range of specific assistance programs is broad, such programs may generally be classified into one of the following six categories.<sup>40</sup>

### **Court Forms and Instructions**

The easiest service for courts to provide to pro se litigants is to make available the basic forms that a party needs to initiate or participate in a legal proceeding—for example, forms for filing a petition or an answer, or for requesting court action such as an order changing the amount of child support. In addition to forms, most courts also provide instructions on how to complete the forms, how to file the forms with the court, and, if necessary, how to serve the forms on another party.

Through the use of the World Wide Web, numerous states offer this type of service to pro se litigants. The Supreme Court of New Mexico has approved domestic relations forms for use by pro se litigants in uncontested divorce and paternity cases.<sup>41</sup> California Courts Self-Help Center's web site offers another example of how state courts

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<sup>39</sup> See Greg Casey, Pro Bono Work Among Missouri Lawyers: Results of Interviews Conducted on a Representative Sample of Attorneys in August 2002, Conducted on behalf of the Missouri Bar, (visited Sept. 18, 2003) <<http://www.mobar.net/research/>>.

<sup>40</sup> The six categories of services outlined in this Report are the same categories discussed by the authors of Meeting the Challenge of Pro Se Litigation, see supra note 3, Report and Guidebook, at 69-71.

<sup>41</sup> N.M. Ct. R. 4A-201. See [www.nmcourts.com/cgi/prose\\_lib/](http://www.nmcourts.com/cgi/prose_lib/).

have created forms and instructions to assist pro se litigants in family law matters.<sup>42</sup> Vermont's web site includes an entire "Pro Se Self Service Center," which includes informational pamphlets, numerous court forms, and a list of lawyers and mediators.<sup>43</sup> Indiana has created an extensive on-line statewide pro se assistance resource, which provides information, court forms, and various other resources to pro se litigants.<sup>44</sup>

Advances in technology also have made it possible for states to become extremely innovative in providing "form" assistance to pro se litigants. Florida's forms are now interactive.<sup>45</sup> The State of Utah's Online Court Assistance Program ("OCAP") is a court administered website that allows users to complete pleadings and documents online. OCAP allows users to register with another Utah project, Assisted Pro Se Website, which enables volunteer attorneys to provide pro se assistance online to self-represented litigants who are filing a no fault divorce. Through this program, users, if eligible, can register for a volunteer attorney to review their paperwork prior to filing it with the court. Appendix C provides an overview of Utah's OCAP program.

### **Explanatory Materials: Brochures, Pamphlets, and Videos**

Another relatively easy service for courts to provide to pro se litigants is brochures or pamphlets that explain in plain English how particular types of cases are handled. Similar to forms and instructions, internet technology has allowed courts to put the text of these brochures on a web page so as to be easily accessible by court users.<sup>46</sup> Video technology has made it possible for courts to create short videos that explain how the court process works and may even guide self-represented litigants through the steps

<sup>42</sup> See [www.courtinfo.ca.gov/selfhelp/forms/familylaw.htm](http://www.courtinfo.ca.gov/selfhelp/forms/familylaw.htm).

<sup>43</sup> See [www.vermontjudiciary.org](http://www.vermontjudiciary.org).

<sup>44</sup> See [www.state.in.us/judiciary/selfservice/index.html](http://www.state.in.us/judiciary/selfservice/index.html).

See also [www.lri.lsc.gov/abstracts/020014/ps\\_020014.htm](http://www.lri.lsc.gov/abstracts/020014/ps_020014.htm). For additional information contact Anthony Zapata, Pro Se Project Director, Indiana Supreme Court, Division of State Court Administration, 115 West Washington Street, Suite 1080, Indianapolis, Indiana 46204-3466, (317) 234-1872.

<sup>45</sup> See [www.flcourts.org](http://www.flcourts.org).

<sup>46</sup> Caution, however, is in order for over-reliance on the Internet for the provision of services to pro se litigants. John Greacen, a noted researcher on pro se issues, notes that based on an evaluation of the Maricopa County Self-Service Center, very few clients learned of the service and were able to access it through the Internet. John M. Greacen, Self Represented Litigants and Court and Legal Services Responses to Their Needs: What We Know, prepared for the CENTER FOR FAMILIES, CHILDREN & THE COURTS, CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS, 14, Second Draft, July 20, 2002. Moreover, only eighteen percent (59 of 289) of pro se respondents to the Joint Commission's Pro Se Litigant Survey indicated that access to a website for instructions and forms would have been helpful assistance.

necessary to prepare and file court documents. Such forms of assistance are relatively inexpensive, easily implemented, and can be created in cooperation with local attorneys and/or law students.

Another innovative approach to providing services to pro se litigants is the Northwestern Legal Services' television program "Access to Justice." This half-hour television program, broadcast on Erie, Pennsylvania Community Access Television looks at a broad range of issues including child custody, bankruptcy, predatory lending, and utility law. The program is entirely produced by the legal services staff and invites local attorneys to appear as guests. Funding for this program is provided by a grant from the Pennsylvania Interest on Lawyers Trust Account.<sup>47</sup> The grant permits the dubbing of program videotapes for distribution to legal services offices and organizations throughout Pennsylvania.

### **Staff Assistance and Family Law Facilitators**

Some courts have gone further than simply offering forms and instructions, and/or brochures to pro se litigants and have developed programs that offer pro se litigants direct staff assistance. The Family Court Self-Help Project in Florida provides packets, for a fee, containing court-approved forms necessary for divorce and other family court matters.<sup>48</sup> Following the purchase of the necessary forms, pro se litigants return to court with their forms completed and a staff member checks the forms for completeness and advises the pro se litigant what next steps must be followed. When all forms and documents are in order and the correct procedures have been followed, parties are given a hearing date. Other services offered by Florida's Self Help Project include pro se dissolution workshops, free notary services for court-approved forms, and distribution of approved parenting provider lists.

Many other examples of staff assistance exist. In Albuquerque, New Mexico, a Pro Se Services Office is staffed by a paralegal who provides basic assistance with information and forms, and if necessary will arrange for an appointment with a volunteer lawyer whose services are available through a cooperative program with the bar

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<sup>47</sup> For more information on "Access to Justice," contact Northwestern Legal Services, Renaissance Center, Suite 1200, Erie, PA 16501-1833, (814) 452-6949.

<sup>48</sup> See, e.g., [www.jud11.flcourts.org/programs\\_and\\_services/self\\_help.htm](http://www.jud11.flcourts.org/programs_and_services/self_help.htm).

association. In New York City's Family Court, a court assistant interviews litigants and helps prepare petitions. In the King County Superior Court in Seattle, a family law facilitator provides information on family law court actions, offers information on forms, and reviews completed forms.

As an extension of the court system, several states have developed family law facilitator programs, which provide assistance to pro se litigants on a range of family court issues and expedite the processing of cases through the family court. In California, the legislature passed the Family Law Facilitator Act mandating the establishment of an Office of the Family Law Facilitator in every California county.<sup>49</sup> As an arm of the superior court, the Office of the Family Law Facilitator assists the court in its duty to provide due process of law and equal access to the court for all members of the community. The emphasis of the program is on providing self-represented litigants legal information and education, not legal advice and strategy. Pursuant to the act, no attorney-client relationship is created between a party and the family law facilitator as a result of any information or services provided to the party by the facilitator.

In September 2002, the Washington Supreme Court enacted Rule 27, which provides each county in the state with authority to create a courthouse facilitator program pursuant to Court Rule 26.12.240, to provide basic services to pro se litigants in family law cases. Washington State Rule 27 enumerates those basic services that the facilitator may provide to self-represented litigants. The rule expressly states that no attorney-client relationship is created between a facilitator and user of the service, nor are the facilitators engaged in the unauthorized practice of law by providing the basic services allowed under the rule.

### **Legal Clinics**

Some courts have initiated programs designed to educate pro se litigants about the court process, while also making it possible for litigants to have access to pro bono legal services. In Ventura County, California, the Family Law Pro Per Clinic is a three-hour

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<sup>49</sup> See AB 1058, 1996 Cal. Stat. 957, § 9 (codified as amended at Cal. Fam. Code §§ 10000-10015 (West Supp. 2000)). For an excellent overview of California's program see Frances L. Harrison et al., California's Family Law Facilitator Program: A New Paradigm for the Courts, J. OF THE CTR. FOR FAMILIES, CHILDREN & THE CTS. 61 (2000).

program held at the courthouse one evening a week.<sup>50</sup> The clinic explains to participants how the court handles matters involving families, what forms need to be prepared for particular types of proceedings, what to do when the court calls their case, and how cases move through the court system. Self-help binders, which contain forms and instructions, also are available to clinic participants. If a participant completes the necessary forms the evening of the clinic, a court clerk will examine them for completeness and file them that same evening. If a clinic participant needs assistance, volunteer attorneys are available to answer questions and help with forms.

The Torrance branch of the Los Angeles Superior Court is another example of an innovative legal clinic providing assistance to victims of domestic violence.<sup>51</sup> Volunteers assist self-represented litigants in filling out temporary restraining orders and civil harassment orders. In Pennsylvania, Neighborhood Legal Services Association operates a pro se clinic in two of its rural counties.<sup>52</sup> At these clinics, up to twelve clients are scheduled twice each month in each county where staff presents a summary of custody law and procedure to the group, and then provides individual advice and instruction on whether to file a pleading, on how to fill it out, and how to file it. Clinic participants who want representation at the custody hearing are referred to a private attorney for reduced fee representation.

The Queens Legal Services Corporation (“QLSC”) in New York recently created “Know Your Rights Advisory Clinics” in order to expand service delivery in the areas of housing and child support.<sup>53</sup> The project offers training sessions to educate individuals about QLSC’s clinical program and trains clients in group settings separately from the clinical program. During the training sessions, clients are advised of basic rights and issues that arise in the context of court proceedings and are then encouraged to go through the project’s intake procedure, which establishes whether the client and/or case are suitable for the clinic. The actual clinic is a series of one-on-one encounters in which

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<sup>50</sup> See Report and Guidebook, at 70, 81-83. See also [www.lri.lsc.gov/abstracts/020113/ps\\_020113.htm](http://www.lri.lsc.gov/abstracts/020113/ps_020113.htm) for a description of Ventura County Superior Court’s Self-Help Legal Access Centers.

<sup>51</sup> See Report and Guidebook, at 70, 79-80.

<sup>52</sup> See [www.lri.lsc.gov/abstracts/020001/ps\\_020001.htm](http://www.lri.lsc.gov/abstracts/020001/ps_020001.htm). For more information contact Jane Hepting, Neighborhood Legal Services Association, 928 Penn Avenue, Pittsburgh, PA 15222-3799, (412) 255-6700, ext. 216.

<sup>53</sup> See [www.lri.lsc.gov/abstracts/030011/ps\\_030011.htm](http://www.lri.lsc.gov/abstracts/030011/ps_030011.htm). For more information contact Lisa Isaacs, Queens Legal Services Corporation, 89-00 Sutphin Boulevard, Jamaica, New York 11435, (718) 651-0185.

the client and case handler develop a litigation strategy and learn how papers will be filed and what to expect in court. The client also has a contact within the project throughout the process in case the proceeding becomes complicated and the need for additional legal assistance is required.

Similar to a legal clinic, the Family Court in Orleans County, Vermont, requires all pro se litigants to attend a “Pro Se Education Class.” The class teaches pro se litigants about how the court works, how to act in court, court expectations, areas of concern in family law matters, when litigants should get help from a lawyer, what mediation is, and what services and programs are available. The class is available one afternoon every month and parties are not heard in court until they have attended the course.

### **Pro Bono and Reduced-Cost Legal Services**

Many bar associations and legal services organizations offer programs that provide assistance to individuals with legal problems but who cannot afford an attorney. As the number of self-represented litigants continues to rise, some courts have begun to work with bar groups and legal services organizations on collaborative programs explicitly designed to address the needs of pro se litigants. Such programs range from simple referrals, to organized legal services programs, to well-structured bar and law school programs that operate offices at the local court or through clinics located outside the courthouse.

The Hennepin County District Court in Minneapolis, Minnesota, has been a leader in the development of such collaborative programs, working with the Hennepin County Bar Association on several initiatives.<sup>54</sup> The Legal Access Point pilot project works in conjunction with the court’s Self Help Service Center and is designed for individuals who cannot afford going-rate attorney fees but need initial guidance as they address a problem involving legal issues. Judges and court staff refer pro se litigants to the program for a fifteen-minute consultation and assessment of their legal situation. Then, depending on the situation, the volunteer lawyers staffing the program may arrange for further assistance provided on a pro bono or reduced-fee basis.

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<sup>54</sup>See Report and Guidebook, at 70, 94-95.

In Maryland, the administrative office of the courts, in partnership with the Women's Law Center, has established a statewide toll-free telephone service to respond to pro se inquiries and is staffed by experienced family law attorneys.<sup>55</sup>

### **Self-Help Centers**

Self-help centers are designed to provide services such as distributing educational materials, brochures, and informational packets; helping users complete forms; providing access to computer terminals; and referring users to other services. The comprehensive Self-Service Center developed by the Superior Court of Maricopa County, Arizona, is the best-known program of its kind in the United States.<sup>56</sup> The center has several physical locations and makes extensive use of automation technologies including an automated telephone system, a computer bulletin board system, and the Internet. Services available through the center include the provision of court forms, instructions, and educational materials about court processes. The center maintains a data bank of lawyers willing to work with litigants on a task-by-task basis (i.e., unbundled legal services) and a data bank of mediators who can help resolve disputes. A volunteer lawyer is also available at the center to provide short consultation on specific questions at a reduced fee.

The Eleventh District Court in Aztec, New Mexico also offers an example of an innovative approach to a self-help center.<sup>57</sup> The services provided by this program are consolidated into a condensed time and place and works in collaboration with private businesses and other governmental agencies so that litigants will not have to travel from place to place. The centers are held in the courthouse lobby during the evening hours and booths are assembled that offer various types of assistance to pro se litigants. The following types of "booths" are available:

- Forms booth;
- Mediator booth;
- County clerk booth for those who have land to divide or a title to change;

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<sup>55</sup>See Report and Guidebook, at 70, 92-93.

<sup>56</sup>See Report and Guidebook, at 71, 73-75.

<sup>57</sup> See Honorable Grant L. Foutz et al., The Self-Represented Resource Centers: "Facilitated Self Help," Eleventh District Court, N.M. (Nov. 2000).

- Court clerk booth that stays open late for filing of pleadings;
- Department of motor vehicles booth that assists participants in changing vehicle titles;
- Copy company booth that provides low cost copies;
- Child support booth that provides a hearing officer to assist with completing the state mandated child support worksheets;
- Private process server booth that rotates on a schedule and provides low cost service; and
- Judge's secretary booth that allows for litigants' packets to be evaluated for completeness and scheduled for hearing.

The Eleventh Circuit's Self Represented Resource Center uses multiple agencies amassed in one location and at one point in time to provide a comprehensive solution to the problems faced by pro se litigants.

## **Recommendations**

### **Why the Court Needs to Respond to Pro Se Litigation Issues**

As pro se litigants continue to appear in courtrooms throughout the country, courts have begun to recognize the necessity of developing a meaningful response. From a purely practical standpoint, ignoring pro se litigants' presence in our courtrooms will simply perpetuate the inefficiencies pro se litigation creates and place increasing pressure on already thinly stretched court staff resources. Thus, it is in the court's self-interest to acknowledge the challenges raised by the trend toward self-representation and formulate an appropriate response that not only serves pro se litigants but also benefits court operations. Furthermore, an appropriate response to the trend will help to ensure that pro se litigants are better informed about court processes and have more realistic expectations about what problems the court can actually solve. Certainly more informed litigants will be better able to navigate the court process on a more level playing field, will impose less pressure on court staff, will enable judges to process cases more quickly without the fear

of appearing partial, and will assist opposing attorneys in more fairly representing their own clients' interests.

Not only does the court have a self-interest in formulating an appropriate response, but the state has an obligation to ensure that all citizens have meaningful access to its courts.<sup>58</sup> A court system that fails to respond to the barriers litigants face in accessing the court system runs the risk of creating a two-tier system of justice.<sup>59</sup> Such division erodes the public trust and confidence in the courts and increases the likelihood that litigants will feel as though the system treated them unfairly. And concern for waning public confidence in the court system should be a top priority. Indeed, only twenty-three percent of participants in a 1999 National Survey of 1,826 Americans reported holding a great deal of trust/confidence in the "courts in [their] community," ranking sixth out of eight institutions examined, ahead of only the state legislature and the media.<sup>60</sup> Moreover, nearly twenty-five percent of respondents reported "only a little" or no trust/confidence in the courts in their community.<sup>61</sup> Public trust and confidence in family relations cases fared even worse, with only seven percent of respondents reporting that cases were handled in an excellent manner and over fifty-seven percent reporting that such cases were handled in a fair or poor manner.<sup>62</sup> Such distressing results should serve as a wake-up call to court systems throughout the country, especially in light of the fact that public trust and confidence in the court system is perhaps the best defense against the emotional reaction to losing a case.<sup>63</sup>

In addition to concerns about public trust and confidence in the court system, when many litigants proceed without representation because they lack sufficient resources to hire an attorney, and must do so in times of crisis, fundamental principles of fairness and due process must also be considered when formulating an appropriate response to the pro se issue. Indeed, as early as 1823, the United States Supreme Court recognized access to the courts as a constitutional right guaranteed by the privileges and

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<sup>58</sup> CONFERENCE OF CHIEF JUSTICES/CONFERENCE OF STATE COURT ADMINISTRATORS: TASK FORCE ON PRO SE LITIGATION, Resolution 31 (Aug. 1, 2002).

<sup>59</sup> COCSA, Position Paper, at 1.

<sup>60</sup> David B. Rottman & Alan J. Tomkins, Public Trust and Confidence in the Courts: What Public Opinion Surveys Mean to Judges, CT. REV., Fall 1999, at 24, 28.

<sup>61</sup> Id.

<sup>62</sup> Id.

<sup>63</sup> Id.

immunities clause (Const. Art. 4, § 2).<sup>64</sup> Alternatively, a constitutional source of the right of access to the courts also has been found in the First Amendment right to petition the government for redress of grievances, and the due process clause of the Fifth and Fourteenth Amendments.<sup>65</sup> Likewise, the Missouri Constitution guarantees that all citizens have access to its courts.<sup>66</sup>

Similarly, the United States Supreme Court has interpreted the Sixth Amendment to guarantee criminal defendants a constitutional right to proceed pro se.<sup>67</sup> While the Supreme Court has yet to rule on the question whether the right to proceed pro se extends to civil cases, this right is presently protected under federal statute and at least fifteen state constitutions and statutes.<sup>68</sup>

In sum, the United States Constitution, the Missouri Constitution, federal legislation, and state law each provides a legal foundation for a right of access to the country's court system and serves as a basis for the right to proceed pro se. While the question whether such rights obligate the courts to take affirmative steps to provide self-represented litigants with some form of legal assistance is to date unanswered, the court has a self-interest in developing a flexible response to the presence of pro se litigants.

### **Issues to Consider in the Development and Implementation of Self-Help Programs for Pro Se Litigants**

It is fairly easy to determine the benefits of providing assistance to pro se litigants. There are, perhaps, not so easily identifiable unintended negative consequences to providing such assistance. It would seem almost universally true that a sick person

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<sup>64</sup> See, e.g., *Corfield v. Coryell*, 6 F. Cas. 546, 551-52, No. 3, 230 (1823) (“What are the privileges and immunities of citizens of the several states? . . . What these fundamental principles are it would, perhaps, be more tedious than difficult to enumerate . . . [but include the right] to institute and maintain actions of any kind in the courts of the state.”).

<sup>65</sup> See, e.g., *Cal. Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508 (1972) (First Amendment); *Ex Parte Hull*, 312 U.S. 546 (1941) (Fifth Amendment); *Boddie v. Conn.*, 401 U.S. 371 (1971) (Fourteenth Amendment).

<sup>66</sup> Mo. Const. art. 1, § 14 (“That the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay.”).

<sup>67</sup> See *Faretta v. Cal.*, 422 U.S. 806 (1975). See also MO. REV. STAT. § 600.051 (2000) (“Any judge of a court of competent jurisdiction may permit a waiver of counsel to be filed in any criminal case wherein a defendant may receive a jail sentence or confinement . . .”).

<sup>68</sup> See 28 U.S.C. § 1654 (“In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.”).

would benefit from consulting with a physician, or a person with a tax dilemma would benefit from a visit with an accountant. Obviously, the same is true concerning legal issues; a person with a legal problem would be “better off” if they had legal advice or legal representation.

Today there are a large number of individuals representing themselves in Missouri, even though there is not a great deal of assistance available to them. One would presume that if more assistance were available, more individuals would utilize this assistance and proceed pro se. If this assumption is indeed true, then by creating a “better” pro se system and thereby increasing the numbers of pro se litigants, would the court be making pro se litigants “worse off” by helping them proceed through the process without an attorney? This concern is bolstered by the fact that nearly as many respondents to the Joint Commission’s Pro Se Litigant Survey indicate that they chose to proceed pro se because they did not think that they needed an attorney as did so because they could not afford one.<sup>69</sup> Thus, the question arises as to whether providing pro se assistance will encourage more individuals to “think they can go it alone”?

St. Louis County recently studied the change in the number of dissolution of marriage cases filed by pro se litigants after the institution of a “user-friendly” system. The number of pro se cases increased from 191 to 298 for the same time periods before and after the institution of the system. During this same period, total dissolution of marriage cases filed decreased from 2,515 to 2,433.<sup>70</sup> During the same time period, commercial non-attorney “forms preparers” became much more aggressive in their marketing, with almost daily advertising both in newspapers and the broadcast media. Thus, it is difficult to determine if “forms preparers” or the institution of the user-friendly system, or a combination of the two, caused the increase in the number of filings.

St. Louis County studied eighty-two pro se dissolution of marriage cases filed during the months of June and July, 2003. Thirteen cases were prepared by one “forms preparer.” Fifty-two used the pre-printed St. Louis County petition. The remaining thirty

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<sup>69</sup> Specifically, 142 of 289 pro se litigant respondents indicate that they chose to proceed pro se because they thought they could handle the case on their own. By comparison, 154 of 289 respondents indicate that they chose to proceed pro se because they could not afford an attorney.

<sup>70</sup> See Appendix D for complete results of this study. Since St. Louis County instituted a more “user-friendly system,” more dissolution of marriage cases have been filed in St. Louis County by parties that do not reside in St. Louis County. No studies indicate the exact number of such additional filings.

cases had documents prepared either by an individual, another “forms preparer,” or an attorney who did not enter their appearance. During this same period, prior to the “user friendly” system and prior to the increased presence of commercial non-attorney “forms preparers,” fifty-one pro se dissolution of marriage cases were filed. Thus, it is reasonable to conclude that the institution of a “user-friendly” system for the pro se litigant in dissolution of marriage cases has caused a slight increase in the number of pro se dissolution of marriage filings in St. Louis County.

These potentially negative consequences could be countered by providing literature and other educational information to litigants. The information provided by such brochures, classes, or other medium could be of assistance by explaining the complexity of issues and procedures involved in litigation and the often unintended consequences of proceeding pro se. Educational information also would create a better informed pro se litigant who might be better able to address the problems of communication, rules of discovery, and other legal issues.

Furthermore, involving attorneys in the process of educating the pro se litigant by providing assistance in classes, clinics, or other forums may persuade individuals to seek appropriate legal advice. If a statewide “clearinghouse” of information were available, individuals proceeding pro se because they lack the financial resources to hire an attorney may obtain information that could assist them in obtaining low or no-cost legal assistance.

Another mechanism for making the system user friendly while involving attorneys in the process is Unbundled Legal Services (“ULS”). This includes ghostwriting of pleadings and documents, assistance with filling out forms, and review of documents. By not having to “take on the case as a whole,” attorneys may provide valuable assistance to pro se litigants while reducing the costs of access to the court system.

ULS, however, may raise ethical and malpractice issues for the attorney. The Joint Commission has consulted with the Bar Plan with regard to these issues. The Bar Plan has previously considered and addressed the ethical and malpractice issues in a memorandum supplied to the Joint Commission.

From an ethical standpoint, the biggest concern is undisclosed representation. Most court rules require that pleadings be signed by the attorney who prepared them. In providing assistance to the pro se litigant, the attorney should disclose to the court the limited scope of the legal services provided. This is particularly important if the attorney is ghostwriting legal documents or pleadings for the pro se litigant. Because limited legal assistance may involve confidential information, the attorney should obtain a client's consent to make the disclosure.

The greatest malpractice risk faced by attorneys furnishing ULS may be the client's understanding of the limitation of the attorney's representation. Because of this, limited representation does not necessarily translate into limited legal malpractice risk. In fact, limited representation may result in greater malpractice exposure. Careful client and case screening, and explicit and clearly worded engagement letters outlining exactly what the lawyer will and will not do are important components in reducing malpractice risk in the ULS representation. Such agreements should set out that the arrangement is for the benefit of the client and illustrate the ways the client benefits from the limited representation.

A lawyer must take reasonable steps to protect the client's interest, even in a limited representation.<sup>71</sup> "Although a representation agreement may limit the scope of representation to a particular legal course of action, the client must be made to understand that the course of action is not the sole potential remedy and that there exist other courses of action that are not being pursued."<sup>72</sup> In *Keef*, a lawyer was liable in malpractice for failing to inform the client of other types of recoveries despite a clearly worded limitation in the fee agreement. *Keef* relying in part on *Nichols v. Keller*,<sup>73</sup> a limited representation case, stated:

However, even when a retention is expressly limited, the attorney may still have a duty to alert the client to legal problems which are reasonably apparent, even though they fall outside the scope of the retention. The rationale is that, as between the lay client and the attorney, the latter is more qualified to recognize and analyze the client's legal needs. The attorney need not represent the client on such matters. Nevertheless, the

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<sup>71</sup> See, e.g., *Keef v. Widuch*, 747 N.E.2d 992 (Ill. App. 2001).

<sup>72</sup> *Id.* at 998.

<sup>73</sup> 15 Cal. App. 4th 1672, 19 Cal. Rptr. 2nd 601 (1993).

attorney should inform the client of the limitations of the attorney's representation and of the possible need for other counsel.<sup>74</sup>

When providing ULS, the lawyer must be careful to stay strictly within the scope of the limitations agreed to with the client. It can be very easy to take one or two extra steps to assist the pro se litigant. In doing so, however, the lawyer may become responsible for representation as to the whole of the matter.

Further concern for the attorney in ULS is the duty to assess the client's ability to utilize the limited legal assistance effectively. One commentator has suggested that in ghostwriting pleadings or documents for a pro se litigant, the attorney has the duty to accurately assess the client's ability to effectively represent himself using the limited legal assistance.<sup>75</sup> If the attorney is not satisfied that the pro se litigant can effectively use the pleadings, the attorney should not draft them.

In sum, ULS can be made available both ethically and without malpractice. The lawyer, however, must be sure that the pro se litigant understands and adheres to the limitations of the agreement to furnish ULS.

Other barriers to self-help assistance programs are likely to amount to concerns about compromises in judicial neutrality and the unauthorized practice of law. To be sure, offering assistance to pro se litigants raises the specter that the court is deviating from its traditional role of impartial adjudicator. Judicial canons of conduct require judicial neutrality. For example, Missouri Supreme Court Rule 2.03, Canon 2 requires judges to "avoid impropriety and the appearance of impropriety" in all judicial activities; this includes acting "in a manner that promotes public confidence in the integrity and impartiality of the judiciary." On the other hand, Missouri Supreme Court Rule 2.03, Canon 3.B(4) requires judges to "be patient, dignified and courteous to litigants," while Canon 3.B(7) requires judges to "accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law." Finally, pursuant to Missouri Supreme Court Rule 2.03, Canon 3.C(2), judges have a duty to

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<sup>74</sup> Nichols, 15 Cal. App. 4th at 1683-84, 2, 29 Cal. Rptr. 2nd at 608.

<sup>75</sup> Mary Ellen McNeal, *Having One Oar or Being Without a Boat: Reflections on the Fordham Recommendations on Limited Legal Assistance*, *FORDHAM L. REV.*, Apr. 1999.

assure that court officials “refrain from manifesting bias or prejudice in the performance of their official duties.”

Appropriately designed self-help programs should make the judge’s job easier. Clearly, better-prepared litigants will have more realistic expectations and will require less assistance as their cases proceed through the court system. Consequently, judges and court staff should feel less pressure to provide pro se litigants assistance as they wind their way through the court system, thereby easing concerns about the appearance of partiality. In addition, when barriers to accessing the court system are lowered, pro se litigants are more likely to feel as if they were treated fairly, thereby instilling more public trust and confidence in the court’s judgment and in the court system overall. Caution is in order, however, so as to ensure that pro se litigants are aware of the potential long-term risks of proceeding pro se so as not to unknowingly waive valuable rights.

Finally, the development of self-help assistance programs also raises the fear of crossing the boundary between providing legal information and legal advice. While concerns surrounding the unauthorized practice of law<sup>76</sup> must be addressed, in light of the number of pro se litigants coming to court, such concerns should not be seen as an insurmountable obstacle to initiating a proactive response to the trend toward self-representation. The legislature has already taken limited steps in offering guidance on what constitutes permissible assistance in certain types of domestic relations cases. For example, court clerks are required to explain to pro se litigants the procedures for filing all forms and pleadings necessary for the presentation of their petition to the court in adult abuse order of protection cases,<sup>77</sup> child abuse order of protection cases,<sup>78</sup> and in family access cases.<sup>79</sup> Pursuant to statute, the performance of these duties does not constitute the practice of law.

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<sup>76</sup> Missouri defines the “practice of law” as “the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies.” MO. REV. STAT. § 484.010 (2000).

<sup>77</sup> MO. REV. STAT. § 455.025 (2000).

<sup>78</sup> MO. REV. STAT. §§ 455.504, 455.508 (2000).

<sup>79</sup> MO. REV. STAT. § 452.400.3 (2000).

While such statutes are helpful in drawing the line between providing legal information and legal advice, much uncertainty remains concerning what is the “unauthorized practice of law.” Consequently, court staff remains adrift and unable to respond effectively to inquiries from the growing number of pro se litigants. A well-designed response should ease the constant pressure court staff feel to respond to questions from pro se litigants by providing court staff with a helpful alternative to today’s common response, “I’m sorry. I’m not allowed to give legal advice.”

### **Joint Commission Specific Recommendations**

Based on its research and findings, the Joint Commission believes that the following recommendations, if implemented, would prove useful in assisting Missouri’s courts in responding to pro se litigation issues and ensuring equal access to justice for all of Missouri’s citizens. The Joint Commission further believes that every court in the state should be encouraged to respond to the particular needs of its citizens in the most appropriate manner possible. Therefore, the Joint Commission’s recommendations are designed to ensure that each county in the state maintains the flexibility necessary to respond to pro se litigation in a manner appropriate to its needs. The Joint Commission’s recommendations center around four state-wide action areas: (1) education, (2) information, (3) encouragement and support of legal referral and pro bono services, and (4) standardized forms and instructions. In addition, the Joint Commission recommends that the Court establish a Pro Se Implementation Committee. The recommendations have been numbered for reference purposes only; the numbers do not reflect prioritization by the Joint Commission.

#### **Education**

Accepting the fact that the pro se litigation trend is going to continue to be a part of the judicial landscape in family law cases throughout Missouri, the Joint Commission strongly believes that education targeted to pro se litigants, court staff, and the judiciary is key to successfully meeting the challenges raised by pro se litigation.

## **Pro Se Litigant Education**

### **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.**

Before choosing to proceed without legal counsel, potential pro se litigants must clearly understand the risks and responsibilities of proceeding without an attorney. This is especially true in family law cases where decisions affecting custody and support of children and support of spouses are vitally important to society. In the family courts of Vermont, for example, litigants who choose to self-represent are required to participate, free of charge, in a “Pro Se Litigant Education Class” taught by volunteer attorneys. These classes are not designed to be a “how to” model for the do-it-yourself litigant. Instead, the purpose of the class is to teach prospective pro se litigants about the responsibilities of self-representation, to inform them about the kind of information the court will require in order to decide the issues in the case, and to prepare them to abide by the basic rules and procedures with which the court is likely to require all participants to comply. Judicial branch policymakers in Vermont implemented this requirement not to impede self-represented litigants, but rather to ensure them meaningful access to justice by providing essential information to those without the services of a trained lawyer. When pro se litigants understand what will be required of them, they are more likely to have reasonable expectations concerning the court system and a better chance for a successful outcome. Therefore, the Joint Commission recommends that each pro se litigant be required to participate in an educational program approved by the court in which the case is to be filed.

Best practice should require each pro se litigant to participate in an educational program. At a minimum, each circuit should have the authority to develop and order a mandatory program. This education can take many forms based upon the resources available to the courts. It could be any combination of the following:

- A videotape presentation;
- A live class presentation by an attorney or court staff member;

- An internet course;
- A detailed form with instructions;
- A self-study booklet; or
- A private consultation with an attorney.

Currently, most courts provide some type of parent education in dissolution of marriage cases involving children. Part of the mandatory education could be fulfilled as part of these classes.

Litigant education will provide much of the information that is now being disseminated through non-attorney “self-help” businesses. Additionally, mandatory litigant education will provide litigants with resources so that they can decide what method they should use to proceed.

Litigant education also will alleviate many of the problems placed upon the court system. If litigants are more knowledgeable and better informed about court proceedings, they are less likely to take valuable clerk time with questions concerning the system. The courts should not use litigant education as an excuse to rid the system of pro se litigants. Rather, it should be viewed as an attempt to ensure that the court reaches a fair and just resolution for all litigants. Finally, this requirement should not apply to adult abuse cases, child protection orders, family access motions, motions to terminate child support, and other proceedings designed and intended to be pro se.

## **Court Staff Education**

### **Recommendation 2**

**Guidelines should be developed for court staff that clearly define 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 with or assist pro se litigants should be developed.**

Court staff throughout the state is routinely confronted with questions from pro se litigants. Court staff also indicates that they lack guidance in how to respond to such questions without engaging in the unauthorized practice of law. Consequently, the Joint

Commission strongly recommends that policies be developed clarifying what basic legal information court staff may provide to pro se litigants and that court staff be trained on such policies.<sup>80</sup>

## **Judiciary Education**

### **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 a standard protocol for handling hearings involving pro se litigants.**

As discussed above, pro se litigants' lack of knowledge about court procedures creates inefficiencies in case processing. Therefore, the Joint Commission strongly believes that judicial education concerning the problems faced by pro se litigants and effective courtroom strategies for dealing with such issues would increase the efficiency in which family law cases are processed throughout the state.

## **Information**

### **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.**

At this time, as discussed above, there are helpful programs and information available to pro se litigants in Missouri. Unfortunately, the availability of such information is limited and access can be difficult. A Pro Se Information Clearinghouse ("Clearinghouse") should be established to provide individuals who are interested in obtaining pro se assistance access to information regarding pro se assistance programs

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<sup>80</sup> See Appendix E for sample guidelines developed by other states for determining what is and is not legal advice.

throughout the state. Many states have established such clearinghouses through the development of a comprehensive website. Such websites offer pro se litigants a plethora of information regarding pro se assistance programs by state and by county. The Joint Commission recommends that Missouri develop a Clearinghouse by designing a comprehensive website including information on all available assistance programs statewide.

The Joint Commission recommends that the information contained in the Clearinghouse should, at a minimum, include:

- A directory of self-help programs by county;
- A directory of approved and accepted statewide forms;
- Links to family court rules and statutes;
- A directory of existing pro bono programs by county;
- Information about the availability of legal aid programs and links;
- A directory of existing lawyer referral networks;
- Information and a disclaimer about the risks of proceeding pro se;
- An explanation that pro se resources are not meant to encourage pro se litigation; and
- Information about the role of an attorney in the lawsuit.

In addition, the Clearinghouse should also include any information and programs established as a result of the recommendations of the Joint Commission.

Reference to the Clearinghouse, including a synopsis of the information provided therein, should be referenced in brochures and other material. Links to the Clearinghouse should be available from the Missouri Judiciary website ([www.osca.state.mo.us](http://www.osca.state.mo.us)) and the Missouri Bar website ([www.mobar.org](http://www.mobar.org)). In addition, information about the Clearinghouse should be made available to judges, clerks, attorneys, and potential litigants through appropriate educational programs. Finally, circuit clerks should be encouraged to direct pro se litigants to the Clearinghouse and provide pro se litigants information concerning the availability of publicly accessible computers at either the courthouse or the local public library.

**Recommendation 5**

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

The brochure should be designed to address the expectations of self-represented litigants by clarifying what problems the court can solve, how notification and case scheduling will proceed, and what assistance the court can and cannot provide to self-represented litigants. The brochure should also be made available in languages other than English.

**Encouragement, Promotion, and Support of Legal Referral and Pro Bono Services****Recommendation 6**

**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 fees.**

Limited financial resources are certainly a significant barrier for many people who need the services of an attorney in resolving family law problems. Cost-free legal services are quite limited, and private attorney pro bono representation can be expected to meet only a small portion of the public's need. But courts can play a role in linking lawyers to potential clients through bar-sponsored referral programs operated with high visibility in circuit court locations, thereby providing people in need with a viable alternative to self-representation. Studies show that a surprisingly high percentage of people who could afford to pay something for legal services do not know how to contact or select an attorney to advise them when they have a legal problem. Random selection from the phone book is often both uncomfortable and ineffective in finding a lawyer who

is suited to the kind of problem for which legal help is needed, at a rate the prospective client can afford. Many people simply do not have personal connections to lawyers or to trusted friends who can recommend a lawyer. For people caught in this situation, self-representation may be their only alternative.

Bar associations are well suited for delivering professional referral services to their attorney members and to the public. Usually these programs allow lawyers voluntarily to be included on a roster from which referrals are made when the bar program is contacted by someone in need of an attorney. Lawyers may provide some services at a below market rate, but they are free to make any reasonable fee arrangement when contacted by a prospective client. With the linkages that are possible through a well-run bar referral program, people in need of legal representation will have easier access to counsel who are sensitive to the client's concern about high cost, but both parties understand that services are still expected to be reasonably compensated. While lawyer referral programs are currently operated by metropolitan bar associations in St. Louis and Kansas City and statewide through the Missouri Bar, these services need to have a much higher profile in courthouses all around the state. If these programs have tended to be underused in the past, it is because courts have not actively promoted referral services to the very population who could benefit the most—the pro se litigant. With Supreme Court approval and encouragement, the circuit courts can be more proactive in recommending lawyer referral programs as an alternative to self-representation.

### **Recommendation 7**

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

As discussed above, a significant number of pro se litigants do not self-represent by choice, but rather because of their economic circumstances. Thus, it is the Joint Commission's belief that the court system and the organized bar must continue to encourage pro bono efforts as a way to address this root cause of self-representation.

New efforts should also be explored to increase the number of pro bono resources available. This could include encouraging a pro bono component in the curriculum of each of Missouri's law schools; exploring the removal of legal impediments preventing government lawyers from providing pro bono representation; and increasing recognition of lawyers who are committed to providing pro bono representation.

### **Standardized Forms and Instructions**

#### **Recommendation 8**

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

The purpose of creating simple court forms and understandable instructions is to assist pro se litigants in navigating their way through the complex court system. Creating state-wide acceptable standardized forms for routine family law cases will also allow for the more efficient management of family law cases. Improper or insufficient pleadings are less likely if litigants are provided with standardized forms. As the number of self-help legal products continues to grow, Missouri courts would be best served by designing its own standardized forms rather than being confronted with forms developed for a national audience or another state. Standardized forms will discourage pro se litigants from seeking advice from non-attorneys and reduce the burden on judges to evaluate the validity of pleadings. Because family law cases involve serious issues and critical decisions that affect the daily lives of litigants and their families, such efforts are necessary in order to ensure that all families facing legal challenges have access to the court system, regardless of their ability to afford legal counsel. Providing standardized forms is a cost-effective and efficient manner in which to ensure access.

### **Pro Se Implementation Committee**

#### **Recommendation 9**

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

The Joint Commission's proposed recommendations are small and incremental steps in what should be an evolving response to the pro se trend. Because the Joint Commission's recommendations are focused on state-wide initiatives, a state-wide implementation committee is required to facilitate each of the proposed recommendations. The Pro Se Implementation Committee should be responsible for continuing to monitor and adjust the initial recommendations approved by the Court and propose additional recommendations as the need arises.

### **Conclusion**

The Joint Commission's recommendations would place Missouri on the path with other states in responding to the challenges created by the pro se litigant. The recommendations offered are practical steps that can enhance access to justice without significant cost to the judicial branch or the organized bar.

# **Appendix A**

## **Joint Commission's Surveys and Results**

**JUDICIAL SURVEY ON PRO SE LITIGATION  
(Responses in Bold; Total Number of Responses = 187)**

Please return completed surveys no later than February 24, 2003 by fax to 573/635-2811 or mail to: The Missouri Bar, P.O. Box 119, Jefferson City, MO 65102, Attn: Bob Stoeckl

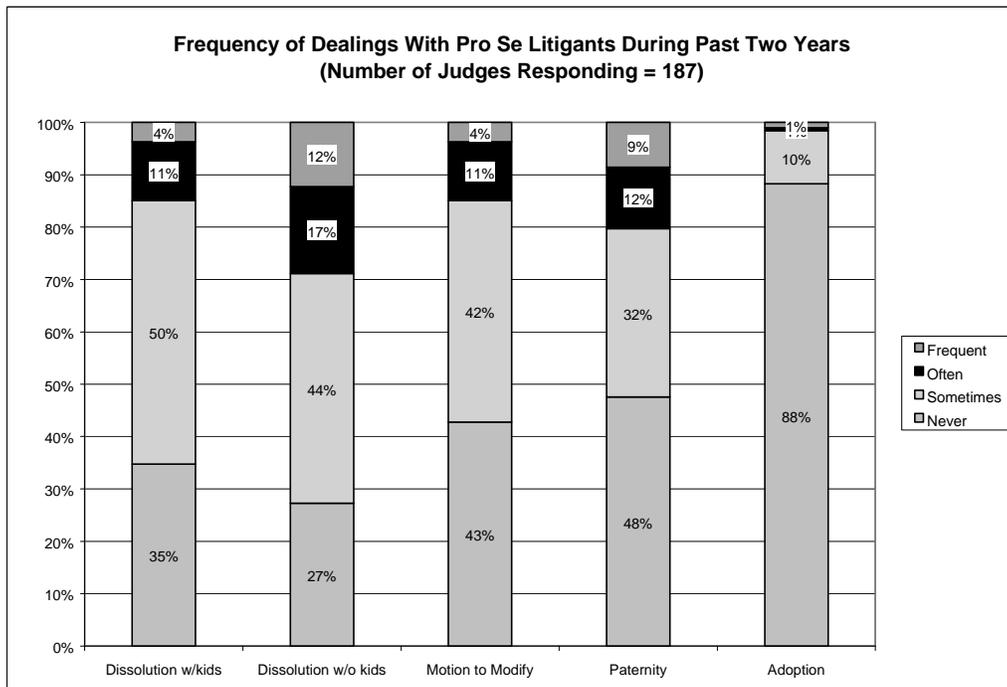
Name: \_\_\_\_\_

Court: \_\_\_\_\_ Position: \_\_\_\_\_

**Pro se: For one’s own behalf; in person. Appearing for oneself, as in the case of one who does not retain a lawyer and appears for himself in court.**  
**Black’s law Dictionary, 6<sup>th</sup> Edition, (1991)**

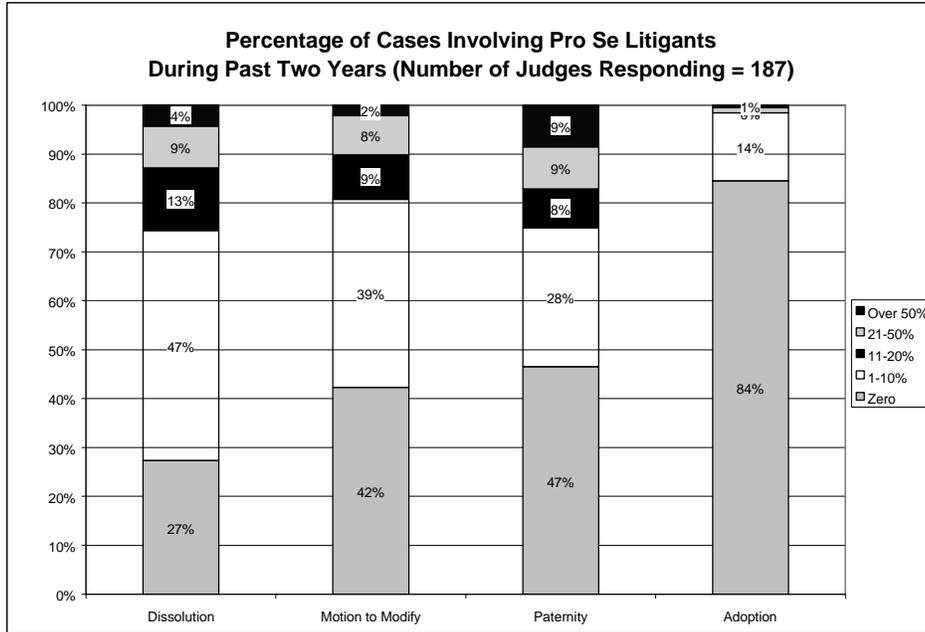
1. During the past two years, please estimate how frequently you deal with pro se litigants in the following types of family law cases: (1 = never, 2 = sometimes, 3 = often, 4 = very frequently)

- \_\_\_\_\_ Dissolution
- \_\_\_\_\_ Motion to modify
- \_\_\_\_\_ Paternity
- \_\_\_\_\_ Adoption
- \_\_\_\_\_ Other (Please describe: \_\_\_\_\_)



2. Based on your experience during the past two years, please estimate at what percentage you normally have pro se litigants in the following types of family law cases:

- \_\_\_\_\_ % Dissolution
- \_\_\_\_\_ % Motion to Modify
- \_\_\_\_\_ % Paternity
- \_\_\_\_\_ % Adoption
- \_\_\_\_\_ % Other (Please describe: \_\_\_\_\_)



3. Based on your experience during the past two years, has the overall number of pro se litigants in family law cases:

- Increased greatly **17 (9.09%)**
- Increased moderately **69 (36.90%)**
- Remained about the same **70 (37.43%)**
- Decreased **1 (0.53%)**
- No Response 30 (16.04%)**

4. Do you take any special steps in cases where one or both parties are pro se? (Please check all that apply):

- Grant a continuance to hire an attorney **153 (81.82%)**
- Explain the nature of the proceeding **134 (71.66%)**
- Explain the disadvantages of being pro se **140 (74.87%)**
- Other (Please describe: \_\_\_\_\_)

5. Does the fact that a litigant is unrepresented in family law related cases affect your handling of the case?

Yes **118 (63.10%)**       No **46 (24.60%)**  
**(No Response 23 (12.30%))**

If yes, how? \_\_\_\_\_

6. Do you generally advise pro se litigants to seek counsel?

Yes **146 (78.07%)**       No **34 (18.18%)**  
**(No Response 7 (3.74%))**

7. Do you hold pro se litigants to the same standards as attorneys?

Yes **119 (63.64%)**       No **64 (34.22%)**  
**(No Response 4 (2.14%))**

8. Do you refer pro se litigants to bar associations, legal services offices, social services agencies?

Yes **138 (73.80%)**       No **48 (25.67%)**  
**(No Response 1 (0.53%))**

8a. If yes, where are referrals made?

**Bar Associations = Number Responding = 52**

**Legal Services = Number Responding = 98**

**Agencies = Number Responding = 22**

**Court or Legal System = Number Responding = 21**

9. Does your court have any programs for pro se litigants?

Yes **28 (14.97%)**       No **154 (82.35%)**  
**(No Response 5 (2.67%))**

9a. If yes, what program(s) do you have?

10. Does your court have any pre-printed form pleadings for pro se litigants?

Yes **49 (26.20%)**       No **129 (68.98%)**  
**(No Response 9 (4.81%))**

10a. If your answer is yes, please attach the forms to your response to this survey.

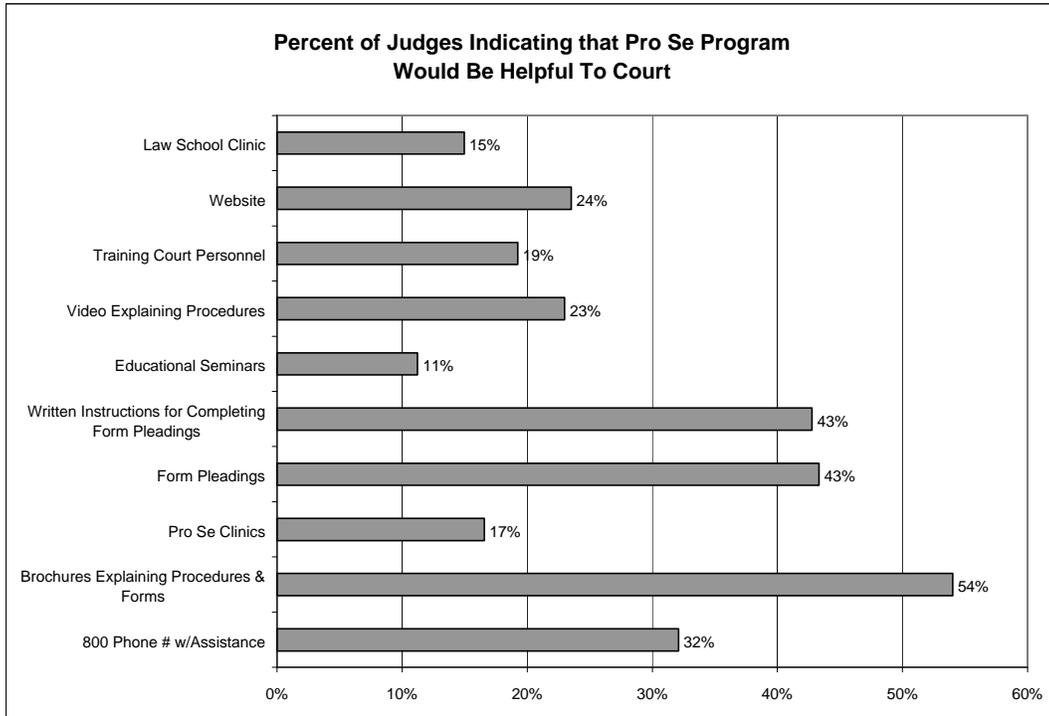
10b. Should there be forms available?

Yes **70 (37.43%)**       No **83 (44.39%)**  
**(No Response 34 (18.18%))**

11. Some jurisdictions have developed programs to assist pro se litigants. Would any of the following programs be helpful to your court? (Please check all that apply.)

800 telephone number with pro se assistance **(60)**  
 Brochures explaining court procedures and forms **(101)**  
 Pro se clinic **(31)**  
 Form pleadings **(81)**

- Written instructions for completing form pleadings (80)
- Educational seminars (21)
- Video explaining court procedures (43)
- Training court personnel (36)
- Website (44)
- Law School Clinic (28)
- Other (Please describe: \_\_\_\_\_)



12. Any General Comments:

**Circuit Clerk Survey on Pro Se Litigation  
(Responses in Bold; Total Number of Responses = 102)**

Please return completed surveys no later than February 24, 2003 by fax to 573/635-2811 or mail to: The Missouri Bar, P.O. Box 119, Jefferson City, MO 65102, Attn: Bob Stoeckl

Name: \_\_\_\_\_

Court: \_\_\_\_\_ Position: \_\_\_\_\_

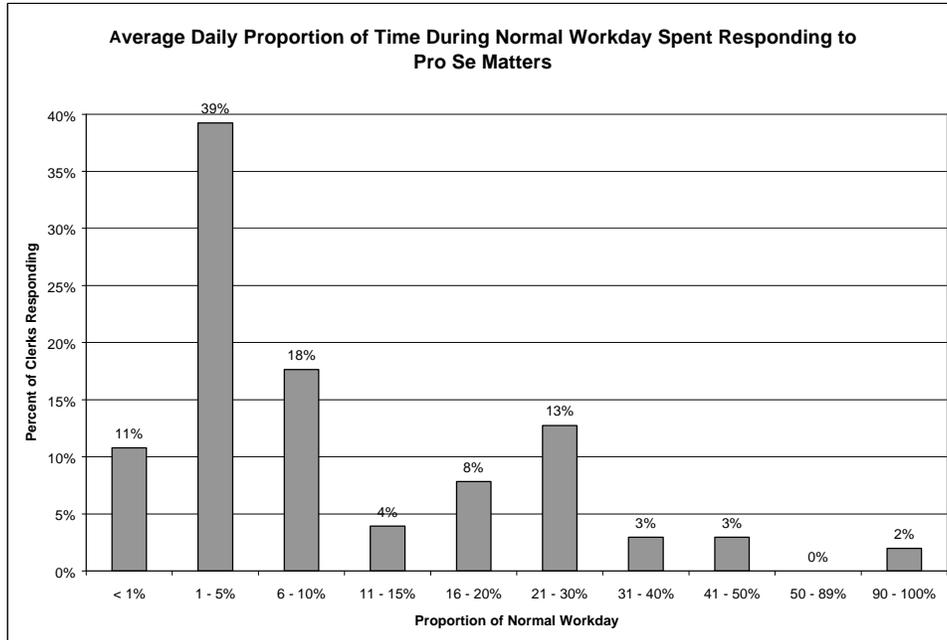
**Pro se: For one’s own behalf; in person. Appearing for oneself, as in the case of one who does not retain a lawyer and appears for himself in court.  
Black’s law Dictionary, 6<sup>th</sup> Edition, (1991)**

1. Do pro se litigants regularly appear in the clerk’s office in family law related cases?  
 **Yes 82 (80.39%)**  **No 18 (17.65%)**  
**(No Response 2 (1.96%))**

2. Based upon your experience over the past two years, has the overall proportion of pro se litigants  
 **Increased greatly 28 (27.45%)**  
 **Increased moderately 41 (40.20%)**  
 **Stayed about the same 31 (30.39%)**  
 **Decreased 1 (0.98%)**  
**No Response 1 (0.98%)**

3. Please estimate the average daily proportion of time during a normal workday that court staff is devoted to answering public requests for pro se related matters (e.g., court procedures, rules, forms, etc).

\_\_\_\_\_ %



4. Please rank the following categories of questions in the order which the public most frequently asks for assistance from your court staff.

(Please rank in order from 1 – 5 with 1 = most frequently asked)

\_\_\_\_\_ Requests for appropriate court forms **Weighted Average = 1.86**

\_\_\_\_\_ Requests for information regarding legal remedies

**Weighted Average = 1.66**

\_\_\_\_\_ Logistical questions **Weighted Average = 3.32**

\_\_\_\_\_ Assistance in filling out forms **Weighted Average = 3.21**

\_\_\_\_\_ Other (Please describe: \_\_\_\_\_)

5. Please rank the areas of law which the public most frequently asks questions of court staff. (Please rank in order from 1 – 4 with 1 = most frequent.)

\_\_\_\_\_ Dissolutions **Weighted Average = 1.19**

\_\_\_\_\_ Motion to Modify **Weighted Average = 2.04**

\_\_\_\_\_ Paternity **Weighted Average = 2.94**

\_\_\_\_\_ Adoption **Weighted Average = 3.83**

6. Does your court have established rules, policies, or instructions to guide court staff in responding to public requests for assistance regarding pro se related questions?

Yes **29 (28.43%)**

No **71 (69.61%)**

**No Response 2 (1.96%)**

If so, please attach a copy of any written rules, policies, or instructions to your answers to this survey.

7. What difficulties does the clerk's office experience in responding to pro se litigants?

---

8. What concerns, if any, do you have about assisting pro se litigants?

---

If known, please rank the following reasons as to why pro se litigants choose to represent themselves in family law matters in your court. (Please rank in order from 1 – 4 with 1 = most frequent.)

- \_\_\_\_\_ Cannot afford an attorney. **Weighted Average = 1.12**
- \_\_\_\_\_ Belief that they could handle without an attorney. **Weighted Average = 2.25**
- \_\_\_\_\_ Could not find an attorney to handle the case. **Weighted Average = 2.96**
- \_\_\_\_\_ Distrust of judicial process. **Weighted Average = 3.64**

## Pro Se Litigant Survey (Responses in Bold; Total Number of Responses = 289)

Please answer the following questions and return the survey as directed by the judge.

1. Please check the box below that best describes the type of action you filed or was filed against you.

- |   |                    |
|---|--------------------|
| <input type="checkbox"/> Dissolution of Marriage with children      | <b>85 (29.41%)</b> |
| <input type="checkbox"/> Dissolution of Marriage without children   | <b>96 (33.22%)</b> |
| <input type="checkbox"/> Motions to modify/other post decree motion | <b>20 (6.92%)</b>  |
| <input type="checkbox"/> Paternity                                  | <b>17 (5.88%)</b>  |
| <input type="checkbox"/> Adoption                                   | <b>1 (0.35%)</b>   |
| <input type="checkbox"/> Other (Please describe:                    | <b>70 (24.22%)</b> |

2. Please check the boxes below that best describes why you decided to represent yourself in this case (You may check more than one box).

- |  |                     |
|--|---------------------|
| <input type="checkbox"/> I did not know how to find the right lawyer.  | <b>2 (0.54%)</b>    |
| <input type="checkbox"/> I could not afford a lawyer                   | <b>154 (41.51%)</b> |
| <input type="checkbox"/> I believed I could handle the case on my own. | <b>142 (38.27%)</b> |
| <input type="checkbox"/> I had a bad experience with a lawyer          | <b>15 (4.04%)</b>   |
| <input type="checkbox"/> I do not trust lawyers                        | <b>10 (2.70%)</b>   |
| <input type="checkbox"/> Other. (Please explain)                       | <b>48 (12.94%)</b>  |

3. Did you consult with an attorney before deciding to represent yourself?

- |                                |                    |                             |                     |
|--------------------------------|--------------------|-----------------------------|---------------------|
| <input type="checkbox"/> Yes   | <b>88 (30.45%)</b> | <input type="checkbox"/> No | <b>193 (66.78%)</b> |
| <b>No Response = 8 (2.77%)</b> |                    |                             |                     |

4. If you have appeared before a Judge, please check the box below that best describes your experience in representing yourself today.

- |  |                     |
|--|---------------------|
| <input type="checkbox"/> I was able to proceed with my case with no or very few problems.                                | <b>198 (68.51%)</b> |
| <input type="checkbox"/> I was able to proceed with my case but only with a lot of difficulty.                           | <b>13 (4.50%)</b>   |
| <input type="checkbox"/> I was <u>not</u> able to proceed with my case because my court papers were not completed right. | <b>16 (5.54%)</b>   |
| <input type="checkbox"/> I was <u>not</u> able to proceed with my case because I did not understand the proceedings.     | <b>14 (4.84%)</b>   |
| <input type="checkbox"/> Other. (Please explain.)  | <b>24 (8.30%)</b>   |
| <b>No Response = 24 (8.30%)</b>  |                     |

5. Did you receive assistance in preparing to represent yourself?

- |                                 |                    |                             |                    |
|---------------------------------|--------------------|-----------------------------|--------------------|
| <input type="checkbox"/> Yes    | <b>95 (32.87%)</b> | <input type="checkbox"/> No | <b>90 (31.14%)</b> |
| <b>No Response 104 (35.99%)</b> |                    |                             |                    |

5a. If yes, what did you find helpful?

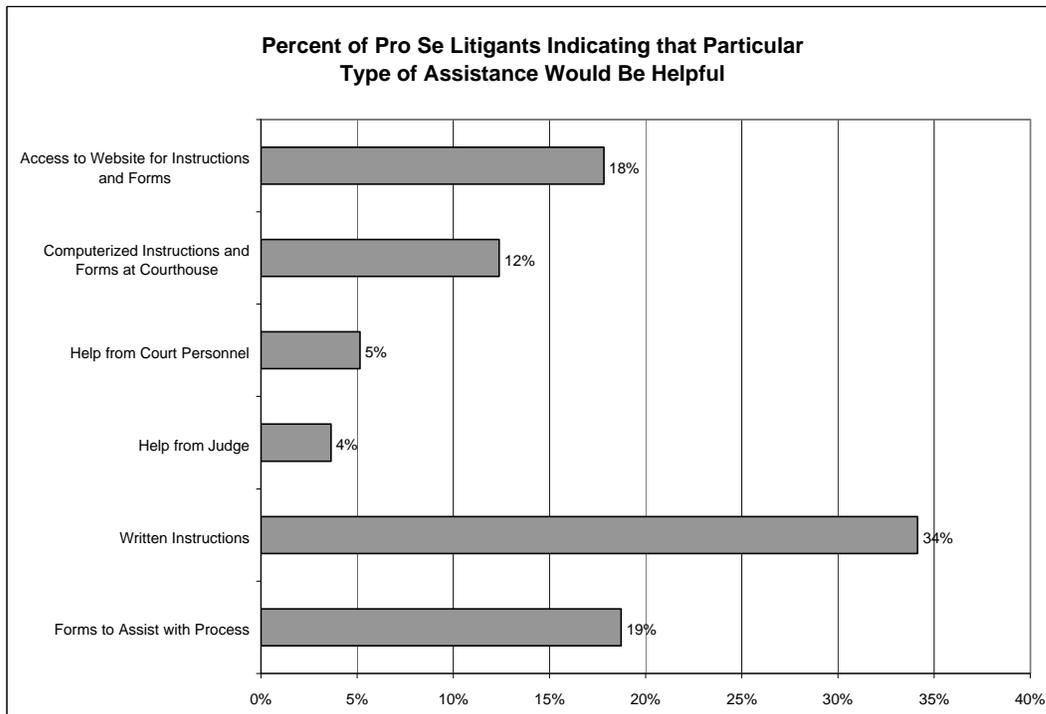
- I got some free help with my case through a legal aid office. **15 (5.19%)**
- I found helpful information on the Internet or a self-help packet. (If so, what was the website \_\_\_\_\_) **34 (11.76%)**
- Court personnel were very helpful to me. **55 (19.03%)**
- The Judge was very helpful to me. **40 (13.84%)**
- I hired a lawyer to prepare documents that I filed. **4 (1.38%)**
- Did you get help from someone else who was not an attorney **21 (7.27%)**
  - If so, check here if you paid the person
- Other (Please Explain.) **29 (10.03%)** \_\_\_\_\_
- No Response 91 (31.49%)**

5b. What was not helpful.

- Court personnel were not helpful to me. **10 (3.46%)**
- The Judge was not very helpful to me. **11 (3.81%)**
- Other (Please explain.) **46 (15.92%)**
- No Response 222 (76.82%)**

6. What assistance would have been helpful to you but was not available.

- Forms that assist with the process. **62 (18.73%)**
- Written instructions to tell me what and what not to do **113 (34.14%)**
- More help from the Judge. **12 (3.63%)**
- More help from court personnel. **17 (5.14%)**
- Computerized instructions and forms at the courthouse. **41 (12.39%)**
- Access to a website for instructions and forms. **59 (17.82%)**
- Other (Please explain). **27 (8.16%)**



7. What is your annual household income?

- Under \$15,000                    **85 (29.14%)**  
 \$15,000 to \$30,000            **87 (30.10%)**  
 \$30,000 to \$50,000           **59 (20.42%)**  
 \$50,000 to \$70,000           **32 (11.07%)**  
 70,000 to 100,000            **11 (3.81%)**  
 Over \$100,000                   **6 (2.08%)**  
**No Response 9 (3.11%)**

8. How many people are in your household?

- One                                    **74 (25.61%)**  
 Two                                   **61 (21.11%)**  
 Three                                **70 (24.22%)**  
 Four                                 **49 (16.96%)**  
 Five                                 **18 (6.23%)**  
 More than Five                 **10 (3.46%)**  
**No Response 7 (2.42%)**

9. What is your race or ethnic group?

- Black                                **44 (15.22%)**  
 White                               **234 (80.97%)**  
 Asian                                **0**  
 Hispanic                           **3 (1.04%)**  
 Other (Please state)           **3 (1.04%)**  
**No Response 5 (1.73%)**

10. What is your age?

- Under 21    **4 (1.38%)**  
 21 to 30    **76 (26.30%)**  
 31 to 40    **115 (39.79%)**  
 41 to 50    **62 (21.45%)**  
 Over 50     **28 (9.69%)**  
**No Response 4 (1.38%)**

11. What is your sex?

- Female **171 (59.17%)**     Male **115 (39.79%)**  
**No Response 3 (1.04%)**

12. Please provide any general comments.

---

13. If you are willing to be contacted regarding your experience, please provide the following. **(OPTIONAL)**

Name: \_\_\_\_\_ Contact telephone number: \_\_\_\_\_  
Address: \_\_\_\_\_ When is the best time to call: \_\_\_\_\_  
City/State/Zip \_\_\_\_\_

# **Appendix B**

## **St. Louis County Pro Se Forms**

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, MISSOURI
(Type of court) (County where court is located)

Instructions: The type of court can be either "Family" or "Circuit". Family Courts have been established in the following counties: Boone, Clay, Greene, Jackson, St. Charles County, St. Louis City, St. Louis County. All other counties assign their dissolution of marriage cases to the Circuit Court.

You must also enter the county where the court is located. The City of St. Louis is considered a separate county from St. Louis County. Your case should be filed either in the county where you reside or the county where your spouse resides.

In re the Marriage of

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
(First) (Middle) (Last) (Jr./Sr./III)

Petitioner, (Your full name should be entered here)

Cause No.

is filed)

-and-

(Will be assigned when case

Division No.

is filed)

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
(First) (Middle) (Last) (Jr./Sr./III)

Respondent. (Enter your spouse's full name here)

(Will be assigned when case

WARNING: Read Carefully

You are encouraged to consult with an attorney in the preparation of this document and the presentation of your case to the court. A dissolution of marriage proceeding can substantially affect your financial and personal life for many years to come. An attorney is trained to assist you in protecting your rights.

The following information will be used by the Circuit Clerk to prepare the appropriate documents to give notice to your spouse. In these documents, your spouse is referred to as "Respondent" and you are referred to as "Petitioner".

DIRECTIONS FOR SERVICE

Note: Before your case can proceed, your spouse, who is referred to as "Respondent", must be given notice that you have filed this case. This notice can be given in one of the following ways (Check only ONE of the following boxes):

- 1. Summons should be served upon Respondent at his/her residence:

\_\_\_\_\_, \_\_\_\_\_
(Street)

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
(City) (State) (Zip)

NOTE: Respondent may be served either at his/her place of employment or at his/her home. If he/she is to be served at his/her place of employment, check box number 2 and include the name of his/her employer.

An extra copy of the "Petition for Dissolution of Marriage", "Statement of Income and Expense", and "Statement of Property" must be provided to the court. If you specify an address outside of the county in which this matter is filed, the clerk will mail the papers to be served on your spouse to you and you must make arrangements with the sheriff's office in the county where you requested service to serve the papers on your spouse. Your spouse must be served within thirty (30) days of the issuance of the summons.

2. Summons should be served upon Respondent at his/her place of employment:

\_\_\_\_\_  
(Employer's Name - if applicable) (Hours of Employment)

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City) (State) (Zip)

3. Respondent has signed a verified "Waiver of Service and Entry of Appearance" which is being filed with the "Petition for Dissolution of Marriage." Therefore, do not issue a summons.

4. Respondent has signed a verified "Answer to Petition for Dissolution of Marriage" which is being filed with the "Petition for Dissolution of Marriage." Therefore, do not issue a summons.

5. Respondent will voluntarily enter his/her appearance in this case and therefore summons should be issued but held in the Sheriff's office for this County. If a verified "Waiver of Service and Entry of Appearance" is not filed within thirty (30) days, this case may be dismissed without further notice to Petitioner.

6. Respondent cannot be served in Missouri. Therefore, service by registered mail is requested. A copy of the "Affidavit for Service by Mail" is attached to this form. See Missouri Supreme Court Rule 54.12(b)

7. The whereabouts of Respondent are unknown and there is no way of contacting him or her. Therefore, service by publication will be required. A copy of the "Affidavit for Service by Publication" is attached to this form. Child support, maintenance or other money judgments will not be allowed against Respondent if service is by publication. Publication must be made in the County where this matter is filed in a newspaper of general circulation. See Missouri Supreme Court Rule 54.12(c).

8. Other: \_\_\_\_\_

NOTE: Must be authorized by Supreme Court Rule or Statute.

\_\_\_\_\_  
Petitioner

COUNTY OF \_\_\_\_\_ }  
STATE OF MISSOURI } SS.

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, MISSOURI  
(Type of Court) (County where court is located)

In re the Marriage of

\_\_\_\_\_  
(First) (Middle) (Last) (Jr./Sr./III)

**Petitioner,** (Your full name should be entered here)

}  
}  
}  
}  
}

**Cause No.**

\_\_\_\_\_  
(Will be assigned when case is filed)

-and-

}  
}

**Division No.**

\_\_\_\_\_  
(First) (Middle) (Last) (Jr./Sr./III)

**Respondent.** (Enter your spouse's full name here)

\_\_\_\_\_  
(Will be assigned when case is filed)  
}  
}

**PETITION FOR DISSOLUTION OF MARRIAGE**

Which petition is this?

- This is the first petition I have filed in this case (Original Petition)
- This is the second petition I have filed in this case (First Amended Petition)
- This is the third petition I have filed in this case (Second Amended Petition)

Directions - Please type or print clearly in black ink. All information requested in this form is required by Missouri Statutes. A copy of this form will be given to your spouse and the information in this form is open to the public.  
A dissolution of marriage was formerly called a divorce. A petition for dissolution of marriage is filed by the petitioner to start the proceedings.

1. Where do you currently reside?

\_\_\_\_\_

(Street)

\_\_\_\_\_

(City) (State) (Zip)

\_\_\_\_\_

(County or City of St. Louis) (Length of Residence in this County and State)

*Instructions: You should state the address at which you currently reside. It is not necessarily the address at which you receive mail. At the end of this form you are asked to enter the address at which you should receive mail concerning this case. If you wish to not disclose your current address to your spouse, then you should write "CONFIDENTIAL" on the street address line, but still enter the city and state in the appropriate blanks. ANYTHING THAT IS PUT ON THIS FORM IS OPEN TO THE PUBLIC. IF YOU DESIRE TO KEEP YOUR RESIDENTIAL ADDRESS CONFIDENTIAL, YOU MUST STILL PROVIDE THE COURT WITH AN ADDRESS WHERE IT CAN CONTACT YOU. THIS ADDRESS CANNOT BE KEPT CONFIDENTIAL.*

*The City of St. Louis is separate from St. Louis County. If you live in St. Louis County, you should write "St. Louis County" in the blank. If you live in the City of St. Louis, you should write "St. Louis City" in the blank. If you live in another county, write the name of the county in the blank. Remember, you cannot live in both St. Louis County and St. Louis City.*

*Also you should enter the length of time you have been a resident of the County and State. Missouri law requires that one party to a dissolution of marriage proceeding must have been a resident of the State of Missouri for at least ninety (90) days.*

2. What is your social security number?

\_\_\_\_\_

(Social Security Number)

*Instructions: Your social security number is required by RSMo §452.312.2(6).*

3. What is your birth date?

\_\_\_\_\_

(MM/DD/YYYY)

*Instructions: You should enter your birth date in the specified format. For example, if your birth date is January 5, 1975, you should enter '01/05/1975' on the line. You must be at least eighteen years of age to file a dissolution of marriage proceeding without someone acting as your "next friend".*

4. What is your sex?

- Male - (In this document, you will sometimes be referred to as 'Husband', and your spouse will sometimes be referred to as 'Wife')
- Female - (In this document, you will sometimes be referred to as 'Wife', and your spouse will sometimes be referred to as 'Husband')

5. What is your current employment status?

- Employed
- Unemployed
- Self-Employed

6. If you are employed or self-employed, where do you currently work?

\_\_\_\_\_  
(Name of Employer)

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

*Instructions: The information requested in question 5 and question 6 is required by RSMo §452.312.1. If you are self-employed, enter a brief description of the type of work you perform such as "Landscaping" or "Daycare" on the line for the name of your employer. If you are self-employed you should also enter the address information for your self-employment.*

7. Where does your spouse currently reside?

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

\_\_\_\_\_  
(County or City of St. Louis)

\_\_\_\_\_  
(Length of Residence in this County and State)

*Instructions: You should state the address at which your spouse currently resides. It is not necessarily the address at which he or she receives mail. If you do not know where your spouse currently resides, and cannot find out his or her address from any source such as family, friends, telephone listings, or the internet, then you should enter "Unknown" on the street address line. If you do not know where your spouse resides, and you do not know where the sheriff can serve this petition on him or her, and your spouse will not sign a waiver of service and entry of appearance in this case, then you will be required to obtain service by publication. See the separate form and instructions entitled "Directions for Service" Also you should enter the length of time your spouse has been a resident of the County and State.*

8. If your spouse does not live in the State of Missouri, has he or she ever lived in the State of Missouri?

- Yes
- No

9. What is your spouse's social security number?

\_\_\_\_\_  
(Social Security Number)

10. What is your spouse's birth date? \_\_\_\_\_  
(MM/DD/YYYY)

11. What is your spouse's current employment status?

- Employed
- Unemployed
- Self-Employed
- Unknown

12. If your spouse is employed or self-employed, where does he or she currently work?

\_\_\_\_\_  
(Name of Employer)

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

Instructions: The information requested in question 15 and question 16 is required by RSMo §452.312.1. If your spouse is self-employed, enter a brief description of the type of work he or she performs such as "Landscaping" or "Daycare" on the line for the name of your employer. If your spouse is self-employed you should also enter the address information for his or her self-employment.

**WARNING: The employment status of your spouse may be very important in determining such issues as maintenance (formerly known as alimony) and child support. If you do not know your spouse's current employment status, an attorney may be able to obtain this information for you along with information concerning your spouse's income.**

13. Is your spouse on active duty in the military?

- Yes
- No

Instructions: If your spouse is on active duty in the armed forces of the United States, the Soldiers and Sailors Civil Relief Act of 1940 may prevent you from obtaining a dissolution of marriage without your spouse's consent. You should contact an attorney about this situation prior to filing this petition.

14. On what date were you married? \_\_\_\_\_  
(MM/DD/YYYY)

15. In what county and state did you get your marriage license?

\_\_\_\_\_  
(County or City of St. Louis)

\_\_\_\_\_  
(State)

Instructions: This is also the county where the marriage is registered and is not necessarily the same as the county where you were married.

16. On what date did you separate? \_\_\_\_\_  
(MM/DD/YYYY)

Instructions: This information is required to be provided by RSMo §452.310.2(3).  
The date of separation is not necessarily the same as the date one party moved out of the joint residence of the parties. Under some circumstances, the parties may be separated and still be residing in the same residence. The parties must be separated to file for a dissolution of marriage.

17. Is there any reasonable likelihood that your marriage can be preserved?

- Yes
- No

Instructions: If you answered "Yes", then the court will not grant a dissolution of marriage but may grant a legal separation.

18. Is your marriage irretrievably broken?

- Yes
- No

Instructions: If you answered "No", then the court will not grant a dissolution of marriage but may grant a legal separation.

19. State any arrangements, which you and your spouse have made for the maintenance of the other party or the custody and support of any minor children.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Instructions: Maintenance is what used to be called alimony. It refers to an amount paid by one party to the other party for his or her support. It is not the same as child support.*

20. Can you support yourself through the combined income from your employment and income from property that you will receive in the dissolution?

- Yes
- No

*Instructions: This does not include supporting any minor children born of the marriage.*

21. Can your spouse support him or herself through the combined income from his or her employment and income from property that he or she will receive in the dissolution?

- Yes
- No

*Instructions: This does not include supporting any minor children born of the marriage.*

22. Is Wife pregnant?

- Yes
- No

*Instructions: This information is required to be provided by RSMo §452.310.2(5).*

23. How many living children do Husband and Wife have together that were born **after** the date of their marriage?

\_\_\_\_\_  
*(Number of Children)*

**Each one of these children should be listed in your answers to Questions 28 through 31.**

*Instructions: Include in this number all living children born to Wife during this marriage as a result of sexual intercourse with Husband including children who are grown. Do not include deceased children.*

24. How many living children did Husband and Wife adopt?

\_\_\_\_\_  
*(Number of Children)*

**Each one of these children should be listed in your answers to Questions 28 through 31.**

*Instructions: Include in this number all living children that were (a) born to Wife and subsequently adopted by Husband; or (b) fathered by Husband and subsequently adopted by Wife; or (c) adopted by both parties. Include in this number children who are grown. Do not include deceased children.*

25. How many living children do Husband and Wife have together that were born **before** the date of their marriage?

\_\_\_\_\_  
*(Number of Children)*

**Each one of these children MUST be listed in your answers to Questions 28 through 31.**

*Instructions: Include in this number all living children born to Wife before this marriage as a result of sexual intercourse with Husband including children who are grown. You should attach a copy of the birth certificate for these children to your petition. If Husband is not listed as the father on the birth certificate, additional information may be required to be included in your petition.*

26. How many living children did Wife have with someone other than Husband that were born **after** the date of their marriage? (This number includes children born since the parties separated)

*(Number of Children)*

**Each one of these children should be listed in your answers to Questions 28 through 31.**

*Instructions: Include in this number all living children born to Wife during this marriage as a result of sexual intercourse with a man other than Husband including any children who are grown. Do not include deceased children. Information in addition to the information on this petition will be required before the court may proceed with your case.*

27. Enter the total number of children from lines 23, 24, 25, and 26.

*(Total Number of Children)*

**Each one of these children should be listed in your answers to questions 28 through 31. If the number on line 27 is more than 4, you should attach additional pages similar to page 10.**

*Instructions: Add the numbers you entered on lines 23, 24, 25, and 26 above and enter the total.*

**NOTE: If line 27 is zero, then you may skip the rest of the questions contained on this form and go directly to the section at the end of this form entitled "REQUEST FOR RELIEF".**

#### **INSTRUCTIONS FOR QUESTIONS 28 THROUGH 31 PERTAINING TO CHILDREN**

*Questions 28 through 31 each have 20 subparts lettered 'a' through 't'. These subparts are arranged vertically in two columns on each page. Each of these two columns represents the information for one child. Question 28 pertains to the first child, Question 29 pertains to the second child, and so on.*

*You should answer the following questions:*

**If you answered Question 27 with '0',** you should skip Questions 28 through 36 and go directly to the last page of this petition entitled "Request for Relief".

**If you answered Question 27 with '1',** you should answer Question 28 for the one child you listed in your answer to Question 27 and if the child is not emancipated, you should also answer questions 32 through 36 inclusive.

**If you answered Question 27 with '2',** you should answer Questions 28 and 29 for the two children you listed in your answer to Question 27. If either of the children is not emancipated, you should also answer questions 32 through 36 inclusive.

**If you answered Question 27 with '3',** you should answer Questions 28 through 30 for the three children you listed in your answer to Question 27. If any of the children are not emancipated, you should also answer questions 32 through 36 inclusive.

**If you answered Question 27 with '4',** you should answer Questions 28 through 31 for the four children you listed in your answer to Question 27. If any of the children are not emancipated, you should also answer questions 32 through 36 inclusive.

**If you answered Question 27 with a number greater than '4',** you should answer Questions 28 through 31 for the four children you listed in your answer to Question 27. Additionally, you should attach additional pages answering all the questions asked in Question 27 for each child you have in addition to the children you have described in Questions 28 through 31. If any of the children are not emancipated, you should also answer questions 32 through 36 inclusive.

*You must list the children even if they are adults or if they are in someone else's custody. You must also list each child that was born after the date of the marriage even if Husband is not the father of the child.*

QUESTION 28

CHILD 1

(To be answered if the answer to question 27 is one or more)

a. Full Name of Child	
b. Birth Date of Child	
c. Social Security Number	
d. Current Address	
e. Is this child married or on active duty in the military?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'f'
f. Is this child self-supporting?	<input type="checkbox"/> Yes - Go to 'g' <input type="checkbox"/> No - Go to 'h'
g. Did the custodial parent relinquish parental control of this child by express or implied consent?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'h'
h. Is this child under the age of 18 years?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'i'
i. Is this child over the age of 22 years?	<input type="checkbox"/> Yes - Go to 'j' <input type="checkbox"/> No - Go to 'k'
j. Is the child unmarried, insolvent, and physically or mentally incapacitated?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
k. Has this child been continuously enrolled in college since October 1 immediately following his or her graduation from high school AND has this child completed at least 12 hours each semester or completed at least 9 hours and worked 15 hours per week during that same period of time?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'l'
l. Is this child under the age of 21 years?	<input type="checkbox"/> Yes - Go to 'm' <input type="checkbox"/> No - Go to 'n'
m. Is this child enrolled in and attending high school?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
<p><b>n. NOTE: This child <u>IS</u> emancipated - you do not need to answer the rest of the information for this child and questions 32 through 36 do not apply to this child.</b></p>	
<p><b>o. NOTE: This child <u>IS NOT</u> emancipated - you must answer the rest of the information for this child here (parts 'p' through 't') and you must also answer questions 32 through 36 for this child.</b></p>	
p. With whom has this child primarily resided during the previous sixty days?	
q. Who should have legal custody of this child? <i>NOTE: Legal custody refers to who will make the decisions concerning health, education and welfare for this child. RSMo §452.375.1(2)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person
r. Who should have physical custody of this child? <i>NOTE: Physical custody refers to where this child will reside and what time this child spends with each parent. RSMo §452.375.1(3)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person
s. Who is the father of this child?	

t. If this child was born prior to the marriage, is Husband listed as the father on the birth certificate?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
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**QUESTION 29**

**CHILD 2**

*(To be answered if the answer to question 27 is two or more)*

a. Full Name of Child	
b. Birth Date of Child	
c. Social Security Number	
d. Current Address	
e. Is this child married or on active duty in the military?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'f'
f. Is this child self-supporting?	<input type="checkbox"/> Yes - Go to 'g' <input type="checkbox"/> No - Go to 'h'
g. Did the custodial parent relinquish parental control of this child by express or implied consent?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'h'
h. Is this child under the age of 18 years?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'i'
i. Is this child over the age of 22 years?	<input type="checkbox"/> Yes - Go to 'j' <input type="checkbox"/> No - Go to 'k'
j. Is the child unmarried, insolvent, and physically or mentally incapacitated?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
k. Has this child been continuously enrolled in college since October 1 immediately following his or her graduation from high school AND has this child completed at least 12 hours each semester or completed at least 9 hours and worked 15 hours per week during that same period of time?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'l'
l. Is this child under the age of 21 years?	<input type="checkbox"/> Yes - Go to 'm' <input type="checkbox"/> No - Go to 'n'
m. Is this child enrolled in and attending high school?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
<b>n. NOTE: This child <u>IS</u> emancipated - you do not need to answer the rest of the information for this child and questions 32 through 36 do not apply to this child.</b>	
<b>o. NOTE: This child <u>IS NOT</u> emancipated - you must answer the rest of the information for this child here (parts 'p' through 't') and you must also answer questions 32 through 36 for this child.</b>	
p. With whom has this child primarily resided during the previous sixty days?	
q. Who should have legal custody of this child? <i>NOTE: Legal custody refers to who will make the decisions concerning health, education and welfare for this child. RSMo §452.375.1(2)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person
r. Who should have physical custody of this child? <i>NOTE: Physical custody refers to where this child will reside and what time this child spends with each parent. RSMo §452.375.1(3)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person

s. Who is the father of this child?	
t. If this child was born prior to the marriage, is Husband listed as the father on the birth certificate?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

**QUESTION 30**

**CHILD 3**

*(To be answered if the answer to question 27 is three or more)*

a. Full Name of Child	
b. Birth Date of Child	
c. Social Security Number	
d. Current Address	
e. Is this child married or on active duty in the military?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'f'
f. Is this child self-supporting?	<input type="checkbox"/> Yes - Go to 'g' <input type="checkbox"/> No - Go to 'h'
g. Did the custodial parent relinquish parental control of this child by express or implied consent?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'h'
h. Is this child under the age of 18 years?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'i'
i. Is this child over the age of 22 years?	<input type="checkbox"/> Yes - Go to 'j' <input type="checkbox"/> No - Go to 'k'
j. Is the child unmarried, insolvent, and physically or mentally incapacitated?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
k. Has this child been continuously enrolled in college since October 1 immediately following his or her graduation from high school AND has this child completed at least 12 hours each semester or completed at least 9 hours and worked 15 hours per week during that same period of time?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'l'
l. Is this child under the age of 21 years?	<input type="checkbox"/> Yes - Go to 'm' <input type="checkbox"/> No - Go to 'n'
m. Is this child enrolled in and attending high school?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'

**n. NOTE: This child IS emancipated - you do not need to answer the rest of the information for this child and questions 32 through 36 do not apply to this child.**

**o. NOTE: This child IS NOT emancipated - you must answer the rest of the information for this child here (parts 'p' through 't') and you must also answer questions 32 through 36 for this child.**

p. With whom has this child primarily resided during the previous sixty days?	
q. Who should have legal custody of this child? <i>NOTE: Legal custody refers to who will make the decisions concerning health, education and welfare for this child. RSMo §452.375.1(2)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person
r. Who should have physical custody of this child? <i>NOTE: Physical</i>	<input type="checkbox"/> Wife

<p><i>custody refers to where this child will reside and what time this child spends with each parent. RSMo §452.375.1(3)</i></p>	<input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person
<p>s. Who is the father of this child?</p>	
<p>t. If this child was born prior to the marriage, is Husband listed as the father on the birth certificate?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

**QUESTION 31**

**CHILD 4**

*(To be answered if the answer to question 27 is four or more)*

a. Full Name of Child	
b. Birth Date of Child	
c. Social Security Number	
d. Current Address	
e. Is this child married or on active duty in the military?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'f'
f. Is this child self-supporting?	<input type="checkbox"/> Yes - Go to 'g' <input type="checkbox"/> No - Go to 'h'
g. Did the custodial parent relinquish parental control of this child by express or implied consent?	<input type="checkbox"/> Yes - Go to 'n' <input type="checkbox"/> No - Go to 'h'
h. Is this child under the age of 18 years?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'i'
i. Is this child over the age of 22 years?	<input type="checkbox"/> Yes - Go to 'j' <input type="checkbox"/> No - Go to 'k'
j. Is the child unmarried, insolvent, and physically or mentally incapacitated?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
k. Has this child been continuously enrolled in college since October 1 immediately following his or her graduation from high school AND has this child completed at least 12 hours each semester or completed at least 9 hours and worked 15 hours per week during that same period of time?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'l'
l. Is this child under the age of 21 years?	<input type="checkbox"/> Yes - Go to 'm' <input type="checkbox"/> No - Go to 'n'
m. Is this child enrolled in and attending high school?	<input type="checkbox"/> Yes - Go to 'o' <input type="checkbox"/> No - Go to 'n'
<p><b>n. NOTE: This child <u>IS</u> emancipated - you do not need to answer the rest of the information for this child and questions 32 through 36 do not apply to this child.</b></p>	
<p><b>o. NOTE: This child <u>IS NOT</u> emancipated - you must answer the rest of the information for this child here (parts 'p' through 't') and you must also answer questions 32 through 36 for this child.</b></p>	
p. With whom has this child primarily resided during the previous sixty days?	
q. Who should have legal custody of this child? <i>NOTE: Legal custody refers to who will make the decisions concerning health, education and welfare for this child. RSMo §452.375.1(2)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife

	<input type="checkbox"/> Third Person
r. Who should have physical custody of this child? <i>NOTE: Physical custody refers to where this child will reside and what time this child spends with each parent. RSMo §452.375.1(3)</i>	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Joint Husband/Wife <input type="checkbox"/> Third Person
s. Who is the father of this child?	
t. If this child was born prior to the marriage, is Husband listed as the father on the birth certificate?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<b>NOTE: Questions 32 through 36 below pertain to all unemancipated children listed in your answers to questions 28 through 31. If there are no unemancipated children, you may skip questions 32 through 36 and go directly to the last page of this document entitled "REQUEST FOR RELIEF".</b>	

32. State all addresses at which the unemancipated children have resided during the past six months and the name of the person with whom said children resided.

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*Instructions: This information is required under the Uniform Child Custody Jurisdiction Act, RSMo §452.440 et. seq.*

33. Do you know of any person not a party to this proceeding that has physical custody of any of the unemancipated children or claims to have custody or visitation rights with respect to any of the unemancipated children? If so, please state the names and addresses of all such persons.

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*Instructions: This information is required under the Uniform Child Custody Jurisdiction Act, RSMo §452.440 et. seq.*

34. Do you have any information of any custody proceeding concerning any of the unemancipated children pending in a court of this or any other state? If so, please state all information concerning these proceedings.

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*Instructions: This information is required under the Uniform Child Custody Jurisdiction Act, RSMo §452.440 et. seq.*

35. Have you participated in any other litigation concerning the custody of any of the unemancipated children in this or any other state? If so, please state all information concerning these proceedings.

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*Instructions: This information is required under the Uniform Child Custody Jurisdiction Act, RSMo §452.440 et. seq.*

36. Have any of the unemancipated children been a victim of abuse or neglect?

- Yes
- No

**REQUEST FOR RELIEF**

If you are the Wife, do you want to change your name back to the name you had prior to your marriage or back to your original maiden name?

- Yes, I would like to change my name back to my previous married name of \_\_\_\_\_.
- Yes, I would like to change my name back to my maiden name of \_\_\_\_\_.
- No, I will keep the name I have.

**I WOULD LIKE THE COURT TO GRANT THE FOLLOWING:**

- A dissolution of my marriage;
- Custody of the child(ren) born of the marriage as stated herein (if applicable);
- Appropriate orders with respect to the support of the minor child(ren) (if applicable);
- A division of the marital property and debts (REQUIRED);
- And such further and other orders as the court would deem appropriate.
- Maintenance to be paid to me by my spouse; (Optional)
- Maintenance to be paid to my spouse by me; (Optional)

Comes now the petitioner, first having been duly sworn, and states that the information contained herein is true and accurate according to his or her best information, knowledge and belief.

\_\_\_\_\_  
Petitioner

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**MAILING ADDRESS OF PETITIONER (THIS MUST BE COMPLETED)**

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(E-Mail Address - Optional)

*This is the address that the court will use to send information concerning your case to you. If you move during the time this case is pending, you should send a letter to the court notifying it of your new address. It is your duty to keep the court informed as to your correct address.*

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, MISSOURI
(Type of court) (County where court is located)

Instructions: The type of court can be either "Family" or "Circuit". Family Courts have been established in the following counties: Boone, Clay, Greene, Jackson, St. Charles County, St. Louis City, St. Louis County. All other counties assign their dissolution of marriage cases to the Circuit Court.

You must also enter the county where the court is located. The City of St. Louis is considered a separate county from St. Louis County. Your case should be filed either in the county where you reside or the county where your spouse resides.

In re the Marriage of

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
(First) (Middle) (Last) (Jr./Sr./III)

Petitioner, (Your spouse's name should be entered here)

Cause No.

(You MUST include this number)

-and-

Division No.

(Will be assigned when case is filed)

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
(First) (Middle) (Last) (Jr./Sr./III)

Respondent. (Enter your full name here)

WARNING: Read Carefully

You are encouraged to consult with an attorney in the preparation of this document and the presentation of your case to the court. A dissolution of marriage proceeding can substantially affect your financial and personal life for many years to come. An attorney is trained to assist you in protecting your rights.

In these documents, your spouse is referred to as "Petitioner" and you are referred to as "Respondent". Your "spouse" is your husband or wife.

ANSWER TO PETITIONER'S PETITION FOR DISSOLUTION OF MARRIAGE

I am answering the following pleading (One of the following MUST be checked)

- The first petition my spouse filed in this case (Original Petition)
The second petition my spouse filed in this case (First Amended Petition)
This third petition my spouse filed in this case (Second Amended Petition)

Directions - Please type or print clearly in black ink. All information requested in this form is required by Missouri Statutes. A copy of this form MUST be sent to your spouse. The information in this form is open to the public.

All pleadings that you file with the court are required to contain the cause number and division number (if applicable). Failure to include the cause number on your pleading may cause your pleading to be filed in the wrong case. If your case has not yet been filed, then you do not have to enter the cause number on this form.

A dissolution of marriage was formerly called a divorce. A petition for dissolution of marriage is filed by the petitioner to start the proceedings. You are responding to the allegations petitioner made in his or her petition.

1. I understand that by voluntarily entering my appearance and filing this pleading, I am subjecting myself to the jurisdiction of this court, and the court may enter such orders and judgments as are authorized by law, including orders awarding maintenance (formerly alimony), child support, child custody, division of property, division of debts, and attorney's fees.

2. I admit as true EVERYTHING my spouse stated in his or her Petition for Dissolution of Marriage EXCEPT the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Instructions: Any allegation not specifically denied will be deemed admitted and you will not have the opportunity to disagree with this allegation when the case is presented to the court. Identify each paragraph that contains any allegation with which you disagree.

3. What is your social security number?

\_\_\_\_\_  
(Social Security Number)

Instructions: Your social security number is required by RSMo §452.312.2(6).

4. Check ONE of the following boxes:

- I am not on active duty in the armed services of the United States of America.
- I am on active duty in the armed services of the United States of America, but

waive my rights pursuant to the Soldiers and Sailors Civil Relief Act of 1940.

**REQUEST FOR RELIEF**

If you are the Wife, do you want to change your name back to the name you had prior to your marriage or back to your original maiden name?

Yes, I would like to change my name back to my previous married name of \_\_\_\_\_.

Yes, I would like to change my name back to my maiden name of \_\_\_\_\_.

No, I will keep the name I have.

**I WOULD LIKE THE COURT TO GRANT THE FOLLOWING:**

- A dissolution of my marriage;
- Custody of the child(ren) born of the marriage as stated herein (if applicable);
- Appropriate orders with respect to the support of the minor child(ren) (if applicable);
- A division of the marital property and debts (REQUIRED);
- And such further and other orders as the court would deem appropriate.

- Maintenance to be paid to me by my spouse; (Optional)
- Maintenance to be paid to my spouse by me; (Optional)

I further certify under oath that I have given my spouse a copy of this answer pursuant to Missouri Supreme Court Rule 43.01(d) by: (You MUST check at least ONE of the following three boxes)

Mailing a copy to my spouse or his or her attorney on \_\_\_\_\_, 20\_\_\_\_ at the following address:

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City) (State) (Zip)

Handing a copy to my spouse or his or her attorney on \_\_\_\_\_, 20\_\_\_\_.

Sending a copy to my spouse or his or her attorney by fax to \_\_\_\_\_ (telephone number) on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (time).



EXHIBIT # \_\_\_\_\_

**WARNING: Read Carefully**

You are encouraged to consult with an attorney in the preparation of this document and the presentation of your case to the court. A dissolution of marriage proceeding can substantially affect your financial and personal life for many years. An attorney is trained to assist you in protecting your rights.

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, MISSOURI  
(Type of court) (County where court is located)

In re the Marriage of

\_\_\_\_\_  
(First) (Middle) (Last) (Jr./Sr./III)

**Petitioner,**

}  
 }  
 }  
 }  
 }  
 }

**Cause No.**

\_\_\_\_\_  
 } (You MUST include this number)

**-and-**

}

**Division No.**

\_\_\_\_\_  
 } (Will be assigned when case is filed)

\_\_\_\_\_  
(First) (Middle) (Last) (Jr./Sr./III)

**Respondent.**

}  
 }

**STATEMENT OF INCOME AND EXPENSES**

I am the *(You must check one of the following boxes)*

- Petitioner.
- Respondent.

I am the *(You must check one of the following boxes)*

- Wife.
- Husband.

**INSTRUCTIONS**

**NOTE:** You should read these instructions carefully. If you do not understand them, you should consult with an attorney. When you go to court, the judge may ask you questions concerning your knowledge of the information contained in these instructions. The court may appoint an attorney to represent you if it feels that you cannot adequately represent yourself. If the court does appoint an attorney to represent you, you or your spouse will be responsible for the payment of these attorney's fees.

You must fill in the amounts for both the Husband and Wife. If you do not know the exact amount for your spouse, you should estimate the amount to the best of your ability.

The amount of income and expenses of each party is significant in a dissolution of marriage proceeding for several reasons. First, if there are unemancipated children born of the marriage, the court must determine the amount of child support to be paid by one party to the other party. Missouri Supreme Court Rule 88.01 and Form 14 provide the basis for the calculation of a presumed amount of support. The amounts you enter on this “Statement of Income and Expenses” may be used by the court in calculating the amount of child support.

Second, the amounts entered on this “Statement of Income and Expenses” may be used by the court in determining whether one party is entitled to maintenance. Maintenance is spousal support paid by one party to the other. Maintenance was formerly called alimony. If a party does not receive maintenance at the time of dissolution, and the judgment is not subject to modification, the party cannot come back to court to request maintenance in the future. A party may be entitled to maintenance if the party lacks sufficient property to provide for his or her reasonable needs or if the party is unable to support him or herself through appropriate employment. See RSMo. §452.335.

Third, income and expense amounts may be used by the court in determining the amount of attorney’s fees to be awarded a party. The court has the power to order one party to pay the other party’s attorney’s fees. RSMo. §452.355.

If you cannot accurately estimate the income and expenses of your spouse, there are methods available to discover exactly how much your spouse earns and spends. These methods are usually beyond the ability of non-lawyers, and it is strongly suggested that if you do not have an accurate estimate of how much your spouse earns and spends, and these issues would be relevant to your case, then you should contact an attorney to assist you.

The court may require you to file a more complete “Statement of Income and Expenses”. This would include a more detailed analysis of income and expenses.

Directions - Please type or print clearly in black ink. A copy of this form **MUST** be sent to your spouse. The information in this form is open to the public.  
 All pleadings that you file with the court are required to contain the cause number and division number (if applicable). Failure to include the cause number on your pleading may cause your pleading to be filed in the wrong case. If your case has not yet been filed, then you do not have to enter the cause number on this form.

INCOME	WIFE	HUSBAND	TOTAL
1. MONTHLY GROSS INCOME – Enter one-twelfth of the parties’ yearly gross income			

INCOME	WIFE	HUSBAND	TOTAL
<p><i>Instructions to Question 1 - "Gross income" includes, but is not limited to, salaries, wages, commission, dividends, severance pay, pensions, interest, trust income, annuities, partnership distributions, social security benefits, retirement benefits, workers' compensation benefits, unemployment compensation benefits, disability insurance benefits, veterans' benefits, and military allowances for subsistence and quarter.</i></p> <p><i>Overtime compensation, bonuses, earning from secondary employment, recurring capital gains, prizes, retained earning and significant employment-related benefits may be included in whole or in part.</i></p> <p><i>If a party is unemployed or found to be underemployed, "gross income" may be based on imputer income.</i></p> <p><i>Excluded from "gross income" is temporary assistance for needy families (TANF) payment, Medicaid benefits, supplemental security income (SSI) benefits, food stamps, general assistance benefits, other public assistance benefits have eligibility based on income and child support received for children not the subject of this proceeding.</i></p> <p><i>If a party receives rents or royalties or is self-employed, in a sole proprietorship, or business with joint ownership, "gross income" is gross receipts minus the ordinary and necessary expenses incurred to produce such receipts. Depreciation, investment tax credits and other noncash reduction of gross receipts may be excluded from such ordinary and necessary expenses.</i></p>			
<p><b>2. MAINTENANCE RECEIVED – Enter the monthly amount of any court order for maintenance to the extent of the amounts actually being received toward current maintenance.</b></p>			
<p><i>Instructions to Question 2 – This amount refers to maintenance that either party receives. Normally this would be maintenance received by Wife from Husband or by Husband from Wife in the present case. The amount to be paid should be included in your answer to Question 4.</i></p> <p><i>If the court is establishing both child support and maintenance, the court is required to first determine the appropriate amount of maintenance.</i></p>			
<p><b>3. OTHER CHILD SUPPORT OBLIGATIONS – Enter the monthly amount of any other court or administrative order for child support to the extent of the amounts actually being paid toward the current support of any child not the subject of this proceeding.</b></p>			
<p><b>4. MAINTENANCE PAID – Enter the monthly amount of any court order for maintenance to the extent of the amounts actually being paid toward current maintenance.</b></p>			
<p><i>Instructions to Question 4 – This amount refers to maintenance that either party pays. Normally this would be maintenance paid by Wife to Husband or by Husband to Wife in the present case. The amount received is to be included in your answer to Question 2.</i></p> <p><i>If the court is establishing both child support and maintenance, the court is required to first determine the appropriate amount of maintenance.</i></p>			
<p><b>5. SUPPORT FOR OTHER CHILDREN IN PARTIES' CUSTODY -</b></p>			
<p><b>6. TOTAL INCOME</b></p>			

EXPENSES	WIFE	HUSBAND	TOTAL
----------	------	---------	-------

EXPENSES	WIFE	HUSBAND	TOTAL
<i>NOTE: Questions 7 through 10 apply only if there are unemancipated children of this marriage. If there are no unemancipated children of this marriage, then you do not have to answer questions 7 through 10 inclusive, and you should list your total monthly expenses in your answer to question 11.</i>			
<b>7. CHILD CARE COSTS</b> – If there are unemancipated children of this marriage, enter the amount of work-related child care costs.			
<b>8. HEALTH INSURANCE COSTS FOR MINOR CHILDREN OF THIS MARRIAGE</b> – If there are unemancipated children of this marriage, enter the amount of health insurance costs for these children only.			
<b>9. UNCOVERED MEDICAL EXPENSES FOR MINOR CHILDREN OF THIS MARRIAGE</b> – If there are unemancipated children of this marriage, enter the amount of medical and/or dental expenses not covered by health insurance for these children only.			
<b>10. EXTRAORDINARY EXPENSES OF MINOR CHILDREN OF THIS MARRIAGE</b> – If there are unemancipated children of this marriage, enter the amount of any extraordinary expense for these children only.			
<b>11. OTHER MONTHLY EXPENSES</b>			
<i>Instructions to Question 11 - Include the following under "Other Monthly Expenses": Rent or mortgage payments, home maintenance, condominium or subdivision fees, gas, electric, water, telephone, trash service, sewer, cable television, internet service, home security, gas and oil for automobiles, automobile maintenance, taxes and licenses for automobile, payments on automobile loans, life insurance, health insurance (other than health insurance for minor children of this marriage), disability insurance, automobile insurance, pension payments, install loan payments, church and charitable contributions, food, clothing, medical and dental expenses, recreation, laundry and cleaning, personal care, educational expenses, other transportation costs, union dues, additional tax liability, gifts, vacations, newspapers and other periodicals, pet expenses, counseling, and any other miscellaneous expenses not listed above.</i>			
<b>12. TOTAL EXPENSES</b>			

I certify under oath that I have given my spouse a copy of this Statement of Income and Expenses pursuant to Missouri Supreme Court Rule 43.01(d) by: (You MUST check at least ONE of the following three boxes)

Mailing a copy to my spouse or his or her attorney on \_\_\_\_\_, 20\_\_\_\_ at the following address:

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)



EXHIBIT # \_\_\_\_\_

**WARNING: Read Carefully**

You are encouraged to consult with an attorney in the preparation of this document and the presentation of your case to the court. A dissolution of marriage proceeding can substantially affect your financial and personal life for many years. An attorney is trained to assist you in protecting your rights.

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_, MISSOURI  
(Type of court) (County where court is located)

In re the Marriage of

\_\_\_\_\_  
(First) (Middle) (Last) (Jr./Sr./III)

**Petitioner,**

}  
 }  
 }  
 }  
 }

**Cause No.**

\_\_\_\_\_  
 } (You MUST include this number)

**-and-**

}

**Division No.**

\_\_\_\_\_  
(First) (Middle) (Last) (Jr./Sr./III)

**Respondent.**

} (Will be assigned when case is filed)  
 }  
 }

**STATEMENT OF PROPERTY AND DEBT  
 and  
 PROPOSED DISTRIBUTION OF PROPERTY AND DEBT**

I am the *(You must check one of the following boxes)*

- Petitioner.
- Respondent.

I am the *(You must check one of the following boxes)*

- Wife.
- Husband.

**INSTRUCTIONS**

**NOTE: You should read these instructions carefully. If you do not understand them, you should consult with an attorney. When you go to court, the judge may ask you questions concerning your knowledge of the information contained in these instructions. The court may appoint an attorney to represent you if it feels that you cannot adequately represent**

**yourself. If the court does appoint an attorney to represent you, you or your spouse will be responsible for the payment of these attorney's fees.**

A property statement must be filed in EVERY dissolution of marriage case.

ALL PROPERTY AND MARITAL DEBT must be divided in a dissolution of marriage proceeding. Your dissolution of marriage will not be final unless this is done.

YOU MUST LIST ALL PROPERTY YOU AND YOUR SPOUSE OWN, even if it was acquired before your marriage or after your separation. This includes all property that you are purchasing by making monthly payments. If you acquire any additional property or debt during the time this case is pending, you must notify the court of that fact at the time of your hearing. If you dispose of any property or pay off any debt during the time this case is pending, you must notify the court of that fact at the time of your hearing.

YOU MUST LIST ALL DEBTS THAT YOU AND YOUR SPOUSE OWE. Debts to be paid by Wife are included in Table 5 and debts to be paid by Husband are included in Table 6.

If both parties agree on the disposition of the property and debt, then both parties may sign this property statement. If the court finds that this division of property and debt is fair, it will approve this agreement. You are required to make a proposed disposition of each item of property.

If both parties do not agree on the disposition of the property and debt, the court MUST divide all property and marital debt in its dissolution of marriage judgment. It may incorporate this document into your dissolution judgment.

Except in very unusual circumstances, property cannot be jointly owned after the dissolution of marriage.

Use a separate row for each item of property. You do not need to list property if it is of minimal value. You should draw a line through all rows that do not contain an item of property. For example, if you and your spouse own two motor vehicles, then there should draw a line through boxes 2c, 2d, and 2e.

If an item of property is partly marital and partly nonmarital, then it should be listed under both the marital and nonmarital sections. For example, if one party had earned pension benefits for five years prior to the marriage and continued to earn the same pension benefits for five years during the marriage, one-half or 50% of the pension and retirement benefits are marital and one-half or 50% are nonmarital. In that situation, the pension and retirement benefits would be listed both under marital and nonmarital property.

You should keep in mind the following definitions:

a. **Marital Property** - RSMo §452.330 defines marital property as an property acquired by either spouse during the marriage of the parties other than property acquired by gift, inheritance, or in exchange for non-marital property. This means that all wages earned during the marriage are marital property. All property owned by the parties is presumed to be marital property.

Non-marital property can be converted to marital property by placing a spouse's name on an account or title. Also, a marital interest can be acquired in non-marital property by the contribution of marital assets to the increase in value of the non-marital property. Finally, income from non-marital property during the marriage of the parties is marital property.

Marital property to be awarded to Wife should be listed in Table 1 and marital property to be awarded to Husband should be listed in Table 2.

b. **Nonmarital Property** - Nonmarital property is property that was acquired prior to the marriage or property that was acquired during the marriage by gift, inheritance, or in exchange for nonmarital property. Additionally, all state teacher retirement benefits are considered nonmarital.

Nonmarital property to be awarded to Wife should be listed in Table 3 and nonmarital property to be awarded to Husband should be listed in Table 4.

c. **Separate Property** - This is the same as nonmarital property.

d. **Fair Market Value** - This is the amount someone would pay for this item of property today. It is not what the property cost when you purchased it. A ten year old automobile has a value far less than the amount you paid for the automobile.

e. **Security or 'secured by'** - Your mortgage is secured by your home. When you finance the purchase of an automobile, the company that loans you the money is listed on the title to the automobile. They too have a security interest in your car. Usually, a debt is secured by an item of property if the person to whom you owe the money can take the item of property if you fail to pay the debt.

## **TYPES OF PROPERTY TO BE INCLUDED ON THIS FORM**

You should include the following types of property on this form:

a. **REAL ESTATE** – List any home or other real estate you or your spouse own or are buying. This includes any real estate that has either of your names on the title, even if you claim no interest in the real estate. Specifically identify each item of real estate by address. You must also provide the court with a copy of the legal description (from the deed) before your dissolution can be granted.

b. **MOTOR VEHICLES** - List all automobiles, boats, trailers (including mobile homes), aircraft, recreational vehicles and campers in which either you or your spouse have ANY interest. List year, make, model and vehicle identification number.

c. **BANK ACCOUNTS** - List all checking and savings accounts, time deposit, money markets, certificates, etc. in which you or your spouse have ANY interest. Include all accounts on which your name or your spouse's name appears, even if you claim no interest in the account. Give the names of the institutions, the names on the accounts and the account numbers.

d. **PENSION AND RETIREMENT PLANS AND PROFIT SHARING PLANS** - List all plans in which you or your spouse are enrolled or have an interest. These include IRA accounts, 401(k) plans, and other retirement plans in which you or your spouse are vested.

Pension and Retirement plans can be divided by the court through a separate qualified domestic relations order. You are responsible for the preparation of this order, but it is beyond the ability of most non-attorneys to draft this document. You will almost certainly need the assistance of an attorney.

You may still submit your dissolution of marriage to the court without a qualified domestic relations order, but you must submit a qualified domestic relations order to the court before pension plan administrators will divide pension or retirement benefits. (A qualified domestic relations order is referred to as a QDRO pronounced "quad-row.")

e. **STOCKS, BONDS OR OTHER SECURITIES** - List all stocks, both public and closely held corporations, bonds, promissory notes, mortgages, money market funds and all other property in which you or your spouse have any interest. Give names in which securities are held, the total number of shares or certificates, and the identification numbers.

f. **LIFE INSURANCE** - List all life insurance policies in which either you or your spouse have any ownership interest. Present Fair Market Value is the same as cash surrender value. It is not necessary to list any term life insurance policies with no cash surrender value.

g. **CASH ON HAND** - List any cash that you or your spouse have in your possession or that you have given to a third party to hold for you.

h. **HOUSEHOLD GOODS** - List all appliances, furniture, silver, antiques, television, stereos, etc. that have a value in excess of \$200.00. Include the items in the possession of your spouse. Sufficient description of each item is required so that an independent person could readily identify the object.

i. **PERSONAL GOODS** - List all jewelry, furs, guns, cameras, coin and stamp collections, fishing and camping equipment, etc. that have a value in excess of \$200.00. Include the items in the possession of your spouse. Sufficient description of each item is required so that an independent person could readily identify the object.

j. **TRUST INTERESTS** - List any interest you or your spouse have in any trust. Give the name of the trust, name of the trustee, settler, beneficiaries, nature of the interest you or your spouse have in the trust and attach to this statement a copy of the trust instrument.

k. **BUSINESSES OR PARTNERSHIPS** - List all business entities in which you or your spouse have any interest. Include sole proprietorships, joint ventures, and partnerships.

l. **DEBTS OWED TO YOU OR YOUR SPOUSE BY OTHERS** - List all debts that other persons owe to you or your spouse. This includes any amount that your spouse or you have given to a third party to hold for you or your spouse.

m. **ANY INTEREST IN PENDING LITIGATION OR SUITS TO BE FILED** - List any legal claims you or your spouse may have. Include the claim even if a suit has not been filed.

n. **FARM EQUIPMENT, ANIMALS OR CROPS**

**o. INTEREST IN CONTRACTS MADE AND NOT PERFORMED** - List the parties to the contract, their address and the expected date of performance.

**p. OTHER ASSETS** - List all other assets in which either you or your spouse have any interest. Include any copyrights, patents or other intangible property.

**q. DEBTS** - List all loans from any individual, bank, credit card company, credit union, savings and loan association or other lending institution. Include all debts owed by either you or your spouse. Make sure to list all credit cards and any amounts owed pursuant to any bankruptcy or other repayment plans.

**Where do you list the property?**

Table 1 - Marital property to be received by Wife

Table 2 - Marital property to be received by Husband

Table 3 - Nonmarital property to be received by Wife

Table 4 - Nonmarital property to be received by Husband

Table 5 - Debts to be paid by Wife

Table 6 - Debts to be paid by Husband

You may make copies of any of the six tables if you need additional room for more property or debt. When you have listed all the property and debt, you should number the pages. Make sure you write "Not Applicable" or "N/A" in each box under "Item of Property" or "Item of Debt" that you do not fill. (Someone could fill this in later with some other information)

**Directions - Please type or print clearly in black ink. A copy of this form MUST be sent to your spouse. The information in this form is open to the public.**

**All pleadings that you file with the court are required to contain the cause number and division number (if applicable). Failure to include the cause number on your pleading may cause your pleading to be filed in the wrong case. If your case has not yet been filed, then you do not have to enter the cause number on this form.**

**TABLE 1. MARITAL PROPERTY TO BE AWARDED TO WIFE** - The following marital property is to become the sole and separate property of WIFE. NONMARITAL PROPERTY OF WIFE SHOULD BE LISTED IN TABLE 3.

Item of Property	Present Fair Market Value	What is the monthly income from this property?	Is there an amount owed on this property?	Party with Possession of this Property
Miscellaneous personal property and household items in possession of Wife (List total value of all miscellaneous items)	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

<b>TABLE 1. MARITAL PROPERTY TO BE AWARDED TO WIFE</b> - The following marital property is to become the sole and separate property of WIFE. NONMARITAL PROPERTY OF WIFE SHOULD BE LISTED IN TABLE 3.				
			<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

**TABLE 2. MARITAL PROPERTY TO BE AWARDED TO HUSBAND** - The following marital property is to become the sole and separate property of HUSBAND. NONMARITAL PROPERTY OF HUSBAND SHOULD BE LISTED IN TABLE 4.

Item of Property	Present Fair Market Value	What is the monthly income from this property?	Is there an amount owed on this property?	Party with Possession of this Property
Miscellaneous personal property and household items in possession of Husband (List total value of all miscellaneous items)	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

<b>TABLE 2. MARITAL PROPERTY TO BE AWARDED TO HUSBAND</b> - The following marital property is to become the sole and separate property of HUSBAND. NONMARITAL PROPERTY OF HUSBAND SHOULD BE LISTED IN TABLE 4.				
			<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

<b>TABLE 3. NONMARITAL PROPERTY TO BE AWARDED TO WIFE</b> - The following nonmarital property is to become the sole and separate property of WIFE. MARITAL PROPERTY OF WIFE SHOULD BE LISTED IN TABLE 1.				
Item of Property	Present Fair Market Value	What is the monthly income from this property?	Is there an amount owed on this property?	Party with Possession of this Property
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

**TABLE 3. NONMARITAL PROPERTY TO BE AWARDED TO WIFE** - The following nonmarital property is to become the sole and separate property of WIFE. MARITAL PROPERTY OF WIFE SHOULD BE LISTED IN TABLE 1.

			<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

**TABLE 4. NONMARITAL PROPERTY TO BE AWARDED TO HUSBAND** - The following nonmarital property is to become the sole and separate property of HUSBAND. MARITAL PROPERTY OF HUSBAND SHOULD BE LISTED IN TABLE 2.

Item of Property	Present Fair Market Value	What is the monthly income from this property?	Is there an amount owed on this property?	Party with Possession of this Property
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other

**TABLE 4. NONMARITAL PROPERTY TO BE AWARDED TO HUSBAND** - The following nonmarital property is to become the sole and separate property of HUSBAND. MARITAL PROPERTY OF HUSBAND SHOULD BE LISTED IN TABLE 2.

	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other
	<i>(Do not deduct amount owed from this value)</i>		<input type="checkbox"/> Yes - List debt in Tables 5 or 6. <input type="checkbox"/> No	<input type="checkbox"/> Wife <input type="checkbox"/> Husband <input type="checkbox"/> Other



**TABLE 5. DEBTS TO BE PAID BY WIFE** - List all loans from any individual, bank, credit card company, credit union, savings and loan association or other lending institution which are to be paid by WIFE.

				<input type="checkbox"/> Marital <input type="checkbox"/> Non-Marital <input type="checkbox"/> Both <input type="checkbox"/> Unknown
				<input type="checkbox"/> Marital <input type="checkbox"/> Non-Marital <input type="checkbox"/> Both <input type="checkbox"/> Unknown



<b>TABLE 6. DEBTS TO BE PAID BY HUSBAND</b> - List all loans from any individual, bank, credit card company, credit union, savings and loan association or other lending institution which are to be paid by HUSBAND.				
				<input type="checkbox"/> Marital <input type="checkbox"/> Non-Marital <input type="checkbox"/> Both <input type="checkbox"/> Unknown
				<input type="checkbox"/> Marital <input type="checkbox"/> Non-Marital <input type="checkbox"/> Both <input type="checkbox"/> Unknown

I certify under oath that I have given my spouse a copy of this Statement of Property and Debt pursuant to Missouri Supreme Court Rule 43.01(d) by: (You MUST check at least ONE of the following three boxes)

Mailing a copy to my spouse or his or her attorney on \_\_\_\_\_, 20\_\_\_\_ at the following address:

\_\_\_\_\_ (Street)

\_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip)

Handing a copy to my spouse or his or her attorney on \_\_\_\_\_, 20\_\_\_\_.

Sending a copy to my spouse or his or her attorney by fax to \_\_\_\_\_ (telephone number) ON \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (time).

*Instructions: The following information MUST be filled in before a notary public. Your Statement of Property and Debt is required to be verified before a notary public.*

COUNTY OF \_\_\_\_\_ }  
 } ss.  
 STATE OF \_\_\_\_\_ }

Comes now the affiant, first having been duly sworn, and states that the information contained in this Statement of Property and Debt is true and accurate according to his or her best information, knowledge and belief, and that he or she agrees with the terms and conditions set forth herein.

\_\_\_\_\_  
 Affiant

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**AGREEMENT OF PARTY**

I am \_\_\_\_\_ and I have fully read the above statement of property prepared and sworn to by my spouse. I agree with the statements of my spouse and I further state that I know of no other marital or non-marital property or debt in which either my spouse or I have any interest. I agree with the proposed disposition of each item of property and debt and ask that the court divide the property in accordance with this Statement of Property and Debt. I fully understand that the division of property CANNOT BE MODIFIED in the future once the court approves this agreement.

I am the *(You must check one of the following boxes. This should be the opposite box of that box checked on Page 1)*

- Wife.
- Husband.

**NOTE: If you do not sign this document, then the court may divide the property in any manner it finds to be fair and reasonable, and is NOT bound by the requested disposition of property in this statement. You may receive more of the property or you may receive less of the property.**

**Even if you do sign this document, the court is bound by your agreement ONLY if it finds the agreement to be fair and reasonable. If the court finds the agreement is not fair, it may proceed to divide the property in a fair and reasonable manner.**

**If you agree and sign this document, it is your responsibility to make sure that this document is filed in the appropriate court at least ten (10) days prior to any scheduled court proceedings. You should also make sure that you keep a copy of this agreement and your spouse is given a copy. You may not be given notice of the court proceeding.**

**If you sign this document, you should place your initials at the bottom of each page. Make sure there are no blank spaces on the document you sign.**

**Once again, you are urged to consult with an attorney concerning the disposition of property and debt prior to signing this or any other legal document. You will not be allowed to change your mind once this document is signed and approved by the court.**

COUNTY OF \_\_\_\_\_ }  
 } ss.  
 STATE OF \_\_\_\_\_ }

Comes now the affiant, first having been duly sworn, and states that the information contained in this Statement of Property and Debt is true and accurate

according to his or her best information, knowledge and belief, and that he or she agrees with the terms and conditions set forth herein.

\_\_\_\_\_  
Affiant

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

# **Appendix C**

## **Utah's Online Court Assistance Program**

## Utah Legal Services Assisted Pro Se Website Project

February 2003

Utah Legal Services (ULS) developed an Assisted Pro Se Website that enables volunteer attorneys to provide pro se assistance online to self-represented litigants who are filing a no fault divorce. While currently in development, this project maximizes the ease with which volunteer attorneys can provide assistance to self-represented litigants. ULS anticipates formally launching this project in the next few months.

In Utah, approximately 15% of no fault divorces are completed using Utah's Online Court Assistance Program (OCAP), a court administered website that allows users to complete pleadings and documents online. Utah Legal Services' Assisted Pro Se Website dovetails with OCAP by allowing OCAP users during their session to register, if eligible, for a volunteer attorney to review their paperwork prior to filing it with the court. Once the self-represented litigant completes the initial paperwork, an email is automatically generated and sent to the next volunteer attorney registered to participate in this program. The email requests for the attorney to log onto the website and review the pleadings.

The volunteer attorney is provided with the litigants' name, birth date, and city to determine if there are any potential conflicts of interest. At this time, the attorney can either reject or accept the case. If rejected, an email is sent to the next volunteer attorney on the list. If they accept, a number of automated timers are set into motion to provide reminders for the attorney to ensure they take action on the case in a timely manner. Attorneys log onto the Assisted Pro Se Website and review the completed forms. During the review, the attorney may contact the self-represented litigant and discuss any potential problems, deficiencies, or inconsistencies with the forms. After the attorney completes the review, the self-represented litigant can print out the forms and file the forms with the court.

The implementation of the Assisted Pro Se Website provides additional support to low-income self-represented litigants. However Utah Legal Services intends to buttress the efforts of volunteer attorneys by providing further education through attorney run pro se divorce clinics. The need for these clinics stems from the confusion that often accompanies navigating the legal system without the aid of an attorney and the potential for lasting negative consequences which could possibly result in severely restricted visitation rights or bearing sole responsibility for massive debts.

Utah Legal Services plans to support the Assisted Pro Se website by holding clinics where divorce law can be explained in detail and, if people are interested in filing a pro se divorce, they can meet an attorney at the clinic who can, if available, assist them through the process using ULS' website. ULS hopes to involve 40 to 50 lawyers in the project. For more information, visit: OCAP's website at: <http://www.utcourts.gov/ocap/index.html> and Utah Legal Services Website at: <http://www.andjusticeforall.org/uls/>.

Source:

[www.lri.lsc.gov/abstracts/030029/ps\\_030029.thm](http://www.lri.lsc.gov/abstracts/030029/ps_030029.thm)

# **Appendix D**

## **St. Louis County Report of Pro Se Dissolution of Marriage Cases**

**REPORT OF PRO SE DISSOLUTION OF MARRIAGE CASES IN  
ST. LOUIS COUNTY FROM JANUARY 1, 2002  
THROUGH JULY 31, 2003.**

St. Louis County instituted a program to assist pro se litigants on September 13, 2002. All dissolution of marriage cases filed by an individual not represented by an attorney were assigned to a new division of the court. Judge Dennis Smith was assigned to hear cases in this new division.

At the same time, St. Louis County opened the Legal Resource Center. This center, located on the main floor of the courthouse, is staffed by a full time attorney and a clerk. The Legal Resource Center distributes forms and provides answers to procedural questions. They cannot give legal advice.

Every pro se dissolution of marriage proceeding case is forwarded to Judge Smith before summons are issued or any other action is taken by the clerk's office in the case. Judge Smith reviews the file to make certain that the documents that have been filed comply with Missouri law. If they do not, a letter is sent to the petitioner informing them in general terms that a dissolution of marriage cannot be granted based upon the documents filed by the petitioner. It is suggested that they contact the Legal Resource Center if they need a further explanation.

St. Louis County has also developed "user-friendly" forms for use by pro se litigants. These forms include petitions, answers, waivers of service, parenting plans, income and expense statements, and property statements. Additional forms are planned and some are still in the development stage.

The only publicity associated with the opening of the Legal Resource Center and the different approach to pro se cases has been by word of mouth. There have been no press releases or news coverage.

We have analyzed the statistics governing pro se dissolution of marriage cases in St. Louis County since January 1, 2002. We have defined a pro se dissolution of marriage case as a case filed by a litigant without an entry of appearance by an attorney. Thus, if an attorney enters for either side after the filing of the petition, the case would still be considered a pro se case for purposes of our study. The results of the study are as follows:

Month	Total Pro Se Dissolution of Marriage Cases Filed	Total Dissolution of Marriage Cases Filed	Percentage of Pro Se Dissolution Cases Filed
01/2002	30	354	8.47%
02/2002	25	356	7.02%
03/2002	28	388	7.22%

04/2002	20	355	5.63%
05/2002	37	426	8.69%
06/2002	22	380	5.79%
07/2002	29	356	8.15%
08/2002	27	339	7.96%
09/2002	31	349	8.88%
10/2002	34	367	9.26%
11/2002	25	319	7.84%
12/2002	27	258	10.47%
01/2003	35	334	10.48%
02/2003	40	336	11.90%
03/2003	39	373	10.46%
04/2003	53	348	15.23%
05/2003	45	362	12.43%
06/2003	37	336	11.01%
07/2003	49	344	14.24%
TOTAL	633	6680	9.48%

The above statistics were compiled by Rebecca Bahn, a third year law student at St. Louis University.

More dissolutions are filed in certain months than others, so we believed it would be interesting to compare the first seven months of 2002 with the first seven months of 2003. These numbers are presented in the next two tables. (Note: The Legal Resource Center was not opened during this period in 2002, and was opened during the entire period in 2003.)

Month	Total Pro Se Dissolution of Marriage Cases Filed	Total Dissolution of Marriage Case Filed	Percentage of Pro Se Dissolution Cases Filed
01/2002	30	354	8.47%
02/2002	25	356	7.02%
03/2002	28	388	7.22%
04/2002	20	355	5.63%
05/2002	37	426	8.69%
06/2002	22	380	5.79%
07/2002	29	256	8.15%
TOTAL	191	2515	7.59%

Month	Total Pro Se Dissolution of Marriage Cases Filed	Total Dissolution of Marriage Cases Filed	Percentage of Pro Se Dissolution Cases Filed
01/2003	35	334	10.48%
02/2003	40	336	11.90%
03/2003	39	373	10.46%
04/2003	53	348	15.23%
05/2003	45	362	12.43%
06/2003	37	336	11.01%
07/2003	49	344	14.24%
TOTAL	298	2433	12.25%

These statistics are based on a limited experience. They indicate that pro se filings increased approximately 56% during the same seven-month period after St. Louis County opened the Legal Resource Center. The percentage of pro se cases filed increased approximately 61% during this same period

The main task of the Legal Resource Center is to aid the public. However, it also appears to have helped the clerks. Although there is no data to back up the assertion, a casual conversation with clerks would indicate that they have had much less difficulty in dealing with pro se litigants. Now if a pro se litigant approaches a clerk, they are usually directed to the Legal Resource Center.

There have been dispositions in 206 of the 298 cases filed during the first seven months of 2003. The following table breaks down how these cases were resolved:

Type of Disposition	Total	Average Age of Case in Days
Dissolution Granted by Court	173	82.7
Case Dismissed by Court	16	104.9
Case Dismissed by Parties	4	71.5
Case Reassigned because of Attorney Entry	13	82.8
TOTAL	206	84.2

It is significant that 173 cases were granted by the court during this time period and only 16 cases were dismissed for failure to prosecute or for procedural defects.

Local assignment rules provide that if an attorney enters his or her appearance on a pro se case, then the case will be reassigned to another family court division. This is to prevent an attorney from selecting which judge is assigned to hear a specific case. On several occasions, attorneys have entered their appearance, and the case has been heard as an uncontested matter at the first or second setting. Any case that could not be handled as an uncontested matter was reassigned. From January 1, 2003, until July 31, 2003, 13 such cases have been reassigned.

Another statistic is interesting to note. The Legal Resource Center keeps track of “contacts”. This is the number of people to whom they have given forms.

Month	Number of Pro Se Litigants provided with Dissolution of Marriage Packets
09/2002	45*
10/2002	79
11/2002	47
12/2002	76
01/2003	74
02/2003	72
03/2003	91
04/2003	81
05/2003	79
06/2003	102
TOTAL	746
*The above statistics were compiled by Jim Buckles in the Legal Resource Center. The Legal Resource Center was opened on September 13, 2002.	

Finally, during the months of June and July, 2003, 82 cases filed by pro se litigants were studied. 52 of these litigants used form petitions obtained from St. Louis County Legal Resource Center. 13 of these litigants used one commercial form preparer, and the other 17 litigants used a variety of sources to prepare their pleadings.

Dennis Smith  
September 3, 2003

## **Appendix E**

### **Sample Guidelines for Determining What Is and Is Not Legal Advice**

- The Michigan Judicial Institute developed guidelines for determining what is and is not legal advice, which have been endorsed by the **Michigan** Supreme Court.<sup>81</sup>
- In 1998, the Supreme Court of Florida adopted a rule of court, **Florida** Family Law Rule 12.750, entitled “Family Self Help Programs,” which sets forth the services that court “self-help” staff can and cannot provide. According to this new rule, self-help personnel may:
  - Encourage self-represented litigants to obtain legal advice;
  - Provide information about available pro bono legal services, low cost legal services, legal aid programs, and lawyer referral services;
  - Provide information about available approved forms, without providing advice or recommendation as to any specific course of action;
  - Provide approved forms and approved instructions on how to complete the forms;
  - Engage in limited oral communications to assist a person in the completion of blanks on approved forms;
  - Record information provided by a self-represented litigant on approved forms;
  - Provide, either orally or in writing, definitions of legal terminology from widely accepted legal dictionaries or other dictionaries without advising whether or not a particular definition is applicable to the self-represented litigant’s situation;
  - Provide, either orally or in writing, citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the self-represented litigant’s situation;
  - Provide docketed case information;
  - Provide general information about court process, practice, and procedure;
  - Provide information about mediation, required parenting courses, and courses for children of divorcing parents;
  - Provide, either orally or in writing, information from local rules or administrative order;
  - Provide general information about community services; and
  - Facilitated the setting of hearings

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<sup>81</sup> See MICHIGAN JUDICIAL INSTITUTE, LEGAL ADVICE V. ACCESS TO THE COURTS, DO YOU KNOW THE DIFFERENCE?? 4 (1997).

Self-help personnel may not:

- Provide legal advice or recommend a specific course of action for a self-represented litigant;
  - Provide interpretation of legal terminology, statutes, rules, orders, cases, or the constitution;
  - Provide information that must be kept confidential by statute, rule, or case law;
  - Deny a litigant's access to the court;
  - Encourage or discourage litigation;
  - Record information on forms for a self-represented litigant, except as otherwise provided by this rule;
  - Engage in oral communications other than those reasonably necessary to elicit factual information to complete the blanks on forms except as otherwise provided by this rule;
  - Perform legal research for litigants;
  - Represent litigants in court; and
  - Lead litigants to believe that court staff are representing them as lawyers in any capacity or induce the public to rely upon them for legal advice.
- 
- In June 1998, the **New Mexico** Supreme Court adopted a standard notice entitled "Information Available from the Clerk's Office." This notice sets forth the information that court staff can and cannot provide and includes information on how to find a lawyer. New Jersey has created a similar notice.
  - In November 1998, the **Ventura County** Superior Court adopted guidelines for its employees staffing its Self-Help Legal Access Center.
  - The **Iowa** Supreme Court recently approved "Guidelines for Clerks Who Assist Pro Se Litigants in Iowa's Courts" created by a Customer Service Advisory Committee for the Judicial Branch. The Advisory Committee also developed a guidebook for clerks containing twenty-five pages of model responses to frequently asked questions.
  - **Massachusetts'** August 1998 Report on Pro Se Litigation includes a set of "Sample Staff Guidelines" for Massachusetts courts.
  - In 2000, the **Utah** Judicial Council adopted guidelines for all court staff in the state.

- In **Wisconsin**, Supreme Court Rule 70.41 provides examples of what court staff can and cannot do in communicating with individual court users. In particular, Rule 70.41(4) provides that court staff shall do all of the following:
  - (a) Provide public information contained in any of the following:
    1. Dockets or calendars.
    2. Case files.
    3. Indexes.
    4. Existing reports.
  - (b) Provide a copy of, or recite, any of the following: 1. Common, routinely employed state and local court rules. 2. Common, routinely employed court procedures. 3. Common, routinely employed applicable fees and costs.
  - (c) Advise an individual where to find statutes and rules, without advising whether a particular statute or rule is applicable.
  - (d) Identify and provide applicable forms and written instructions without providing advice or recommendations as to any specific course of action.
  - (e) Answer questions about how to complete forms, such as where to write in particular types of information, but not questions about how the individual should phrase his or her responses on the forms.
  - (f) Define terms commonly used in court processes.
  - (g) Provide phone numbers for lawyer referral services, local attorney rosters, or other assistance services, such as Internet resources, known to the court staff.
  - (h) Provide appropriate aids and services for individuals with disabilities to the extent required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

Similarly, Rule 70.41(5) details the activities that court staff may not do:

- (a) Provide legal advice or recommend a specific course of action for an individual.
- (b) Apply the law to the facts of a given case, or give directions regarding how an individual should respond or behave in any aspect of the legal process.
- (c) Recommend whether to file a petition or other pleading.
- (d) Recommend phrasing for or specific content of pleadings.
- (e) Fill in a form, unless required by sub. 4 (h).
- (f) Recommend specific people against whom to file petitions or other pleadings.

- (g) Recommend specific types of claims or arguments to assert in pleadings or at trial.
  - (h) Recommend what types or amount of damages to seek or the specific individuals from whom to seek damages.
  - (i) Recommend specific questions to ask witnesses or litigants.
  - (j) Recommend specific techniques for presenting evidence in pleadings or at trial.
  - (k) Recommend which objections to raise regarding an opponent's pleadings or motions at trial or when and how to raise them.
  - (l) Recommend when or whether an individual should request or oppose an adjournment.
  - (m) Recommend when or whether an individual should settle a dispute.
  - (n) Recommend whether an individual should appeal a judge's decision.
  - (o) Interpret the meaning or implications of statutes or appellate court decisions as they might apply to an individual case.
  - (p) Perform legal research.
  - (q) Predict the outcome of a particular case, strategy, or action.
- (6) Referral to supervisor. When a court staff member is uncertain whether the advice or information requested is authorized, the staff member should seek the assistance of a supervisor. If a supervisor is not available, the staff member should advise the individual to seek assistance from an attorney.

#### COMMENT

Court staff shall provide a copy of a common rule, but court staff should not attempt to apply the rule to the facts in the individual's case. Sometimes, after court staff provides a rule, an individual will ask whether or how the rule would apply, or if the rule might be applied differently, given the facts in his or her case. This calls for an interpretation of the law or rule of procedure. Court staff shall avoid offering interpretations of laws or rules.

In providing assistance regarding forms, court staff may inform individuals that some general content may be required in a pleading, such as identification of the other parties involved in the accident or a description of the facts surrounding the accident. But court staff may not tell an individual whom to identify or which particular facts might be relevant in the pleading.

Court staff should, if possible, provide or direct an individual to pamphlets or other documents that may address an individual's question and that have been prepared for general distribution to the public.

Court staff may not compute deadlines specified by statute or rule.

Court staff may not perform legal research. Court staff may refer individuals to sections of the Wisconsin supreme court rules, local court rules, or Wisconsin statutes that govern matters of routine administration, practice, or procedure and they may give definitions of common, well-defined legal terms used in those sections. However, court staff shall not interpret the meaning of statutes or rules.

The list of prohibited types of assistance set forth under sub. 70.41(5) is not comprehensive. The list is consistent with the statutory directives in ss. 757.22 and 757.30(2), stats., regarding the practice of law by judicial officers and the unauthorized practice of law.

- In **Indiana**, the following announcement is provided to litigants and provides examples of what court staff can and cannot do in communicating with individual court users.

## WELCOME TO INDIANA COURTS

THE COURT, INCLUDING THE JUDGE, THE CLERK, AND ALL COURT STAFF, MUST REMAIN IMPARTIAL. THEY DO NOT TAKE SIDES IN ANY MATTER COMING BEFORE THE COURT. THEY WILL GIVE THE SAME SORTS OF INFORMATION TO PERSONS ON BOTH SIDES OF A CASE.

CAN PROVIDE	CANNOT PROVIDE
<ul style="list-style-type: none"> <li>* <b>We can</b> provide you with a telephone number of local lawyer referral services.</li> <li>* <b>We can</b> explain and answer questions about how the court works.</li> <li>* <b>We can</b> provide you general information about court rules, procedures and practices.</li> <li>* <b>We can</b> provide you information from your case file.</li> <li>* <b>We can</b> provide a copy of the small claims manual and court forms that are available and instructions on how to complete them.</li> <li>* <b>We can</b> review your papers for completeness by checking for signatures, notarization, correct county name, and correct case number.</li> </ul>	<ul style="list-style-type: none"> <li>* <b>We cannot</b> provide legal advice or legal interpretations. Only a lawyer can give you legal advice.</li> <li>* <b>We cannot</b> advise you whether or not you should bring your case to court or give you an opinion about what will happen if you bring your case to court.</li> <li>* <b>We cannot</b> advise you what to say in court.</li> <li>* <b>We cannot</b> let you talk to the judge outside court or talk to the judge for you about what will happen in your case.</li> <li>* <b>We cannot</b> fill out a form for you or tell you what words to use in your court papers.</li> <li>* <b>We cannot</b> sign an order or change an order signed by the judge.</li> </ul>

**REMEMBER:** The Court and court staff do not know the answers to all questions about court rules, procedures and practices. They have been instructed not to answer questions if they do not know the correct answer. Information you provide to staff is not confidential.

THIS LIST WAS DEVELOPED FOR DISTRIBUTION  
 BY THE INDIANA SELF-SERVICE LEGAL CENTER  
 “Helping people help themselves.”

<http://www.in.gov/judiciary/selfservice>

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