



COMMITTEE ON ACCESS TO FAMILY COURTS  
AGENDA

Office of State Courts Administrator  
2112 Industrial Drive, Jefferson City, Missouri 65110

**Industrial Conference Room A**

September 9, 2011

10:00 a.m. – 4:00 p.m.

Conference call #

I. Call to Order/Approval of Minutes (Levine)

A. Minutes from June 3, 2011, Meeting

Attachment Page..... 4

Action: Committee approval of minutes

II. Status Updates

A. Alliances with State / Local Bar Associations / Pro Bono Initiatives  
(Stewart/DeFeo)

- 1. LSR-CLE Update (DeFeo)
  - a. Draft Administration Order  
Attachment page..... 11
  - b. LSR Guidelines/Administrative Order  
Attachment page..... 13
  - c. Entry LSR  
Attachment page..... 16
  - d. Termination LSR  
Attachment page..... 18
  - e. Judges Benchbook  
Attachment page..... 19
  - f. Missouri specific (Talia style) video & education program update  
Verbal report (will need committee approval when final)
- 2. LSR Sub-subcommittee report (Beach)  
Verbal update
- 3. Missouri Lawyers Weekly Article and Commentary  
Attachment page..... 48
- 4. **Pro Bono Update (DeFeo)**
  - a. Legal helpers disaster partnership  
Verbal update
  - b. Involving Appellate judges in Judges Tool Kit? Brainstorming

B. Self-Help Centers / Needs of Rural Clients (Schneider)

- 1. Recommendations for other Self-Help Centers  
Verbal update
- 2. DRRF Final Evaluation of MMA2J Program  
Handout

3. Needs for Rural Areas (Sub-subcommittee update)  
*Verbal update*
4. Proposed Judicial Survey regarding pro bono needs  
*Handout*

**C. Internet/Web Site (Bird)**

1. 2011 First Six Months Survey – Statistics and Second Quarter Comments (Norris)  
*Attachment Page* .....52
2. Examining Pro Se Form Utility and Access Research Brief  
*Attachment page*.....63
3. Website changes  
*Attachment page*.....67

**D. Forms (Smith)**

1. SJRC Response to Forms under review and current form changes  
***Please refer to forms from June 3, 2011 agenda.***  
*Attachment page*.....70

**E. Litigant Education Program/Brochure (Bird/Brown)**

1. Paternity Education Component revisions (Brown)  
**Action: Committee approval of component**
2. Proposed changes to Litigant Awareness Program Materials (Bird)  
**Action: Committee approval of LAP materials**
3. Paternity brochure draft (Bird)  
*Attachment Page*.....72  
**Action: Committee approval of brochure**

**F. Communications/Networking (Scaglia)**

1. Revised release for statistics

**G. Court Staff /Clerk Education (Bird)**

*Verbal Update*

**H. Judicial Education (Williamson/Powell)**

*Verbal Update*

**III. Staff Report**

**A. Annual Report (Cramer)**

Completed and sent to Supreme Court on July 13, 2011

**B. Set proposed meeting dates for 2012 – *Bring your Calendars***

1. March 2, 2012
2. June 1, 2012 (by conference call)
3. September 7, 2012
4. December 7, 2012 (by conference call)

**V. Adjourn Meeting**

**PLEASE MARK YOUR CALENDARS FOR THE NEXT CAFC MEETINGS:**

**December 2, 2011 (by conference call)**



**COMMITTEE ON ACCESS TO FAMILY COURTS  
MINUTES  
June 3, 2011**

Members Present by Phone: Judge Dennis Smith, Judge Leslie Schneider, Judge Kelly Broniec, Judge Theresa Burke, Judge Brent Powell, Lori Levine, Lou DeFeo, Richard Halliburton, Kathleen Bird, Richard Holtmeyer, Fred Cruse, Judge Miles Sweeney, Marsha Holiman, Mary Ann McClure, Allan Stewart, Deanna Scott

OSCA Staff: Kelly Cramer, Debbie Eiken

Missouri Bar Staff: Robert Stoeckl

Members Absent: Judge Douglas Beach, Judge J.D. Williamson, Karen Brown, Don Crank, Patricia Scaglia, Beth Dessem, Kelly Martinez

**I. Call to Order**

The Committee on Access to Family Courts (CAFC) meeting was called to order by Lori Levine at 9:05 a.m. at the Office of State Courts Administrator (OSCA), 2112 Industrial Drive, Jefferson City, Missouri.

**A. Minutes**

**Judge Brent Powell moved to approve the minutes. Judge Kelly Broniec seconded the motion, the minutes were approved.**

**II. Status Updates**

**A. Alliances with State/Local Bar Associations/Pro Bono Initiatives**

**1. LSR-CLE information**

Lori requested an update from Allan about the CLE telephone seminars and if they would be live. Allan stated yes but they needed to work out the funding. It was planned that there would be two or three presenters. The Missouri Bar has advised that seminars are costly to produce. Lori asked about the status on finalizing the CLEs for Missouri ethics credit. Allan reported they had not worked on it a lot, but he could utilize the subcommittee to help. Lori suggested the curriculum could focus on how LSR would work for the litigants and the courts and that Allan create the curriculum on how to implement it specifically for Missouri.

Lou stated there is a chapter in the desk book for pro bono attorneys on LSR that may be of assistance with creating the CLE.

**a. Rittman opinion**

Judge Brent Powell reported he had reviewed the opinion and believes the judges can request the lawyers to provide information about the scope of their representation. This would allow the other party and Judge to know the extent of representation. Allan stated the idea of an order by the court for the attorney to disclose the scope of representation may discourage attorneys from providing Limited Scope Representation (LSR). Judge Powell stated that was a very good point and agreed with Allan. Allan stated he thought the idea of LSR was to protect the lawyer and client.

**2. Talia video recommendation**

Allan stated the video is too long and is specific to California. He agrees there are excerpts that could be used. Lori asked Allan if his recommendation was to not post the video on the webpage. Allen stated he did not want to post it and Judge Powell agreed, stating that it's too long, although he does like the idea of the video. Lou Defeo would like the video to stay in the archives, but not be available as a public tool.

Lori wanted to know if it would be possible for the committee to create a video and educational program and have it posted on our website. Lou stated he thought it would be excellent to have a video specific to Missouri and stated that it could also qualify for CLE and ethics credits. Allen agreed a 30-60 minute video could be done in conjunction with the CLE.

**B. Self-Help Centers/Needs for Rural Areas**

**1. Recommendations for other Self-Help Centers**

Judge Leslie Schneider reported that she and Judge Kelly Broniec do not have enough information on what self-help centers and other assistance is available and what the needs are of self-represented litigants in rural areas to make recommendations at this time. They both agreed that a survey needs to be sent out to the circuits regarding the level of pro se activity and what their needs are. Judge Schneider stated they would like to know what the recommended model should be if there is a need for a self-help center.

Judge Broniec stated it would be nice to have the resources available for those in need of help, but she's not sure if it's feasible to have a whole center in counties with small populations. Currently she may get four or five divorce cases with pro se litigants, but those litigants are coming with a lawyer from legal services. She also reported that there is no assistance to litigants provided by Washington University, but litigants receive help from St. Louis University and private attorneys. Judge Schneider would like to see what the needs are before making a recommendation.

Lori stated that neither this committee nor the prior Pro Se Commission had done any studies specifically to rural areas and believes it's a reasonable next step to determine what the needs are from the circuits. Then the subcommittee would be able to make appropriate recommendations.

Judge Powell stated Jackson County does not really have a self help center; they rely on legal aid, which provides a pro se clinic. The Kansas City Metropolitan Bar Association has been pairing up lawyers with clients who need the help and has been very good with providing additional assistance.

It was asked that Kelly Cramer advise when the next Presiding Judge's meeting is. She stated meeting is in September. Judge Schneider would like to get the survey done before the meeting. Kelly stated it would be nice to have a letter signed by Judge Russell regarding completing the survey. Lou stated there was a survey done about three years ago and the report is in the archives. He suggested that we could ask similar questions. Lou also stated the Committee had asked Office of State Courts Administrator (OSCA) about a statistical report regarding pro se filings and there should be additional coding which will provide some numbers. He would also like a counter for site visits on the website; Judge Schneider agreed this is a good idea.

Lou reminded that with the electronic age attorneys are able by telephone or other communication methods, to provide a similar service to what is being done at these self-help and pro se clinics. By asking the appropriate question on the survey we should be able to quantify where the needs are. Lori stated this was good point. She reminded everyone that we need to keep the survey short.

**2. DRRF Final Evaluation of MMA2J Program**

Judge Schneider will provide the evaluation of the MMA2J Program at the next meeting.

**3. Difficulties with Access in Rural Areas**

Susan Lutton, a guest from Mid Missouri Legal Services (MMLS), reported that their priority cases are those involving abuse and those involving children. She stated that uncontested divorces where there are no children are a low priority. They receive so many requests for assistance in uncontested divorce cases that they have a clinic once a month on a Friday in Columbia and Jefferson City. She expected this will expand. MMLS serves has 11 counties. Volunteers assist litigants in filling out the forms required for self-represented litigants. They have had a tremendous success with the forms. Susan stated they do have some suggestions for improving the forms.

Susan reported they have attorneys and law students volunteer to help complete the typing of the forms or the forms are filled out online, printed and Brian Taylor signs off on each one. She stated they also give legal advice, help with service questions and provide scripts so the judge does not have to pry the information out of the litigant. She reported they have done 163 of these cases, with 87% of the divorces being granted. Susan said the really interesting aspect is that at least half of the litigants served have been disabled.

Brian Taylor, also a guest from MMLS, stated that the clinic operates with law students and volunteer attorneys. They serve people with limited means with more than half of their clients on Supplemental Security Income or disability. Without volunteers to help, the litigants would not be able to complete the forms. The only change he suggests to the

current form is to put the service address on front of the petition for the sheriff's office. Judge Smith stated that the information is on the second page of the petition. Brian stated there is no place to list the county where the respondent can be served. He suggested a place on the front of the form for service directions it would make it user friendly for the volunteers.

There was some discussion as to why all Legal Services offices could not follow the program that Susan and Brian just reported. Judge Smith inquired as to why Legal Services of Eastern Missouri couldn't do a similar type clinic. Richard Halliburton stated that their director would be open to the idea and Deanna Scott agreed. Deanna stated they have a clinic and they help litigants fill out the forms. It was suggested that Legal Services of Eastern Missouri has not been promoting the program, but that Legal Aid of Western Missouri made it a priority to help the litigants fill out the forms.

There was a discussion about having a script on the website. Kelly Cramer stated there have been prior requests for scripts, but that it was determined not to provide one. Lori requested Lou, Susan Lutton and Brian Taylor provide their scripts to the Committee so that the committee can review and make recommendations as to their use. Brian stated he noticed that with the legal aid client it is very empowering for them to go into a court, get the decision, and be able to accomplish it on their own.

Susan stated that 45% of their litigants have been from rural areas; that any client can get to their office within 40 to 45 minutes; that many of the people they serve do not have printers; and the public library only allows 30 minutes on their computer when the forms take at least 90 minutes to complete. She also mentioned that only 64% of these people/clients have a computer at home. Lori agrees that it's an issue that we need to address.

Lori asked Susan if their clinics assisted those that do not meet guidelines. Susan stated they cannot exceed 125% of the federal poverty level and that there are private attorney's willing to provide service for the marginally poor. She also stated that a simple divorce with no kids or assets in mid-Missouri averages \$1250.00.

Susan stated Chariton and Moniteau counties are reluctant to assist pro se litigants. Litigants do not get any further than the clerk's office. They have also denied every litigant that requested to proceed as a poor person even if they had come from Legal Services. Brian stated he has started sending pro se clients to other counties. Marsha Holliman reported they do not have many pro se litigants in their circuit, but their judge is great and will hear them on a separate day. Most of the judges have separate pro se dockets. Richard Holtmeyer stated he attaches a continuation sheet to the forms explaining the client's situation.

Lori asked if Legal Services signs off on the forms stating they were completed by legal counsel. Brian stated they show there has been legal assistance only. There was some discussion about a cover letter so the judge would know there was some assistance provided to the litigant.

Susan stated that Judge Schneider has had good luck with litigants filling out the forms, but they have no experience with computers. Judge Schneider and Judge Sterner have been very helpful and a select number of other judges have been helpful.

There was discussion regarding judges that do not accept the pro se forms. It was suggested that someone could speak with those judges to see what the problem is and why they don't accept the pro se forms without having an attorney present. Judge Smith made the suggestion of bringing these problems to the committee in order to determine what can be done. Richard Halliburton stated he thought a Supreme Court judge might be of assistance. Lori stated she would like the names of the judges so we could talk to them.

Susan advised they are creating several new pro se clinics. The next clinic concerns housing.

## **C. Internet/Website**

### **1. 2011 First Quarter Survey - Statistics and Comments**

Richard Halliburton questioned if there was a way to identify the education level of parties that use the forms to see how level of education with the ease or difficulty using the forms. It was requested that Terri Norris provide some statistics if possible for our review

## **D. Forms**

### **1. Adobe forms package update**

OSCA is still reviewing the forms package and negotiating prices with Adobe.

### **2. Limited Power of Attorney form**

No report.

### **3. FCC/SJRC Update of forms under review**

Judge Smith reported the Forms Subcommittee met on June 2, 2011, via phone conference. He stated they had received a letter from the Family Court Committee (FCC), but cannot act on the new forms because the State Judicial Records Committee (SJRC) has not had an opportunity to review the forms and make comments.

There was discussion on whether to use the section symbol or the word Section on the forms. The committee decided it will remain the same for now. Judge Smith discussed other changes throughout these forms. No further action will be taken regarding these forms until comments are received from the State Judicial Records Committee.

### **4. Current Form changes**

Judge Smith stated there are forms already approved by the Court that need some slight modifications. He discussed these modifications with the Committee.

Judge Smith stated he would like to forward the modified forms to the FCC and the SJRC. If the committee votes and approves these forms he will talk to Judge Russell and find out what process she prefers. **Judge Smith made a motion to approve the forms. Judge Brent Powell seconded the motion. The motion passed unanimously.**

Judge Smith discussed the website he created; he stated it was more for the creation of the forms, not for printing them. He also stated there needs to be some Rules changed and that he would discuss these with a Rules Committee member in his circuit.

**E. Litigant Education Program/Brochure**

Lori requested that this subcommittee work on a survey through their subcommittee.

**1. Paternity Education Component revisions**

Lori would like final revisions completed and sent to the Committee for final approval. Several suggestions were made to add information and clarify existing statements in this component. Kathleen will insure these items are included.

**2. Proposed changes to Litigant Awareness Program (LAP) Materials**

There was discussion concerning whether a litigant must complete the LAP if assisted by a lawyer. Committee members had different opinions. The Committee ultimately determined that the LAP is required. Kathleen reported she has had the Litigant Awareness Program (LAP) translated into Spanish and is donating that to be included on the website.

**3. Paternity brochure draft**

There are several typographical and grammatical errors in the brochure. Several of the members are reviewing the brochure and rewriting some of the information. The revised brochure should be provided to the Committee to be approved at the next meeting.

**F. Communications/Networking**

**1. Pro Se resources for Librarians**

No report.

**2. Revised release for statistics and Annual Report**

Lori asked that the press release be proofed by members of the subcommittee so it can be forwarded to Beth Riggert for publication.

**3. Young Lawyers Section**

No report.

**G. Court Staff/Clerk Education**

No report.

**H. Judicial Education**

Judge Powell is preparing a presentation for the Judicial College on LSR.

**III. Staff Report**

No report.

**IV. Old Business**

**A. Revised Subcommittee Assignments**

Lori reported that she created two new sub-subcommittees; Limited Scope Revisions and Needs for Rural Areas. She would like the new subcommittees to have recommendations for the committee at the next meeting. The Committee discussed how hard it was to get the LSR rule approved the first time and hoped it would be easier to revise the existing rule.

Lori reported she also revised the current subcommittees and assignments. She asked the members to review the assignments and let her know if they cannot serve.

**IV. Adjourn Meeting**

Meeting adjourned at 11:52.

**PLEASE MARK YOUR CALENDARS FOR THE NEXT CAFC MEETING**

September 4, 2011

December 2, 2011 (by conference call)

**IN THE FAMILY COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

**FAMILY COURT ADMINISTRATIVE JUDGE ORDER NO**

**ADMINISTRATIVE ORDER GOVERNING LIMITED APPEARANCE**

WHEREAS, the Family Court of St. Louis County was created by Sections 487.010 through 487.190 of the Revised Statutes of Missouri;

WHEREAS, the Honorable Michael Burton has been appointed Administrative Judge of the Family Court of St. Louis County pursuant to Section 487.010.3 R.S.Mo.;

WHEREAS, as a growing number of individuals are attempting to obtain dissolutions of marriage pro se, and others are representing themselves even when an attorney represents the other spouse, the Supreme Court of Missouri has promulgated Rule 4-1.2 (c). This Rule provides that a lawyer may limit the scope of representation if the client gives informed consent in writing, signed by the client to the essential terms of the representation and the lawyer's limited role. The intent is to permit attorney's to assist a pro se litigant on a limited basis without undertaking a full representation of the client on all issues related to the legal matter for which the attorney is engaged.

WHEREAS, said lawyer when so representing a client shall use a written notice and consent agreements substantially in conformance with the comment to Rule 4-1.2.

WHEREAS, the appearance and withdrawal of said lawyer is governed by Supreme Court Rule 55.03 (b) which provides that the lawyer must disclose the limits of the attorney's appearance with a written notice of limited appearance, which shall be served as provided by Rule 43.01(b).

WHEREAS, implementation of actual LSR representation in Family Court proceedings has been problematic regarding the on going nature of the requirements for such issues as compliance with Local Rule 68, obtaining documentation and communications with the Family Court. Accordingly the Family Court has undertaken to evaluate and implement a local Court Rule to standardize and assist in the clarification of the scope, purpose and procedure for which an attorney may appear before Family Court's 6/27/2011 on limited scope representation.

WHEREAS,

NOW THEREFORE IT IS ORDERED that effective \_\_\_\_\_, Family Court Administrative Order No. \_\_\_\_ be and is hereby adopted approving guidelines and Forms for Limited Scope Representation (LSR) before the Family Courts of this County pursuant to Supreme Court Rule 4-1.2..

IT IS FURTHER ORDERED that the Family Court Administrator implement, through such department or departments of the Family Court as s/he shall deem most appropriate, a Limited Scope Representation program in conformity with the attached Guidelines and such modifications as shall be made thereto.

IT IS FURTHER ORDERED that the Circuit Clerk provide notice of this order by causing this order to be published as soon as practicable in the *St. Louis Countian*, by posting a copy of this order in a conspicuous place in the office of the Circuit Clerk, and by making copies of this order available for distribution from the office of the Circuit Clerk.

SO ORDERED

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Michael Burton  
Administrative Judge

Entered this \_\_\_\_ day of \_\_\_\_\_ 2011.

**IN THE FAMILY COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

**FAMILY COURT ADMINISTRATIVE JUDGE ORDER NO**

**ADMINISTRATIVE ORDER GOVERNING LIMITED APPEARANCE**

Limited Assistance Representation

A licensed attorney may limit the scope of his or her representation of a client in the Family Court if the limitation is reasonable under the circumstances and the client gives informed consent pursuant to Supreme Court Rule 4-1.2.

Limited Appearance

An attorney making a limited appearance on behalf of an otherwise unrepresented party shall file an "Entry of Limited Appearance" stating the physical and mailing addresses, telephone number, facsimile number, and electronic mail address, if any, of each person for whom the attorney is making a limited appearance in the form attached to this Order. The Notice shall state precisely the court event(s) and/or purpose(s) to which the limited appearance shall apply and, if the appearance does not extend to all issues to be considered at the event, the Notice shall identify the exact issue or issues within the event covered by the appearance and shall be signed by the attorney. Any limited appearance filed in connection with a court event shall extend to all issues scheduled or reasonably anticipated to be considered at that event unless the court permits otherwise. An attorney may not enter a limited appearance for the sole purpose of making evidentiary objections or solely for the purpose of obtaining a continuance. Nor shall a limited appearance allow both an attorney and a litigant to argue on the same legal issue during the period of limited appearance. An attorney may file an "Entry of Limited Appearance" for more than one court event in a case. At any time, including during an event, an attorney may file a new "Entry of Limited Appearance" with the agreement of the client.

Any party who is represented by an attorney on a limited representation basis must also attend the court event unless the court permits otherwise.

The court will take efforts to clarify with any opposing attorney which issues permit contact with the client and which if any issues shall go through the limited appearance attorney and if necessary said understanding shall be reduced to writing. Rule 4-1.2 provides that opposing attorney's will communicate with the LSR client unless the LSR attorney gives written notice to communicate only with the LSR attorney. (Rule 4-1.2(e)) Said written communication shall clearly state to scope of the limited representation and a time period within which the other counsel shall communicate only with the lawyer of the party who is otherwise self-represented.

A pleading, motion or other document filed by an attorney making a limited appearance shall state in bold type on the signature page of the document: **“Attorney of (Petitioner/Respondent) for the limited purpose of (court event).”** An attorney filing a pleading, motion or other document outside of the limited appearance shall be deemed to have entered a general appearance, unless the attorney files a new “Entry of Limited Appearance” with the pleading, motion or other document.

An attorney who has filed an entry of limited appearance withdraws when the attorney has fulfilled the duties set forth in the entry of limited appearance and has filed a withdrawal memorandum titled “Termination of Limited Appearance” that states that the attorney has fulfilled such duties. (Rule 55.03 (b)(s)) If the attorney has followed the procedures set forth herein, they shall be permitted to withdraw as long as scope of services has been completed. The notice of “Termination of Limited Appearance” must be signed by the attorney and the party.

### Service

If an “Entry of Limited Appearance” is filed, service shall be as provided in Rule 43.01 (b). Whenever service is required or permitted to be made upon a party represented by an attorney making a limited appearance, for all matters within the scope of the limited appearance, the service shall be made upon both the attorney and the party. Service upon a party shall be at the address listed for the party on the “Entry of Limited Appearance”. If the party’s address is confidential, service of process on the party shall be in accordance with the courts order or rule. Service upon an attorney making a limited appearance shall not be required for matters outside the scope of the limited appearance.

### Assistance in preparation of documents only

An attorney may assist a client in preparing a pleading, motion or other document to be signed and filed in a court by the client, a practice sometimes referred to as “ghostwriting”. In such cases, the attorney may insert the notation “prepared with assistance of counsel” on any pleading, motion or other document prepared by the attorney. The attorney is not required to sign the pleading, motion or document and the filing of such pleading, motion or document shall not constitute an appearance by the attorney. (Rule 55.03(a)) The attorney “ghostwriting” need not file an Entry of Limited Appearance.

### Disclosure of scope of representation

Any attorney who is providing limited scope representation must disclose the limits of the attorney’s appearance in court pursuant to Rule 55.03 (b), including disclosures about the scope of representation relevant to the interaction with the court. (Rule 4-1.6 (a)) To the extent the court asks an attorney to disclose information about the scope of representation that the attorney believes is not relevant to interaction with the court, the attorney should determine whether the client consents to the disclosure. If the client consents, the attorney may disclose. Pursuant to Rule 4-1.6 (b) (4), the attorney may also disclose if ordered to do so by the court. If the court orders disclosure, the attorney should either comply or seek review of the court’s order by a higher court. (See opinion of Legal Ethics Council of March 30, 2011) The court may not require the attorney to represent the client beyond the scope of the agreement described or as determined by disclosure pursuant to this section

and the court must permit an attorney to withdraw from the limited representation once the terms of the limited assistance agreement have been met.

### Revised Entry of Limited Appearance

With the informed consent of the client an attorney may, at any time before filing of a Termination of Limited Appearance, file a revised Entry of Limited Appearance changing or expanding the original terms of the limited appearance, provided however that if the court event has commenced, court approval of any revised Entry of Limited Appearance must be obtained. Notice of any Revised Entry of Limited Appearance shall be proved as set forth above.

### Court notice

Whenever a clerk is required to provide notice of a judgment, order or any other event or proceeding where a party is represented by an attorney making a limited appearance, the clerk shall provide notice to the part and to the attorney making a limited appearance unless the attorney has already filed a Termination of Limited Appearance.

### Fees

Fees for attorney's entering for limited scope services are authorized when otherwise appropriate. This may be true whether the attorney is appearing at hearings or is assisting in the preparation of forms, declarations or the like. Appropriate proof shall be required as in any other case.

**IN THE FAMILY COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

_____	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>Cause No.</b>
<b>vs.</b>	)	
	)	<b>Division 6</b>
	)	
_____	)	
	)	
<b>Respondent,</b>	)	

**NOTICE OF ENTRY OF LIMITED APPEARANCE**

The Attorney \_\_\_\_\_, and the Petitioner/Respondent \_\_\_\_\_ have entered into a written limited scope representation (LSR) agreement whereby Attorney will represent the party noted above in the following:

- At the hearing on \_\_\_\_\_  and for any continuance of that hearing
- Until submission of the order after the hearing
- Until resolution of the issues checked below by trial or settlement
- Other (specify duration of representation):

This attorney will serve as “attorney of record” for the party only for the following issues in this case<sup>1</sup>:

- a.  Pretrial conference/settlement conference/status conference:
- b.  Child support: (1)  Establish (2)  Enforce (3)  Modify (describe in detail):
- c.  Spousal support: (1)  Establish (2)  Enforce (3)  Modify (describe in detail):
- d.  Child custody and visitation: (1)  Establish (2)  Enforce (3)  Modify (describe in detail):
- e.  Division of property (describe in detail):
- f.  TRO: (1)  Establish (2)  Enforce (3)  Modify (describe in detail):
- g.  Adult Order of Protection: (1)  Establish (2)  Enforce (describe in detail):
- h.  Child Order of Protection: (1)  Establish (2)  Enforce (describe in detail):

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<sup>1</sup> If the appearance does not extend to all matters to be considered at the event, identify the discrete issues within the event covered by the appearance.

i.  Contempt: (describe in detail):

j.  Other: (describe in detail):

The attorney named above is “attorney of record” and available for service of documents only for those issues specifically checked on page 1 and 2. For all other matters, the party must be served directly, except in cases when the address has been marked CONFIDENTIAL. The party’s name, address, and phone number are listed below for that purpose.

Name:

Address (for the purpose of service):

Phone:

Fax:

This notice accurately sets forth all current matters on which the attorney has agreed to serve as “attorney of record” for the party in this case. The information provided herein is not intended to set forth all of the terms and conditions of the agreement between the party and the attorney for limited scope representation.

Dated:

\_\_\_\_\_  
(Type or print name)

\_\_\_\_\_  
(Signature of party)

-----  
I certify that I have this day served notice of limited appearance on all counsel and all parties not represented by counsel.

Dated:

\_\_\_\_\_  
(Type or print name)

\_\_\_\_\_  
(Signature of attorney)

\_\_\_\_\_  
(Attorney’s Address)

\_\_\_\_\_  
(Attorney’s phone number)

\_\_\_\_\_  
(Bar Number)

**IN THE FAMILY COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

_____	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>Cause No.</b>
<b>vs.</b>	)	
	)	<b>Division 6</b>
	)	
_____	)	
	)	
<b>Respondent,</b>	)	

**NOTICE OF TERMINATION OF LIMITED SCOPE REPRESENTATION  
AND WITHDRAWAL**

Please enter my Termination of Limited Representation Appearance and Withdrawal as attorney for \_\_\_\_\_, the (Petitioner) (Respondent) in the above action.

I certify that I have this day served notice of this Termination on all counsel and all parties not represented by counsel.

Dated:

\_\_\_\_\_  
(Type or print name)

\_\_\_\_\_  
(Signature of attorney)

\_\_\_\_\_  
(Attorney's Address)

\_\_\_\_\_  
(Attorney's phone number)

\_\_\_\_\_  
(Bar Number)

Notice served on:

\_\_\_\_\_  
(Type or print name of party)

\_\_\_\_\_  
(Type or print name of attorney)

\_\_\_\_\_  
(Address of party for purpose of service)

\_\_\_\_\_  
(Attorney's address)

\_\_\_\_\_  
(Date)

## DRAFT --- Under Construction – DRAFT

### The Judge’s Benchbook on *Pro bono* Legal Assistance

Letter from the Supreme Court {LINK inside}

#### [Table of Contents](#)

The goal of this Benchbook is to increase access to justice for people living at the margins of society by providing you, the judges of Missouri with the tools and incentives to encourage and support *pro bono* legal representation.

### OUR DUTY

Providing access to justice especially for the poor and disadvantaged is a centuries old tradition of the legal profession. It is embedded in our codes of professional conduct and in who we are and what we do. We are challenged to live up to our traditions.

“I will practice law to the best of my knowledge and ability and with consideration of the defenseless and oppressed.” Attorney’s Oath of Admission, [Rule 8.15](#).

*“A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. “*

[Preamble](#), Rule 4, Rules of Professional Conduct

### **RULE 4-6.1: VOLUNTARY PRO BONO PUBLICO SERVICE**

*“A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations; by service in activities for improving the law, the legal system, or the legal profession; and by financial support for organizations that provide legal services to persons of limited means.*

### **COMMENT**

*“[1] The ABA House of Delegates has formally acknowledged "the basic responsibility of each lawyer engaged in the practice of law to provide public interest legal services" without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public*

*rights law, charitable organization representation, and the administration of justice. This Rule 4-6.1 expresses that policy but is not intended to be enforced through disciplinary process.*

*“[2] The rights and responsibilities of individuals and organizations in the United States are increasingly defined in legal terms. As a consequence, legal assistance in coping with the web of statutes, rules, and regulations is imperative for persons of modest and limited means, as well as for the relatively well-to-do.*

*“[3] The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. **The provision of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer as well as the profession generally, but the efforts of individual lawyers are often not enough to meet the need. Thus, it has been necessary for the profession and government to institute additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs have been developed, and others will be developed by the profession and government. Every lawyer should support all proper efforts to meet this need for legal services.**” (Emphasis added.)*

*“As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of ... the administration of justice. \*\*\* a judge is encouraged to do so ....”*  
Rule 2.03, [Canon 4](#), commentary, Code of Judicial Conduct

*“[T]he Judicial Branch, in our constitutional structure, shoulders primary leadership responsibility to preserve and protect equal justice and take action necessary to ensure access to the justice system for those who face impediments they are unable to surmount on their own.”*

The Conference of Chief Justices has called on all judges to encourage *pro bono* services. [Resolution VII](#)—Encouraging *Pro bono* Services in Civil Matters, February 1997. {LINK inside}

**The phrase “*Pro bono publico*” means for the good of the people.** “For the welfare of the whole”. (Blacks Law Dictionary). We most frequently leave off the word “*publico*” but it is essential to the proper understanding. It is not just for an individual’s good that lawyers serve needy persons, but for the “public” good, for the welfare of the whole community.

If we really want a just, peaceful, ordered society, we must provide the means of access to the system of justice. “*If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice.*”- Learned Hand

## THE NEED

In their 2007 study Legal Services Corporation described a national “Justice Gap.” The study confirm(ed) “the existence of a major gap between the legal needs of low-income people and the legal help that they receive. \*\*\* Only a very small percentage of the legal problems experienced by low-income people (one in five or less) are addressed with the assistance of either a private attorney (*pro bono* or paid) or a legal aid lawyer. Documenting [the Justice Gap](#) in America, Legal Services Corporation 2007.

A comparable study by Professor Greg Casey of UMC for Legal Services in Missouri found that over 63,000 low-income households each year have at least one legal problem needing an attorney and more than 47,000 (75%) do not receive an attorney’s help. Note: The 47,000 does not count persons who where outside of Legal Services eligibility. The simple fact is that there is a great need to address the problem of access to justice for many needy households. [Summary of Casey report.](#)

Our neighboring state of Indiana did a comprehensive study of the legal needs of the poor. In short they found, “*The insufficient number of pro bono and public service attorneys representing the poor in comparison to the need for legal assistance was a theme throughout the responses to the various surveys, questionnaires, and focus groups making up the Study.*” [Unequal Access to Justice.](#)

The recent economic downturn has increase the need. CIVIL LEGAL SERVICES, Low-Income Clients Have [Nowhere to Turn Amid the Economic Crisis](#), Brennen Center for Justice (2010)

Statistics while helpful do not put a human face on those injured by lack of access to justice anymore than body counts adequately communicate the impact

of war on mothers, fathers, wives, children, returning veterans and our whole community. You know from your own experiences in the courtroom each day the number of parties who are unable to afford legal representation and the problems this adds to their lives, the workload of the courts and the efficient administration of justice.

The increasing number of *pro se* litigants is burdening the whole court system as well as worsening outcomes for the *pro se* litigants. This year the [Coalition for Justice](#), an arm of the ABA that focuses on access to the courts, conducted a survey of about 1000 judges. The judges were asked to compare representation in their courts in 2009 to representation in previous years. Sixty percent of judges said fewer parties had lawyers, while 3 percent said representation had increased. The rest said they saw no change.

Asked how the lack of representation affects the parties, 62 percent of all judges said the outcomes are worse for a litigant when he represents himself, while 3 percent said they were better. The rest said there was no impact. The judges who saw worse outcomes said the most common problems for *pro se* litigants are failure to present necessary evidence, procedural errors, ineffective witness examination and failure to object to evidence properly.

Announcing the survey results, ABA President Carolyn Lamm said that lack of representation causes problems for the rest of the court system by, among other things, consuming more of judges' time. "Parties not being represented in fact delays the proceedings of the court," Lamm said. "They slow down the ability of the court to hear cases." [ABA Announcement](#) July 15, 2010.  
{<http://new.abanet.org/JusticeCenter/Justice/Lists/Announcements/DispFormNew.aspx?List=b365b7f9%2D0158%2D49a6%2Dbda5%2D307b70cf6cf7&ID=5&Source=http%3A%2F%2Fnew%2Eabanet%2Eorg%2Fjusticecenter%2Fjustice%2FPages%2Fdefault%2Easpx> }

*Pro se* litigants create a "catch 22" for judges and clerks. If the litigant is doing something wrong, the court can do little to help since they cannot practice law and must be neutral. The result is a disgruntled litigant who in circuits where judges are elected is also a disgruntled voter. Being able to refer such litigants to a *pro bono* program solves the "catch 22" situation.

Lawyers seeking trial settings and other court action find their cases delayed by the time taken with *pro se* litigants.

In short, the need is not only that of the low-income litigant but also of the judges, clerks and lawyers. More *pro bono* representation will benefit all.

## RECRUITMENT

How can judges recruit *pro bono* attorneys? Judges are especially well-suited for direct recruitment of *pro bono* program volunteers. In many jurisdictions, judges sign letters urging members of the bar to join a program, which is a particularly effective strategy for increasing the numbers of *pro bono* program volunteers.

The 2009 ABA study of *pro bono* found that “encouragement by a judge” was among the top three incentives for attorneys to do *pro bono* representation. [Supporting Justice II](#), A Report on the *Pro bono* Work of America’s Lawyers, The ABA Standing Committee on *Pro bono* and Public Service, February 2009

Examples of recruitment activities are:

- Sending periodic reminders to encourage attorneys to participate in volunteer attorney panels.
- Writing editorials, opinion pieces or articles for newspapers, magazines or bar publications on the need for volunteer attorneys and on the aspirational standard of ABA [Model Rule 6.1](#) of the Rules of Professional Conduct.
- Making presentations on the need for volunteers when speaking at various events, including swearing-in ceremonies and bar association annual meetings.
- Assisting in the recruitment of law firms, corporate law departments or government law offices, by making individual presentations to them.
- Collaborating with local bar association on annual recruitment events.
- Encouraging the heads of local government attorney offices, such as the prosecuting attorney’s, and county or agency counsel’s offices, to promote *pro bono* service among their staff attorneys. There are ways government attorneys to contribute *pro bono* services without creating potential conflicts of interest.
- Encouraging firms to create *pro bono* teams, in which several firm attorneys take on a *pro bono* project together.
- Encouraging corporate counsel to do *pro bono* representation. Inform them of the new limited scope representation rules and how they make easier for corporate attorneys to do *pro bono*. Also inform them of the free state provided malpractice program.
- Court employees: “Finally, courts can set an example for the bar by encouraging their own lawyer-employees to do *pro bono* work. These lawyers are subject to the rules of professional responsibility where they are admitted to practice, and they should have the opportunity to engage in *pro bono* and public service work. Lawyers who are court employees engage in a wide range of *pro bono* work; including estate planning, benefit counseling, landlord-tenant disputes, and debtor-creditor issues. Naturally, such matters should be carefully screened to ensure that the lawyer’s *pro bono* work does not create conflicts of interest.” [ABA Resolution 121C](#), p. 5 For court employee conduct practices in other states see: [ABA Pro bono Center - Judicial Promotion of Pro bono](#) Also see: Nebraska Judicial Ethics [Opinion 80-2](#). Contra see:

Texas Ethics [Opinion 283](#).

- Further see: [Expanding Pro bono: The Judiciary's Power to Open Doors](#) (ABA Dialogue, Spring 1998), p. 3

## MODELS FOR EXPANDING *PRO BONO* PROGRAMS

{--- This Section Under Construction – }

{This section will present multiple models for creating pro bono programs from inside Missouri and across the nation. Each model will be described with contact information to the model programs and their documentation.}

Except for Legal Services Corporation agencies, very likely you do not have a *pro bono* provider agency in your county or circuit. In Missouri there are very few organized *pro bono* programs. While the four regional Legal Services programs provide services statewide and the Samaritan Center Legal Care program and Mid-Missouri Access to Justice operate regionally, they are only able to serve about 25 per cent of low-income persons needing legal assistance.

Expanding existing or organizing additional *pro bono* provider agencies in your community has several advantages. It provides a defined place for clerks and judges to refer *pro se* litigants and others in need of help and also it provides a systematic means for recruiting and training volunteer attorneys, for prescreening applicants for help, for funding *pro bono* expenses, for providing malpractice coverage through the state program and in general increasing access to justice.

There are a variety of models for organizing *pro bono* providers:

- **Do-it-yourself model:** Maintain your own list of volunteer attorneys (panel) for *pro bono* appointment. Keep it handy on the bench. To build the list, make announcements in your courtroom about the importance of *pro bono* service, ask if there are any counsel representing clients *pro bono* that day to register with your clerk, and/or ask for volunteers to sign up. Be sure to get the lawyer's area of practice on the list so that they can be appropriately matched with the legal problem of needy clients. Here is a sample [signup form](#) {LINK inside}. Design a simple rotation system so that all attorneys share the load fairly. Note: Attorneys accepting cases through a court program are eligible for the [free malpractice coverage](#) provided by the State.
- **Large firm coordinator model:** Many large firms have a pro bono coordinator. These coordinators prescreen needy clients and refer them to appropriate attorneys within the firm. Most firms give pro bono attorneys in the firm credit for "billable hours" when working on a pro bono case. Contact the large firms and build a list of these

coordinators and use it to refer needy person for help. Keep in mind that many large firms operate statewide (some nationwide). Look beyond the boundaries of your circuit for large firm coordinators.

- **Social service agency integrated model.** Social services agencies are already in community with needy persons. They have established systems for screening financial need, maintaining records and matching clients to appropriate services. With basic training and guidelines on defining/categorizing legal problems, they can readily provide the prescreening of applicants and matching them appropriately to volunteer attorneys. [More details for this model.](#)
- **Limited Scope Representation Model:** The Seventh Circuit (Clay County) has established a referral list to connect family law litigants of modest means with lawyers offering limited scope representation.
  - Pro se litigants often have little knowledge about the variety of ways that they can obtain the assistance of a lawyer and frequently assume that they cannot afford legal services without paying a significant retainer up front. Rule 4 now facilitates the ability of the lawyer and client to enter financial arrangements for legal services in a number of ways, making legal services accessible to people of more modest means. Connecting people seeking legal assistance with lawyers willing to consider engagement for performance of discrete tasks was a problem. Court Services sought input from the Clay County Bar Association for creation of a list of lawyers that would consider limited scope representation of clients. Compliance requirements under Rule 4-9.1 were discussed with the Office of Chief Disciplinary Counsel. The concept was supported by local bar leadership for development of a list administered by Court Services. The list was created in the summer of 2009.
  - To be eligible for a listing, a lawyer must be licensed and in good standing as a member of The Missouri Bar and maintain an office address in Clay County. No fee is charged for a listing, administration of the list, or referrals. Lawyers may indicate whether they are offering services in any or all of four categories: office consultation, document preparation & review, representation for specific tasks or issues, and full representation. The lawyer establishes his or her own fees. Litigants provided with the list are encouraged to engage in frank discussion of fees with the lawyer.
  - The list is distributed in a number of ways. The list is made available to pro se litigants during their appearance for their pre-trial conference. The list is provided on request to persons contacting Court Services seeking legal assistance. The list may be obtained by making a request on the circuit court website.
  - Since August 2009, some legal services were retained in 43% percent of dissolution cases originally filed pro se. A limited appearance in court was made by counsel in about one-third of the

cases. During the period ending in February 2010 the percentage of pro se dissolutions reaching completion climbed to fifty-six percent.

- For more information on the Clay County Limited Scope Representation Panel, contact Kathleen Bird, Director Office of Dispute Resolution Seventh Judicial Circuit 351 East Kansas St. Liberty, MO 64068 (816) 736-8402 [kathleen.bird@courts.mo.gov](mailto:kathleen.bird@courts.mo.gov)
- **Legal Service Corporation volunteer attorney projects.** Volunteer attorney programs are operated by most Legal Service Corporation agencies. The programs recruit and train volunteer attorneys and screen and refer low-income clients who meet federal guidelines. They should be part of your over all *pro bono* plan. To contact Legal Services see: [www.lsmo.org](http://www.lsmo.org).
- **Non-profit corporation model.** This model is in operation in the 13<sup>th</sup> Circuit (Boone-Callaway Counties.) With the leadership of the court, a diverse group formed a non-profit corporation to provide legal help to low-income persons who are not eligible for Legal Service Corporation programs. The court appointed a planning team. Grant funds were obtained. A part-time coordinator was employed. Judges of the Circuit and Supreme Court invited all members of the local bar to a kick-off recruitment event. {INCOMPLETE}
- **Lawyer for The Day model.** Using limited scope representation lawyers volunteer to perform a discreet task for a needy client with the representation being limited to one day. Examples: negotiating resolution of an eviction, preparing a parenting plan, negotiating settlement of a consumer debt. For a detailed description of such programs including, recruitment, training, procedures, forms and more see Best Practices for the Administration of Court-sponsored Volunteer [Lawyer For the Day](#) Programs, Access to Justice New York State Courts (2010). A similar program has begun in the 13<sup>th</sup> Circuit (Boone-Callaway) by Mid-Missouri Access to Justice. For more information, email [midmoaccesstojustice@centurytel.net](mailto:midmoaccesstojustice@centurytel.net).
- **Maryland needs assessment model:** Comprehensive suggestions and tools for conducting a local needs assessment are available as part of the [Pro Bono Resource Manual](#) developed by the Pro Bono Resources Center of Maryland. The manual contains a “How To” guide including suggestions on public hearings, personal interviews and focus groups (pdf pages 37+), a “Needs Assessment Model” (pdf pages 42+), a survey form for legal service providers (pdf page 45+), a social services agency needs survey form (pdf pages 50+), a client needs assessment survey form (pdf pages 56+), and a template for a local pro bono action plan (pdf pages 61+). The survey forms are useful models for doing a comprehensive needs assessment.

- **Indiana model.** [Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana \(2008\)](http://www.in.gov/judiciary/probono/attorneys/reports/unequal-access-full.pdf)  
<http://www.in.gov/judiciary/probono/attorneys/reports/unequal-access-full.pdf> {INCOMPLETE}
  - State *pro bono* plans and committees for courts (FL, MD, IN,NV,NM, NY, OH):  
<http://www.abanet.org/legalservices/probono/judicial/courtpbcommittees.html> {INCOMPLETE}
  - DHSS AAging model. {INCOMPLETE}
  - Court based programs. {INCOMPLETE}
  - Local Bar taskforce. {INCOMPLETE}
- How to organize and facilitate a planning team to create a *pro bono* program in your circuit?
    - Be inclusive.
    - {INCOMPLETE}
  - **Some principles to keep in mind:**
    - Successful *pro bono* programs screen their cases with care before referring them to private counsel. **“The Critical Importance of Screening.** Over the last decade, there has been a significant increase in the number of *pro bono* programs across the country. The ABA Center for *Pro bono* studies programs that have succeeded and those that have failed. It has learned that a critical ingredient in *pro bono* program operation is screening. Volunteers take cases because they want to help clients. Their time, however, is precious, and they do not want to spend it on a case that has no merit or where the client is not responsive. **Successful programs screen their cases with care before referring them to private counsel.** Clients are given responsibilities for contacting the attorney and scheduling the first appointment, not vice versa. This ensures at least a minimum level of interest in the case. In addition, the program carefully interviews clients in order to reveal essential facts and to make an informed judgment about whether there is a good faith basis for asserting claims or defenses. If the program asks a volunteer attorney to take a no-merit case, the likelihood is exceedingly high that she will never volunteer again and that she will share her bad experience with her firm and other volunteers.” (see [Oxholm I](#))
    - **Assess the community needs** for *pro bono* services. See Maryland model: LOCAL *PRO BONO* COMMITTEE [RESOURCE MANUAL](#), Standing Committee on *Pro bono* Legal Service, *Pro bono* Resource Center of Maryland, Inc. (2003)
    - Attorneys are more likely to volunteer if the applicant is financially needy and there is an appropriate matching of the needy client with the willing attorney. (See [ABA study 2009 LINK](#)). A matching or prescreening

processes screens applicants as to their financial need and also the nature of their legal problem.

- **Be inclusive in developing your program.** Invite participation from the local bar, court staff, local social service/community service organizations, law schools (if available).

## **MALPRACTICE PROTECTION FOR *PRO BONO* ATTORNEYS**

For retired, government, and corporate attorneys lack of malpractice insurance is a major barrier to volunteering. [Supporting Justice II](#), A Report on the *Pro bono* Work of America's Lawyers, The ABA Standing Committee on *Pro bono* and Public Service, February 2009

- The state of Missouri provides malpractice protection for *pro bono* attorneys. The attorney must work through a government or charitable tax-exempt agency and must not receive any compensation. See: Section [105.711.2\(5\)](#), RSMo and the Attorney General's [regulations](#) (15 CSR 60-14.010-030) applicable to the program. Malpractice coverage is also provided by Legal Services Corporation programs for volunteer attorneys. Since government agencies are included, attorneys receiving *pro bono* clients through a court sponsored program would be eligible for coverage.
  - An [enrollment form](#) {LINK inside} has been approved by the Attorney General.
  - More information on the malpractice coverage for *pro bono* attorney is available in the on-line [Deskbook for Pro bono Attorneys](#).

The federal law, the [Volunteer Protection Act.](#), 42 USC Sections 14501-05, also provides protection for volunteers.

- Volunteer is not personally liable if:
  - Not compensated (except for expenses);
  - Acting in scope of responsibilities of a 501(c)(3) charity or a government entity;
  - Properly licensed;
  - only simple negligence (not willful, criminal, gross negligence, reckless, or conscious/flagrant);
  - Not operating a vehicle.
- A volunteer is personally liable for a federal crime, a hate crime, a sexual offense, a civil rights violation, or harm caused while under the influence of alcohol or drugs.
- For application of VPA to federal law see: *Armendarez v. Glendale Youth Center, Inc.*, D.Ariz.2003, 265 F.Supp.2d 1136. The Volunteer Protection Act (VPA), conditionally providing that no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity, does not preempt only state law, but also precludes federal claims such as those arising under the Fair Labor

Standards Act (FLSA); the text of the statute cannot be interpreted to prevent its application to federal law, though its central focus is preemption of state law.

Missouri law also provides immunity to officers and directors of tax-exempt charitable organizations. Section [537.117](#), RSMo.

## ACCOMODATING *PRO BONO* PRACTICE

The only compensation *pro bono* attorneys receive is appreciation. Saving time reduces the cost of *pro bono* representation. “While this might appear to “favor” one side “against” another, it is nothing more than courtesy shown to a member of the profession who is fulfilling his or her professional obligation.”

See: A Rule To Show Cause On The Courts: [How The Judiciary Can Help \*Pro bono\*—Part I](#) by Carl “Tobey” Oxholm (ABA Dialogue, Winter 1999), pp.15+

- How can judges accommodate *pro bono* volunteers? Some examples are:
  - Every effort should be made to honor the *pro bono* counsel’s scheduling requests, and the court should give greater latitude to *pro bono* counsel who makes continuance requests.
  - Hear *pro bono* cases first on the daily calendar.
  - Grant docket times close to times the *pro bono* attorneys are appearing on other matters.
  - Organize the calendar so that all matters from *pro bono* programs will be heard by the same judicial officer at the same time each week.
  - Set *pro bono* cases at specific, non-standard times and at non-standard places.
  - Allow *pro bono* attorneys to attend routine hearings by conference call.
  - Offering courthouse space for meeting clients and *pro bono* clinics.
  - Encourage court personnel to be especially cooperative with volunteer attorneys.
  - **Help with training:** Often attorneys need training in family law, landlord/tenant, and other areas of law in which they don’t practice but for which there is a large need. Volunteer to help with training and offer free CLE programs. Not only will this improve the attorneys work but it demonstrates that the court supports *pro bono* volunteering.
  - **Review local rules.** Are local court rules and practices *pro bono* friendly?
  - **Set aspirational goal:** Adopt a local rule which defines an expectation or aspirational goal that each member of the local bar will provide 20-40 hours of *pro bono* services annually. (Note: this does not call for mandatory *pro bono* service.) “Lawyers who want to do *pro bono* need help from the outside. In most jurisdictions that have successful *pro bono* programs, the judiciary plays a key role by

establishing the expectation (if not the rule) that lawyers will volunteer to help in the delivery of legal services to the poor. This article does not recommend that courts make volunteer service mandatory. It suggests that each state and federal district review its rules and amend them to reflect that “the court expects [all bar members] to engage in *pro bono*, if not in a panel maintained by the court, then through the local bar association’s *pro bono* program.” See: A Rule To Show Cause On The Courts: [How The Judiciary Can Help Pro bono—Part II](#) by Carl “Tobey” Oxholm (ABA Dialogue, Spring 1999) see pp.4

- **LSR:** Review the new Supreme Court Rules on Limited Scope Representation (LSR). See [below](#). If needed, adopt local rules, forms and practices which facilitate and support limited scope representation practice.
- **IFP applications:** Are procedures for *in forma pauperis* applications simple and expedient? Consider using the [OSCA in forma pauperis application form](#)
- **Discovery:** Simplified discovery procedures in *pro bono* cases. See [below](#).
- **Reducing costs:** How can costs be reduced in *pro bono* matters? See [below](#).
- **Giving priority to *pro bono* cases:** If your court holds “motion days” or other events at which many cases are listed for activity at the same time, the court can recognize the public service that *pro bono* counsel is rendering, and it also reduce, where possible, the amount of time spent waiting for that counsel’s case to be called.

## **LIMITED SCOPE REPRESENTATION AND *PRO BONO* PRACTICE**

Many low-income persons with legal problems have the choice of suffering without access to justice or attempting to present their own case to the court. The increasing number of *pro se* litigants is a growing burden to the courts which creates confusion for litigants, delay for judges and attorneys and frustration for all. All would agree that litigants are better prepared and better served with the representation of an attorney. The participation of an attorney makes the justice system run smoother for all. Limited scope representation (LSR), also known as unbundled legal services, is an efficient way for clients of modest means to obtain the services of an attorney. The attorney may provide LSR *pro bono* or charge their normal hourly rate or fee for services performed.

The 2009 ABA study found “giving the attorney the ability to define the scope of the engagement (was one of) ... the most powerful incentives to encourage greater *pro bono* activity.” [Supporting Justice II](#), A Report on the *Pro bono* Work of America’s Lawyers, The ABA Standing Committee on *Pro bono* and Public Service, February 2009

Under the new Missouri Supreme Court [Rule 4-1.2](#) attorneys and clients can agree on limited representation. For the paying client this reduces costs since

the client can maximize their investment in legal representation by doing some of the less technical tasks. For the *pro bono* attorney LSR reduces time spent and the cost of helping. LSR provides an ala carte menu of legal services.

A full discussion of the LSR rules is available in the on-line [Deskbook for Pro bono Attorneys](#).

### **What can judicial officers do to encourage attorneys to provide *pro bono* limited scope representation?**

- **Support for the General Idea**
  - **Make positive comments** about limited scope representation and how it's great to have attorneys providing people of modest means with access to legal services - you appreciate getting forms you can understand, orders you can enforce, and having attorneys for court appearances. Let it be known that you think it is not only okay, but beneficial for attorneys to provide limited scope representation, and that you appreciate their involvement. Let litigants know that they may get limited scope assistance if they are unable to afford (or choose not to have) full representation. LSR is a win/win/win (court, litigant and attorney) it helps everyone, if done correctly.
  - **Hold a training** for other judicial officers on the issue of limited scope representation. Encourage the local bar to conduct training on LSR and participate in the training. Consider an annual training in limited scope representation put on by the local bar in each county so that new forms, procedures and "bugs" can be addressed. Training can also serve as a vehicle to address concerns that arise between bench and bar.
  - When doing **public speaking** to lawyers or the public, mention LSR when you discuss *pro bono*.
  - Encourage your local Bar Association to set up a **limited representation panel** and retain a listing of persons who are willing to provide LSR services especially for low-income clients.
  - **Educate.** Make positive suggestions to help counsel improve the quality of the 'package' of services they supply in certain areas.
  - Make it known that you understand and believe that LSR is helpful to the court.
- **Courtroom Conduct.**
  - If the client has agreed to limited representation and counsel have notified the court that representation is limited, **you've got to let the attorney out** once the scope of the representation is completed. This is a contractual matter between the client and the attorney pursuant to Rule 4-1.2. Support attorneys who practice before you by honoring the terms of the limited attorney-client relationship. Everyone benefits by some involvement of attorneys. They are unlikely to provide this service if you do not support their efforts.
  - If an attorney is appearing on only one issue in a matter, **try to bifurcate** that in the hearing so that the attorneys isn't either sitting through issues

- he or she is not authorized to address (and not getting paid for). If the attorney decides that he or she can't keep quiet on the other issues, consider taking a break in the hearing and giving the attorney the opportunity to revise the scope of the representation with his or her client.
- **Recognize that clients who have consulted with an attorney may not present that attorney's advice fully or even accurately.** Trust that it is unlikely that the attorney told them "not to bother with service" or similar misconceptions. If there appear to be consistent problems, consider addressing them as general issues with the local bar.
  - Resist attempts by opposing counsel to broaden the scope of the representation.
  - **Be open to discussing clarification of the issues with counsel**, when necessary, so that opposing counsel will know which issues require contact through counsel and which issues permit contact with the client. [New Rule 4-1.2](#) provides: "An otherwise unrepresented party to whom limited representation is being provided or has been provided is considered to be unrepresented for purposes of communication under rule 4-4.2 and 4-4.3 except to the extent the lawyer acting in the scope of limited representation provides other counsel with a written notice of a time period within which other counsel shall communicate only with the lawyer of the party who is otherwise self-represented." [New Rule 43.01\(b\)](#) states: "If an attorney has filed a notice of limited appearance for an otherwise self-represented person, service of papers shall be made on the self-represented person and not on the attorney unless the attorney acting within the scope of limited representation serves the other party or the other party's attorney with a copy of the notice of limited appearance setting forth a time period within which service of papers shall be upon the attorney for the otherwise self-represented party."
- **Forms, Papers and Processes.**
    - **Review your local rules** to modify any rule that may be inconsistent with limited scope of representation rules. Emphasize the notice requirement for an attorney making a limited appearance.
    - **Work out procedures with the court clerk's office** to make sure they know how to reflect the representational status of the litigant in their case management system. They are on the front line in dealing with many of the issues surrounding limited scope representation and need to be aware of the issues and familiar with techniques for dealing with them.
    - **Work with the local bar** to develop practical solutions when problems arise. For example, if you want to be sure that settlement conferences don't have to be continued so the self-represented litigant can consult with their LSR counsel, let them know that they are responsible for notifying their LSR counsel and making arrangements for them to be available on standby or otherwise as appropriate. It is most effective if you meet periodically with the bar to discuss these issues and work out solutions, which work for both of you. It will reinforce the fact that you are all working together to make the process more effective.

- **Let the Committee on Access to Family Courts know** as issues and problems come up so that they can be considered and addressed. Email comments and questions to – [cafc@courts.mo.gov](mailto:cafc@courts.mo.gov).
- **Encouraging Quality**
  - **Encourage and participate in meetings of the local bar** and legal services providers and other *pro bono* programs to discuss limited scope representation and suggest that they continue a working group to develop standards of care, informational materials for litigants, fee agreements and office tools, and develop working relationships, referral systems and protocols.
- **Financial Issues**
  - **Award attorneys fees** for limited scope services when otherwise appropriate and let attorneys know what forms or information they need to provide to substantiate the claim for fees. This is especially important if the attorney is not appearing at hearings, but is assisting in the preparation of forms, declarations and the like.
  - **Be sensitive to the economic issues.** For example, if an attorney is in court for limited scope, even a routine continuance can impose a real hardship by pricing the service outside the client's reach. If counsel is *pro bono*, delays may discourage his/her volunteering in the future. If there's only money for one appearance, and it is wasted, no net benefit is acquired and the funds which might have been properly applied to a limited appearance are wasted. Likewise, be sensitive to when opposing counsel are delaying or otherwise obstructing for tactical reasons.

(Above points are adapted from “[20 Things Judicial Officers Can Do](#) to Encourage Attorneys to Provide Limited Scope Representation”)

For more resources on limited scope representation visit the [ABA Pro se/Unbundling Resource Center](#).

## **REDUCING *PRO BONO* EXPENSES**

Attorneys who work for free should not be out of pocket for expenses. This is especially true for retired, corporate, government, solo and small firm *pro bono* attorneys. While large firms may be able to absorb expenses in *pro bono* cases, it is likely a significant impediment for smaller firms and solo practitioners. *Pro bono* programs must be creative in finding ways to eliminate or minimize the costs of volunteer services. Access to justice should not be through a toll gate. How can expenses for *pro bono* cases be kept to a minimum? How can unavoidable expenses for *pro bono* be funded?

- ***In forma pauperis* (IFP)** is the basic tool to reduce expenses in *pro bono* cases. Supreme Court [Rule 77.03](#) and Section [514.040](#), RSMo address *in forma pauperis*. Section 514.040.3 provides for Legal Services Corporation

programs to certify low-income litigants. For other *pro bono* attorneys, the first step is filing an *in forma pauperis* [application](#). For further discussion of *in forma pauperis* see: “Informa pauperis, Section 514.040: [A Practical User’s Guide for Attorneys](#)”, Christine Rollins, Missouri Bar Journal May-June 2010, p. 146.

- Are clerks informed on expeditious handling of IFP applications, the scope of costs covered and filing of pleadings pending determination of *in forma pauperis* status?
- **Publication** may be required. Consider editing orders to the minimum requirements to reduce publication costs.
- **Discovery:** How can judges reduce discovery costs in *pro bono* cases?
  - Simplify and use standard form discovery (e.g. family law income & expense statements) which are issued *sua sponte* on filing *pro se*.
  - Develop model local rules.
  - Permit the taking of depositions without a stenographic record.
  - Permit the taking of depositions “by telephone or other remote electronic means.”
  - Permit depositions to be taken in the absence of a person authorized to take oaths and take testimony.
  - Recruit court reporters to do *pro bono* work.
  - Further see: See: A Rule To Show Cause On The Courts: [How The Judiciary Can Help Pro bono—Part I](#) by Carl “Tobey” Oxholm (ABA Dialogue, Winter 1999), pp.15+
- **Transcripts of Court Hearings and Arguments.** The court may order that the notes of testimony or argument be transcribed. Once completed, the transcript becomes part of the court file, available for reading and copying, as *pro bono* counsel needs. See: [Oxholm, Part I](#), supra, p.15.
- **The pre-trial and trial schedules.** A very significant “cost” can be imposed, or avoided, depending on the court’s sensitivity in establishing pretrial and trial schedules and in responding to requests for continuances. See: [Oxholm, Part I](#), supra, p.15.
- **Panel of volunteer stenographers.** “*Pro bono* is not just for lawyers. There is no reason that the court could not maintain a panel of *pro bono* reporters. Court reporters who serve their courts in “paying cases” should be encouraged to enroll as panel members. These volunteers only agree to provide one copy of the transcript for free to the attorney representing an indigent party *pro bono* (they may charge their standard fees to all other parties).” See: [Oxholm, Part I](#), supra, p.15.
- **Professional associations.** Some associations of certified shorthand professionals have adopted policies encouraging their members to serve *pro bono* in any case where the requesting counsel is serving *pro bono*. When a lawyer (or law firm) regularly uses a specific reporter (or agency) a request to share is in the burden of *pro bono* is appropriate.

## FUNDING PRO BONO EXPENSES

Establishing a fund to cover expenses of *pro bono* attorneys will empower more retired, solo & small firm, governmental and corporate attorneys to volunteer. The fund could be administered by the court, the local bar association or a *pro bono* provider agency.

- Different models for raising funds for *pro bono*:
  - *Cy pres* cases: When the court has cases which require application of the *cy pres* doctrine, consider applying some of these funds to a *pro bono* expense fund which benefits the needy of the community.
  - Part of local bar dues. Encourage the local bar association to establish a *pro bono* expenses account funded by bar dues.
  - Fundraising events: Attend fundraising events organized by local community leaders, civic organizations etc.
  - Grants: Apply to IOLTA, Family Courts, Mo Bar Plan Foundation etc.
  - Conduct MCLE programs presented by the court, local bar association or *pro bono* provider agency: The training programs can be free or reduced cost for *pro bono* attorneys. But also a fee can be charged to attorneys not engaged in *pro bono* service which money can then be put in a fund to reimburse *pro bono* counsel for expenses. See: A Rule To Show Cause On The Courts: [How The Judiciary Can Help Pro bono—Part II](#), p.4 by Carl “Tobey” Oxholm (ABA Dialogue, Spring 1999) see pp.3+.
- **In-kind contribution of resources** will empower more volunteers. Examples are:
  - Making rooms at the courthouse available to *pro bono* attorneys.
  - Providing copying of documents, faxing etc.
  - Encouraging larger law firms to make resources available to *pro bono* attorneys.
  - Making law books available to *pro bono* programs.
    - This could be merely passing on outdated editions from the Court’s library or recruiting law firms to do so.
    - Using the court’s library fund to buy basic practice books for *pro bono* programs.
    - Buying books for the court’s library that are especially helpful to *pro bono* attorneys and making them available for loan to *pro bono* attorneys.
- For the possibility of using Neighborhood Assistance Program (NAP) grants for funding *pro bono* programs see: [“Tax-Based Pro bono Incentive Legislation: A New Recruiting Tool?”](#), Cassie Diaz-Bello (ABA Dialogue, Fall 1998, p. 11+)
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## ETHICAL GUIDELINES

What are the ethical guidelines for judges’ promotion of *pro bono*? The Code of Judicial Ethics recognizes the unique position of the judge in improving the administration of justice and encourages judges to contribute their leadership and

skills. *Pro bono* representation is key to access to justice for those at the margins of our society. Rule 2.03, [Canon 4](#), commentary, Code of Judicial Conduct.

- There are only two relevant advisory opinion of the Missouri Commission on Retirement, Removal and Discipline. Op 128 (1986) {LINK inside} approving judges participating in media campaign to recruit foster families and Op 157 (1991) {LINK inside} approving judges efforts to improve the administration of justice by publicly recognizing *pro bono* attorneys.
- The methods employed to encourage and recognize *pro bono* representation must be designed to allow judges to:
  - maintain their integrity and impartiality; Canon 2
  - insure that every person who has a legal interest in a proceeding or that person's lawyer has the right to be heard according to law. *Canon 3B(7)*;
  - dispose of all matters promptly, efficiently and fairly. *Canon 3B(8)*.
  - See [Rule 2](#) and [Rule 3](#). Code of Judicial Conduct.
- Direct fundraising for *pro bono* organizations should not be engaged in by judges. They may participate in fundraising events.
- For further discussion of ethical advisory opinions from other states see: ABA Center for *Pro bono* [Judicial Promotion of Pro bono](#) and [Expanding Pro bono: The Judiciary's Power to Open Doors](#) by *The Honorable Judith Billings and Jenny M. McMahon* (ABA Dialogue, Spring 1998) {LINK inside}

## RECOGNITION

Recognition is a form of appreciation and compensation for volunteers. Courts should actively seek ways to reward volunteers—i.e., lawyers, shorthand reporters, experts, etc. who provide *pro bono* services. “Thanks from the bench” may not seem like much, but it is. Volunteer attorneys handle these cases for a variety of reasons. They know, up front, that they are not getting paid, and most of them don't expect remuneration of any kind -- monetary, verbal or otherwise. But everyone wants and needs to be appreciated. And public recognition from a judge -- an acknowledgement and an appreciation of your hard work -- is significant. How can courts recognize and reward *pro bono* volunteers?

- Publicly recognize the contributions of *pro bono* attorneys at bar functions or social settings. Try to acknowledge his or her contributions in front of other people.
- Words spoken in open court. Recognition of an individual attorney for *pro bono* services expressed by a judge in open court when his/her colleagues are present not only rewards that attorney but restates the expectation of all professionals to serve the needy.
- A letter of thanks from the court for volunteering or performing *pro bono* services.
- Words of praise at meetings of the local bar association or at meetings of civic organizations.
- Recognition on the court's website.

- Reserved parking space for *pro bono* attorney of the month.
- A plaque, certificate or other memento especially one suitable for displaying in the attorney's office for his clients and colleagues to see.
- A letter of praise and appreciation to the senior partner of the attorney's firm with specially appreciation to the firm if they are allowing the attorney to consider *pro bono* time as billable hours or underwriting the expenses.
- Annual appreciation ceremonies in collaboration with the local bar association. This also creates an incentive for others to participate.
- A special annual reception with all members of the court limited to attorneys who have volunteered for *pro bono* service.
- Keep in mind that *pro bono* attorneys frequently volunteer in high-volume need areas which are outside of their regular field e.g., a skilled corporate attorney may be volunteer in his/her first family law matter. Expressing special appreciation for this extra effort is in order.
- Record a YouTube video expressing appreciation to *pro bono* attorneys and link it to your court or local bar website. Example see: <http://www.youtube.com/watch?v=b1Weh4oxZiY>
- For examples from other states of what judges can do see ABA Center for *Pro bono* [Judicial Promotion of Pro bono](#)

## COLLABORATION WITH PRO BONO PROVIDERS

How should judges and *pro bono* providers communicate and collaborate? *Pro bono* programs that communicate with members of the judiciary on a regular basis benefit significantly. For example:

- Program managers or board members should frequently write, visit or call judges to keep them informed about the program and to solicit their input and assistance. Many times judges initiate this contact.
- Judges also may contribute to *pro bono* programs through service as board members, which allows them to take part actively in developments and to be easily accessible to offer guidance and assistance.
- Including notices on formal court forms, handouts at the clerk's office, posters in the court house about how indigent parties may obtain legal assistance helps *pro bono* providers connect with needy persons.

## SPECIAL NEEDS OF RURAL AREAS

Many rural counties in Missouri have very few lawyers. Forty counties in Missouri have 10 or less registered attorneys. *Pro bono* representation is a greater challenge because of the limited attorney pool in the community.

- Limited scope representation (LSR) offers a means to increase legal services in such communities. In an appropriate case, LSR rules allow legal representation without appearing in court. With modern communication tools

an attorney in any part of the state can consult with a needy client, prepare pleadings and other documents, instruct the client on how to proceed in court without the attorney having to travel to the court room.

- Pairing urban and rural attorneys: Some cases will require an attorney in the court room to interrogate witnesses etc. But in such cases, LSR still allows for one attorney (not necessarily local) to prepare pleading while another attorney presents the matter in court. Thus both attorneys reduce the amount of time given to *pro bono* representation, yet the client is represented and the court avoids a *pro se* litigant situation.
- The Internet can bring rural and urban attorneys into one community. Several existing tools facilitate attorneys sharing information, forms etc. Making attorneys who practice before you aware of these tools increases the total legal resources for your community. A special list serve has been established for *pro bono* attorneys to communicate statewide. [Click here](#) for instructions on joining. Also see [MoBar Circle](#). The on-line [Deskbook for Pro bono Attorneys](#) provides specific information for *pro bono* attorneys and numerous tips and forms.
- Local rules and practices should facilitate use of LSR especially in rural areas.

## TALKING POINTS & TIPS

- **The need:** Annually 50,000 households have legal problems, cannot afford an attorney and cannot be served by the existing legal services programs. For more see: [The Need](#).
- **Tip: Statistics inform, stories motivate.** Tell stories from your own experience as to how needy persons were denied justice because of lack of representation or receive justice thanks to *pro bono* representation.
- **Share the load:** The more attorneys who participate in *pro bono*, the lighter the load on each.
- **Ethical duty:** *“A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf.”* [Preamble](#), Rule 4, Rules of Professional Conduct.  
For more see: [Our Duty](#).
- **There is no peace without justice:** If we really want a just, peaceful, ordered society, we must provide the means of access to the system of justice. The legal system is intended to provide just, orderly and peaceful means to resolve disputes. Lack of access to the administration of justice can lead to self-help which may lead to confrontation and even violence. *Pro bono* legal service increases access to the legal system and promote peaceful resolution of problems.
- **Professionalism:** “The term [professionalism] refers to a group pursuing a learned art as a common calling in the spirit of public service - no less a public service because it may incidentally be a means of

livelihood. Pursuit of the learned art in the spirit of a public service is the primary purpose.” Pound, Roscoe (1953). *The Lawyer from Antiquity to Modern Times*. St. Paul, Minn.: West Publishing Co., p. 5.

- **Professional satisfaction:** If you are a lawyer because in addition to earning a good income for self and family, you have a commitment to a free and just community and take satisfaction from solving or preventing problems for others, especially those most in need, then you will find personal satisfaction in *pro bono* legal service.
- **You are not alone:** The Courts are doing their part in supporting and recognizing *pro bono* legal services.
  - List what your local court is doing to help and recognize *pro bono* attorneys.
  - Note what the Supreme Court is doing:
    - Of significant support are the new rules on limited scope representation. The new rules make *pro bono* representation much more efficient by conserving the attorney’s time.
    - The Court has appointed the Committee on Access to Family Courts (CAFC) to focus on both *pro se* and *pro bono* needs. CAFC has created a virtual Deskbook for *Pro bono* Attorneys available on the web.
  - Most legal service corporation agencies, Samaritan Center Legal Care and other *pro bono* agencies provide training, free CLE’s etc. for volunteer attorneys.
- ***Pro se* is not the best answer:** Many of the needy households tried to help themselves by becoming *pro se* litigants. Some became victims of internet or mail-order forms factories which take their money while giving them nothing of value. *Pro se* litigants are not familiar with pleading requirements or court procedures and seek help from court personnel. Clerks and judges are in a “catch-22” since they must be impartial and cannot give legal advice to the litigants. As a result hearing dockets get delayed as judges attempt to explain basic processes to them, cases get repeatedly continued or their pleadings get dismissed without resolving the legal problem.
- **Without access to justice people live wounded lives:** A sick or injured person who does not have access to a doctor or hospital does not cease to suffer. Persons who cannot get their legal problems resolved by access to lawyers or the courts do not simply cease to exist. They lead dysfunctional lives. Children go without support. Parents wrangle over custody. Families lose their housing.
- ***Pro bono* Benefits the whole community:** Lack of access to the system of justice harms not only the marginalized but the whole community.
  - Without access to just resolutions persons resort to self-help solutions which on occasion results in confrontation and violence to the parties and innocent bystanders.
  - Lack of timely legal advice may lead to costly mistakes which may increase demand for public welfare assistance and services.

- Frequently an explanation of legal responsibilities of both parties can result in a consensus without confrontation or litigation. Lack of legal advice creates unnecessary litigation adding to the burden on courts and lawyers.
- **Tip: Use metaphors:** Just as one picture is worth a thousand words, a well chosen metaphor implants an image in the listener's mind which continues to illustrate your point.
- For other talking point ideas, view the One Client One Attorney One Promise [video](#) from Florida.

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*This Benchbook has been developed by the Supreme Court Committee on Access to Family Courts (CAFC). Questions and comments may be addressed to the CAFC at --Email: [cafc@courts.mo.gov](mailto:cafc@courts.mo.gov). Last revised: July 22, 2010. We invite your input in improving the Benchbook.*

### **Acknowledgment of Contributors**

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- *Richard Zorza, founder of the Self-Represented Litigation Network,*

{INCOMPLETE}

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[Letter of welcome](#) from the Supreme Court.

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*Assuring access to justice for the disadvantaged is a professional responsibility of lawyers. Judges have a unique role in encouraging attorneys to engage in pro bono representation.*

### **THE NEED**

*Annually about 50,000 household have legal problems, cannot afford an attorney and cannot receive services from existing programs. Access to justice is essential to peace and order in our communities.*

### **RECRUITMENT**

*Judges are especially well-suited for recruitment of pro bono program volunteers. There are numerous tools available.*

### **MODELS FOR ORGANIZING PRO BONO PROGRAMS**

*A variety of models within Missouri and nationwide are available for organizing pro bono programs.*

### **MALPRACTICE PROTECTION FOR PRO BONO ATTORNEYS**

*The state of Missouri and provider agencies offer malpractice protection for volunteer lawyers.*

### **ACCOMODATING PRO BONO PRACTICE**

*The only compensation pro bono attorneys receive is appreciation. Saving time reduces the cost of pro bono representation.*

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*Limited scope representation (LSR), also known as unbundled legal services, is a way to provide legal representation which is affordable to attorney and client.*

### **REDUCING PRO BONO EXPENSES**

*Attorneys who work for free should not be out of pocket for expenses. This is especially true for retired, corporate, government, solo and small firm pro bono attorneys.*

### **FUNDING PRO BONO EXPENSES**

*Establishing a fund to cover expenses of pro bono attorneys will empower more retired, solo & small firm, government and corporate attorneys to volunteer.*

### **ETHICAL GUIDELINES**

*The Code of Judicial Ethics recognizes the unique position of the judge in*

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*Courts should actively seek ways to reward volunteers who provide pro bono services. Examples of what judges can do.*

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*Many rural counties in Missouri have very few lawyers. Pro bono representation is a greater challenge because of the limited attorney pool in those communities.*

### TALKING POINTS

*Some brief ideas to use when speaking to lawyers and public groups about pro bono.*

### ACKNOWLEDGEMENT OF CONTRIBUTORS

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## APPENDICIES

### **Social service agency integrated model.**

Marginalized persons are served by a variety of governmental and private (non-governmental) agencies. Examples of such agencies are: public and law libraries, abuse shelters, Department of Social Services offices, Department of Health and Senior Services offices, Department of Mental Health offices, area agencies on aging, United Way agencies, Salvation Army, Red Cross, Catholic Charities, Lutheran Family Services, Jewish Community Services, community action agencies. Needy persons usually show up at such agencies first because they are hungry, homeless, cold or otherwise in need. Applicants to these agencies come with social-economic problems but also frequently these problems are caused by or intertwined with legal problems.

Presently most of these agencies do not have a systematic way to link needy persons to affordable legal services.

Many of these agencies already screen applicants for economic need. With training and guidelines these agencies are also capable of prescreening the legally needy as to the area of law. Guidelines and models for training are available. {LINK}. Sending a person who has been evicted to a patent lawyer wastes the time and resources of both. Appropriately matching the need of the applicant to the lawyer's area of practice is key to a successful *pro bono* program. {LINK}

The other essential component is for the agency to have a list of volunteer attorneys who will accept *pro bono* cases. With the support of the court and local bar, willing attorneys can be recruited. See: recruitment {LINK}.

Low-income persons with legal problems most likely have other immediate needs for housing, clothing, food, utilities and more. Partnering with social service agencies links the volunteer attorney to the means of addressing these needs while he or she addresses the legal problems. Lawyers collaborating with social service agencies can look at the client more holistically. In the long run solving the legal problems may will reduce the economic problems but in the short run people need to food and shelter.

The Legal Care program of the Samaritan Center, Jefferson City, is such a program and willing to provide you more information to establish such a program in your community. Contact at – [legalcare@midmosamaritan.org](mailto:legalcare@midmosamaritan.org).

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<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/34f3bee06088a0fe86256ca600521235?OpenDocument>

[Preamble](#), Rule 4, Rules of Professional conduct.  
<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/4c4ee2e8d24e2ff386256ca60052123c?OpenDocument>

Missouri Supreme Court [Rule 4-1.2](#) Scope of Representation  
<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/8195dff3462d90ba86256ca6005211c1?OpenDocument>

Missouri Supreme Court [Rule 4-6.1](#) Voluntary Pro Bono Publico Service.  
<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/384af6c9c3fdae1d86256ca600521254?OpenDocument>

Missouri Supreme Court [Rule 8.15](#). Attorney's Oath of Admission  
<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/b669a0d6797972b086256db70073edd0?OpenDocument>

Missouri Supreme Court [Rule 43.01\(b\)](#). Service of Pleadings  
<http://www.courts.mo.gov/sup/index.nsf/d45a7635d4bfdb8f8625662000632638/2fcf69c09f0c1acf8625747100730212?OpenDocument>

Missouri Supreme Court [Rule 77.03](#). In forma pauperis  
<http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/a98c1eb8f707db9a86256ca60052159a?OpenDocument>

ABA [Model Rule 6.1](#) of the Rules of Professional Conduct.  
<https://www.abanet.org/legalservices/probono/rule61.html>

## Statutes

Section [105.711.2\(5\)](#), RSMo (State malpractice protection for volunteer attorneys)  
<http://www.moga.mo.gov/statutes/C100-199/1050000711.HTM>

Section [514.040](#), RSMo. In forma pauperis  
<http://www.moga.mo.gov/statutes/c500-599/514000040.htm>

[Volunteer Protection Act](#), 42 USC Sections 14501-05.. <http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+8302+0++%28%29%20%20AND%20%28%2842%29%20ADJ%20USC%29%3ACITE%20AND%20%28USC%20w%2F10%20%2814501%29%29%3ACITE%20%20%20%20%20%20%20%20%20%20>

Section [537.117](#), RSMo. Immunity of charitable organization officers.  
<http://www.moga.mo.gov/statutes/c500-599/5370000117.htm>

## Videos

One Client One Attorney One Promise [video](#), Florida <http://onepromiseflorida.org/>

YouTube video, Shirley Abrahamson, Chief Justice, Wisconsin Supreme Court.  
<http://www.youtube.com/watch?v=b1Weh4oxZiY>

## Websites

[ABA Pro se/Unbundling Resource Center](#).  
<http://www.abanet.org/legalservices/delivery/delunbundbook.html>

ABA *Pro bono* Center - [Judicial Promotion of \*Pro bono\*](#)  
<http://www.abanet.org/legalservices/probono/judicial/courtemployeeprobono.html>

[ABA Pro se/Unbundling Resource Center](#).  
<http://www.abanet.org/legalservices/delivery/delunbundbook.html>.

Conference of State Court Administrators. <http://cosca.ncsc.dni.us/>

Conference of Chief Justices <http://ccj.ncsc.dni.us/index.html>

MoBar Circle: <http://www.mobar.org/7400f66a-e11d-476b-bb7c-68b7c50d440e.aspx>

Unbundled Legal Services (Sue Talia) <http://www.unbundledlaw.org/>

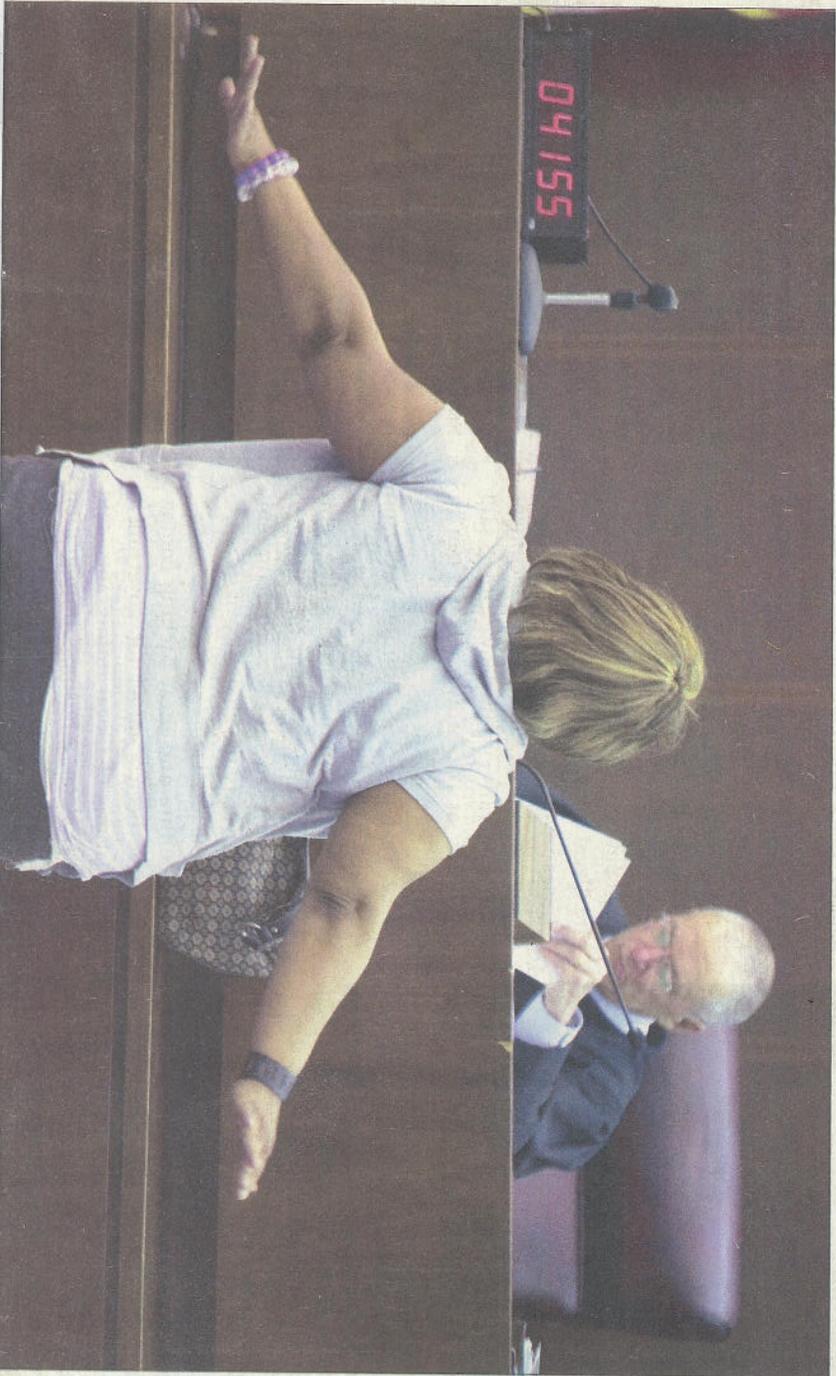
# Missouri Lawyers

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WEEKLY

## Pro se proliferates

*Number of do-it-yourself litigants soars in some counties*



## Cracking the code

*Attorneys for cyber-crime defendants try to access police hard drives*

By ALLISON RETKA  
allison.retka@molawyersmedia.com

Sometimes even failed appeals can raise the possibility of success further down the legal road.

The Missouri Court of Appeals Western District has rebuffed defendant Daniel Mauchenheimer's efforts to discover the hard drive of the Boone County detective who chatted online with Mauchenheimer under the guise of a 14-year-old girl.

Mauchenheimer's appellate attorneys say his case may not be the one to create new caselaw on the discoverability of investigator hard drives. But under the right circumstances, Missouri criminal defense attorneys can still take a crack at them, they said.

"I don't think this issue is dead," said Tamara Putnam, one of Mauchenheimer's Lee's Summit appellate attorneys. "This is

St. Louis County Judge Dennis Smith about her case. At right, Tiffany Green-Hytrek, circuit clerk legal counsel, meets with Christopher Wharton to discuss his paperwork, but she can't give him legal advice. Photos by Karen Eshout

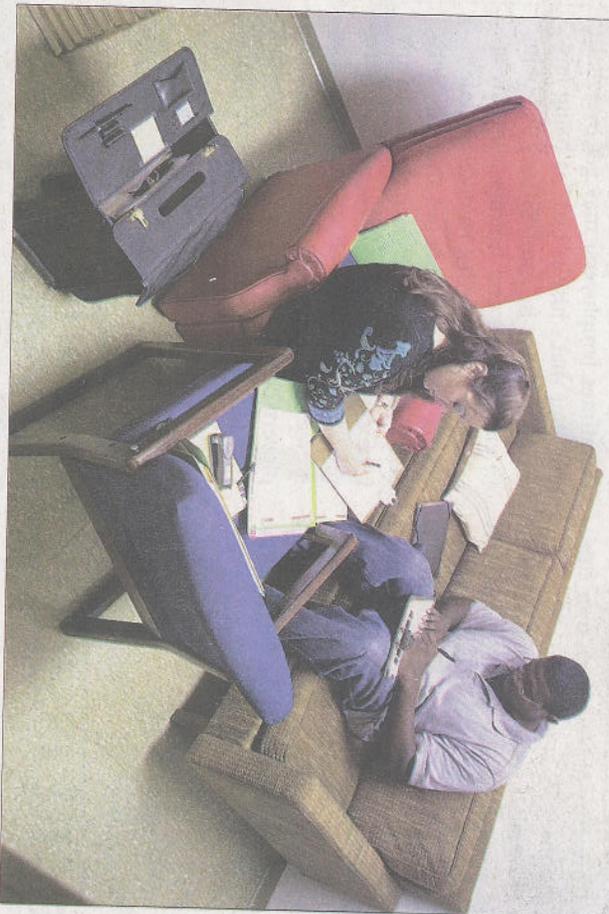
By CHRISTINE SIMMONS  
christine.simmons@mollawyersmedia.com

When the Missouri Supreme Court approved standardized divorce pleadings in late 2008, about the only thing both sides in the pro se debate agreed upon was that it would, for better or worse, increase the number of people using them.

They appear to have been right. In just over two years since the forms became widely available, some counties are reporting significant jumps in pro se litigants. No official statewide statistics on the number of pro se litigants are available.

In Clay County, the number of pro se divorce cases more than doubled from June 2009 to May 2010.

"The drastic upswing," said Associate Circuit Judge David Chamberlain in



Clay County, "probably has to do with the forms being made available and people finding out about them."

In St. Joseph, the county seat of Buchanan County, Judge Judah Weldon, who presides over divorce cases, said he wouldn't be surprised if there were two to four times more filings of pro se litigants since the Missouri Supreme Court first approved the forms.

Still, in Greene County, the number of pro se divorce petitioners has been relatively flat for the past couple of years.

And while some suggest that the poor economy is forcing more litigants into do-it-yourself mode, the statistics don't seem to bear that out.

In St. Louis County, where pro se

[SEE PRO SE ON PAGE 13]

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## Employment, immigration law

Did you know a company can get in trouble for screening job applicants' immigration status too closely?  
Page 2

## Med mal

Supreme Court decides the State Board of Registration for the Healing Arts can't have a sort-of rule.  
Page 3

## Proof of Concept

Judge Jimmie Edwards' Innovative Concept Academy graduates its first class.  
Page 7

hard drive." In April 2010, a Boone County jury found Mauchenheimer, 43, guilty of sexual misconduct involving a child.

Prosecutors accused Mauchenheimer of exposing himself via webcam while chatting on Yahoo Messenger with a user named "sadmogirl," who identified herself as 14-year-old girl from Columbia. The user was actually Detective Andy Anderson of the Boone County Sheriff's Department.

Police seized a computer and webcam from Mauchenheimer's home in Sullivan, southwest of St. Louis. But Mauchenheimer had set his Yahoo chats to "auto delete" at the end of every chat. Anderson's computer captured the only copies of the chat logs.

Mauchenheimer claimed the police's chat logs omitted certain portions of the chat where Mauchenheimer says he suggested "sadmogirl" may not be a child or even a girl. In his version of the story, Mauchenheimer used the chats as sexual role playing, said J. Denise Carter, Mauchenheimer's other appellate attorney.

"He firmly believes [police] altered the chats," Carter said. "I don't know whether they did or not. But I absolutely know there's an easy solution. Pull that underlying code."

[SEE HARD DRIVES ON PAGE 13]

divorce forms have been provided for nearly nine years, the percentage of people who filed for divorce representing themselves has increased less than one percentage point over the past two years.

So access to the pro se forms may lead to more pro se litigants, but what does that mean for the operation of the courts? Missouri Lawyers Weekly asked judges who see the cases come through their courtroom every week, and their verdict is split.

Some judges say the forms have had a positive effect in their courtroom — litigants are providing more information and judges know where to find their answers. Other Missouri judges have mixed feelings, saying the state-approved forms could be encouraging litigants to go without legal advice and the forms don't work for all scenarios.

## The old days

The forms were torn from the back of do-it-yourself books. Some people who wanted to represent themselves in court bought legal forms online through sketchy websites, spending \$200 for a pleading from another state. Others just borrowed forms from their friends.

There are now court-approved pleadings for pro se litigants in petitions for child custody, paternity cases and motions for visitation, modifying child support and child custody. It's all available online at [www.selfrepresent.mo.gov](http://www.selfrepresent.mo.gov).

Before the pleadings were standardized, judges said they saw pro se pleadings that were sometimes incomprehensible. Judge Patricia Joyce, of Jefferson City, said she had to many times send back the forms to the litigants to get more information.

"They were harder to read ... People made photo copies of somebody else's divorces and crossed things out," she said.

"It was just crazy."

Judge Rick Zerr, in St. Charles, said more cases were dismissed because pro se litigants didn't have the proper documents or got them from other states.

Now, the court-approved forms help the courts process the files more efficiently than before because the clerks have a routine set of papers and the judges can more easily spot errors or missing data, Zerr said.

Pro se litigants are more likely to complete the forms correctly if they do it online, judges say. An online program catches incomplete and missing answers and also reminds users they need to fill out other documents.

"You must enter a valid Social Security Number here before you file your case!" reads one pop-up message if a user skips entering the information.

Pro se divorces cases take a bit longer to process than uncontested divorces where parties are represented by attorneys, some judges say. Others say they are just as quick.

"As I get used to the forms, it will become easier," Judge Benjamin Lewis, of Cape Girardeau, "but as many times as I'm looking at those, the people who are using them ... it's not necessarily going to get easier for them."

Lewis and several others judges said their pro se files don't take away time from their other cases. They point out that complex cases with attorneys sometimes can consume a lot of the court's time.

But, Lewis said, with pro se litigant cases, "it takes more time to do something that shouldn't take very much time or something we're not used to spending time on."

Court clerks across the state say they can now just direct litigants to the court's website for more information. But they still get asked legal questions they just can't answer.

"Has it reduced the number of calls we get? Probably not," said Carolyn Reddin,

family court supervisor in the Columbia circuit clerk's office. But she said the standardized pleadings have likely helped clerks process pro se cases faster in Columbia. Reddin estimates she's seen up to a 30 percent increase in pro se filings in the past couple years in Columbia.

## 'Walking on thin ice'

Some judges still aren't completely comfortable with the process.

Chamberlain, the judge in Clay County, said the pro se forms make it more difficult to get cases processed "because you get people who don't know what they're doing."

"The problem is not the form itself. The problem is the information that's put into the forms," he said. "The approval of these forms did nothing to impart knowledge to the people who filled them out."

Other judges also report some uneasiness with pro se litigants, despite more uniform pleadings.

"When they come in, it puts the judge in an awkward position because you can't coach them," said Lewis, the Cape Girardeau judge. "While you can't advise them, you've got to work with them to go over the paperwork. You can't just trust them to have it done right."

Weldon, the St. Joseph judge, said that when attorneys represent parties, they have a responsibility to be honest with the court.

In a pro se case, "it almost forces upon the judge that sense of responsibility, not only to be fair and impartial in that case, but to make sure everybody is upfront and ... and there's not some sort of side deal."

"I just feel like a lot of times I'm walking on thin ice," he said. "The judge is not supposed to just rubber stamp every agreement they come across."

The pro se pleadings are very good tools in some cases, but they're not one-size-fits-all, he said.

"I have seen very complicated cases that are attempting to be presented as pro se, and that's the difficulty. You just don't know until you get into it," he said.

## Users appear happy

The pro se litigants themselves appear mostly happy with the system. In a survey of people who were intending to represent themselves in court last year, about 61 percent agreed that the forms were easy to use, and 63 percent agreed that they were ready to represent themselves in court. Most wanted a divorce.

Gale Henderson, appearing in St. Louis County Judge Dennis Smith's courtroom one day in June to finalize her divorce, she couldn't afford an attorney to divorce her husband, who didn't show up to court that day.

Henderson, who cares for the disabled for a living, had no complaints about the pro se pleadings. "I love it," she said. "If the courts didn't provide pro se forms, I wouldn't be able to do it. I wouldn't know what to do."

As a member of the Missouri Supreme Court's Access to Family Courts committee, Smith helped create the pro se family law pleadings and programmed the online forms. Smith said the forms have enabled St. Louis County courts to efficiently process cases because litigants are providing more information and more accurate data.

He and others on the committee are continually updating the forms for improvement and changes in the law. As of last month, 13 new or revised forms have been submitted to the Missouri Supreme Court's State Judicial Records Committee for review, Smith said. Most of them need to be ultimately approved by the high court before they can be put to use.

"It's more than just worth it — it is so valuable because we are providing access to our courts," Smith said. ■

Letter to the Editor

# Pro se filings have developed new income stream

Congratulations on your front page article "Pros se proliferates," July 4. I handle the statistical information on the Seventh Circuit pro se dissolution docket. Our statistics are interesting.

Yes, we did have a burst of additional pro se dissolution filings after the forms became available in the latter part of 2008. This was also about the time that the economy went bust. All dissolution filings have gone up.

It seems to have leveled off now, with the normal cyclical filings at strategic times during the year. Before the forms were generally available and before Judge [David] Chamberlain started a special pro se pre-trial docket, it took a pro se dissolution litigant over 200 days on average to obtain a judgment. More than 30 percent of the cases were dismissed for lack of

prosecution. Since Judge Chamberlain started his docket in August 2009, the average days to judgment has declined to 138 days and dismissals are down to 18 percent.

We continue to find that lower-income litigants use the pro se forms. The mean income for women is \$2,080 per month and for men \$2,300 per month. Only 20 percent claim to own a residence and fewer claim they have retirement assets. Half of those reporting a real estate asset are upside down, with a mean negative worth of negative \$6,000. The mean for positive net equity in a home is \$7,000.

About one-third of the pro se dissolution filings involve minor children.

The typical pro se dissolution filed here involves a long-term separation with an agreement on property division or a short-

to medium-term marriage with few assets.

A question that has not been answered is whether filings are up because of the accessibility of forms, or whether people now have access to the courts who did not have access previously, or whether some other dynamic is at play. That is beyond our resources to analyze statistically.

An exciting follow up to this story is that the Clay County Bar Association approved the creation of a list of local lawyers who wished to offer legal services to pro se dissolution litigants through limited scope representation. This list has been distributed to pro se litigants through our office on request. Fifty-four percent of the pro se litigants do hire a lawyer in some capacity to help them complete their case. This has widely replaced the trend of spending hundreds of

dollars to have a non-lawyer form factory produce pleadings.

Over 95 percent of the pro se filings now use the Supreme Court forms, with over half spending their money to engage a lawyer to help them with their cases. Reviewing documents, drafting judgments and appearing for uncontested prove-up hearings is the most common task that lawyers perform here through limited scope representation.

As one of our local lawyers confided in me: "I now have income that I could not have accessed before. In the bad economy this has really saved my lunch."

**Kathleen Bird, JD, Director**  
Office of Dispute Resolution  
Seventh Judicial Circuit  
Liberty

# Supreme Court should be more pro-business

BY RAMESH PONNURU  
*Bloomberg News*

The idea that the Supreme Court is too pro-business is rapidly becoming the central liberal critique of the institution. During last year's confirmation hearings

Corporate America could win 60 percent  
of the cases testing new theories for suing them  
and still steadily lose ground.

September 2011 Agenda

interests of corporations. But there's no getting around the fact that the promotion of commerce — and particularly its protection from politicians in the states who would exploit or block it — was a major reason we replaced the Articles of Confederation with the Constitution in the first place.

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**Representing Yourself Website Survey Statistics  
January – June, 2011**

**2. How many years of schooling have you completed?**

	Frequency	Percent	Cumulative Percent
Professional School Degree	36	1.0	1.0
Doctorate Degree	27	.8	1.8
Masters Degree	94	2.7	4.5
Bachelors Degree	286	8.2	12.8
Occupational/Vocational Degree	195	5.6	18.4
Associates Degree	260	7.5	25.9
Some College	973	28.0	53.9
High School Graduate	801	23.1	77.0
GED	318	9.2	86.2
Some High School	480	13.8	100.0
Total	3470	100.0	

**3. How much money do you make a year before taxes are taken out? Do not include your spouse or anyone else living in your house.**

	Frequency	Percent	Cumulative Percent
Unemployed	213	6.2	6.2
\$0 - 10,999	1103	31.9	38.0
\$11,000 - 19,999	626	18.1	56.1
\$20,000 - 29,999	632	18.3	74.4
\$30,000 - 39,999	397	11.5	85.9
\$40,000 - 49,999	215	6.2	92.1
\$50,000 or over	274	7.9	100.0
Total	3460	100.0	

**4. How many children do you have?**

	Frequency	Percent	Cumulative Percent
None	874	25.3	25.3
1	688	19.9	45.1
2	887	25.6	70.8
3	603	17.4	88.2
4	264	7.6	95.8
5	78	2.3	98.1
6	40	1.2	99.2
More than 6	27	.8	100.0
Total	3461	100.0	

**5. How long have you been married?**

	Frequency	Percent	Cumulative Percent
No longer married	319	9.4	9.4
Less than 1 year	331	9.8	19.2
1 - 5 years	1201	35.4	54.6
5 - 10 years	761	22.5	77.1
More than 10 years	777	22.9	100.0
Total	3389	100.0	

**6. Where do you most often use the Internet?**

	Frequency	Percent	Cumulative Percent
Home	2195	63.6	63.6
Work	510	14.8	78.4
Public Library	342	9.9	88.3
Friend or relative's house	322	9.3	97.6
Other (please specify below)	71	2.1	99.7
Courthouse	11	.3	100.0
Total	3451	100.0	

**“Other” selection for Where do you most often use the Internet?**

	Frequency		Frequency
school	10	hospital	2
cell phone	10	home and work	1
phone	9	free wifi	1
wifi phonef	3	I dont use it family does	1
never	2	i dont incarcerated	1
we	1	I don't have access to the internet	2
unemployment office	1	Everywhere	1
parents home	1	equally at home and library	1
resouce center	1	don't use	2
resort	1	Do not have a computer	1
Rarely	1	daughter does it for me at her school	1
McDonald's	2	community center	1
Libary	1	College	2
home office	1	caseworker	1
none	1	ca	1
my moms	1	all the time	1
my daughter helps me use her phone/computer	1		

**7. Have you talked to a lawyer or free legal service about your case?**

	Frequency	Percent	Cumulative Percent
No	2376	69.7	69.7
Yes	1032	30.3	100.0
Total	3408	100.0	

**8. Since you answered YES to question 7, why do you want to represent yourself? (Select the one that best fits your situation.)**

	Frequency	Percent	Cumulative Percent
Too expensive	684	66.1	66.1
I think I can represent myself	167	16.1	82.2
None of the above	96	9.3	91.5
Personal reasons	60	5.8	97.3
Lawyer had a conflict	19	1.8	99.1
I did not like him or her	9	.9	100.0
Total	1035	100.0	

**9. Since you answered NO to question 7, why do you want to represent yourself? (Select the one that best fits your situation.)**

	Frequency	Percent	Cumulative Percent
I want to hire a lawyer, but I cannot afford one	954	40.3	40.3
I think I can represent myself	941	39.8	80.1
None of the above	305	12.9	92.9
I can afford to hire a lawyer, but I do not want to hire one	167	7.1	100.0
Total	2367	100.0	

**10. What type of family law matter are you intending to file? (Select all that apply.)**

	Frequency	Percent	Cumulative Percent
Divorce	2830	57.0	57.0
Custody Issues	712	14.3	71.3
Child Support	512	10.3	81.6
Visitation	316	6.4	87.9
Name Change	188	3.8	91.7
Modification	163	3.3	95.0
Other (please specify below)	75	1.5	96.5
Paternity	67	1.3	97.9
Order of Protection (Domestic Violence)	57	1.1	99.0
Enforcement of Orders	49	1.0	100.0
Total	4969	100.0	

**“Other” selection for What type of family law matter are you intending to file?**

	Frequency		Frequency
legal separation	22	in chapter 13 bankruptcy	1
Alimony	7	judgement	1
dissolution	7	just want peace not stayingg with my wife	1
Annulment	5	Landlord/Tenant Issue	1
child custody	3	modifacation of child support	1
Maintenance	3	name off all property during marriage	1
adoption	2	Non-family issue	1
asset distribution	2	noncontest	1
step parent adoption	2	Order of Dismissal	1
respondent in divorce	2	payment changes	1
amending child support arrearage	1	property	1
Answer to Modification	1	relinquishing of parental rights	1
Anullment	1	request for production	1
Appointment of guardian	1	respondent answers	1
Bar, Trailer	1	response to civil summons	1
Child Custody	1	revoked nursing license	1
CIVIL MATTER-FCRA	1	simple divorce	1
Contempt of child support order	1	small claims	1
Contempt of Court on Respondent	1	take father name off birth records	1
contract	1	termination of guardianship	1
Division of property	1	Termination of Parental Rights	1
emancipation	1	temporary custody until court date	1
emergency	1	Transfer the case from New York to Missouri	1
eviction	1		

**11. It was easy to find what I was looking for on the Representing Yourself website.**

	Frequency	Percent	Cumulative Percent
Strongly Agree	920	27.7	27.7
Agree	1335	40.2	67.9
Strongly Disagree	267	8.0	75.9
Disagree	154	4.6	80.6
No Opinion	529	15.9	96.5
Not Applicable	116	3.5	100.0
Total	3321	100.0	

**12. The educational information was easy to understand.**

	Frequency	Percent	Cumulative Percent
Strongly Agree	834	25.2	25.2
Agree	1473	44.6	69.8
Strongly Disagree	213	6.4	76.3
Disagree	81	2.5	78.7
No Opinion	566	17.1	95.9
Not Applicable	137	4.1	100.0
Total	3304	100.0	

**13. Without the educational information I would not have been as prepared for court.**

	Frequency	Percent	Cumulative Percent
Strongly Agree	540	16.5	16.5
Agree	1255	38.2	54.7
Strongly Disagree	204	6.2	60.9
Disagree	151	4.6	65.5
No Opinion	928	28.3	93.8
Not Applicable	204	6.2	100.0
Total	3282	100.0	

**14. It was easy to know what forms I needed to use.**

	Frequency	Percent	Cumulative Percent
Strongly Agree	601	18.4	18.4
Agree	1394	42.6	61.0
Strongly Disagree	217	6.6	67.6
Disagree	215	6.6	74.2
No Opinion	711	21.7	95.9
Not Applicable	133	4.1	100.0
Total	3271	100.0	

**15. The forms were easy to use.**

	Frequency	Percent	Cumulative Percent
Strongly Agree	603	18.6	18.6
Agree	1414	43.5	62.1
Strongly Disagree	188	5.8	67.9
Disagree	113	3.5	71.4
No Opinion	774	23.8	95.2
Not Applicable	156	4.8	100.0
Total	3248	100.0	

**16. After looking at everything on this site, I feel more ready to represent myself in court.**

	Frequency	Percent	Cumulative Percent
Strongly Agree	660	20.3	20.3
Agree	1362	41.9	62.2
Strongly Disagree	190	5.8	68.1
Disagree	84	2.6	70.7
No Opinion	804	24.7	95.4
Not Applicable	149	4.6	100.0
Total	3249	100.0	

## Zip Code Frequency

		Frequency	Percent
Springfield	65803	53	1.6
Poplar Bluff	63901	40	1.2
Sedalia	65301	39	1.2
Springfield	65802	38	1.1
Branson	65616	34	1.0
Columbia	65202	34	1.0
Sikeston, Miner	63801	34	1.0
Springfield	65807	33	1.0
Jefferson City	65109	32	1.0
St. Peters, O'Fallon, Cottleville	63376	29	.9
Kansas City	64130	28	.8
Independence, Sugar Creek	64050	27	.8
Joplin, Loma Linda	64804	26	.8
Farmington	63640	26	.8
O'Fallon, Cottleville, Dardenne Prairie, Saint Paul, St. Peters	63366	25	.8
Fulton	65251	24	.7
Independence, Sugar Creek	64056	23	.7
Kansas City, Gladstone	64118	22	.7
Belton, Village of Lock Lloyd	64012	22	.7
St. Louis, Jennings	63136	22	.7
Columbia	65203	21	.6
De Soto	63020	21	.6
St. Charles	63301	20	.6
St. Louis	63116	20	.6
Fenton	63026	20	.6
Springfield	65804	19	.6
Rolla, Lecom	65401	19	.6
Kansas City, Raytown	64133	19	.6
Ozark	65721	18	.5
St. Charles, St. Peters	63303	18	.5
St. Louis, Normandy	63121	18	.5
St. Louis, Breckenridge Hills, Overland	63114	18	.5
Moberly	65270	17	.5
Blue Springs, Lake Tapawingo	64015	17	.5

		Frequency	Percent
Cape Girardeau	63701	17	.5
Park Hills, Desloge, Elvins, Flat River, Frankclay, Leadington, Leadwood, Rivermines	63601	17	.5
Republic	65738	16	.5
Jefferson City, Cedar City	65101	16	.5
Kansas City, Raytown	64138	16	.5
Kansas City	64134	16	.5
Kansas City, Gladstone	64119	16	.5
O'Fallon, Dardenne Prairie	63368	16	.5
St. Louis	63115	16	.5
St. Robert	65584	15	.5
Lebanon	65536	15	.5
Ft. Leonard Wood	65473	15	.5
Neosho	64850	15	.5
Joplin	64801	15	.5
Warrensburg	64093	15	.5
Independence	64052	15	.5
Wentzville	63385	15	.5
St. Louis, Lemay	63125	15	.5
St. Louis	63104	15	.5
West Plains	65775	14	.4
Boonville	65233	14	.4
Columbia	65201	14	.4
Harrisonville	64701	14	.4
Kansas City	64131	14	.4
Potosi	63664	14	.4
Florissant	63033	14	.4
Nixa	65714	13	.4
Eldon, Eterville, Rocky Mount	65026	13	.4
Nevada	64772	13	.4
Kansas City, Parkville, Weatherby Lake	64152	13	.4
Liberty, Pleasant Valley	64068	13	.4
Independence	64055	13	.4
Grandview	64030	13	.4
St. Charles, Cottleville, St. Peters, Weldon Spring	63304	13	.4
St. Louis, North County	63137	13	.4
St. Louis, Affton	63123	13	.4
St. Louis	63107	13	.4

		Frequency	Percent
Florissant	63031	13	.4
Carthage	64836	12	.4
Kansas City, Avondale, Randolph	64117	12	.4
St. Louis	63118	12	.4
St. Louis	63110	12	.4
Festus	63028	12	.4
Ava	65608	11	.3
Aurora, Jenkins	65605	11	.3
Slater	65349	11	.3
Camdenton	65020	11	.3
Blue Springs	64014	11	.3
Dexter	63841	11	.3
Jackson	63755	11	.3
Hannibal	63401	11	.3
Wright City, Innsbrook	63390	11	.3
Troy	63379	11	.3
St. Louis, North County	63138	11	.3
St. Louis	63120	11	.3
Union	63084	11	.3
Arnold	63010	11	.3
Salem	65560	10	.3
El Dorado Springs	64744	10	.3
Trenton	64683	10	.3
Chillicothe, Avalon	64601	10	.3
Kansas City, Houston Lake, Lake Waukomis, Northmoor, Platte Woods, Riverside	64151	10	.3
Kansas City	64127	10	.3
Lee's Summit	64063	10	.3
Excelsior Springs, Crystal Lakes, Homestead, Mosby, Wood Height	64024	10	.3
Kennett	63857	10	.3
St. Louis	63147	10	.3
St. Louis	63133	10	.3
St. Louis	63113	10	.3
St. Louis	63112	10	.3
St. Louis	63111	10	.3
Saint Ann, Northwest Plaza	63074	10	.3
Imperial, Antonia, Otto, Sulphur Springs	63052	10	.3
Hazelwood	63042	10	.3

**Comments from Website Survey  
May 1 – June 30, 2011**

1. I'm filing dissolution for marriage with child involved for state of Missouri. Child lives with me and father visits child when he can. I wish it was a lot easier to file for divorce with child involved if the father does not participate in child's life. Trying to go out of state of Missouri to live permanently and he is trying to intercept now. Need resources for a lawyer that does not charge arm and leg since it will be hard to fight him in court on my own.
2. Haven't ever been able to afford a lawyer and never know how to choose a good one that will represent me and my special needs. Don't feel good about the divorce tomorrow. Kathy Adams
3. I have no money and have been turned down for legal aid. I am not sure how to go about this.
4. I have 3 kids of my own but none with the spouse in this marriage. They have a different dad. I am not asking for anything such as money, housing or property. We do not have any of the following such as money, housing, property together.
5. I need help with the courts.
6. don't know all my rights
7. The information for the Respondent Petitioner was not that clear. The program is not more geared toward the Petitioner. Things I needed to know were; What does a counter petition consist of? What does Respondent file a responsive pleading? Will I have to pay filing fees? Forms don't are not universal. The forms sent to me respondent were not the same as was sent to me. After I fill out the forms do they have to answer in 30 days, or do you just go to court? I found this to be helpful. A Counter-Petition is your own request for a divorce, and for the Judge to divide property and debts, and, if children are involved, to decide who gets child custody, and who pays child support. But then are you the Petitioner? or are you still the Respondent? If this kind of information was clearer I would not have spent so much time on the internet trying to make sense of it. I was filling out the paperwork right. The reason I took the time to fill this out this information was to help other people who, may not be able to afford a lawyer. Going through this is hard enough.
8. IT was easy and makes it so much cheaper on both of the parties thanks.
9. this is a very good site for information on how to represent myself.
10. I want to be able to fill out the forms and fax them to the court that I will be attending in May 11, 2011. Thank you for your help.
11. I know legal advice cannot be given but information on how to prepare the papers for turning them in such as a checklist would be helpful
12. I'm wanting to get my maiden name back too
13. Need to be able to save data into the form. Nobody can sit down and fill in 70 pages in one sitting.
14. I need the form for divorce
15. AS A CITIZEN DAD WE NEED MORE SUPPORT FROM OUR CITY AND GOVERNMENT
16. Forms not available for download. Why?
17. I have been separated for more than ten years
18. my wife and I think that it is best to go ahead and make it official
19. It is not easy to find.
20. the packages are hard to download

21. he's in other state I'm in missouri he's in las vegas Nevada
22. I just started on the website, it doesn't seem fair to ask me how I feel about the site yet.
23. They may be easy enough under normal conditions. But, nothing is normal or easy in a divorce...but I appreciate whatever help is given. I was left stripped of all my money and my ability to make money.
24. noncontested between myself and/or my spouse.
25. i just want a dissolution
26. i need a lawyer. i have no money. i have cancer. my husband and i have been seperated for two years. he wont help with the bills or in raising our daughter.
27. need a divorce
28. Thank you for the help at the clerks office and the web site. [65807 = Springfield, MO]
29. My husband and I are from opposite states, I want to live in CA. he wants to live in MO. but we have two kids together and I have one child.
30. I have been throw march mediation and got child support lowered. Don't know where to go from here. I was givin this websit to fill this out.
31. I am looking for the forms to file for a dissolution of marriage
32. very helpfull
33. i want a divorce because i am sick of being with someone who dont want to help them self and I'm sick of the abuse he put me through
34. The survey of the ligant awareness discounted truthful statements, and calculated a score that was weighted heavily in a negative zone because of issues involving custody. This action shows a bias. I completed the survey several times and was always referred to a lawyer.
35. I'm glad this website was added because the last time I checked into it, is was not as intuitive or helpful.
36. The form that I was told to fill out is not what I needed for my case and so I'm at a stand still as what to do.
37. trying to find where the respondent lives is hard to do
38. I have not seen the forms or used the site before taking this survey. Therefore, I can not answer many of the questions you have ask.
39. This website is helping me to become more prepared and giving me ths necessary tools to get the divorce taken care of.
40. Forms had many spots that wouldn't work at all, such as age..says to put a year but then demands a birthday which doesn't enter correctly. Also same with social security number asks for last four digits and then wants the full number which it won't take. Also had glitches that took me out of the program with out anything saved. Not a satisfactory program at all.
41. The only thing that I think should be fixed is pulling the forms up sometimes I can't pull them up and that shouldn't be happening..I like all the forms you do have..
42. nice place helpful
43. adobe reader is unreliable. windows is unrelibale it keeps failing. we shiold be able to print the forms packet in whatever form your computer has HTML?
44. This thig sucks! Where's the fucking form?
45. i want a divorce as soon as possible. we have been seperated over 8 years. We have o0ne daughter together. ms Christian
46. I would represent myself the best way possible. I'm no professional, but in my heart,I believe in what I want and what my rights are when it comes to my life, health and happiness.

47. i dont know because i got this survey before I have been able to view the website
48. Unfortunatly, I was not able to find and read any of the aforementioned materials.
49. Thank you for making this site available for us who can not afford an attorney
50. The only issue I have run into with the forms is being able to get rid of the instructions before printing. Still working on figuring that one out.
51. I don't know when I will be able to use it, but my ex has signed a notarized waiver giving me sole custody among other things and I would like to use it in court.
52. all I want to do is simple is to file for my maintaince he is in contempt of court since Dec 23 2010
53. I didn't see any educational information or forms prior to this area.
54. I am looking for a lawyer but I have limited funds and the "Pro Bono" lawyers are backed up. It scares me to have to represent myself for my divorce but it looks like I have no other choice.
55. It took me straight to here and didn't take me to the forms like i needed to go to.
56. civil matters are more difficult than believable, and representing yourself sounds as if it may be reasonable but truly the voice like a lawyer has would not be heard as if a lawyer was arguing the same thing.
57. unable to answer these question because I was not able to access the forms without having to go through this questionnaire.

# Examining *Pro Se* Form Utility and Access

Rick McElfresh  
Program Studies Coordinator

Terri Norris  
Publications Specialist

## Introduction

Missouri courts permit self representation. To assist individuals considering self representation (*pro se*) in family law matters, the Committee on Access to Family Courts developed a website of informational resources. The *Representing Yourself in Missouri Courts, Access to Family Courts* website provides educational materials, legal information and resources, and forms approved by the Supreme Court of Missouri. To gauge the suitability of approved forms for a diverse population of users, website user survey data were collected and analyzed.

## Method

Between January 1, 2010, and April 30, 2011, more than 6,000 website users voluntarily completed a 16 item survey designed to collect demographic information and to assess if website information was helpful in preparing a case. Two survey items directly pertain to approved forms:

- Q1. It was easy to know what forms I needed to use.
- Q2. The forms were easy to use.

Users could respond to each question using a five-point scale ranging from strongly agree to strongly disagree. Responses to these items were used in conjunction with responses to other, potentially relevant, survey items to assess their relationship.

## Significant Findings

### Q1: It was easy to know what forms I needed to use.

- A majority of survey respondents reported they found it easy to know what forms they needed to use.
- Survey respondents who had sought legal counsel were proportionately more likely to strongly agree they found it easy to know what forms they needed to use, conceivably having been directed to these forms by counsel.
- Survey respondents intending to file child support, custody and divorce cases (particularly) were proportionately more likely to agree or strongly agree they found it is easy to know what forms they needed to use. Proportionately, fewer individuals filing less common cases including orders of protection, name change, paternity and visitation agreed with this statement.
- Contrary to what might be expected given the potential complexity and number of forms associated with dissolutions where children and property are involved, proportionately more of these survey respondents reported finding it easy to know what forms they needed to use. Conversely, divorced (no longer married) individuals were proportionately less likely to agree or strongly agree with this statement. Additional analysis shows the majority of no longer married survey respondents indicated custody or child support as the family law matter intending to file.

### Q2: The forms were easy to use.

- A majority of survey respondents reported they found the approved forms easy to use.

- Survey respondents who had sought legal counsel were proportionately more likely to strongly agree they found the approved forms easy to use.
- Although survey respondents with advanced degrees (Doctorate and Professional) were proportionately more likely to strongly agree they found the approved forms easy to use, individuals with professional degrees also were proportionately more likely to strongly disagree with this statement. Otherwise, ease of form use was unrelated to level of education.
- Survey respondents intending to file orders of protection, paternity, visitation and name change cases were proportionately more likely to disagree or strongly disagree they found the approved forms easy to use.
- Survey respondents who are divorced (no longer married) or have been married less than one year were proportionately more likely to disagree or strongly disagree they found the approved forms easy to use.

## **User Comments Regarding Approved Forms**

In addition to responding to fixed choice survey items, website users are permitted to submit comments. Users of the *Representing Yourself in Missouri Courts, Access to Family Courts* website frequently report appreciation and satisfaction with the information provided. Dissatisfaction less often is expressed with the approved forms themselves, but more typically with the following related automation issues:

- Inability to download forms and save information
- Form files not opening and difficulty printing forms

- Forms for specific case types (e.g. adoption) not available
- Examples provided do not address specific need of user (e.g. legal separation)

## Conclusion, Limitation and Recommendations

Difficulties associated with automation aside, users of the *Representing Yourself in Missouri Courts, Access to Family Courts* website generally appear satisfied with the information and guidance provided for the approved forms. However, interpretation of survey findings is limited by the nature of website organization. While dissolution forms have been available to users since initial website deployment, custody, support and paternity forms have been available for less than a year. Additionally, forms related to name change remain unavailable. As a result, the somewhat less than positive findings related to locating and using these forms may not have resulted from confusion over locating and using the forms, but rather from the fact that users were attempting to locate these forms prior to their availability.

Recommendations for improvements to better evaluate satisfaction with the website and forms include:

- Eliminate “No Opinion” as a survey item response
- Add survey item assessing behavioral intent to file a *pro se* case
- Add information pertaining to legal separation



Office of State Courts Administrator  
2112 Industrial Drive  
P.O. Box 104480  
Jefferson City, MO 65110  
(573) 751-4377 [www.courts.mo.gov](http://www.courts.mo.gov)

CAFC Website Committee Task List

08-24-11

Task	Recomm	App'd CAFC	STATUS
<b>1. First time visitor page</b> Delete page and redistribute information		X	completed
<b>2. Military Families page</b> Add new icon and webpage		X	pending
<b>3. FAQ page</b> Update with questions generated by recent survey comments and sort FAQ's by topic	X		
<b>4. Glossary</b> Bookmark terms in website text so they link to the word directly instead of the top of the glossary list  Move all terms to glossary on CAFC site	X		
<b>5. Local Court &amp; clerk references</b> include a complete list of Circuit clerks, addresses and Circuit websites on interactive map	X		Pending, List has been given to Terry
<b>6. Litigant Awareness Program</b> Place "name change" section in LAP (forms not yet approved)  "None" choice for type of matter needs to be redirected to certificate of completion instead of home page  Change information about court costs for each type of matter (see suggestion attached)  Convert certificate of completion to Abode	X     X  X		Completed
<b>7. LAP en Espanol</b> All pages in Spanish and linked to video in Spanish  Alt. Certificate of completion in both English and Spanish	  X	X	Translation complete and given to Terry. Paternity establish LAP section in Spanish is active

Task	Recomm	App'd CAFC	STATUS
<b>8. Forms Packets</b>			
Create a separate packet for Answer	X		Complete
Standardize information about downloading forms with Adobe (ex - page 38352)			
Add LAP requirement to pop-up warning	X		Complete
Add LSR notice to pop-up warning	X		
Link survey reminder to forms information page			Complete
Include case and party type codes link for filling in confidential information filing sheet			Complete (except divorce packet does not have codes)
Include information on court costs and in forma pauperus in each form packet			Complete except for divorce packet
<b>9. Getting a Lawyer</b>			
expand information about limited scope representation			pending
<b>10. General</b>			
standardize "BACK" button to go to previous page and "HOME" button to go to homepage			

## CAFC website revision to “Getting a Lawyer”

Limited Scope Representation: It is always best to be informed about your legal rights. New rules allow Missouri lawyers to assist people of modest means with some of the legal work in their case. The client remains responsible for tasks not handled by the lawyer.. Examples of work the lawyer may perform include: consulting about legal rights and strategies, preparation of court documents, and appearing in court with the client to prove up an uncontested case. Lawyers may charge by the task or by the hour. The fee is generally based on the amount of work performed by the lawyer.

\* \* \* \* \*

## CAFC website revision on court costs in LAP program

Suggestion: Delete the text below and insert the text following from page 3833

### “What will it cost to file?”

Filing fee information from your local court may be posted [online](#). Otherwise, contact the circuit clerk at [your local courthouse](#). Some circuits do not charge a filing fee for stipulations for modification”

### “Court Costs

The circuit clerk may assist you in determining the amount of the filing fee. Some circuits also post the filing fees on their circuit's Web site. [Click here](#) to access the list of Missouri counties. If the filing fees are not listed, you should contact the circuit clerk's office.

You also will have fees for serving summons on each of the other parties in your case. The circuit clerk usually will be able to tell you the amount of the fee charged by the sheriff for service. If you use a private process server you should ask the process server about the cost. If you are notifying a party by publication, check with the publisher regarding the cost.”

<http://www.selfrepresent.mo.gov/page.jsp?id=3833>



## State Judicial Records Committee

2112 INDUSTRIAL DRIVE  
P. O. BOX 104480  
JEFFERSON CITY, MISSOURI  
65110

PHONE (573)751-4377  
FAX (573)522-5961

August 10, 2011

Lori Levine  
Attorney at Law  
Carson & Coil  
PO Box 28  
Jefferson City, MO 65105

The Honorable Dennis Smith  
Judge, 21<sup>st</sup> Judicial Circuit  
7900 Carondelet  
Clayton, MO 63105

Dear Chairman Levine and Judge Smith:

The State Judicial Records Committee (SJRC) reviewed the following forms at our July 15, 2011 meeting:

CAFC040 – Direction and Information  
CAFC040 – Property and Debt Statement and Proposed Separation Agreement  
CAFC303 – Presumed Father’s Petition for Declaration of Non-Paternity  
CAFC371 – Judgment of Non-Paternity  
CAFC401 – Petition for name Change  
CAFC470 – Change of Name Judgment  
CAFC701 – Notice of Change of Address  
CAFC711 – Request for Personal Service  
CAFC721 – Request for Service by Publication  
CAFC001 - Dissolution Petition  
CAFC010 - Dissolution Answer  
CAFC050 - Dissolution Income Expense  
CAFC070 - Dissolution Judgment

In addition, the SJRC reviewed the Family Court Committee’s (FCC) comments regarding the forms. The SJRC has the following comments.

---

**MEMBERS OF THE COMMITTEE**

JUDGE JIMMIE M EDWARDS, CHAIR  
JUDGE CAROL ENGLAND  
JUDGE DANIEL F. KELLOGG  
JUDGE JOEL MILLER

JUDGE JEFFREY BATES  
JUDGE THOMAS C. GRADY  
JUDGE JOHN LEPAGE  
JUDGE KURT S. ODENWALD  
September 2011 Agenda

JUDGE KARL DEMARCE  
JUDGE PATRICIA JOYCE  
JUDGE EDITH LOUSE MESSINA  
JUDGE MARK D. SEIGEL  
Page 70 of 83

- Form CAFC040 – The SJRC concurs with the FCC’s in recommending that a copy of the General Warranty Deed be attached if available.
- Form CAFC401 – Recommends that the blank for Hospital NOT be added. It is requiring something that the rules do not require be pled.
- Forms CAFC 303 and CAFC 371 – Recommend that these forms not be included on the Representing Yourself website.

Please let me know if you have any questions.

Sincerely,

Jimmie Edwards  
Chair, SJRC

---

**MEMBERS OF THE COMMITTEE**

JUDGE JIMMIE M EDWARDS, CHAIR  
JUDGE CAROL ENGLAND  
JUDGE DANIEL F. KELLOGG  
JUDGE JOEL MILLER

JUDGE JEFFREY BATES  
JUDGE THOMAS C. GRADY  
JUDGE JOHN LEPAGE  
JUDGE KURT S. ODENWALD  
September 2011 Agenda

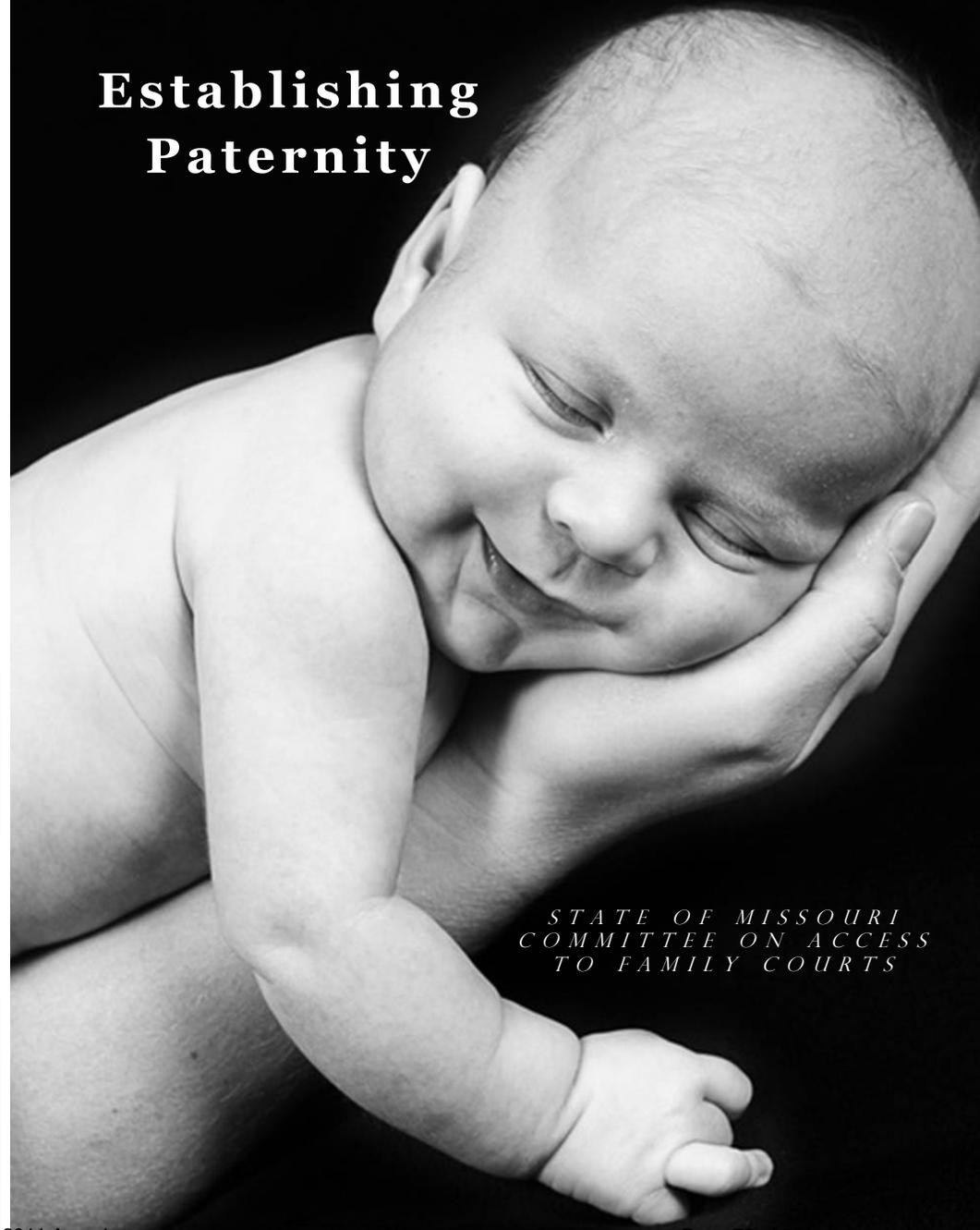
JUDGE KARL DEMARCE  
JUDGE PATRICIA JOYCE  
JUDGE EDITH LOUSE MESSINA  
JUDGE MARK D. SEIGEL  
Page 71 of 83



*Committee on Access to Family Courts*

*WHAT EVERY PARENT SHOULD KNOW ABOUT*

# **Establishing Paternity**



*STATE OF MISSOURI  
COMMITTEE ON ACCESS  
TO FAMILY COURTS*

## GLOSSARY

Action to establish paternity – a lawsuit to determine the parent-child relationship.

Child support – specific amount of money a non-custodial parent is required to pay to the custodial parent for support of their child. Child support may be set by Court order or administrative order by the Family Support Division.

Biological Parent – the natural father or mother of a child.

Custodial Parent – parent who has primary care of a child; person to whom a child support obligation is owed.

FSD-CSE – a division of the Missouri Department of Social Services, the Family Support Division and Child Support Enforcement has responsibility for enforcing child support and establishment of paternity.

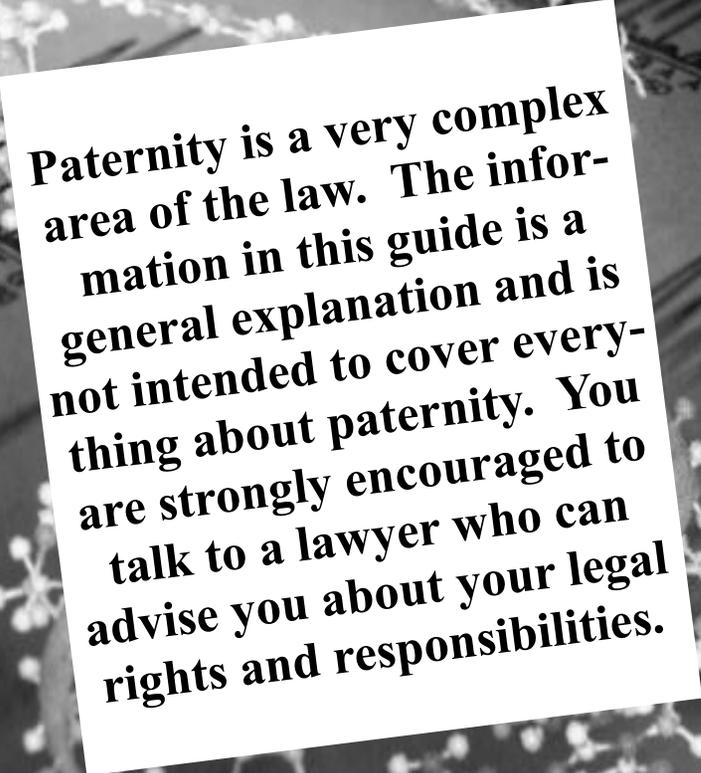
Genetic test – a laboratory comparison of sample tissues to determine the biological match between mother, father and child.

Legal Parent - person who is recognized by law as a parent with legal rights and responsibilities for a child.

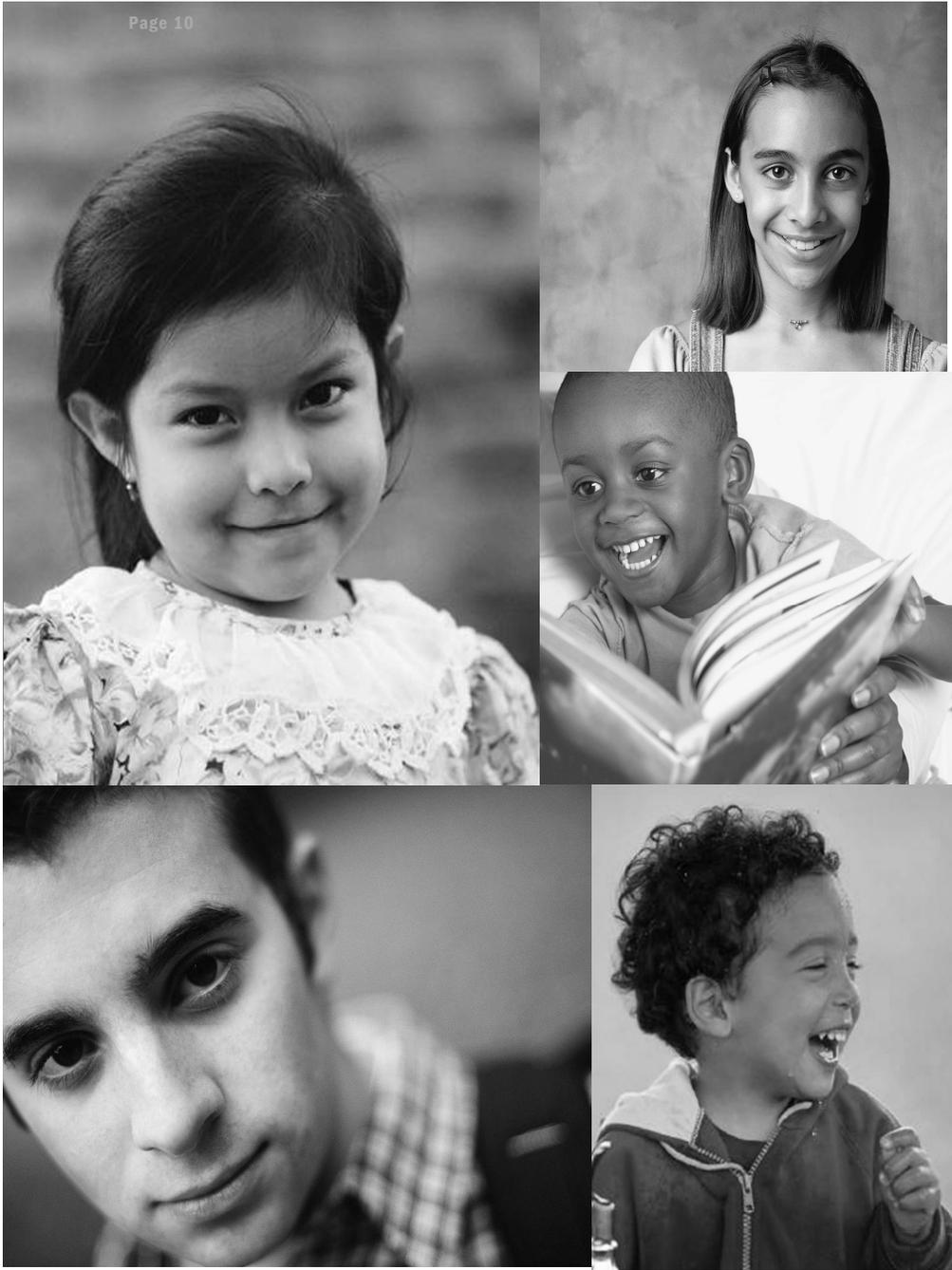
Minor – a person who is under the legal age.

Next friend – a person or agency appointed to act on behalf of a minor in a court action.

Parenting Plan – an arrangement that states the responsibilities of the parents to care for and make decisions for their child, and how disputes will be decided between parents.



**Paternity is a very complex area of the law. The information in this guide is a general explanation and is not intended to cover everything about paternity. You are strongly encouraged to talk to a lawyer who can advise you about your legal rights and responsibilities.**



**What is paternity?**

Paternity means fatherhood. Establishing paternity provides your child with a legal father.

**Why is establishing paternity important?**

Every child has the right to a parent-child relationship with both parents. Children, mothers, and fathers deserve the opportunity to develop, enjoy, and grow in a relationship.

**WELLBEING:** Fathers are an important part of their children's lives . When both parents share the responsibilities of parenthood, children are more likely to stay off drugs, finish high school, stay out of jail, delay pregnancy and earn more money as adults.

**IDENTITY:** It is important to know who we are. Your child has the right to the sense of belonging that comes from knowing both parents. When you establish paternity the fathers name can be included on the child's birth certificate.

**MONEY:** Federal and State laws require both parents to support their children. This is true even with an unplanned pregnancy. Children supported by one parent often do not have enough money for their needs.

**BENEFITS:** Your child has the right to other benefits from both parents. These may include social security, insurance benefits (including medical), inheritance rights, veterans' benefits and other types of benefits.

**MEDICAL:** Children need to know if they have inherited any special health problems. If a child develops a special condition, it may be necessary to identify relatives with compatible tissue types. Employers usually require paternity to be established before a father can add his child to his health insurance plan.

### **How can a man be recognized as the father?**

*Consent:* mother and father may both sign an Affidavit Acknowledging Paternity in the hospital at the time the child is born;

*Declaration of Paternity:* a man who believes he is the father of the child can file a Declaration of paternity with the Missouri Bureau of Vital Records.

*Court Order:* the Missouri Family Support Division may file with the court to establish paternity and child support, or a suit to establish paternity can be filed directly by an interested party.

If the mother is married when she became pregnant, or when the child is born, her husband is considered by law to be the father unless a court determines that the husband is not the father. In the hospital, the husband's name will be put on the child's birth certificate.

The father can acknowledge paternity even if he is married to someone other than the mother of the child.

### **What else do we need to know about voluntarily acknowledging paternity?**

You are accepting the rights and responsibilities that come with raising a child when you voluntarily acknowledge paternity. Those rights and responsibilities include the following:

- Both parents have a right to frequent, significant and meaningful contact with the child as they both agree or as ordered by a court.
- Both parents have a right to notice and a hearing regarding the termination of their parental rights and/or the adoption of the child.
- Both parents have the responsibility to support the child and comply with an order for child support.

### **How long after a child is born can paternity be established?**

Parents can voluntarily establish paternity for their child by completing an affidavit acknowledging paternity any time after their child's birth regardless of the child's age. If the parents do not agree to establish paternity, one of the parents can bring an action to establish paternity for the child at any time up to the child's 18<sup>th</sup> birthday. Children can bring an action to establish paternity for themselves between the ages of 18 and 21.



**What if there is domestic violence or concerns about child abuse?**

If you are the victim of domestic violence there are resources available to assist you. You can call the Missouri Coalition Against Domestic and Sexual Violence (MCADSV) at (573) 634-4161 for information or contact a local domestic violence program in your area. These programs have advocates who can assist you in setting up a safety plan and explore choices with you about how to best protect you and your child before you consider starting a paternity action.

**Where do I get help in establishing a child support order?**

For free help contact your local Family Support Division – Child Support Enforcement office (FSD-CSE). You do not have to be on public assistance to seek help from the child support specialist. Private attorneys also can help establish a child support order.

**Will one of the parents have to pay support?**

When the parents voluntarily sign an affidavit acknowledging paternity, there’s no order for support or medical coverage. FSD-CSE or a court can enter an order for support at the request of a parent or the child’s custodian. The parent who does not live with the child is usually required to provide financial and medical support. State law sets the amount of support. It is based on the needs of the child and both parents’ income and ability to pay. (add link here)

**Can paternity be established if the father lives outside of Missouri?**

Yes. Sometimes this can be done through Missouri courts. If not, the FSD-CSE will provide help to locate the alleged father or initiate interstate procedures.



### **What if the alleged father refuses to acknowledge paternity?**

If the mother and father don't agree to establish paternity, either parent can ask FSD-CSE for help. Either parent can also talk with a private attorney. When the parents don't agree to establish paternity, FSD-CSE or a court can order the genetic test at the request of a parent or the child's custodian. Once the genetic test has been completed, FSD-CSE or the court may enter an order establishing paternity without the consent of the parents.

### **How is genetic testing done?**

If genetic testing is necessary in your case, you will be scheduled for tissue sampling from an acceptable laboratory in your area. A tissue sample will be taken from the alleged father, the mother, and the child. The tests compare many different and complex details of the child's tissue sample with similar details in the mother's and alleged father's tissue samples. If the results show at least a 98% probability that the man is the father, then Missouri law says he is the presumed father.

### **Who pays for genetic testing?**

A court decides who pays for the genetic testing. A court usually orders the alleged father to pay costs if he is found to be the father. When a case is opened with FSD-CSE, the state of Missouri may pay for the cost of the genetic test.

### **What if the father or mother is not 18?**

A court will appoint an adult as "next friend" for a minor who is alleged to be the mother or father of the child. The parents of the underage mother or father may be required to pay child support for the child until the parent of the child becomes an adult.

### **How are parenting arrangements decided?**

Parents should try to agree on parenting arrangements for their child. Either parent has the right to seek court ordered parenting arrangements. Having a court determination of paternity and parenting arrangements has many benefits for children and their parents. For example, the only way to have enforceable parenting time is to have a court order.

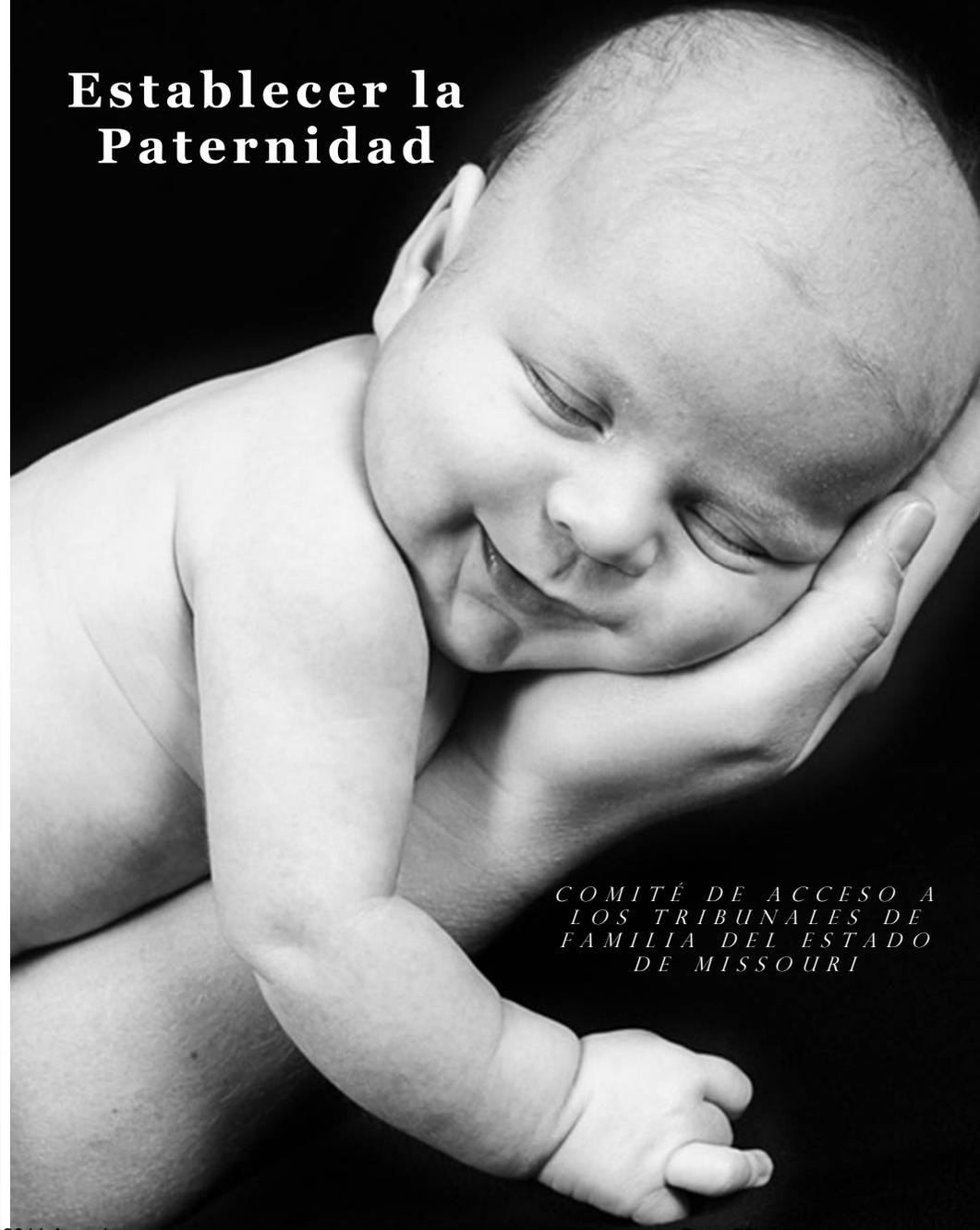




*Comité de Acceso a los Tribunales de Familia*

*LO QUE TODO PADRE DEBERÍA SABER SOBRE*

## **Establecer la Paternidad**



*COMITÉ DE ACCESO A  
LOS TRIBUNALES DE  
FAMILIA DEL ESTADO  
DE MISSOURI*

## GLOSARIO

Petición para establecer paternidad – una demanda para determinar la relación padre-hijo.

Manutención del niño – monto específico de dinero que el padre que no tiene la custodia está obligado a pagar al padre de custodia para mantener a su hijo. La manutención del niño puede ser establecida por orden de la Corte u orden administrativa por la División de Manutención Familiar.

Padre Biológico – el padre o madre natural de un niño.

Padre de Custodia – el padre que tiene la atención primaria de un hijo; persona a quien se le debe la obligación de manutención del niño.

FSD-CSE – una división del Departamento de Servicios Sociales de Missouri, la División de Manutención Familiar y Cumplimiento de Manutención del Niño tiene la responsabilidad de hacer cumplir la manutención del niño y el establecimiento de la paternidad.

Prueba genética – estudio de laboratorio de muestras de tejido para determinar la coincidencia biológica entre madre, padre e hijo.

Padre Legal - persona reconocida por la ley como padre con derechos legales y responsabilidades sobre un hijo.

Menor – una persona que está por debajo de la edad legal.

Amigo cercano – una persona o agencia designada para actuar en nombre de un menor en una acción judicial.

Plan de Crianza – un acuerdo que declara las responsabilidades de los padres para el cuidado y toma de decisiones sobre su hijo, y cómo se decidirán las diferencias entre los padres.

Paternidad – paternidad de un hijo, establecer paternidad significa reconocer el estado legal entre un padre biológico y un hijo.

**La paternidad es un área muy complicada de la ley. La información en esta guía es una explicación general. No pretende cubrir todo sobre paternidad. Debería hablar con un abogado para recibir asesoramiento sobre sus derechos y responsabilidades legales.**



### ¿Qué es la paternidad?

Paternidad significa ser padre. Establecer la paternidad le brinda a su hijo un padre legal.

### ¿Por qué es importante establecer la paternidad ?

Todo niño tiene el derecho a una relación padre-hijo con ambos padres. Los hijos, madres y padres se merecen la oportunidad de desarrollar, disfrutar y cultivar una relación.

**BIENESTAR:** Los padres son una parte importante de la vida de los hijos. Cuando ambos padres comparten la responsabilidad de ser padres, los hijos tienen más probabilidad de mantenerse lejos de las drogas, finalizar la preparatoria, no ir la cárcel, esperar antes de embarazarse y ganar más dinero como adultos.

**IDENTIDAD:** Es importante saber quiénes somos. Su hijo tiene derecho al sentido de pertenencia que proviene de conocer a ambos padres. Cuando usted establece la Paternidad el nombre del padre puede ser incluido en el certificado de nacimiento del hijo.

**DINERO:** Las leyes Nacionales y Estatales exigen que ambos padres mantengan a sus hijos. Esto es cierto incluso con un embarazo no planeado. Los hijos mantenidos por un padre por lo general no tienen suficiente dinero para sus necesidades.

**BENEFICIOS:** Su hijo tiene derecho a otros beneficios de ambos padres. Los mismos pueden incluir seguridad social, beneficios de seguro (incluyendo seguro médico), derechos de herencia, beneficios de veteranos y otros tipos de beneficios.

**SALUD:** Los hijos necesitan saber si han heredado algún problema de salud especial. Si un niño desarrolla una enfermedad especial, puede ser necesario identificar familiares con tipos de tejido compatible. Los empleadores normalmente exigen establecer la paternidad antes de que un padre pueda agregar a este hijo a su plan de seguro de salud.

### ¿Cómo puede un hombre ser reconocido como el padre?

*Consentimiento:* La madre y el padre pueden presentar ambos una Declaración Jurada de Reconocimiento de Paternidad en el hospital al momento del nacimiento del niño.

*Declaración de Paternidad:* un hombre quien cree que es el padre de un niño puede presentar una Declaración de Paternidad con la Oficina del Registro Civil de Missouri.

*Orden de la Corte:* La División de Manutención Familiar de Missouri se puede presentar en el Tribunal para establecer la paternidad y manutención del niño, o directamente una parte interesada puede presentar una demanda para establecer la paternidad.

Si la madre está casada en el momento de quedar embarazada, o cuando nace el niño, su marido es considerado por la ley como padre, a menos que un Tribunal determine que el marido no lo es. En el hospital, se pondrá el nombre del marido en el certificado de nacimiento del niño.

El padre puede reconocer la paternidad aún si está casado con otra persona que no es la madre del niño.

### ¿Qué más necesitamos saber sobre reconocer voluntariamente la paternidad?

- Está aceptando los derechos y responsabilidad que vienen con la crianza de un niño al reconocer voluntariamente la paternidad. Dichos derechos y responsabilidades incluyen lo siguiente:
- Ambos padres tienen el derecho a un contacto frecuente, significativo y útil con el niño como ambos lo acordaron o como lo ordenó un Tribunal.
- Ambos padres tienen derecho a la notificación y audiencia con respecto a la terminación de su patria potestad y/o a la adopción del niño.
- Ambos padres tienen la responsabilidad de manutención del niño y a cumplir con una orden para manutención del niño.

### ¿Cuánto tiempo después de nacido el niño se puede establecer la paternidad?

Los padres pueden establecer voluntariamente la paternidad por su hijo completando una declaración jurada de reconocimiento de paternidad en cualquier momento luego del nacimiento de su hijo sin importar la edad del mismo. Si los padres no se ponen de acuerdo para establecer la paternidad, uno de los padres puede llevar adelante una petición para establecer la paternidad del niño en cualquier momento hasta que el mismo cumpla 18 años de edad. Los hijos pueden llevar adelante una petición para establecer la paternidad por ellos mismos entre los 18 y 21 años de edad.



### **¿Qué sucede si hay violencia doméstica o preocupación por abuso infantil?**

Si usted es víctima de violencia doméstica existen recursos disponibles para asistirlo. Puede llamar a la Coalición Contra Violencia Doméstica y Sexual de Missouri (MCADSV) al (573) 634-4161 para obtener información o contactar un programa de violencia doméstica local en su área. Estos programas tienen defensores que pueden asistirlo en establecer un plan de seguridad y pueden investigar con usted opciones sobre cuál es la mejor forma de protegerlo a usted y su hijo antes de que considere iniciar una acción de paternidad.

### **¿Dónde puede obtener ayuda para establecer una orden de manutención del niño?**

Para recibir ayuda gratuita, contacte a su División de Manutención Familiar local – oficina de Cumplimiento de Manutención del Niño (FSD-CSE). No tiene que estar en asistencia pública para buscar ayuda de especialistas en manutención del niño. Los abogados privados también pueden ayudar a establecer una orden de manutención del niño.

### **¿Uno de los padres tendrá que pagar la manutención?**

Cuando los padres firman voluntariamente una declaración jurada de reconocimiento de paternidad, no hay una orden para manutención o cobertura médica. FSD-CSE o un Tribunal pueden ingresar una orden para manutención por pedido de un padre o el tutor del niño. Normalmente se solicita al padre que no vive con el niño que proporcione manutención financiera y médica. La ley del estado fija el monto de manutención. El mismo se basa en las necesidades del niño y el ingreso de ambos padres y la capacidad de pago.

### **¿Se puede establecer la paternidad si el padre vive fuera de Missouri?**

Sí. A veces esto se puede hacer a través de los Tribunales de Missouri. De no ser así, el FSD-CSE proporcionará ayuda para localizar al presunto padre o iniciar procedimientos interestatales.



### **¿Qué sucede si el presunto padre se niega reconocer la paternidad?**

Si la madre y el padre no acuerdan establecer la paternidad, cualquiera de los dos padres puede solicitar ayuda al FSD-CSE. Cualquiera de los padres también puede hablar con un abogado privado. Cuando los padres no acuerdan establecer la paternidad, el FSD-SE o un Tribunal puede ordenar una prueba genética a petición de un padre o del tutor del niño. Una vez que la prueba genética está completa, el FSD-CSE o el Tribunal pueden ingresar una orden para establecer la paternidad sin el consentimiento de los padres.

### **¿Cómo se hace la prueba genética?**

Si en su caso es necesaria una prueba genética, se lo citará desde un laboratorio aceptable para tomar una muestra de tejido. Se tomará una muestra de tejido del presunto padre, de la madre y del niño. La prueba compara varias partes diferentes y complejas de la muestra de tejido del niño con partes similares en las muestras de tejido de la madre y del presunto padre. Si los resultados muestran que al menos hay un 98% de probabilidad que el hombre sea el padre, entonces la ley de Missouri dice que él es el presunto padre.

### **¿Qué sucede si el padre o la madre no tienen 18 años?**

Un Tribunal designará a un adulto como “amigo cercano” para el menor que se presume es la madre o padre del niño. Se puede solicitar que los padres de la madre o padre menor de edad paguen la manutención del niño hasta que el padre del mismo sea adulto.

### **¿Cómo se deciden los acuerdos de crianza?**

Los padres deberían tratar de acordar los arreglos de crianza para su hijo. Cualquiera de los dos padres tiene el derecho a buscar acuerdos de crianza ordenados por el tribunal. Tener una determinación del Tribunal sobre paternidad y acuerdos de crianza tiene muchos beneficios para los niños y sus padres. Por ejemplo, la única manera de tener un tiempo de crianza ejecutable es contar con una orden del Tribunal.

