



Connection

UNIVERSITY OF BALTIMORE SCHOOL OF LAW ■ CENTER FOR FAMILIES, CHILDREN AND THE COURTS

Access to Justice: Economic Crisis Challenges, Impacts, and Responses

BY RICHARD ZORZA

How is the economic crisis impacting the need for access to justice, the self-represented, the courts, and programs that respond to the need? What can courts do to ensure that self-represented litigants get the help they need?

It is no surprise that the economic crisis is dramatically impacting both the numbers and proportion of self-represented litigants. In a 2009 survey conducted by the Self-Represented Litigation Network, between 50 and 60 percent of judges reported higher caseloads and a higher percentage of the self-represented as a result of the crisis (with many reporting both). Only 27 percent reported no impact, and many of those were criminal-court

judges (see Figure 1).^[1]

Some courts and judges are also seeing many more middle-class litigants coming to court without lawyers. Some of these litigants are reported to have higher expectations of how

MEETING COURAGE WITH COURAGE:

Eliciting and Responding to the Experiences of the Self-Represented

BY PAMELA CARDULLO ORTIZ

Malika S. needed to communicate with the court on a matter concerning her custody case. After her lawyer withdrew from the case, she found it difficult to secure another attorney. Her case was pending and she realized that she needed to take action.

Malika S. wrote the judge a letter. In fact, she wrote the judge several letters. "I'm foreign-born and I don't know the legal system," she wrote. In her country, she said, it is appropriate to write to the judge. "I didn't know that was a mistake. I didn't know I wasn't allowed to do that."

Today, she realizes that her lack of knowledge of the justice system and her lack of counsel had a significant impact on the outcome of her case. At one point, opposing counsel recommended a custody evaluation. She refused to consent, believing that, if opposing counsel was recommending it, then it must be to her disadvantage.

She now recognizes, to the contrary, that a custody evaluation could have worked to support her position. "Basically, it was difficult," she said. "It's

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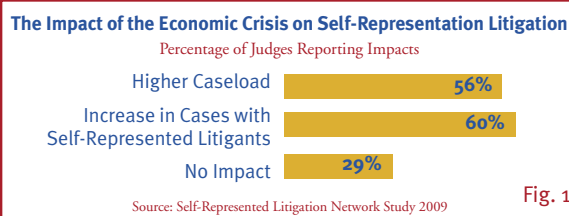


Fig. 1

they will be treated and to be more prone to frustration with the situation and how courts are managing it.

Courts, however, are not currently cutting their self-help services budgets as heavily as they are cutting the overall court budgets. Almost 60 percent of court

self-help programs responding to a separate survey reported cuts in the courts (see Figure 2). However, only somewhat over 30 percent reported cuts in self-help services budgets.

There is a very important message in these numbers. Even though these are new

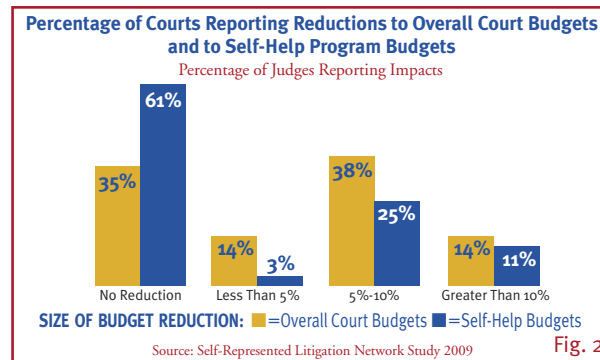


Fig. 2

programs, courts are valuing them sufficiently to protect them against the overall rate of cuts. Courts that are cutting or planning to cut self-help programs at the same or greater levels than the overall court budget should be asking themselves if there is a reason they are behaving differently from other courts.

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Self-Represented Clients: Myriad of Issues in Family Courts

As the number of self-represented clients continues to increase in family courts nationwide, the courts are grappling with the issue of how to help them best access their right to civil justice.

The articles in this issue address the problems facing self-represented clients in family courts, the impact of the economic crisis on clients and the courts, the ways in which family courts meet the needs of self-represented litigants and solutions to the difficulties caused by language barriers.

Attorneys, judges, court personnel and the public often use the term self represented interchangeably with pro se.

Richard Zorza, coordinator of the national Self-Represented Litigation Network, writes about the effects of the recession on self-represented clients.

Pamela Cardullo Ortiz, executive director of the Maryland Access to Justice Commission, analyzes the challenges facing the self-represented in family courts and how the Maryland Administrative Office of the Courts is trying to meet those challenges.

Avi Sickel, branch chief of the District of Columbia Family Court Self Help Center, discusses how family courts deal with self-represented family members.

Laura Abel, deputy director of the New York University School of Law Brennan Center for Justice Program, offers her perspective on court programs and processes that address language access problems facing pro se clients in state courts nationwide.

We hope this issue provides perspectives that illuminate the myriad of issues facing courts today when dealing with self-represented clients. It goes without saying that greater access to counsel is a meaningful way to obviate the problems described. Indeed, there is an active movement to assure that in critical family law cases, the right to counsel is established. More information about the right to counsel can be found at the National Coalition for a Civil Right to Counsel website, www.civilrighttocounsel.org.



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Responding to the Self-Represented

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Explanatory materials need to be delivered through media that is accessible to everyone.

impossible. If you don't know the game, you don't know how to ask the question. You don't know how to organize yourself. You don't know what to ask for."

Malika S. took the opportunity to share her experience with the Maryland court system at "Tell Us What You Think: An Access to Justice Listening Event," a series of ten regional Listening Events held in 2009 as part of a year-long public inquiry process launched by the Maryland Access to Justice Commission. The goal was to garner input from self-represented litigants, court users, advocates, and stakeholders about Maryland's civil justice system. The commission especially has been interested in the experience of self-represented court users, like Malika S., because they help the judiciary, legal services providers, the Bar, and other justice system partners put a face on the phenomenon of self-representation.

Litigants in family court cases face a range of obstacles when they encounter the system without the assistance of counsel. Forms, legal content websites, and online materials can help litigants navigate the pleadings phase of litigation, but these resources do not offer the strategic guidance that an attorney can provide. Many litigants do not know where to begin and feel they could benefit from a general overview of the process.

Tekyia B., a self-described "very smart" and literate woman, sought to enforce an out-of-state child support order without counsel, having spent considerable sums litigating the initial case. Still, she felt she would have benefited from having an advocate "to explain what the steps are." Online information enables court users to "read through and re-read again" the necessary information.

Tekyia B. said she had many questions, including "What do I need to do? What do I need to bring? What is the experience going to be like?"

"I felt almost blindsided," she said, despite her prior court experiences and educated self-confidence.

When such materials are available, they need to be delivered through media that is accessible to everyone.

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Responding to the Self-Represented *from previous page*

In an interview conducted in conjunction with a recent Listening Event, Melissa Riccobono, Executive Director of the National Federation of the Blind, has noted “pro se representation is not possible for the blind because the documents are not accessible.” PDF documents and other files cannot be read with the types of screen-reading software used by the blind unless those documents are carefully formatted. Websites that use photos or videos to illustrate information need to tag those media with text files or to provide audio versions of the same material.

Maryland Legal Aid Bureau Senior Advocate Jennifer Goldberg notes that court notices and documents often use small typefaces. Such notices should be provided with larger fonts and sufficient contrast to improve readability. Date stamps and key information often can be too light for seniors or the visually impaired.

Crowded dockets, chaotic courtrooms, and expedited procedures can intimidate those without counsel and make it more likely that litigants will miss hearing their cases called or will fail to understand what is going on around them. Litigants also become upset to learn that their family cases, where intimate matters may be discussed, will be heard in open court in full view of others.

As Tekyia B. noted at a Listening Event, “Before going to court...I needed to know that my case before the master would be held in front of several other clients waiting with me inside the master’s chamber. There was no privacy as details of my life and my child’s life were openly discussed in front of strangers. And I’ll never forget feeling like part of a herd of sheep going through the courthouse.”

Advocates and litigants alike urge courts to rethink and restructure the courtroom experience to better serve the uninitiated.

Victims of domestic violence particularly are vulnerable when unassisted by counsel. With an increasing emphasis on mediation and settlement in family courts, these litigants may feel pressured to resolve their cases by consent. This may require negotiating with an intimate partner and his or her attorney, despite a history of abuse.

Eugene Morris, an advocate at the Montgomery County (Maryland) Abused Persons’ Program and president of the Board of the Maryland Network Against Domestic Violence, points out that the ability to request an interim protective order after-hours has been a benefit, but victims do not have recourse to advocates and other resources available during the day. The location and environment can be quite intimidating.

“We hear stories of individuals that come to file [after hours] and then just leave,” said Morris.

Court users report with frustration their many attempts to obtain legal assistance. The self-represented find themselves going to

Litigants become upset to learn that their family case, where intimate matters may be discussed, will be heard in open court in full view of others.

court unaided despite their best efforts to secure counsel.

This dovetails with reports by legal services providers who note they are not even close to being able to meet the demand for their services. Since the economic downturn began in late 2008, the Maryland Legal Aid Bureau has reported a 64 percent increase in demand and a 73 percent increase in the number of prospective clients whom they are unable

to serve. The cost of counsel remains out of reach for many.

In written testimony to the commission, one Western Maryland resident put it this way: “Unemployment in Washington County is...above 9 percent. Should the families here in Hagerstown and surrounding areas have to choose between food on their tables or attorneys’ fees?” Advocates and court users alike continue to call for increased funding for civil legal services to ensure access to counsel for those whose cases are inappropriate for self-representation.

Chief Justice John Broderick of New Hampshire challenged members of the Maryland Access to Justice Commission in his keynote address at the commission’s first meeting in fall 2008. He urged the commission to consider “re-designing the courts from the front door to the judge’s bench.” Recognizing that, as insiders, our own perspective on such a re-design was insufficient to the task, Chief Justice Broderick urged the commission to hear from others.

Through these Listening Events, the Maryland judiciary and its justice system partners have an opportunity do just that. These shared experiences provide an insight into the public perception of the civil and family justice system, and they color the public’s trust and confidence in the courts. If courts truly want to enhance public trust and confidence, they must be willing to listen and respond to concerns.

As Tekyia B. noted, “[A]t first I was nervous about sharing my private life . . . but I think it is important for the public to know that there are changes that can be made to the system and that, unless we speak up as regular people who have been in the system and through difficult challenges, no one is going to stand up for us.”

Courts can honor the valor that these individuals exhibit in coming forward by having the courage to change.



Pamela Cardullo Ortiz, Esq., is the executive director of the Maryland Access to Justice Commission, which was appointed by Maryland Chief Judge Robert M. Bell in 2008 to enhance access to the civil justice system for all Marylanders. Ortiz staffs the Commission and its six committees and works with the State’s many justice system partners to improve access to the courts and to justice for the indigent and those facing critical barriers.

Economic Crisis Challenges, Impacts, and Responses from pg. 1

WHAT IS THE IMPACT IN THE COURTROOM?

As would be suspected, these cuts have a significant impact on litigants and court processes. Ninety percent of judges reported that cuts in self-help

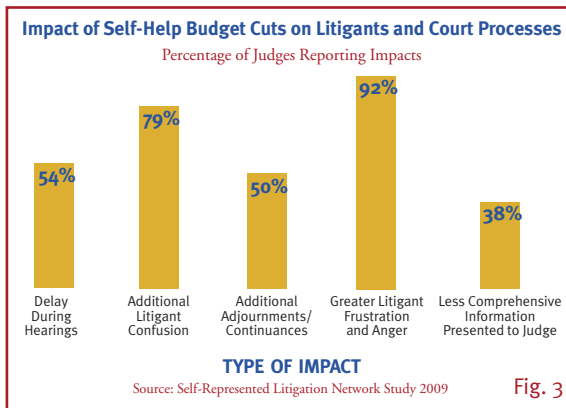


Fig. 3

programs had caused greater litigant frustration and anger, almost 80 percent reported additional litigant confusion at the hearing, and 50 percent reported additional adjournments (see Figure 3)—

this last obviously having a significant additional financial impact on the whole court's operations, as well as on litigants.

HOW ARE SELF-HELP PROGRAMS AND COURTS RESPONDING TO THIS NEED?

We are seeing a broad range of immediate, cost-effective program modifications and innovations. Among those reported in the surveys:

- ▶ Instituting an eviction-defense workshop in coordination with the local law library;
- ▶ Producing a fact sheet on whether responding to a debt-collection lawsuit is a good idea (meritorious defenses vs. higher attorneys' fees) and alerting litigants to the availability of post-judgment relief;
- ▶ Improving referral information and adding evening and weekend hours to the self-help center;
- ▶ Contracting with the local 2-1-1 provider (phone-based resource information system) to provide community referrals;
- ▶ Developing "take away" packets and requiring people to attempt to use these on their own first;
- ▶ Recruiting more volunteers to work in the self-help centers;
- ▶ Instituting small-claims mediation;
- ▶ Opening a self-help after-hours program at a local library;
- ▶ Increasing the number of court days;
- ▶ Creating a foreclosure answer packet; and
- ▶ Starting a special pre-conferencing program to assist those facing foreclosure by helping them get all their paperwork in order and then bringing both sides together to try to work out a compromise.

A strong theme emerging from these reports is the importance of collaborative work, often with local law libraries and legal aid programs. Some courts have moved their self-help programs into the law library, while others have cooperated with the law library to create a joint program.

WHAT ARE THE MOST COST-EFFECTIVE IDEAS FOR RESPONDING TO THE EXPANDING NEED?

In the medium term, the Self-Represented Litigation Network recommends the following as highly cost-effective, well-tested innovations. These can all be put in place with relative ease even when resources are tight and the staff is under pressure.

Law Library Partnering: Law libraries offer staff, resources, and skill. In many more states they are now working closely with courts to establish and support self-help programs, clinics, and information-access points. In Austin, Texas, library reference attorneys even sit in the courtroom to help "unblock" cases that are not moving. This is all highly cost-effective.

Unbundling—Discrete Task Representation: This concept—that attorneys and clients can agree that the attorney will handle only a part of the case, such as preparing the papers, or the actual court appearance on one issue—is spreading rapidly. It is a win-win-win situation. The litigant gets a lawyer when he or she really needs it, the lawyer gets business, and the court gets the lawyer's focus in moving the case. In some states, such as Massachusetts, the courts have taken a major role in working with the bar to pilot and promote the concept, in part by making the rule changes, issuing the orders that facilitate adoption of the rules, and organizing training for attorneys. In others the technique is used with volunteer "attorney-of-the-day" programs, in some cases leveraging the availability of those whose hiring by major law firms has been deferred.

Clerk and Staff Training: Many states have trained their clerks and other staff on what can and cannot be done to assist the self-represented. Model curriculum materials are available. This costs very little, is much appreciated by the clerks and staff, and has a very major impact on the assistance that can be,

Low-Cost Innovations

The Self-Represented Litigation Network website, www.selfhelpsupport.org, has created a special library of resources to go with this article. The link is http://www.selfhelpsupport.org/library/folder.223114-Low_Cost_Innovations. This folder is dedicated to the seven described innovations in assisting the self-represented public that can be implemented at nominal cost. It will be kept up to date. *Selfhelpsupport.org* is a free membership site, open to court and other access-to-justice practitioners. People who access the above link will be prompted for a username and password. If they have not previously registered and do not have this login information, they will have the opportunity to fill out a membership application. Membership applications are reviewed for authorization daily.

and is, given. It saves time by reducing frustration, erroneous filings, and unnecessary adjournments and returns to court.

Judicial Education: Courts around the country continue to focus their judicial education programs on self-represented litigation issues. When judges apply recently researched techniques in the courtroom, they are able to obtain more information about the case and move more efficiently to decision. The result is less wasted time and better, more easily enforced decisions. A wide and expanding range of PowerPoint curricula, videos, and activity training materials is available from the National Center for State Courts.

Justice Corps Student Volunteer Program: This idea—leveraging AmeriCorps resources so that students can work in the courts assisting the self-represented—is spreading quickly in California, and there is now wide talk about making this a national AmeriCorps initiative. The result could be transformative. Even without such a Washington imprimatur, it would still be easy for a state to apply through the existing processes.

Plain-English Forms: With good reason, courts are also continuing to focus on plain-English forms. It costs very little (indeed, nothing if you use thoughtful staff and pro bono assistance from the bar) to simplify the language and layout of forms. But the payback in terms of ease of use and less wasted time is very significant.

Translation of Plain-English Forms: Moreover, in the changed political climate, there is likely to be greater recognition of the parallel need to translate these forms (and the integrated instructions). This too can be very cost-effective, assuming the availability of bilingual staff or pro bono attorneys, but consultants can also be found.

WHAT IS THE RECOMMENDED LONG-TERM PLANNING RESPONSE?

For the long term, some states are taking advantage of a time of fewer resources to refocus their priorities. The very absence of money makes it possible for state courts, access-to-justice commissions, and others to focus on more transformative changes. At the spring 2009 gathering of board chairs and staff from the approximately 25 access-to-justice commissions from around the country, it was noticeable the extent to which the conversation has moved beyond a focus on fundraising for legal aid to a broader leadership responsibility for access to justice innovation in all its manifestations, including court services and bar changes.^[ii] Similarly, the so-called Elkins Family Law Task Force in California is taking a step back and looking at the entire operations of the state's family courts, hoping to develop a new model that is simultaneously accessible and cost-effective.^[iii]

For such initiatives to be effective, they must be established with a broad mission, include committed and high-level stakeholders, be staffed by experienced and independent individuals, and be held responsible for developing products and plans that can be used by the court and other decision makers. ■



Richard Zorza, an attorney and independent consultant, has worked for the past 15 years on issues of access to justice. He is the coordinator of the national Self-Represented Litigation Network, see www.selfhelpsupport.org, acts as a consultant to the Harvard Law School Bellow-Sacks Project on the Future of Access to Civil Justice, www.bellowsacks.org, and works in support of the national LawHelp network of access to justice websites, www.lawhelp.org. He received the 2008 American Judicature Society Kate Sampson Access to Justice Award. Additional information and publications are available on his website, www.zorza.net.

RESOURCES:

- California Administrative Office of the Courts (2008). "Fact Sheet: Elkins Family Law Task Force." San Francisco, March. <http://www.courtinfo.ca.gov/jc/tflists/documents/elkins-fact.pdf>
- Elkins Family Law Task Force website. <http://www.courtinfo.ca.gov/jc/tflists/elkins.htm>
- National Legal Aid and Defender Association website. "Resource Center for Access to Justice Initiatives." http://www.nlada.org/Civil/Civil_SPAN
- Self-Help Support Network website. www.selfhelpsupport.org
- Self-Represented Litigation Network website. www.srln.org

NOTES:

"Access to Justice: Economic Crisis Challenges, Impacts, and Responses" is reprinted with permission from the National Center for State Courts' publication, "Future Trends in State Courts 2009," an annual look at societal trends affecting court operations. The UFC Connection thanks the NCSC for its contribution to this newsletter.

* The Self-Represented Litigation Network is a grouping of major national organizations working on access to the justice for the self-represented. Participants include the Conference of Chief Justices, the Conference of State Court Administrators, the National Association for Court Management, the Legal Services Corporation, and the National Association of IOLTA Programs. The network is hosted by the National Center for State Courts, which is also a participant.

^[ii] Surveys of judges and self-help programs were distributed by e-mail online to contacts of the Self-Represented Litigation Network. Contacts included judges and others who had attended the Harvard Judicial Conference on the Self-Represented in 2007, the state key contacts of the network, and those included in a national directory of self-help centers. Numbers reporting are approximately 100 for each of the two surveys. Obviously, these numbers are subject to significant sample errors.

^[iii] These commissions are broad groups of access-to-justice stakeholders, usually appointed by state supreme courts, tasked with improving access to justice (see *National Legal Aid and Defender Association website*).

^[iv] The task force was established by the California Judicial Council to "conduct a comprehensive review of family law proceedings and recommend to the Judicial Council of California proposals that will increase access to justice, ensure due process, and provide for more effective and consistent rules, policies, and procedures." (See *California Administrative Office of the Courts, 2008; Elkins Family Law Task Force website*).

Language Access Presents Mounting Challenges for Pro Se

BY LAURA K. ABEL

Family courts nationwide face an increasing need to provide access to litigants with limited proficiency in English (LEP). The problem is particularly acute in the 60 to 90 percent of cases involving pro se¹ individuals who cannot rely on English-speaking attorneys to explain the legal proceedings to them. Fortunately, proving the truth of the adage that necessity is the mother of invention, family courts nationwide are developing innovative tools to enhance access for LEP individuals.

The law is clear. Title VI of the Civil Rights Act requires courts that receive federal funds to provide equal access to LEP individuals. The mandate applies to courts that are part of a unified court system if any part of the system receives federal funds.

Often, family courts are subject to Title VI because either they, or a unified court system of which they are a part, receive Court Improvement Project or Promoting Safe and Stable Families Act funding from the U.S. Department of Health and Human Services or Justice Assistance Grant or Violence Against Women Act funding from the U.S. Department of Justice (DOJ).

In 2002, DOJ added detail to the Title VI mandate, instructing that courts must, at a minimum:

- ▶ Provide interpreters in all criminal and civil matters for “LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present” and all critical encounters outside of the courtroom;
- ▶ Refrain from charging LEP individuals for interpreter services;
- ▶ Ensure that the interpreters they provide are competent;
- ▶ Educate judges and other court personnel about when and how to use interpreters;
- ▶ Translate “vital” documents into the languages commonly spoken by litigants or other LEP court users; and
- ▶ Provide LEP individuals with the same treatment as other court participants, in all other ways to the extent possible.

67 Fed. Reg. 41455, 41461–41463, 41471–41472 (June 18, 2002).

DOJ has demonstrated its determination to enforce these requirements by launching recent investigations into language access in courts in Alabama, Colorado, Indiana, Maine, North Carolina, and Rhode Island.

The federal and state constitutions also may require language access. Federal circuit courts have held that there is a constitutional right to an interpreter in criminal and asylum cases. State courts have ruled that due process requires appointment of an interpreter when necessary in cases affecting parental rights and domestic violence. [See, e.g. *In re Doe*, 57 P.3d 447 (Haw. 2002) (*parental rights*); *Sabuda v. Kim*, 2006 WL 2382461 (Mich. App. Aug. 17, 2006) (*civil restraining orders*).] Additionally, the laws and court rules of many (although not all) states require provision of an interpreter in

Of the 35 states with the highest proportion of individuals with limited proficiency in English, 54 percent require the provision of interpreters in all civil cases.

many types of family court proceedings.

Practical concerns are a strong motivation for many courts. Without language access, judges have difficulty understanding testimony, and parties cannot comply with court orders and timetables. Last year, the Nebraska Supreme Court reversed a lower court’s termination of a Quiché-speaking mother’s parental rights, holding that the mother’s failure to comply with all parts of a parenting plan did not indicate unfitness to parent because the plan was written in English and explained to her only in Spanish. [In *re Interest of Angelica L.*, 767 N.W.2d 74, 95 (Neb. 2009).] In New York, courts have declined to enforce domestic violence restraining orders written in English against Spanish-speaking abusers.

The effect on children is another consideration. When parents are forced to bring their children to court to interpret for them, the children can be exposed to traumatic information, such as the details of their father’s abuse of their mother. For obvious reasons, a child wanting to protect his father is a most unreliable interpreter for his mother.

In the face of burgeoning problems facing these litigants, how are family courts meeting the challenge? The Brennan Center for Justice at New York University School of Law reports in its publication, *Language Access in State Courts*, that of the 35 states with the highest proportion of LEP individuals, 54 percent require the provision of interpreters in all civil cases. Of the remaining states, interpreters are provided most frequently in civil cases that involve domestic violence, dependency, divorce, and other family matters.

Some states try to ensure that the interpretation provided is accurate. Court interpreters require specific training because of the importance of precise communication, the fast pace of courtroom exchanges, and the need to avoid partiality and conflicts of interest.

Forty states have joined the Consortium for Language Access in the Courts, which creates tests to ensure that court interpreters have the necessary skills. Not all of those states, however, use the tests consistently. Thirty-seven percent of the states in the Brennan Center study fail to require the use of credentialed interpreters, even when they are available. When credentialed interpreters are not

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Litigants in Family Courts

available, the best practice is for trained, dedicated court personnel to assess interpreter competence. In Washington State’s King County Superior Court, for instance, experienced court interpreters assess the skills of all new court interpreters. In many states, however, trial judges remain the sole arbiters of interpreter competence—a difficult task for a judge with a busy docket and no familiarity with the relevant language.

Family cases involving sensitive issues such as child abuse and domestic violence demand additional interpreter training. The Washington State Administrative Office of the Courts, for example, offers a domestic violence and ethics workshop that satisfies interpreters’ court-imposed continuing education requirement. A recent national survey of court interpreters, conducted by Sakhi for South Asian Women, a New York-based organization committed to ending violence against women of South Asian origin, found that 35 percent had been trained regarding domestic violence, 24 percent regarding sexual assault, and 17 percent regarding child abuse.

Conflict screening is particularly important in family and domestic violence cases. For languages other than Spanish, it is common for the parties and the interpreter to know each other because they come from the same small community. University of Berkeley Law School Professor Nancy K.D. Lemon writes about a Korean interpreter who tried to persuade a domestic violence victim to forgive the abuser and return home. [Nancy K.D. Lemon, “Access to Justice: Can Domestic Violence Courts Better Address the Needs of Non-English Speaking Victims of Domestic Violence?” 21 Berkeley J. Gender, L. & Justice 38, 46 (2001).] Litigants may believe that such advice is coming from the judge, whose words the interpreter is supposed to be translating.

Court interpreters are essential but not sufficient for LEP litigants who are pro se and therefore must be responsible for presenting accurate information to the court. Certain courts—some with the help of legal aid societies—have made pro se assistance, websites and written materials available in languages other than English:

Website: The New York City Family Court has a web page in Spanish, providing information on the location of the court and self-help centers, types of cases, court forms, and other important matters. (http://www.nycourts.gov/courts/nycfamily/index_sp.shtml)

Court forms: Arizona’s Maricopa County Superior Court provides pro se litigants with a Family Court Pretrial Statement form written in both English and Spanish. (<http://www.superiorcourt.maricopa.gov/sscDocs/packets/drpts16fs.pdf>). Although litigants must fill it out in English, the form’s Spanish language text ensures that Spanish speakers understand the questions to which they are responding.

Guided online interviews: The Interactive Community Assistance Network (“I-CAN!”) makes guided interviews available in Spanish and Vietnamese. Pro se litigants, working from a home

computer or a courthouse kiosk, respond to a set of questions, and a computer program uses their answers to produce court forms. The program, developed by the Legal Aid Society of Orange County, is available in several states. In California, for example, the program can produce forms for a wide variety of cases, including those concerning paternity, divorce, and domestic violence. (<http://www.ican-docs.org/cal>)

Form orders: Washington State’s King County Superior Court provides form orders concerning child support, dissolution of marriage and other matters written in both English and Spanish. (<http://www.kingcounty.gov/courts/scforms/familylaw/flspanish.aspx>).

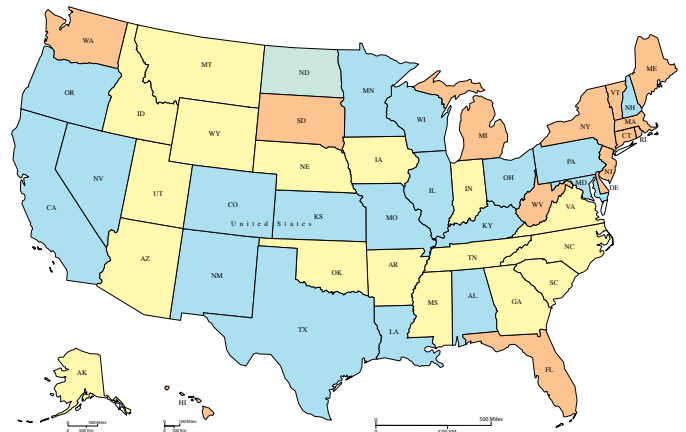
Self-help centers: Staff at the Resource Center for Pro se Litigants at the Pasadena, California, Superior Court speak Spanish, Cantonese, and Mandarin.

While the terms pro se and self-represented are used interchangeably, this author’s personal preference is to use the former.



Laura Abel is deputy director of the Justice Program at the Brennan Center for Justice at New York University School of Law. Her work focuses on promoting access to the courts for low-income individuals. Her recent report, *Language Access in State Courts*, is available online at http://www.brennan-center.org/content/resource/language_access_in_state_courts.

Family Courts by State



LEGEND:

- Statewide Family Courts
- Family Courts in Selected Areas of State
- Statewide Courts Planned or in Pilot Phase
- No Family Court

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Family Court Self-Help Centers Offer Refuge for Self-Represented

BY AVI SICKEL

Imagine talking to an auto mechanic. He is speaking English but using words you barely understand and describing repairs to parts of a car that you have never heard of before. You are overwhelmed, bewildered, and exasperated. All you know for sure is that you are going to suffer a major dent in your already shaky finances.

This scenario describes what it feels like to be a self-represented party in a court proceeding. You do not understand the process or the terminology. You are stressed out, vulnerable, and, often, quite frightened. The majority of the people who come to court without a lawyer feel a myriad of emotions during their involvement in family court.

A Self-Help Center (SHC) is a refuge for the self-represented in family court. Unrepresented parties are able to meet with facilitators who speak their language (i.e., non-legalese), who are able to describe the legal process to them in understandable terms and can offer clear explanations of their rights and obligations.

The SHC, a free, walk-in clinic in the District of Columbia Superior Court, has three main functions:

- ▶ To provide information to unrepresented parties in family law matters, most commonly divorce, custody, visitation, and child support;
- ▶ To assist litigants with the completion of family law forms; and
- ▶ To refer litigants to other legal services providers who may be able to offer representation or further help.

INFORMATION

Many people who come to the SHC simply wish to get an idea of where they stand vis-à-vis their spouse, their children, and the law. They have questions such as: What do I need to do to get a divorce? How much child support will I have to pay? Can I get alimony? Those are just a few of the questions that are asked dozens of times a day in the SHC.

SHC facilitators are careful to provide only information and not legal advice. Court rules prohibit court employees from offering advice and, even without such a restriction, it would be unfair to provide legal services to only one party. Every customer (we do not call them clients) signs an agreement that acknowledges their understanding of the SHC staff's limited role: we cannot represent them, we cannot give legal advice, we can help the opposing party in their case should he/she seek our assistance, and there is no attorney-client relationship or privilege created. Our facilitators reiterate these points with every person they assist.

FORMS

Nearly five years ago, the D.C. Bar Pro Bono Program created a comprehensive collection of form pleadings intended for use in D.C. Family Court. These pleadings—which include complaints

and petitions, motions to modify, motions for contempt, and many others—have been approved by the court and are available in the clerk's office, at the SHC, and online (as fillable forms). Some customers need help to determine which forms are most appropriate in their particular case, but many come with the forms in hand and simply need help to complete them and navigate the legal process.

Questions that may seem simple to an attorney can be quite vexing for the uninitiated litigant. Who is the plaintiff? Why do I have to “complain” to file this case? What does legal custody mean? A facilitator who can answer these and other questions is a significant help to the self-represented litigant. This type of assistance also is vital to the staff members in the clerk's office, who can devote their time to accepting and docketing pleadings, and to family court judges, who can focus on the evidence and issues before them.

REFERRALS

Most people prefer not to be self-represented. Generally, they cannot afford an attorney, and personal financial circumstances or need compels them to pursue their legal issues without the assistance of legal counsel. Many of the people who visit the SHC do not know that there are legal services providers in the area who will represent them free of charge if they meet certain requirements. The SHC has a comprehensive list of legal service providers in D.C., and we regularly direct our customers to these clinics.

STAFFING

The SHC has a permanent staff of three paralegal facilitators, one administrative aide, and one supervising attorney. The paralegal staff meets with those coming into the SHC, the administrative aide handles intake and gate-keeping, and the attorney attends to overflow customers and any questions for which the facilitators need guidance. Volunteer attorneys, who receive training and spend several visits observing the permanent staff, supplement the SHC staff on an almost daily basis. Every month, the SHC e-mails over 250 volunteers to advise them of the days and times when the center has the greatest need. The volunteers respond with their preferences and, in fairly short order, we have at least one volunteer scheduled for every day of the month. The volunteer attorneys are a tremendous help to the center, and their contribution is invaluable.

In order to keep the volunteers interested, engaged, and up-to-date, we send out e-mail notices when there are significant changes in the law or to flag certain tricky recurring issues. The center also holds brown bag lunches for volunteer attorneys, giving them a chance to meet with family court judges and/or focus on various procedural issues.

The volunteers find their work in the program extremely gratifying. They have the opportunity to spend three hours assisting people who genuinely need and appreciate their help. After their session is

see next page

over, they return to their firms without negative baggage from the experience: they have no cases to try, no interrogatories to respond to, and no phone calls to avoid. Everyone benefits.

OUTREACH

Over the past few years, the SHC has created a number of flyers and brochures in both English and Spanish that are designed to publicize the program, explain the legal process, and provide information about D.C. family law. A recent publication is the “Top 10 Myths, Mistakes and Misstatements in DC Family Law.”

The SHC distributes brochures and flyers throughout the courthouse and in every domestic relations and paternity and support courtroom. The SHC places brochures in its local IV-D agency (the Child Support Services Division of the Office of the Attorney General), at all local legal services providers (Legal Aid, Catholic Charities, and many others) and at several local social services providers, as well. Many of the flyers and other self-help information publications are available on the SHC website.

(<http://www.dccourts.gov/dccourts/superior/family/selfhelp.jsp>)

This year, SHC staff, along with employees from other D.C. Court divisions and programs, staffed an information table at a local community street fair. It was a major success, with over 300 visits from people interested in court programs. The SHC hopes to repli-

cate the success of that day by appearing and publicizing its services at a wide variety of community events throughout the city.

The SHC’s mission is to enable access to justice for everyone, whether represented by counsel or not. The center’s goal is to provide self-represented litigants with the information and tools necessary to make informed decisions and to pursue their legal rights.

The SHC is not the answer for everyone. Some people still need counsel to present their cases effectively. For the many individuals who cannot obtain counsel and who need assistance to pursue their legal rights, however, the SHC is an excellent place to start the search for help and represents a major asset to the court and the community.



Avi Sickel has been the branch chief of the Family Court Self-Help Center in the D.C. Superior Court since March 2005. Prior to that, he was the supervising attorney of the Pro Se Project in the Circuit Court of Maryland for Montgomery County. In 2008, the Self Help Center received the Court’s Public Service Award and in 2009, Avi received the Community Outreach Award from the D.C. Courts Hispanic Heritage Month Committee. Avi is co-chair of the Family Law Section of the D.C. Bar and provides training frequently on D.C. family law and procedure.

Symposium on June 25-26: New Ideas and Best Practices for Reducing The Negative Effects Of Family Law Proceedings

An interdisciplinary group of experts in the fields of psychology, law, accounting and mediation will meet at the University of Baltimore School of Law on June 25–26 to brainstorm about reducing the harmful effects of the legal process in family law cases.

The School of Law’s Center for Families, Children and the Courts (CFCC), in collaboration with the American Bar Association, Family Law Section, will host the two-day symposium. The invitation-only event will launch the ABA’s Families Matter initiative, a three-year undertaking to address the devastating consequences of family law matters and the family law process on families, children, extended family, businesses, and the community.

Participants will discuss cutting-edge methods, models, and programs for changing the practice of family law from an adversarial and divisive process to one that focuses on methods that are less destructive to families and children. The Families Matter initiative will use the symposium proceedings as a blueprint to examine ideas and approaches that promote change.

Joseph McNeely, a lawyer and psychologist, will help to facilitate the symposium, which will consist of a plenary session, breakout

meetings, and a final wrap-up meeting. Participants will include mental health professionals, judges, family law attorneys, collaborative law attorneys, financial experts, academic leaders and scholars, policymakers, and domestic violence attorneys and advocates.

Capitalizing on the interdisciplinary nature of the symposium, breakout groups will consist of representatives from the various fields and disciplines in an effort to incorporate diverse perspectives into the final report.

For more information about the conference, contact Professor Barbara Babb at 410-837-5661, bbabb@ubalt.edu.

Reprints of Family Court Survey Article Available

To receive the results of the CFCC survey, “Reevaluating Where We Stand: A Comprehensive Survey of America’s Family Justice Systems,” published in the April 2008 issue of the *Family Court Review* by Barbara A. Babb, director of the Center for Families, Children and the Courts, please email Professor Babb at bbabb@ubalt.edu.



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DVD on Unified Family Courts Now Available



A compelling DVD, "Unified Family Courts: Efficient, Effective, Responsive," puts a human face on the Unified Family Court (UFC), a court model designed to address the nature of family law cases. The DVD contrasts the experiences of two women in their divorce proceedings. As portrayed in the DVD, one woman was subject to a traditional court system, while the other's divorce was handled in a UFC. The University of Baltimore School of Law's Center for Families Children and the Courts produced the DVD, which includes interviews with judges, attorneys, services providers and UFC experts. For a free copy of the DVD, please email Professor Barbara A. Babb at bbabb@ubalt.edu.

ASK THE EDITOR: Unified Family Courts cover a myriad of issues, problems and innovations. If you have questions of issues, problems and innovations, please send your questions to us. We will try to include them in upcoming editions of the *Unified Family Court Connection*. Send your questions or contributions to: cffc@ubalt.edu.

FEEDBACK: We value your opinions and your comments! We look forward to hearing from you at cffc@ubalt.edu.

MAILING LIST: If you want to be added to our mailing list for the newsletter or know of others who would like to receive the *Unified Family Court Connection*, please send in your request (with names and addresses) to cffc@ubalt.edu.