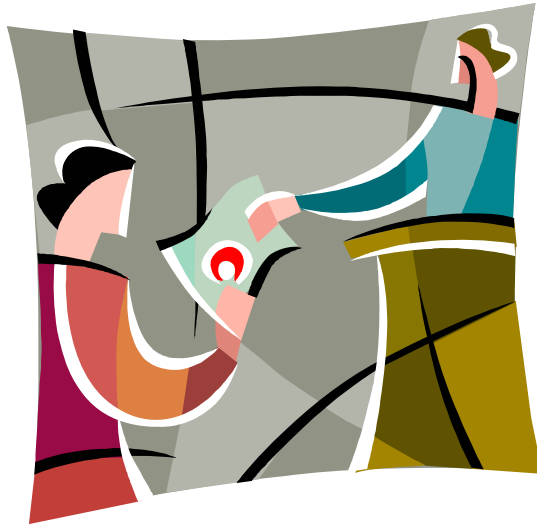


**SELF-REPRESENTED LITIGANTS
IN FAMILY LAW CASES
IN JACKSON COUNTY, MISSOURI**



**INSTITUTE FOR COURT MANAGEMENT
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TABLE OF CONTENTS

ABSTRACT	4
INTRODUCTION	7
LITERATURE REVIEW	13
A COMPARISON OF DATA REGARDING SELF-REPRESENTATION IN JACKSON COUNTY AND MISSOURI FAMILY COURTS WITH THE NATIONAL DATA	13
GENERAL JURISDICTION COURTS ARE SEEING MORE SELF- REPRESENTED LITIGANTS, ESPECIALLY IN THE FAMILY LAW AREA	14
INFORMATION ON THE ECONOMIC STATUS OF SELF-REPRESENTED LITIGANTS IS CONFLICTING.....	16
REASONS FOR SELF-REPRESENTATION.....	18
JUDICIAL ATTITUDES TOWARD THE SELF-REPRESENTED	20
CHALLENGES TO COURT MANAGERS FROM INCREASED SELF- REPRESENTATION.....	22
RECOMMENDATIONS AND UNRESOLVED ISSUES	25
METHODOLOGY	29
SURVEY	29
FINDINGS	32
CONCLUSIONS AND RECOMMENDATIONS.....	60

TABLES

TABLE 1 – NUMBER OF DISSOLUTIONS WITH SELF-REPRESENTED LITIGANTS	15
TABLE 2 – SURVEY DISTRIBUTION AND RESPONSE RATES	31
TABLE 3 - TYPES OF FAMILY LAW CASES FILED BY SELF-REPRESENTED LITIGANTS.....	40

CHARTS

CHART 1 – BASIC ATTITUDE REGARDING COURT ASSISTANCE OF SELF- REPRESENTED LITIGANTS IN FAMILY LAW CASES.....	34
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CHART 2 – PARTICIPANTS’ PERCEPTIONS OF THE COURT AND SELF-REPRESENTED LITIGANTS	36
CHART 3 - LITIGANTS WHO ATTENDED THE SELF-REPRESENTED AWARENESS PROGRAM VERSUS LITIGANTS WHO RECEIVED NO ASSISTANCE	38
CHART 4 - HAS THERE BEEN AN INCREASE IN FAMILY LAW CASES FILED BY SELF-REPRESENTED LITIGANTS?.....	39
CHART 5 - REASONS FOR SELF-REPRESENTATION	42
CHART 6 - UTILIZATION OF ATTORNEYS	43
CHART 7 – PROBLEMS ENCOUNTERED BY THE SELF-REPRESENTED LITIGANT...	45
CHART 8 – HOW WELL IS THE JACKSON COUNTY COURT SYSTEM CURRENTLY SERVING SELF-REPRESENTED LITIGANTS	47
CHART 9 - LITIGANT RESPONSES AS TO HOW WELL JACKSON COUNTY IS DOING BASED ON THOSE LITIGANTS WHO ATTENDED THE SELF-REPRESENTED AWARENESS PROGRAM AND THOSE LITIGANTS WHO RECEIVED NO ASSISTANCE	51
CHART 10 – WHERE DO SELF-REPRESENTED LITIGANTS OBTAIN INFORMATION OR FORMS?	52
CHART 11 – ASSISTANCE PERSONALLY PROVIDED OR REFERRALS BY JUDGES, ATTORNEYS OR CLERKS	54
CHART 12 – APPROPRIATE JUDICIAL SYSTEM RESPONSE	56
BIBLIOGRAPHY	72

APPENDICES

APPENDIX A - FEDERAL AND STATE SLIDING SCALE GUIDELINES FOR FREE REPRESENTATION.....	77
APPENDIX B - SURVEYS- ATTORNEY, JUDGE, COURT CLERK AND LITIGANT	78
APPENDIX C - PARTICIPANT RESPONSES TO SURVEYS.....	114
APPENDIX D - COURT RULE AND GUIDELINES FOR COURT PERSONNEL.....	129
APPENDIX E - COURT PERSONNEL. PROGRAM ON RISK AND RESPONSIBILITIES OF REPRESENTING YOURSELF.....	133

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ABSTRACT

This project examines the justice system, as it pertains to self-represented litigation in family law cases in Jackson County, Missouri, from the perspectives of judges, family law attorneys, family law clerk staff and self-represented litigants. Missouri is known as the “Show Me” state and ultimately, the only way to effect lasting change will be to **show** the participants that providing assistance to self-represented litigants is not a radical idea, but rather a natural extension of the values on which our system of justice is founded.

This paper reviews previous and on-going work by the Missouri Pro Se Commission, whose purpose is to improve access to courts for the self-represented litigant throughout Missouri, including Jackson County. This paper also reviews the processing of family case workloads in Jackson County; the extensive and growing literature concerning this issue and, very importantly the differing perspectives of 175 survey respondents. The survey respondents included 68 attorneys, 19 judges, 21 clerks and 67 litigants, comparing and contrasting their opinions regarding self-represented litigants.

Data collected from Jackson County was compared with national trends and solutions suggested for the self-represented litigant in other states. With one notable exception the national data demonstrates that Jackson County and the State of Missouri face the same problems relating to self-represented litigants as do other courts across the nation and indicates that many of the programs or solutions developed in other states will also work in our community. It is worth noting that in contrast to the national data in Jackson County individuals self-represent because they do not believe they can afford an attorney. Nationally most individuals self-represent due to their negative perception of lawyers and the legal system.

The number and type of family law cases filed by self-represented litigants nationally were compared with the data gathered by the Missouri Pro Se Commission which was established in

October 2002, by the Supreme Court of Missouri. The Commission has made nine recommendations for providing assistance to self-represented litigants in family law cases. Both the review of the literature and the survey results confirm that the Commission's work is on target. This paper examines the recommendations made by the Commission in relation to other successful state programs.

While the survey was designed to fit Missouri it built upon the work of others including a past ICM Phase III project focused on Minnesota and work carried out in New York and Massachusetts. This survey examined the attitudes and perceptions of judges, the family law bar, family court staff, and self-represented litigants regarding:

- court assistance of self-represented litigants in family law cases;
- type and number of cases with self-represented litigants;
- profiles of the self-represented litigant;
- problems encountered by the self-represented litigants, current court forms, procedures, practices and responses to the self-represented; and
- appropriate judicial responses to the self-represented;

The survey results show that most judges and attorneys in Jackson County, Missouri are opposed to the court providing assistance and education to the self-represented litigant and generally but not uniformly believe that attorneys are the only individuals who can improve the process. In contrast, the court clerks and litigants perceived the lack of access to the courts as a serious problem and believe the courts should provide education and assistance to the self-represented litigant. Many attorneys and judges believe the court is not the proper vehicle for addressing the issues presented by the self-represented litigant.

Among other recommendations, the data leads to the conclusion that education is the key component to providing assistance to the self-represented litigant. Court personnel need guidelines

and training on how to assist the self-represented litigant. Judges and court personnel need to know what assistance can be provided by other agencies such as Legal Aid or the law library and the limitations of those agencies. Attorneys need to be made aware that there are many misconceptions about whether most self-represented litigants can afford an attorney. Attorneys need to become involved in finding solutions such as unbundled legal services, payment plans or providing pro bono services to those individuals with limited financial resources. Judges need to be educated on ways they can provide assistance to self-represented litigants while remaining fair and impartial.

Educating self-represented litigants so they can make intelligent decisions seems to be the best way to improve the process and level the playing field for all the participants. The Missouri Pro Se Commission can best provide this education through forms with simple instructions on the internet, an idea which garnered the most support from all four groups surveyed. Education of self-represented litigants may greatly improve the public perception of the courts. Litigants who were provided some assistance viewed the court as user-friendly and more accessible. Finally, the only way to achieve success in assisting self-represented litigants is to include and work with all the stakeholders. The court clerks may implement some of these changes, but in order to be successful the attorneys and judges must buy into these processes.

INTRODUCTION

Like other courts throughout the state and country, the Jackson County, Missouri Circuit Court, recognizes the challenges caused by the increased volume of self-represented/ pro se litigants.¹ This paper examines the justice system in Jackson County, as it applies to self-represented litigants, from the perspectives of the judge, the legal profession, court staff and the public. The goal is to work toward a comprehensive system for self-represented litigants that better suits the values and needs of all the constituents in Jackson County and the State of Missouri. The State of Missouri began this process in October 2002, when Missouri Supreme Court Chief Justice Stephen N. Limbaugh, Jr., in cooperation with the Missouri Bar, created the Joint Commission to Review Pro Se Litigation “Commission”. The Commission was established to assess the number of litigants self-representing in family law cases in Missouri, the problems encountered by the self-represented litigant, and the measures other states have taken in response to the self-represented litigant. In addition, the Commission was to develop a conceptual model for addressing self-represented litigants in family law cases.

The Commission was comprised of family law attorneys, judges, court clerks, state court administrators and pro bono attorneys across the State of Missouri. The studies were published by the *Missouri Supreme Court Joint Commission to Review Pro Se Litigation*, in its *Report to the Supreme Court of Missouri and the Missouri Bar* “Missouri Report” (September 2003). The Missouri Report centered its recommendations around four main state-wide action areas: 1) education; 2) information; 3) encouragement and support of legal referral and pro bono

¹ Pro Se: For one’s own behalf; in person. Appearing for oneself, as in the case of one who does not retain a lawyer and appears for himself in court. Black’s Law Dictionary, 6th Edition, (1991).

services; and 4) standardized forms and instructions.² Nine recommendations centered around these concepts:

1. In specific types of cases, self-represented litigants should be required to participate in an education program that describes the risk and responsibilities of proceeding without an attorney.
2. Guidelines, a curriculum and training program should be developed for court staff, clearly defining what is legal information versus legal advice.
3. A curriculum and training should be developed for the judiciary on how to best handle self-represented cases.³
4. A statewide, internet-based, centralized clearinghouse should be established to serve as a repository for all self-represented services and programs.
5. A statewide brochure should be created for distribution in all circuits which lists resources developed and educates the self-represented litigant on the risks and responsibilities of proceeding without an attorney.
6. Legal referrals and pro bono services should be promoted and alliances with state and local bar associations strengthened. These referral programs will link the self represented litigant with lawyers who are can provide some services in family law cases at reasonable or reduced fees.
7. The court system and bar should proactively encourage new initiatives to provide additional sources of pro bono legal assistance.
8. The Missouri Supreme Court should create and approve plain language standardized forms and instructions and make them available to self-represented litigants.
9. A Pro Se Implementation Committee should be established to insure these recommendations by the Joint Commission are implemented.⁴

Missouri has also established the Pro Se Implementation Committee, “Committee”, which is in the process of implementing the recommendations made by the Commission. As of today the “Committee” is in the process of developing rules and a website with standardized forms and instructions.

² *Missouri Supreme Court Joint Commission to Review Pro Se Litigation*, Report to the Supreme Court of Missouri and the Missouri Bar “*Missouri Report*” (September 2003), page 42.

³ *Ibid.*, 43-45.

The Commission based its recommendations on information gathered by its Commission members. The findings in the Missouri Report described the self-represented litigant in Missouri and Jackson County as follows:

- The number of female to male self-represented litigants in Jackson County, Missouri was approximately equal.
- 40% of the litigants in Jackson County were between 31 and 40 years of age.
- 60 % of the self-represented litigants were employed with a gross monthly income under \$2,500 dollars.⁵

To qualify for state assistance in Missouri, an individual can earn no more than \$1,020.00 monthly; this increases with the number of dependents. For federal funding, an individual would qualify for assistance if his or her monthly gross income was no more than \$1,633.00; this also increases with the number of dependents. Based on this scale, less than 60% of the population, who are employed but have a gross monthly income of \$2,500 or less, may qualify for free legal services from the state or federal government. Both federal and state guidelines base representation on a sliding scale. (For information concerning the sliding scale see Appendix A). This means there is a large percentage of Missourians who may qualify for services or possibly fall in the gap between \$1020.00 dollars and \$2,500.00 dollars. In any event, the state cannot provide legal services to a high percentage of its population. However, to those individuals who can barely make ends meet, an attorney is a luxury they just cannot afford.

Given the current climate of declining public resources and increasingly negative public opinion of the courts, we must address the needs of the public in an effective and meaningful way.

⁴ Ibid., 45-50.

⁵ Ibid., 13.

‘Every judge, every lawyer, and every court administrator should be deeply concerned that most citizens (66 percent) believe courts are not affordable places to seek justice’⁶ and that few (33 percent) think courts try to treat rich and poor people alike.⁷

Further:

The civil legal needs of poor and middle income individuals are largely unmet, making it hard for many people to regard the justice system as an institution of government that is equally accessible to all citizens. Self-representation is one way average citizens try to make use of the machinery of justice to protect important legal rights, even though the odds of success without an attorney may seem remote.’⁸

Over the past few years, Jackson County has taken small measures to address the issues that have arisen in family law cases. The court established an awareness course for never-married parents, which primarily serves self-represented litigants. A domestic relations brochure was designed to assist self-represented litigants in navigating the process of an uncontested dissolution matter. However, opportunities for growth and development remain. Presently, few resources are available to individuals who represent themselves in family court proceedings such as dissolution of marriage, modification and paternity cases. As a result, these individuals often muddle their way through the court system without receiving satisfactory results. Some examples of this include:

- Domestic violence victims cannot divorce their abusers.
- Never-married parents cannot establish custody, parenting time, or visitation with their children.
- Separated families undergoing significant changes cannot get modifications of earlier judgments.

⁶ Bennack, Frank; National Center for State Courts, funded by The Hearst Corporation, *How the Public Views the State Courts: A 1999 National survey*, NCSC (1999) cited in Woodward, Jim, Coming to Grips with Self-Represented Litigants, 18 Court Manager 1, 2003, page 14.

⁷ ABA, Perceptions of the U.S. Justice System (1999), cited in Woodward, Jim, Loc. cit.

⁸ Loc. cit.

Self-represented individuals who eventually do succeed in getting a judgment in their family court cases often spend unnecessary money and time. They may buy pricey “do-it-yourself” legal forms and pay court filing fees only to have their cases dismissed. They sometimes file their cases using court-prepared forms for family access or adult abuse when they really need dissolutions. Some fail to appear in court on their trial date, or may appear unprepared without the required paperwork, evidence and or witnesses. Consequently, they must make repeated trips to court causing loss of pay and added expense.

For self-represented individuals, these obstacles create frustration, foster distrust of the legal system, and may sometimes result in domestic violence. For the court, cases of self-represented litigants bog down dockets and cause delays in other cases. Because they lack understanding of the litigation process, self-represented individuals frequently disrupt court operations. Judges, commissioners, and attorneys involved with self-represented litigants often encounter ethical challenges. Court personnel can do little more than to decline to give self-represented individuals legal advice, tell them to get an attorney, or direct them to the few court forms available on the court’s website.

A literature review will be utilized to identify and discuss the current trends in the nation and the methods adopted to address the increase in self-represented litigants. This review will address questions such as:

- “Will the development of a system to assist self-represented litigants increase the number of self-represented litigants?”
- “What are the best practices being utilized in other states?”
- “Will the development of statewide forms and instructions and placement of such on the internet solve some of these issues?”
- “What guidelines and training should be provided to court personnel?”

- “What part should pro bono and reduced fee legal services play in this new design?”

“As this national trend toward self-representation accelerates, it should be viewed not with hostility, but as an opportunity for courts and members of the bar to collaborate in developing new strategies for reducing barriers to justice services.”⁹

⁹ Loc. cit.

**LITERATURE REVIEW:
A COMPARISON OF DATA REGARDING SELF-REPRESENTATION IN
JACKSON COUNTY, MISSOURI FAMILY COURTS
WITH THE NATIONAL DATA**

The number of websites and the literature available on self-representation have increased during the last several years. Yet most courts have not adequately addressed the issues presented by self-represented litigants.

In 1998, the American Judicature Society published *Meeting the Challenge of Pro Se Litigation: A Report and Guide Book for Judges and Court Managers*.¹⁰ This study and its review and analysis by Cran Stratioti in her 2002 CEDP Phase III report¹¹ are the basis used in comparing cases of self-representation in family law cases in Jackson County, Missouri with national trends. As reviewed by Cran Stratioti, the 1998 study, which was funded by the State Justice Institute presented the following findings on self-represented litigants:

- I. Based on the few empirical studies found, general jurisdiction courts are seeing more self-represented litigants, especially in the family law area.
- II. There is conflicting data on the economic status of people who represent themselves.
- III. More people are representing themselves due to the increase of negative perceptions about lawyers, the availability of legal self-help information, the cost of litigation, and the public's belief that individuals can handle some legal matters on their own.
- IV. Some judges believe that litigants should not be encouraged to represent themselves, while others feel that people represent themselves due to lack of access to legal services.
- V. Court managers perceived a substantial increase in self-representation. They cited lack of funding for both self-representation services and staff education to provide direction and information for people representing themselves and lack of court policies to guide self-represented litigants.

Each of these five issues are examined in turn below.

¹⁰ Goldschmidt, Jona; Mahoney, Barry; Solomon, Harvey; State Justice Institute; American Judicature Society, *Meeting the Challenge of Pro Se Litigation: A Report and Guide Book for Judges and Court Managers*, American Judicature Society, 1998.

¹¹ Cran Stratioti, Cynthia, *Four Perspectives on Self-Representation and the Judicial System in Duluth, Minnesota*, Institute for Court Management Court Executive Development Program Phase III Project, May 2002, page 12.

I. General Jurisdiction Courts are Seeing More Self-Represented Litigants, Especially in the Family Law Area

The greater number of self-represented litigants in the area of family law is reflected in the national statistics and the statistics gathered in the Missouri Report. A survey conducted in Missouri in February, 2003, reflects the following increase in family law cases.

Nearly one-half of the judges responding to the Judicial Survey (86 of 187) report that the number of pro se litigants in family law cases has increased moderately or greatly over the past two years, with nine percent of respondents (17 of 187) reporting the increase as great. By comparison, Missouri's circuit clerks indicate an even larger increase in the number of pro se litigants. Nearly seventy percent of the clerks responding to the Circuit Clerk Survey (69 of 102) report a moderate or great increase in the overall proportion of self-represented litigants in family law cases over the past two years; nearly thirty percent of respondents (28 of 102) indicate that the increase has been great. Moreover, eighty percent of circuit clerks (82 of 102) indicate that pro se litigants appear regularly in their offices in family law cases.¹²

“Studies in the last ten years of domestic relations cases have shown as few as 12% to as many as 47% where both sides are represented by counsel.”¹³ The number of self-represented litigants, particularly in the area of family law, is large and growing:¹⁴

- In the New Hampshire Superior Court, almost 70% of the domestic cases filed in January, 2005 had one self-represented party.¹⁵
- In 2004, 4.3 million people represented themselves in California; within family law cases, 67% of petitioners at filing (72% in the largest counties) were self-represented, as were 80% in dissolutions at the time of disposition,¹⁶

¹² See Note 2 supra, “Missouri Report”, page 10.

¹³ See Woodward, Jim, Note 6 supra, page 14.

¹⁴ Statistics compiled by Madelynn Hunter, National Center for State Courts, June 21, 2006.

¹⁵ *Challenge to Justice-A Report on Self-represented Litigants in New Hampshire Courts-Findings and Recommendations of the New Hampshire Task Force on Self-Representation*. State of New Hampshire Judicial Branch (January 2005).

¹⁶ *California Statewide Action Plan for Self-represented Litigants*. California Judicial Council Task Force on Self-represented Litigants (2004).

- In the family law court in Osceola County, Florida, the percentage of hearings with one or more pro se litigants was 72% in 2000, 73% in 2001.¹⁷
- In some Wisconsin counties, 70% of family law cases involve litigants who represent themselves in court. In the 10th Judicial Administrative District of Wisconsin, self-represented litigants rose from 43% in 1996 to 53% in 1999; in the 1st Judicial Administrative District the percentages went from 69% to 72% over the same period.¹⁸

Similar growth is reflected in Jackson County, Missouri, which is the second largest general jurisdiction court in Missouri with an estimated population of 660,095 in 2005. As reflected in the chart below, in dissolutions filed in Jackson County, self-representation is common:¹⁹

TABLE 1 – NUMBER OF DISSOLUTIONS WITH SELF-REPRESENTED LITIGANTS

Year	Dissolutions Filed	Self-Represented Petitioners	Self-Represented Respondents	Total with One Self-Represented
2003	3,839	586 (31%)	407 (21%)	856 (22%)
2004	3,606	572 (31%)	433 (25%)	887 (25%)
2005	3,357	575 (34%)	232 (27%)	668 (20%)

The growth in self-representation is an increasing challenge in family law courts. As quoted by Keller in her CEDP Phase III Report,²⁰ an Idaho judge summed up self-representation in the area of family law as follows:

There are more concerns with pro se litigants in the domestic relations area than any other. With children frequently being part of these cases, no one wants the child to be the intermediary between two adults who

¹⁷ Judge McDonald Statistics. 9th Judicial Circuit Court of Florida; <http://www.ninja9.org/courts/judges/Statistics/McDonald%20Statistics%202000.htm>

¹⁸ Voelker, John, *Wisconsin Pro Se Task Force Report*, The Wisconsin Pro Se Working Group, A Committee of the Office of Chief Justice of the Wisconsin Supreme Court (December 2000).

¹⁹ Statistics from the Judicial Information System “JIS” computer system in Jackson County, Missouri. (July 2006).

²⁰ Keller, Corrie L., *Meeting the Demands of Pro Se Litigants in Idaho*, Institute for Court Management, Court Executive Development Program, Phase III Project, 1997, page 18.

may be willing to hurt each other through their own child. This is a real concern for the judge in making decisions that will affect children for the rest of their lives. The other area of concern is the fact that these types of cases can take years to complete. If one parent decides to come back to court for a modification the case can be reopened, which can cause these problems to arise all over again.

II. Information on the Economic Status of Self-Represented Litigants is Conflicting

The second key finding in the 1998 Judicature survey of *Meeting the Challenge of Pro Se Litigation: A Report and Guide Book for Judges and Court Managers* is that self-represented litigants do not fit a single demographic profile.²¹

It was noted by Keller that:

Contrary to popular perception, they are not all poor and uneducated. Increasing numbers of pro se litigants are middle class and college-educated individuals. Those who have at least some ability to pay for legal assistance often do not know how to select a lawyer other than randomly. Some are motivated more by lack of trust in attorneys than by lack of resources to hire a lawyer.”²²

Nor could the “Missouri Report” find a particular demographic profile to fit the self-represented family law litigants in Jackson County, Missouri. (Adult/child abuse, delinquency and neglect cases were excluded from the survey.) To quote this report directly:

289 self-represented litigants completed the survey. Approximately 60% of respondents were female; 81% were white; 40% were between 31 and 40 years of age; 80% indicated that they have an annual household income below \$50,000, while 60% indicate they have an annual household income below \$30,000.²³

As noted by Goldschmidt, in *Meeting the Challenge of Pro Se Litigation*,²⁴ a survey conducted by the American Bar Association in 1990 of 1,900 domestic relation cases filed in

²¹ See Note 11 supra, Cran Stratioti, page 12.

²² See Note 20 supra, Keller, page 15.

²³ See Note 2 supra, “Missouri Report”, page 13-14.

²⁴ See Note 10 supra, Goldschmidt, pages 11-12.

Maricopa County, Arizona showed that the following individuals were more likely to represent themselves:

- Lower income people
- Younger people
- Reasonably educated people -high school education or above
- Individuals with unskilled jobs rather than professionals
- Individuals with no children
- Individuals with no real estate or personal property
- Individuals with newer marriages vs. older marriages

Data was gathered from 21 California counties, from March through June 2000.²⁵ The demographics of the most-likely self-represented litigants seeking assistance from a Family Law Facilitator, as provided by Goldschmidt, were, to quote directly from his work:

- Equally likely to be male or female
- Between the ages of 30 and 39
- The parent of two children
- High school educated
- Employed with gross monthly income under \$1500
- Involved in a dissolution case
- Referred to a facilitator by a circuit clerk, a child support agency, a judicial officer, or a friend; and
- Sought help with child support, child custody and/or visitation, starting dissolution proceedings, or getting a domestic violence restraining order.”²⁶

²⁵ See Frances L. Harrison et al., California’s Family Law Facilitator program: *A New Paradigm for the Courts*, J. of the CTR FOR FAMILIES, CHILDREN & THE CTS. 61 (2000) cited in Note 2 supra, “Missouri Report”, page 14.

²⁶ Id. At 75 in Harrison, cited in Ibid., “Missouri report”, page15.

“ ‘California’s facilitator customers are not likely to have income sufficient to afford full-service legal representation; however, their incomes may be just high enough to make them ineligible for assistance from Legal Services Corporation or IOLTA- funded legal services programs.’ ”²⁷

The demographics cited in the California survey are consistent with the findings in the Missouri Report as previously discussed.

III. Reasons for Self-Representation

The third factor discussed in the 1998 Judicature survey, *Meeting the Challenge of Pro Se Litigation: A Report and Guide Book for Judges and Court Managers*, was, why individuals choose to self-represent. The reasons include: negative perceptions about lawyers; the availability of legal self-help information; the cost of litigation; and the belief that laymen can handle some legal matters on their own.²⁸

The Missouri Report found that individuals chose to represent themselves in Jackson County, Missouri for two of these reasons: the inability to afford an attorney and the belief they could handle the case on their own. “Nearly 42% ... of self-represented litigants in Jackson County, Missouri indicated that they represented themselves because they could not afford an attorney.”²⁹ In a report prepared by the National Center for State Courts, the Chicago-Kent College of Law, and the Illinois Institute of Technology’s Institute of Design, and based upon four project sites examined during 2000, the authors found self-represented litigants who reported that they could not afford an attorney ranged from 40% in the Delaware Family Court to 73% in the Colorado 20th Judicial District’.”³⁰

As to the second reason given by litigants, that they believe they can represent themselves although they could afford counsel, there is a “Home Depot approach”. “ ‘Whether the self-

²⁷ Id. At 76, cited in “Missouri Reports” Loc. Cit.

²⁸ See Note 11 supra, Cran Stratioti, Cynthia, page 12.

²⁹ See Note 2 supra, “Missouri Report”, page 15.

³⁰ Loc. cit.

represented litigant cannot afford an attorney, or does not want an attorney, in today's do-it-yourself era, the litigant in effect says, "I can do it myself." However, a related question often asked of court staff or judges is "How do I do it?" In America today there is a strong "do-it-yourself" philosophy in many aspects of life.

Home schooling, self-service gas stations, automatic teller machines, "for sale by owner" real estate, and in the legal realm, document kits, legal and computerized forms, Internet availability, all reflect a "go-it-alone" society. The growth of the self-help era has led to the public attitude that a reasonably educated person should be able to handle himself or herself in the court environment. Self-help tools such as nearly universal access to personal computers and Internet services also help explain the increase in self-representation. Consumers are able to "surf the net" and find what they believe to be easy answers to complex legal questions."³¹

This do-it-yourself attitude is reflected in the survey conducted by the Commission. In the Missouri Report, roughly 38% (142 of 289) of litigants responding to the survey reported that they chose to represent themselves because of a belief that they could handle the case on their own. It is unclear whether the products found on the Internet are instrumental in this belief. It is clear that the general public believes that a reasonably educated person should be able to handle some legal matters. "A 1999 national survey found that nearly 60 % of respondents agreed with the statement, "It would be possible for me to represent myself in court if I wanted to." "³²

"Many self-represented litigants work their way through the court with little fanfare; their case typically is simple enough to do. Many, though, are baffled by the court's procedures and need professional assistance. Simplifying and standardizing court forms and procedures have helped many self-represented litigants. Those who avoid what they perceive

³¹ Sampson, Kathleen M., *Meeting the Pro Se Challenge: An Update*, found at www.ajs.org.prose.sampson.htm, (7/10/2001). Cited in Note 11, Cran Stratioti, Cynthia, page 37.

³² Bennack, Frank; *How the Public Views the State Courts: A National Survey*, NCSC 1999, cited in Note 2 supra, "Missouri Reports" page 17. The 1999 survey reported the views of 1, 826 Americans interviewed via telephone by researchers from the Indiana University Public Opinion Laboratory between January 13 and February 15, 1999. Although the public perception is that going to court is not affordable, the report also indicates that different reasons contribute to the cost of litigation. For example, 87% of respondents believed that having a lawyer contributed "a lot" to the cost. *Id* at 23. Over half the respondents, however, believed that the slow pace of justice, the complexity of the law, and the expenditure of personal time also contributed "a lot" to the cost of going to court. *Id*.

to be the high cost of legal services, proceed by relying on the knowledge of court staff, law libraries, self-help publications, and the Internet.”³³

Two examples of materials available on the internet for do-it-yourself litigants are We The People Document Preparation Services who states at its website³⁴ “serves customers who cannot afford the high cost of attorney fees, as well as those who can- and simply choose not to,” Another website states “We have taken the cost, effort and mystery out of filing your own divorce. Join the thousands who have prepared their own divorces for a fraction of what you will pay a lawyer,” according to Cheap Divorce Forms.³⁵

One concern of the Missouri Supreme Court Joint Commission was “the proliferation of commercial non-attorney “self-help” businesses. These businesses generally prepare pleadings, separation agreements, parenting plans and proposed judgments for individuals who intend to represent themselves. These facilities may exploit the mistrust of attorneys by the general public by touting the fact that no attorneys are required. Such businesses, however, may do nothing other than provide forms, with consumers being charged an exorbitant fee.”³⁶

IV. Judicial Attitudes Toward the Self-Represented

The fourth factor discussed in the 1998 Judicature report, *Meeting the Challenge of Pro Se Litigation: A Report and Guide Book for Judges and Court Managers* is the belief by some judges that litigants should not be encouraged to represent themselves, while other judges believe that people represent themselves due to lack of access to legal services.

In 2000 the Conference of State Court Administrators (COSCA) endorsed the belief that the appropriate programs for self-represented litigants can address the needs of all:

An informed litigant, with more realistic expectations, can better navigate the court process on a more level playing field; nonjudicial court personnel can assist the self-represented in a limited yet appropriate fashion; judges will see better prepared and informed

³³ See Note 11 supra, Cran Stratioti, Cynthia, page 37.

³⁴ Found at <http://www.wethepeopleusa.com> (10/05/06).

³⁵ Found at <http://www.divorceformz.com> (02/13/07).

³⁶ See Note 2 supra, “Missouri Report” page 18.

litigants and cases will be processed more quickly.”³⁷

Further, when addressing whether providing assistance to self-represent litigants encourages more people to file without legal assistance, COSCA stated that “ the self-represented population is a permanent fixture in our justice system; it will not go away simply because the courts decline to devise appropriate responses or provide assistance.”³⁸ COSCA encouraged the courts to be proactive by encouraging litigants to obtain the services of an attorney whenever appropriate, but, if that is not possible, assume a leadership role in increasing the availability of free or low cost services for attorneys in the community.³⁹

In Missouri, there are many obstacles to providing civil/domestic legal services to those with low incomes. The Legal Services Corporation, the national funding source for legal services offices, is subject to annual federal budget cuts and the money available can fluctuate from year to year. In Missouri, the legislature has provided funding for civil legal service programs from a fee on circuit and appellate court filings. This fee is known as the “Basic Civil Legal Services Fund” and is expected to generate approximately \$3 million annually.

In Missouri, the four legal service offices have also benefited from funds raised through Interest on Lawyers’ Trust accounts (“IOLTA”). Low interest rates within the national economy, however, reduced these funds from \$767,459 to \$386,504 in 2002. In an effort to add stability and generate funds to shore up losses due to the low interest rates, Missouri Bar dues were increased by \$20 dollars per year. This increase is expected to generate approximately \$400,000.”⁴⁰

Even with the increases over the last two or three years, the Legal Services Offices are only able to serve a fraction of the low income citizens with legal problems. The following was cited in the Missouri Report:

³⁷ Conference of State Court Administrators, *Position Paper on Self-Represented Litigation*, August 3, 2000 at 2. As quoted in Woodward see Note 6 supra, page 15.

³⁸ Ibid., 16

³⁹ Loc. cit.

⁴⁰ See Note 2 supra, “Missouri Report”, pages 16-17.

A recent legal needs study conducted by Dr. Greg Casey at the University of Missouri-Columbia found that 77% of low income households in Missouri have faced at least one legal problem during 1998-2000. Legal services, however, was able to assist only 27% of the qualifying households. Moreover, whether assistance is available from Legal Services varies depending on the type of legal problem.”⁴¹

Based on these statistics, at least half the low income households that qualify for legal assistance are unable to obtain the services of an attorney and this does not begin to address those individuals who do not qualify for free legal services but do not make enough income to pay for an attorney.

V. Challenges to Court Managers from Increased Self-Representation

The fifth and final finding in the 1998 survey in *Meeting the Challenge of Pro Se Litigation: A Report and Guide Book for Judges and Court Managers* was that court managers find a substantial increase in self-representation problematic. There is a lack of funding for self-representation services and for staff education to better assist pro se litigants. Additionally, there are no court policies to guide self-represented litigants.

Self-represented litigants challenge the court on several levels. “On the one hand there is a strong public policy - applicable to all citizens except duly licensed attorneys - barring the unauthorized practice of law.”⁴² On the other hand it is “constitutionally mandated in the United States Constitution, First, Fifth and Fourteenth Amendments and summarized in the Trial Court Performance Standards that: ‘Trial courts should be open and accessible... [a]ccessibility is required not only for those who are guided by an attorney, but also for all litigants...’ ”⁴³ “In

⁴¹ Casey, Greg *Interim Report: Missouri Legal Services Survey*, October 3, 2002, at i. cited in “Missouri Reports”, *Ibid.*, 17.

⁴² Ostertag, Robert L., “Nonlawyers Should Not Practice Law”, *American Bar Association Journal*, Vol 82 116 (May 1996) cited in Foulk, Stephen D., *Developing Court Guidelines for Assisting Self-Represented Litigants in New York*, Institute for Court Management Court Executive Development Program Phase III Project, (May 2001) at 2.

⁴³ National Center for State Courts, *Trial Court Performance Standards*, Bureau of Justice Assistance, Commentary to Standard 1, “Access to Justice” (July 1997), as cited in Foulk, Stephen D., *Ibid.*, 1.

addition, Judges and other trial court personnel [should be] courteous and responsive to the public and accord respect to all with whom they come into contact” and “[r]equirements of this standard are particularly important to the understanding shown and assistance offered by court personnel to...those unfamiliar with the trial court and its procedures.”⁴⁴ “To achieve these public goals, it is generally recognized that court personnel must provide some assistance to self-represented litigants for without it, the courts would be accessible only to those who could afford counsel.’”⁴⁵

The clerk is confronted with the challenge of answering on the phone or in person a variety of questions by the self-represented litigant every day and, according to the Trial Performance Standards listed above, the clerk needs to provide some assistance to those litigants without crossing that fuzzy line known as the unauthorized practice of law. In most instances these clerks have not been provided the training or the information to answer the questions presented by the self-represented litigant. If the litigant manages to file the appropriate paperwork and a court date is set in front of a judge, then the judge and his staff have a new set of problems when the self-represented litigant does not have the knowledge or skills to adequately present his or her case. In the Missouri Report nearly 70% (71 of 102) circuit clerks surveyed indicated that:

they have no established rules, policies or instructions to guide them in responding to public requests for assistance. Circuit clerks unanimously report that they experience difficulties in responding to pro se litigants, i.e. crossing the line between giving legal information and giving legal advice and the unauthorized practice of law. Typical of the sentiment is one clerk’s response, “I have concerns about assisting pro se litigants. It is difficult to know where assisting stops and giving legal advice starts. It would be helpful if we had guidelines.” The vast majority of circuit clerks responding to the Joint Commission’s Circuit Clerk Survey echoed this sentiment.⁴⁶

⁴⁴ Id., Standard 1.4 and Commentary cited in Foulk, Stephen D., Loc. cit.

⁴⁵ Id., Commentary to Standard 1.4; Goldschmidt, Jona “How are courts handling pro se litigants?”, *Judicature*, Vol. 82, No. 1, 13 (July-August 1998), cited in Foulk, Stephen D., Loc. cit.

⁴⁶ See Note 8 supra “Missouri Report”, page 21.

The Arizona Judicial Ethics Advisory Committee gave the following opinion on whether clerks should assist in the completion and filling out of forms and pleadings to be filed by the clerk:

Clerks of the court who are involved in assisting the public with forms and pleadings must be careful not to advise the public as to its legal rights and responsibilities. Careful attention must be given to avoid the unauthorized practice of law. However this does not mean that clerks of the court may not assist the public in the routine filling out of forms... If clerks of the courts were prohibited from lending assistance to the public, the result would be a judiciary that is only accessible to those individuals able to afford counsel. Clearly, such an effect would not be desirable nor constitutional. Further, assistance in filling out forms is desirable by allowing for an efficient flow of an individual's case through the system. However, judges must caution their clerks not to give substantive advice above that which constitutes clerical assistance.⁴⁷

The judge assigned to a case with self-represented litigants will face several issues that need to be addressed. Although all parties have access to the court, they are not allowed to communicate with the judge about the case except when all the parties are present (this is considered an ex parte communication.) This concept is hard for self-represented litigants to understand. They often are offended when the judge will not meet with them to discuss items of concern. People in our society are accustomed to being heard, and most self-represented litigants do not understand that a judge is prohibited from discussing their case ex parte before the hearing. This misunderstanding makes the litigant feel like there is a conspiracy between the judge and the other party. As a result, the litigant might file a motion to disqualify, report the judge to the disciplinary council, or write to the newspaper portraying judges and attorneys as making decisions in backrooms.⁴⁸

⁴⁷ Arizona Supreme Court, Judicial Ethics Advisory Committee, Opinion 88-5, May 1988, cited in Note 20 supra, Keller, Corrie L., pages 24-25.

⁴⁸ See Note 20, Keller, Corrie L., Ibid., 26.

“Another challenge that judges frequently deal with is that litigants do not understand procedural rules. Most do not know they exist; let alone how to apply them to a case.”⁴⁹

Many judges believe that, if they relax the procedures for the self represented litigant, the other side will complain that the judge is being partial and acting as an advocate. This is a bigger problem when one side is represented by an attorney and the other side is self-represented. If the judge strictly follows the rules, the self-represented litigant will have a hard time introducing any evidence and will complain that they are not being allowed to present their case. No matter how a judge handles the case there will always be critics. Some of these criticisms can be better handled by providing better information to self-represented litigants. This can be accomplished by providing guidelines and training to the court personnel dealing with these self-represented litigants. This will bring some consistency to the system.

VI. Recommendations and Unresolved Issues

“There is quite a debate and a wide spectrum of beliefs within the court system, attorneys and those who assist self-represented litigants about what we should do to assist these litigants.”⁵⁰ Some believe all litigants should be required to have attorneys. The individuals who hold this view may have forgotten Thomas Paine’s observation that self-representation is a natural right.⁵¹ Others believe we should only assist those litigants who cannot afford and/or cannot find legal assistance. Yet another group believes we should fully assist litigants who represent themselves. These belief systems have prompted many discussions among the group members of the Commission, but according to a task force formed in New Mexico to explore the issues, the following conclusions seem to have universal support within the court system:

⁴⁹ Ibid., 24-25.

⁵⁰ *Final Report Providing Standard Forms and Instructions to Pro Se litigants in New Mexico*, State Justice Institute Grant 99-N-004, Supreme Court of New Mexico Administrative Office of the Courts, page 7.

⁵¹ Goldschmidt, Jona. *How are courts handling pro se litigants?* American Judicature Society July-August 1998, Volume 82, Number 1 Judicature 22.

- Courts are implementing self-help procedures not to promote self-representation, but to help the courts *deal with* an existing phenomenon. People are representing themselves now. The courts are acting in response to an existing problem.
- Most attorneys and legal services organizations agree that we should support those who cannot afford an attorney. The issue that is much more widely disputed is whether we should support people who can afford a lawyer, but choose not to get one.⁵²

The Self Represented Litigant Task force in New Mexico found “three categories of litigants: those below the poverty line, those just above the poverty line (the “working poor”) and those who can afford a lawyer. The poor and the working poor typically make up 85-90% of those who seek services and who self-represent. Only a very small number of people can afford an attorney and simply choose not to get one.”⁵³

As previously stated in the Missouri Report, 60% of Missourians in Jackson County are part of the poor or “working poor”.⁵⁴ The Commission has to ask:

[i]n the age of the personal computers and the Internet can we develop a system to provide more information at a reduced cost to those coming in contact with the courts? It will take the bar, judges, deputy clerks and court users to develop a different attitude or maybe a complete paradigm shift for all groups involved with the court system to enhance the courts’ responsiveness to the pro se litigant.”⁵⁵

We may want to begin the design of a new system in Missouri with the same premise that was used in the research project done in September 2000 by the National Center for State Courts, the Chicago-Kent College of Law, and the Illinois Institute of Technology’s Institute of Design “Illinois Project”.

The project began with the premise that many of the barriers that confront self-represented litigants do not arise from the litigants’ failure to formulate appropriate goals and objectives in resolving legal problems and disputes or from the factual or legal complexity of those problems or disputes. Rather, they stem from the inherent complexity of the courts’ own procedures and administrative requirements. The project’s primary objective was to design court processes to eliminate or drastically reduce this complexity and, thus, permit self-represented litigants to resolve their legal problems more effectively.”⁵⁶

⁵² See Note 50 Supra, New Mexico, page 17.

⁵³ Ibid., 7.

⁵⁴ See Note 2 supra, “Missouri Reports”, page 10.

⁵⁵ See Note 20 supra, Keller, Corrie L., page 26.

⁵⁶ Hannaford-Agor, Paula and Mott, Nicole, *Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations*, The Justice System Journal, Volume 24, Number 2, 2003 at 166.

The Illinois Project first identified major barriers encountered by self-represented litigants through direct observations of self-represented litigants in five jurisdictions. Next, it employed system design methodology to develop a conceptual model of the court system where all barriers were removed. Finally it used the conceptual model to redesign the court system into an Internet-based prototype for implementation in the courts.⁵⁷

Using the concept in the Illinois Project that procedural barriers need to be removed for the self-represented litigant to be successful, the researchers determined that an outcome –based evaluation of the litigants is not adequate. An evaluation of the litigant’s overall experience is most important to determine the litigant’s satisfaction with procedural justice. From the litigant’s point of view, it was more important that the litigant was treated fairly by court personnel including the judge and the court clerks, that the litigant was able to state his or her side of the story and that the decision was based on an accumulation of the facts.⁵⁸ It is difficult to measure a litigant’s overall experience. The experience does not always end with a disposition at trial. The timeframe in which litigants access justice is extended with enforcement of their judgments and modifications of their orders.⁵⁹

One state that has done a very thorough job of creating forms for family law cases and studying what process works best is New Mexico. The Supreme Court of New Mexico, Administrative Office of the Courts was awarded a grant through the State Justice Institute (SJI) to create forms for self-represented litigants. The project ended in December 2001 when the New Mexico Supreme Court approved 16 uncontested divorce and paternity forms and ten sets of

⁵⁷ Loc. Cit.

⁵⁸ Ibid., 179.

⁵⁹ Ibid. at 180.

instructions. These forms are available on the New Mexico court website at www.nmcourts.com under the Family Law Forms heading.⁶⁰

The key accomplishments and lessons learned in New Mexico were:

- Creation of forms for self-represented litigants is one of many important resources needed.
- Self-represented litigants are most effectively served when there is a person at the court who can assist the litigant to work through the system. The forms can be a tool for the personnel at the court to use to help guide the litigants through the system.
- The biggest challenge facing courts is to find the funding to link litigants with human resources to answer their questions.
- The on-line child support worksheet is a huge success.
- Access to the internet is not the problem that many feared it would be.
- It is extremely helpful to get an early evaluation of the project so that deficiencies in the forms discovered by the evaluators may be corrected.
- Now that New Mexico has successfully piloted interactive forms on the Internet, it will place only Supreme Court-approved forms on the Internet, and not forms in the pilot stage. (Only hard copies are used at the participating pilot sites)⁶¹

⁶⁰ See Note 50 *supra*, New Mexico, page 2.

⁶¹ *Ibid.*, 3-4.

METHODOLOGY

As reviewed above, for the last four years, the Commission has studied the impact of self-represented litigants on the judicial system and how this issue should be addressed on a state-wide level. The Commission has adopted nine recommendations and is preparing to implement these recommendations in family law cases by February 2007. To assist in the development of these recommendations, a survey was conducted in October through November, 2006 in Jackson County, Missouri. The objective of the survey was to study the perspectives, biases and concerns of the four major stakeholders/participants involved in the processes at the Jackson County Circuit Court. The four major stakeholders/participants are the judiciary, the attorneys, court personnel and the self-represented litigant. By studying the participants' perspectives we can make informed decisions as to what is the best avenue for increasing self-represented litigants' access to the courts and address any concerns that may arise among key stakeholders both in Jackson County and elsewhere in the state. Based on the results of the surveys, the Commission can determine what attitudes and obstacles may stand in the way of success.

SURVEY

This survey is six pages in length and is modeled after the survey created and used by Cynthia Cran Stratioti in "Four Perspectives on Self-Representation and the Judicial System in Duluth, Minnesota." Other surveys were reviewed, including the surveys created by Stephen D. Foulk in "Developing Court Guidelines for Assisting Self-represented Litigants in New York" and the survey created and used by the Probate and Family Court Department Pro Se Committee from the Commonwealth of Massachusetts in "Pro Se Litigants: The Challenge of the Future" (December 1999). This survey was developed to try and determine obstacles that might be encountered from members of the judicial system if some assistance is provided to self-represented

litigants, what programs are available in Jackson County at the present time and what programs might be offered in the future. The complete survey, which is included as Appendix B page 78 below, was divided into the following eight sections:

- 1) Basic attitude regarding court assistance of self-represented litigants in family law cases;
- 2) Perceptions of the court and self-represented litigants;
- 3) Type and number of family law cases with self-represented litigants;
- 4) Profile of the self-represented litigant;
- 5) Problems encountered by the self-represented litigant;
- 6) Current court forms, procedures, practices and responses to the self-represented;
- 7) What is the appropriate judicial response to the self-represented;
- 8) Additional comments or thoughts.

Except for one yes/no question and the sections for comments, the survey questions were based on ratings rather than open-ended questions so that the data would be more beneficial and easier to tabulate. The survey was identical for the judiciary, court personnel and attorneys. The litigant survey was identical to the other groups except for the following:

- Section 3, on the types and number of cases, was different. The litigants were asked to identify the type of case they were filing while the other stakeholders were asked if the number of self-represented litigants had increased and, if so, in which types of cases.
- Section 4 –profile of the self-represented litigant, was also different for the litigant as compared to the other stakeholders. The other stakeholders were asked to rate the reasons for self-representation and the utilization of attorneys. The litigants were given options and asked directly why they were self-represented and with how many attorneys they had spoken.

- Section 6- current forms, procedures, practices and responses to self-represented litigants, had an extra section for the attorneys, judges and court personnel in which they rated the assistance they personally provided to self-represented litigants.

The surveys were distributed in October 2006, to the clerks, judges, commissioners, attorneys and self-represented litigants who practice or have a family law case pending in the Jackson County Circuit Court. The distribution list of self-represented litigants in Jackson County came from a report from the Jackson County JIS Case Management System that identified all pending dissolutions with a pro se petitioner. The Kansas City Metropolitan Bar Association provided its directory which identifies the attorneys practicing in the area of family law. The surveys were color-coded for easy identification and most of the surveys were returned by the end of November. The distribution of surveys was limited to Jackson County Circuit Court because it is the second largest metropolitan area in Missouri and has a larger population from which to gather information. Secondly, Jackson County has failed to provide any assistance on family law cases, therefore it probably has the greatest demand for assistance from self-represented litigants. It has only been in the last couple months that a Self-Represented Awareness Program was developed in Jackson County related to the filing of dissolutions. Thirdly, the surveyor works at the Jackson County Circuit Court and could easily identify who needed to be surveyed and ensure that the surveys were returned promptly. Finally, this survey will give a good cross-section for the Jackson County Circuit Court and may identify issues on a local level, so those particular concerns may be addressed.

TABLE 2 – SURVEY DISTRIBUTION AND RESPONSE RATES

	ATTORNEYS	JUDGES	CLERKS	SELF-REPRESENTED LITIGANTS	TOTAL
SURVEYS SENT	310	25	23	249	607
METHOD	ELECTRONIC DISTRIBUTION	HAND-DELIVERED	HAND-DELIVERED	MAILED (217) HAND-DELIVERED(32)	VARIOUS
NOT RECEIVED	23			26	49
NOT RETURNED	219	6	2	MAILED (155) HAND-DELIVERED (1)	383
NUMBER RETURNED AND USED	68	19	21	MAILED (36) HAND-DELIVERED(31) TOTAL= 67	175
RESPONSE RATE	22%	76%	91%	27%	29%

The survey was hand-delivered to 17 circuit court judges, six associate circuit judges, two family court commissioners (a total of 25 judges) and 23 court personnel. The response rate for the judges and court personnel was high, perhaps because every survey was hand-delivered, while, the response rate for the attorneys and litigants was relatively low. The low rate of return for attorneys and litigants was also reflected in the national trends and again, may be attributed to the distribution method utilized. The surveys sent to the attorneys and litigants in both the local and the national surveys were mailed or electronically distributed. It is easier to ignore these surveys when they arrive anonymously and there is no one pushing the participant to complete the survey. The effect of the distribution method is strongly demonstrated by the rate of return from the litigants. The surveys mailed to the litigants at their last known address had approximately a six percent response rate while the surveys hand-delivered to the litigants at the Self-Represented Awareness Program for dissolution cases had a 96% response rate. This clearly demonstrates that hand-delivery is the most successful method for conducting surveys. All future surveys should be presented to the participants when they are present in the courthouse or participating in a program. The surveys electronically distributed to the attorneys may have had a little better return rate if the

cover letter had come from the Presiding Judge of Jackson County rather than the Chair of the Missouri Pro Se Commission. It may be difficult to hand-deliver surveys to litigants and attorneys. But, given the increased effectiveness, every effort should be made to collect the survey data from these two groups by focusing on dockets or programs where they may be present.

The survey was developed to determine the attitudes of all the stakeholders and the questions and ratings were framed for neutrality. However, there were several concerns or biases that still probably affected the answers given. The court personnel seemed to have had it drilled into them that they cannot give legal advice to self-represented litigants. As a result, they likely did not feel they could admit to giving any assistance and responded accordingly. The judges' and attorneys' perceptions are colored because they think the development of programs for the self-represented will have a financial impact on attorneys. Secondly, the court does not believe that they have the financial resources available to provide these programs. Based on these assumptions, the answers may be skewed to reflect these beliefs.

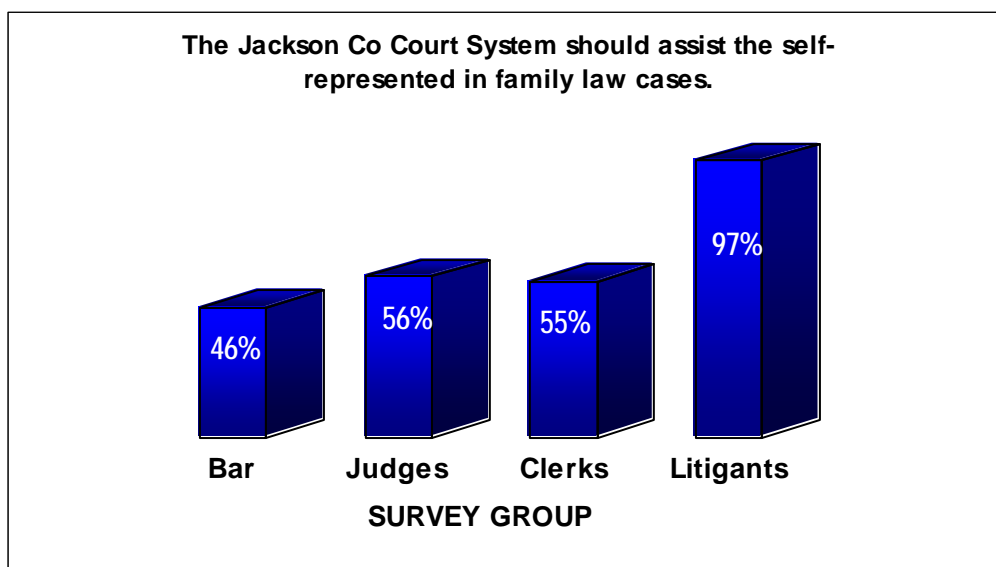
This survey was pre-tested by several attorneys, a litigant, and two court employees. After testing, the section on Utilization of Attorneys was changed to a rating type question instead of a fill-in-the-blank question. "Self-help clinic" was defined in section seven, question three.

FINDINGS

This paper examines the justice system in Jackson County from the perspectives of the judge, the attorneys, court clerks and the litigant. The goal is to study these findings and determine if the recommendations made by the Commission and national trends are valid and supported by the data in Jackson County, Missouri. The Commission's goal was to work toward a comprehensive system for self-represented litigants that better suits the values and needs of all the constituents in Jackson County and the State of Missouri. To determine these needs and values, a survey was created to address the viewpoints and attitudes of judges, court staff, attorneys and the litigant; the types and number of family law cases being filed; the profile of the self-represented litigant; problems encountered by the self-represented; current forms and processes and the appropriate judicial response. The results of this survey will be used to develop a coordinated response that addresses the concerns of those involved in the judicial process.

Section 1 - Basic attitude regarding court assistance of self-represented litigants in family law cases: In the survey, all four groups were asked the same question: In your opinion, should the Jackson County Circuit Court System assist members of the public who have no attorney and represent themselves before the Jackson County Courts? In response to this question, 65 out of 67 self-represented litigants (97%) thought that assistance should be provided. One judge did not respond, but ten out of 18 judges (56%), and 12 out of 22 (55%) of the court clerks/staff thought assistance should be provided. The most resistance to providing assistance came from the attorneys. Only 31 out of 68 attorneys (46%) thought assistance should be provided. (See Appendix C, page 115 for participant responses).

CHART 1 – BASIC ATTITUDE REGARDING COURT ASSISTANCE OF SELF-REPRESENTED LITIGANTS IN FAMILY LAW CASES



These findings are further emphasized in the comments made by all four groups surveyed.

Comments regarding this question were limited but followed a consistent theme: Any resistance to assisting self-represented litigants on the part of the court employees, judiciary and the bar stems from the belief that the Court cannot provide assistance without crossing the line of impartiality and becoming representatives of the litigant. Eleven comments were made by the judges, forty-six percent stating that the Court may assist the self-represented litigant but they were concerned about the Court being put in a position of representing the litigant; Nine comments were made by the employees, fifty-six percent stating that they were worried about giving legal advice or wrong advice to the self-represented litigants. The attorneys provided seventeen comments in which they opposed the Jackson County Court system assisting self-represented litigants in family cases for the following reasons:

- 28% stated it would constitute the unauthorized practice of law;
- 28% stated that it was not the role of the judiciary, and it would destroy impartiality;
- 14% stated no assistance should be provided in family law cases;

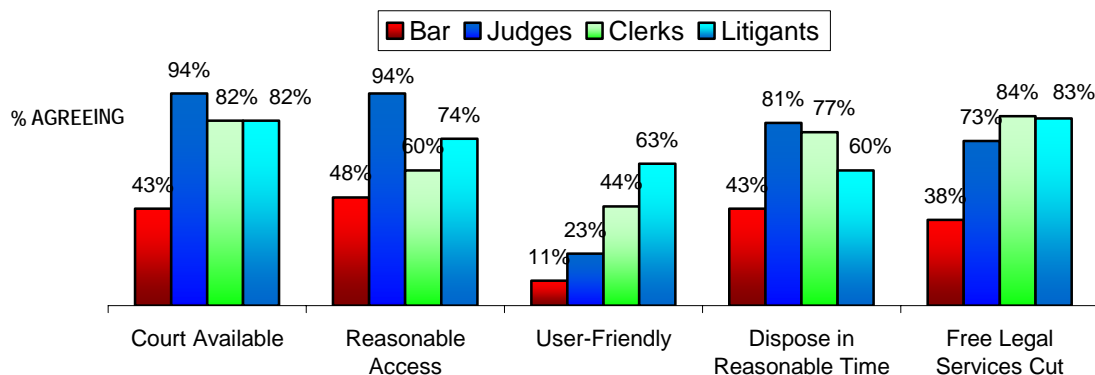
- 14% stated only limited assistance should be provided, such as providing forms in very simple cases involving no children or property, and it should be only procedural help, not substantive help;
- 11% stated family law cases are too complex for laymen.

Four comments were made by the litigants, and seventy-five percent thought that the court should assist self-represented litigants if they have insufficient funds for an attorney.

Section 2 - Perceptions of the court and self-represented litigants: Each group was asked to rate five questions on their perceptions of how accessible the court is to self-represented litigants. The rating was based on the following five point scale: (5) Strongly agree; (4) Somewhat agree; (3) No opinion; (2) Somewhat disagree; (1) Strongly disagree. The following questions were asked:

- 1) Is the court available to everyone who needs it;
- 2) People without an attorney have reasonable access to the court;
- 3) The court is user-friendly, easy to use and understand;
- 4) The court disposes of family law cases in a reasonable amount of time;
- 5) More individuals are representing themselves due to cutbacks in free legal services funded by the state and by the federal government.

CHART 2- PARTICIPANTS' PERCEPTIONS OF THE COURT AND SELF-REPRESENTED LITIGANTS:



A high percentage of the judges, clerks and litigants perceive the court as being available to self-represented litigants while less than 50% of the attorneys perceive the court as being available. This negative perception by the attorneys is probably derived by the attorney's belief that the legal system is extremely complicated and hard to navigate. One must realize that it took three years of extensive study and expensive schooling for an attorney to gain an expertise in the practice of law.

The judges overwhelmingly thought self-represented litigants had reasonable access to the Courts, whereas the attorneys, litigants and clerks generally did not. Judges, pursuant to the Canons of Ethics, cannot have ex parte communications with the parties and therefore have fewer dealings with the self-represented litigant. As a result, many judges assume that the self-represented litigant has reasonable access to the courts. The clerks in the courthouse field most of the questions these litigants have regarding the filing of the court case and probably have a better understanding of the access problems encountered by the litigants.

Court personnel and the judges had more positive perceptions of the court. The attorneys' perceptions were more negative. The lowest rating given by all four groups was the rating on whether the court was user-friendly, easy to use and understand. The attorneys rated this low and would probably prefer the court not simplify the procedures because they do not want to lose

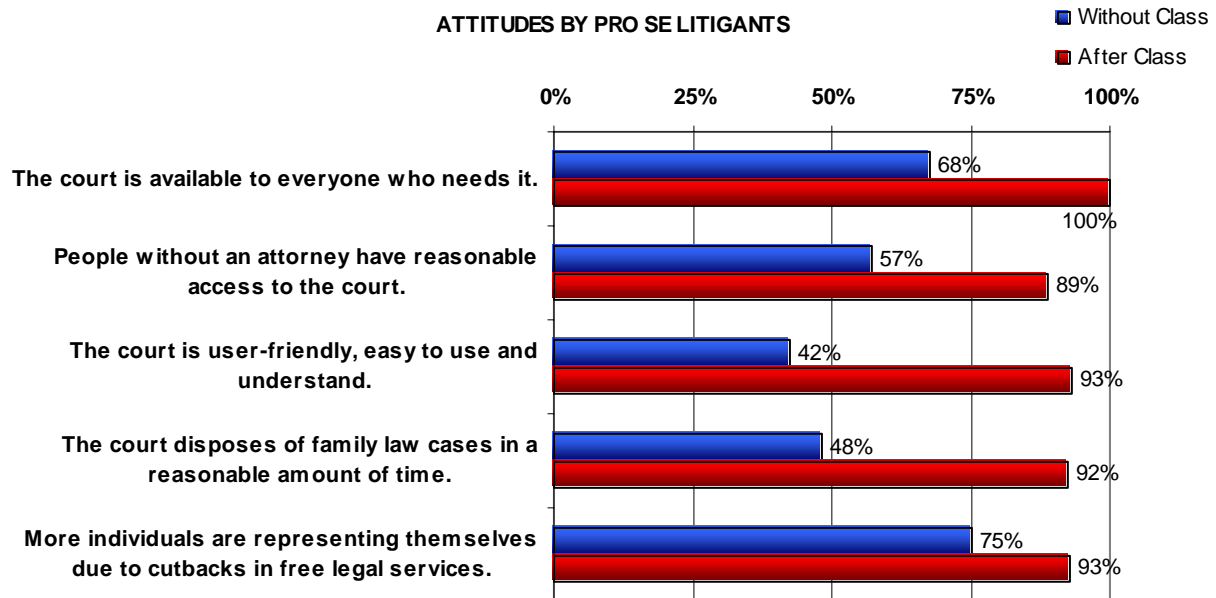
business. The litigants rated this question much higher than expected, so they may be getting some assistance from the staff to merit the higher ratings. The court may need to look at the procedural rules and our practices to determine how we can make the judicial system easier to use and understand.

A low percentage of attorneys thought family law cases were disposed in a reasonable time, while the other three groups had a more positive rating. Based on the unfavorable opinion of the attorneys, the court may need to study their disposition rates.

Judges, clerks and litigants overwhelmingly believe that more individuals are representing themselves due to cutbacks in free legal services funded by the State and Federal government. Attorneys did not view this as the reason that individuals self-represent. As discussed in the comments in the previous section, many attorneys believe that these litigants can afford an attorney but choose not to spend the money in that fashion. Many attorneys are worried that providing assistance to the self-represented litigant will affect their business.

The litigant responses were combined in the statistics above but these statistics varied greatly between those litigants attending the Self-Awareness Program and those litigants who had never attended a program and were trying to access the courts without any assistance. (See Appendix C, pages 115-116 for participant responses).

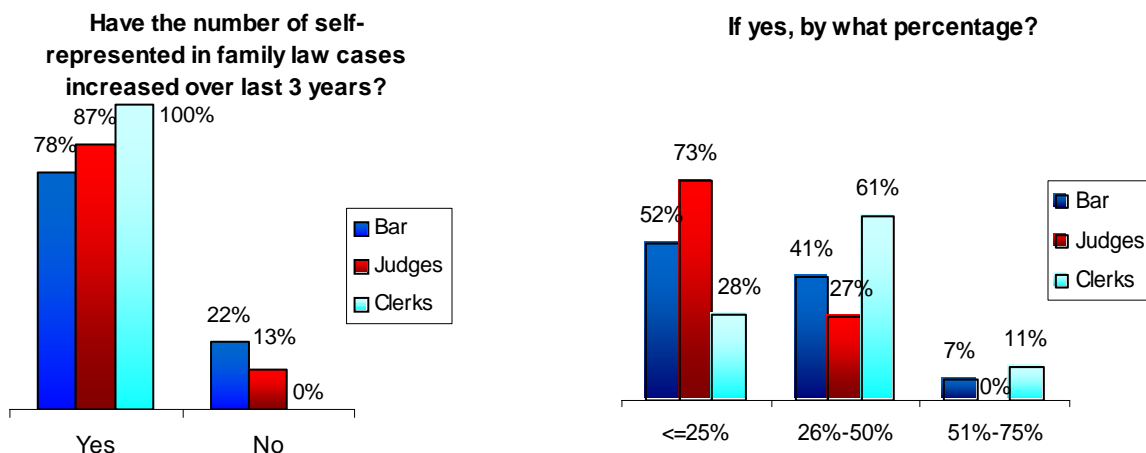
**CHART 3- LITIGANTS WHO ATTENDED THE SELF-REPRESENTED
AWARENESS PROGRAM VERSUS
LITIGANTS WHO RECEIVED NO ASSISTANCE**



The litigants who attended the Program rated the court much higher in all areas than those who had never attended the Program. In some instances it almost doubled. The more positive ratings of the court by those attending the Program reinforce the idea that a small amount of education can go a long way to improving public perceptions. This can be the first step towards instilling public trust and confidence in the judiciary. Access to justice has been denied to many of these individuals and many feel they are penalized for their low economic status.

Section 3 - Type and number of cases with self-represented litigants: In the survey, three groups – the attorneys, judges and court clerks, were asked if the overall number of self-represented litigants in family law cases has increased in the last three years. If yes, approximately what percentage they believed it had increased.

CHART 4 - HAS THERE BEEN AN INCREASE IN FAMILY LAW CASES FILED BY SELF-REPRESENTED LITIGANTS?



This section was designed to identify the types and numbers of family law cases being filed in Jackson County. All four groups overwhelmingly stated that there had been an increase in the number of family law cases filed by self-represented litigants. The litigants were asked to identify the type of case they filed. This survey question did not provide any useful data, as the survey was only sent to self-represented litigants with dissolution cases. No data on other cases being filed by self-represented litigants was obtained. The judges, clerks and attorneys made educated guesses based on what they had observed. The best way to obtain this data was to run a query in the Jackson County JIS Case Management system. The query report searched all family law cases filed with a specific case type designation and a pro se petitioner or respondent for a four year period. (See Appendix C, pages 116-118 for participant responses).

**TABLE 3 - TYPES OF FAMILY LAW CASES FILED
BY SELF-REPRESENTED LITIGANTS RE TABLE ON PAGE 14**

Filings	2003	2004	2005	2006
Dissolution w/o Children	2,071	1,951	1,853	1,594
% Pro Se Petitioners	17%	16%	18%	19%
%Pro Se Respondents	10%	11%	19%	23%
Dissolution w/ Children	1,768	1,655	1,504	1,350
% Pro Se Petitioners	14%	15%	16%	14%
%Pro Se Respondents	11%	14%	8%	4%
Separation	36	64	55	39
% Pro Se Petitioners	8%	22%	22%	10%
%Pro Se Respondents	19%	16%	5%	3%
Motion to Modify	1,030	1,158	1,084	878
% Pro Se Petitioners	16%	17%	18%	18%
%Pro Se Respondents	23%	21%	24%	24%
Paternity	357	321	398	323
% Pro Se Petitioners	7%	7%	7%	4%
%Pro Se Respondents	7%	5%	6%	4%
Family Access Motion	81	64	47	52
% Pro Se Petitioners	41%	34%	40%	38%
%Pro Se Respondents	54%	53%	55%	42%
CS Motion to Modify	234	197	299	260
% Pro Se Petitioners	17%	25%	14%	18%
%Pro Se Respondents	30%	28%	18%	21%
Total Cases Filed For Year	5,577	5,410	5,240	4,496
% Pro Se Petitioners	13%	14%	14%	16%
%Pro Se Respondents	13%	13%	10%	10%

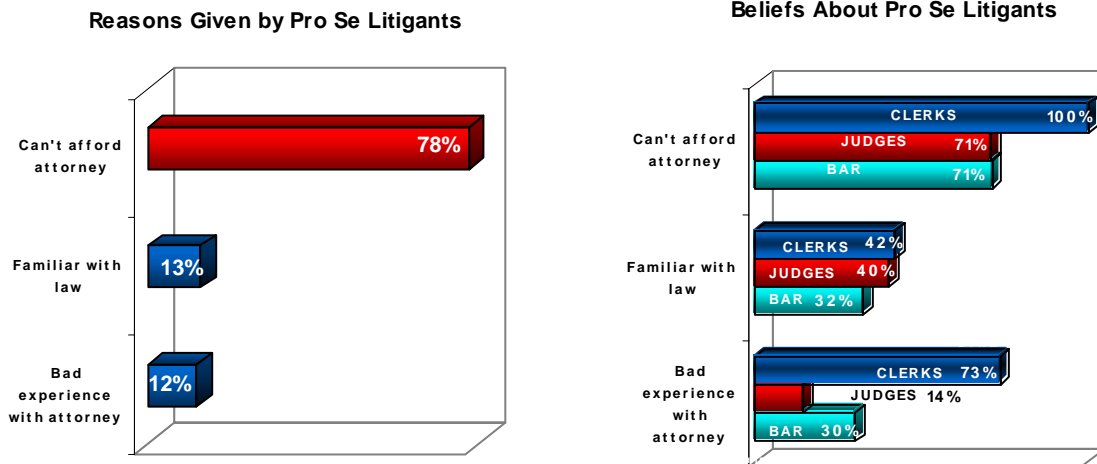
The highest designation of self-represented/pro se cases is in the area of family access motions/visitation. This area is high because Missouri has a statute and provides a form for self-represented litigants to file a Motion for Family Access when one party feels his or her visitation rights are being violated. The statute has specific remedies and does not address custodial changes. The court does not provide any assistance in the other family law cases, so many self-represented litigants will file a Motion for Family Access even if it is not the appropriate remedy. Adult abuse and child orders of protection are not included in these statistics as almost all these cases are filed pro se. In Missouri there are statutes that particularly state that the clerks must

assist litigants in these cases. Jackson County has 11 clerks, who are dedicated to assisting victims of domestic violence. Since assistance is provided in the domestic violence area, many litigants who cannot handle visitation and custodial issues in the proper manner file for orders of protection so they can temporarily resolve their issues. In today's society, there are numerous individuals who have children together but have never been married. Many of these individuals end up on the domestic violence docket or the state brings the fathers to court for payment of child support. In many instances, visitation of the children is never addressed. Jackson County has a fathering program which tries to address some of these issues in child support cases, and has just started offering a class for self-represented litigants in dissolution cases, but based on the statistics above, assistance should be provided in other areas such as modifications and visitation. A Motion to Modify must be filed to change custody, visitation, maintenance or for any modification to the judgment/decreed of dissolution.

Section 4 - Profile of the self-represented litigant: Three of the groups – judges, attorneys and court clerks were asked to rate three questions on reasons for self-representation. The rating was based on the following five point scale: (5) Strongly agree; (4) Somewhat agree; (3) No opinion; (2) Somewhat disagree; (1) Strongly disagree. The following statements were provided:

- 1) Most self-represented litigants represent themselves because they cannot afford an attorney;
- 2) Most self-represented litigants represent themselves because they think they are familiar with the law and have the ability to handle the case themselves;
- 3) Most self-represented litigants represent themselves because they have had a bad experience with a previous attorney;

CHART 5- REASONS FOR SELF-REPRESENTATION



The litigants were asked to check the reasons that applied to them and were given the same three options as listed above. Seventy-eight percent of the litigants marked that they represented themselves because they could not afford an attorney. A large percentage of all four groups' believe that litigants self-represent because they cannot afford an attorney. Based on these statistics the judicial system needs to provide assistance in one form or another to those individuals who cannot afford to access the courts.

A much higher percentage of attorneys, clerks and judges surveyed strongly or somewhat agreed with Statement Two, that most self-represented litigants represent themselves because they think they are familiar with the law and have the ability to handle the case themselves, while a low percentage of the litigants actually stated this as a reason. This discrepancy indicates a wide misconception by the attorneys, clerks and judges about why litigants are self-representing.

A high percentage of clerks surveyed strongly or somewhat agreed with Statement Three, that most self-represented litigants represent themselves because they have had a bad experience with a previous attorney. This suggests that they are receiving a lot of complaints in the clerks office from litigants. The judges and attorneys had a much lower rating, which was much closer to

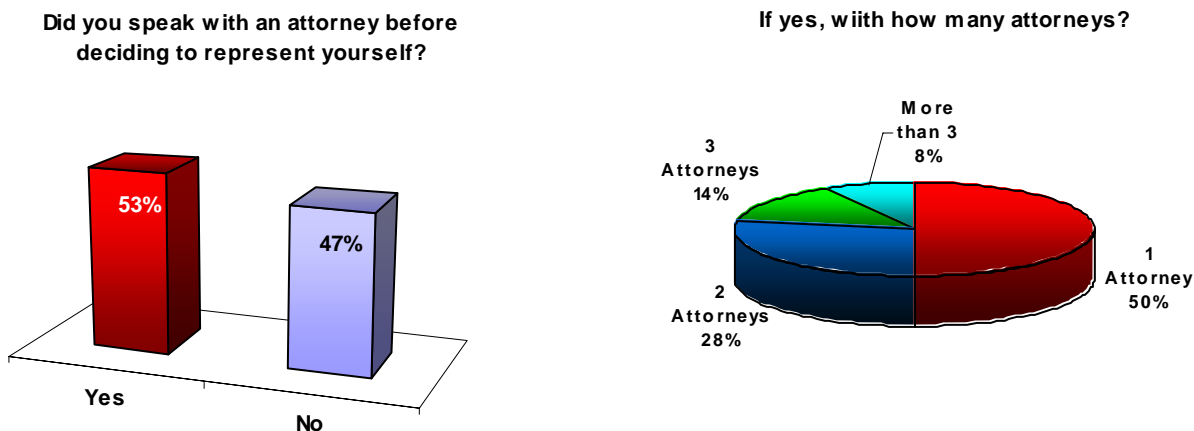
those statistics actually provided by the self-represented litigant. (See Appendix C, pages 119-120 for participant responses).

On Section 4(B), three of the groups – judges, attorneys and court clerks, were asked to rate two questions on the utilization of attorneys by the self-represented. The rating was based on the following five point scale: (5) Very significant numbers of self-represented litigants; (4) Significant numbers of self-represented litigants; (3) Some self-represented litigants; (2) Infrequently, rarely; (1) None at all. The following questions were asked:

- 1) In your opinion, how many self-represented litigants seek advice or speak with an attorney before deciding to represent themselves?
- 2) In your opinion, how many self-represented litigants speak to more than one attorney before deciding to represent themselves?

The litigants were asked direct questions on whether they sought advice from an attorney and, if so, from how many attorneys they sought advice.

CHART 6- UTILIZATION OF ATTORNEYS



According to these statistics, 35% of attorneys, 22% of judges and 28% of court clerks believed that some litigants are speaking with an attorney before deciding to self-represent. These numbers are much lower than the actual number of litigants seeking legal advice from an attorney.

This shows another misconception that the participants have regarding why litigants self-represent. The attorneys, judges and court clerks are not giving the litigants credit for doing their homework and gathering the facts necessary to decide if they can afford an attorney.

Whether the attorneys, judges and court clerks thought the self-represented litigant had spoken with more than one attorney was not very useful information. The litigants' answers provided more valid information. According to the litigants, 50% of those self-represented litigants that spoke with a attorney, spoke with more than one attorney. (See Appendix C, pages 120-121 for participant's responses).

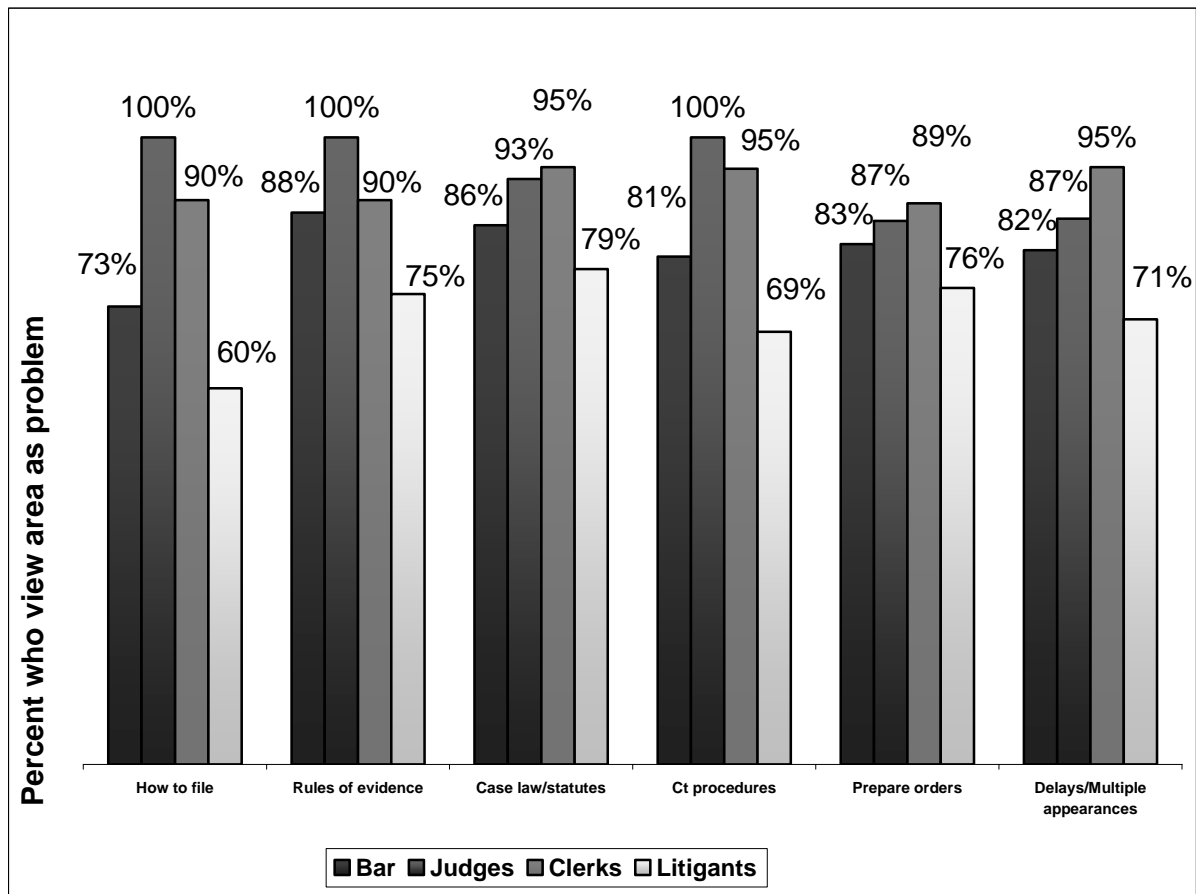
These statistics are born out in the comments made by all four groups surveyed. Comments listed for this question were limited. One hundred percent of the comments made by the court clerks mentioned the cost of hiring an attorney as a problem and that many cannot afford the initial retainers. Fifty-three percent of the attorneys believed that many are self-represented through choice rather than financial necessity. Two out of the three judges who commented also believed people self-represented through choice rather than financial necessity. Twenty-five percent of the comments made by the litigants suggested they had a poor opinion of attorneys and felt they were better off representing themselves. Fifty-six percent of the litigant's comments suggested that the process was simple enough to represent themselves (total of 16 comments- 3 comments out of the 16 were not rated).

Section 5 - Problems encountered by the self-represented litigant: Each group was asked to rate six statements on problems encountered by or with self-represented litigants. The rating was based on the following five point scale: (5) Definitely a problem; (4) Somewhat a problem; (3) No opinion; (2) See an issue, but not a problem; (1) Definitely not a problem. The following statements were offered:

- 1) The self-represented litigant doesn't know how to file a case and/ or respond to a case filed against him or her;

- 2) The self-represented litigant doesn't know rules of evidence (i.e. how to present documents or question witnesses in court);
- 3) The self-represented litigant doesn't know the case law or statutes on which a decision is based;
- 4) The self-represented litigant doesn't know court procedures;
- 5) The self-represented litigant cannot prepare orders after the case is over;
- 6) The self-represented litigant lacks the knowledge to move through the court process efficiently, resulting in delays and multiple appearances.

CHART 7 – PROBLEMS ENCOUNTERED BY THE SELF-REPRESENTED LITIGANT



All four groups of participants overwhelmingly recognize that self-represented litigants have problems proceeding through the court process because they lack the knowledge necessary to file, process and litigate their cases. Of the four groups, the litigants themselves seem to be the

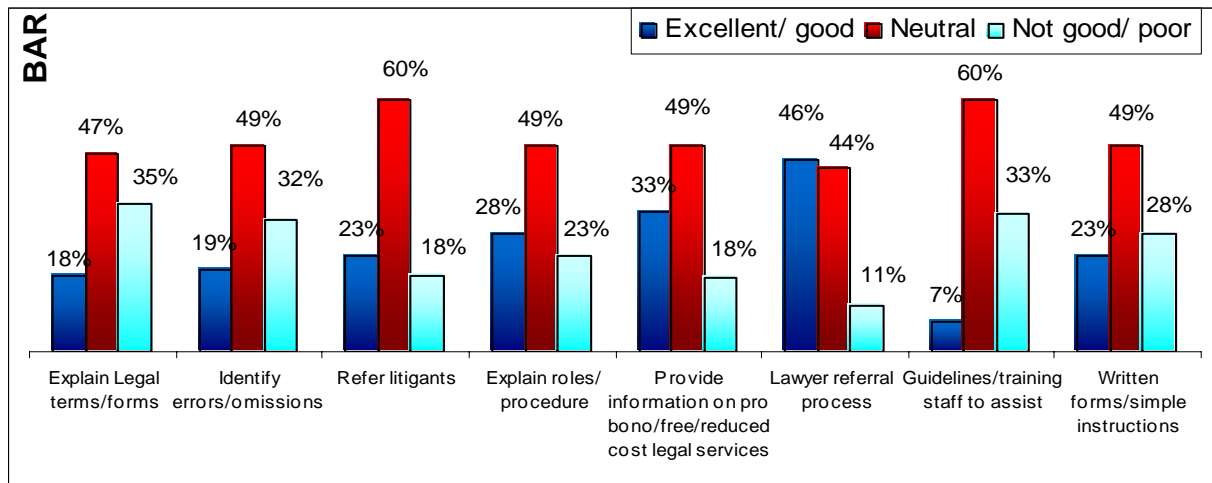
least aware of the problems they face. Many of the problem areas identified above could be addressed by educating the self-represented litigant. An overwhelming majority of the judges and clerks stated that the self-represented litigant does not know how to file a case. This problem can easily be remedied by providing access to the initial pleadings/forms with some simple instructions to the self-represented litigant before they file the case. If all the paperwork is filed correctly the first time, this will also remedy the problem of delays and multiple appearances. The second and third problems identified by the participants were that the self-represented litigant does not know rules of evidence, statutes and/or case law. In some instances, the lack of this knowledge by self-represented litigants may be problematic but in simple dissolution cases, instructions could be provided explaining how to introduce evidence in trial (i.e. a script). The statutes or case law that applies could also be explained within the forms on the more routine cases. If the case is too complicated for the self-represented litigant, then the court needs to use pro bono attorneys or look to unbundled services. Unbundled legal services are when an attorney drafts documents for part of the case but does not provide full representation. It makes more sense to use these limited attorney resources on the more difficult cases than on the simple routine cases. One hundred percent of the judges and ninety-five percent of the court clerks stated that self-represented litigants present a problem because they lack knowledge of court procedures. (See Appendix C, pages 121-122 for participant's responses).

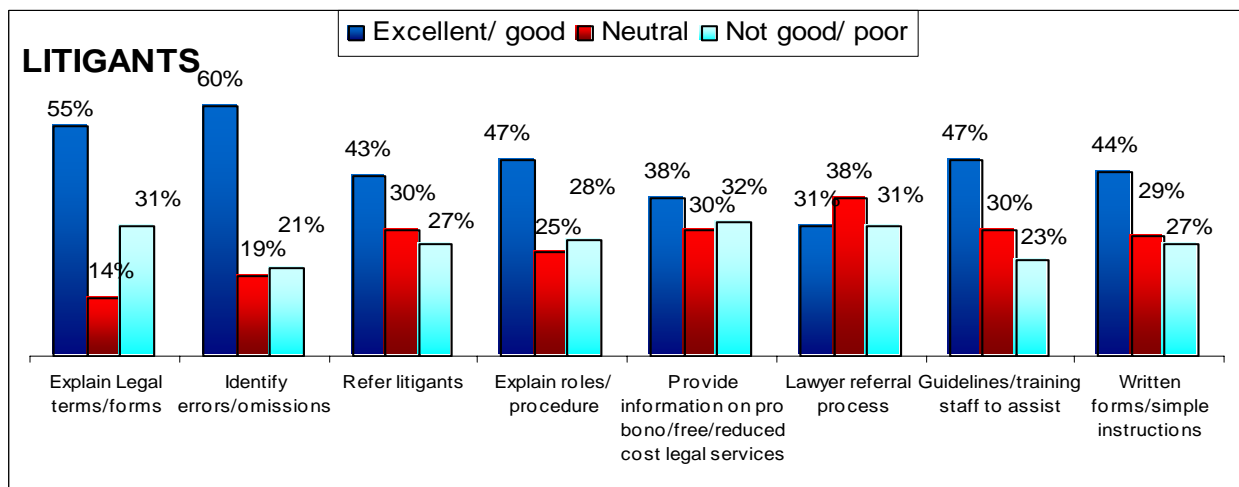
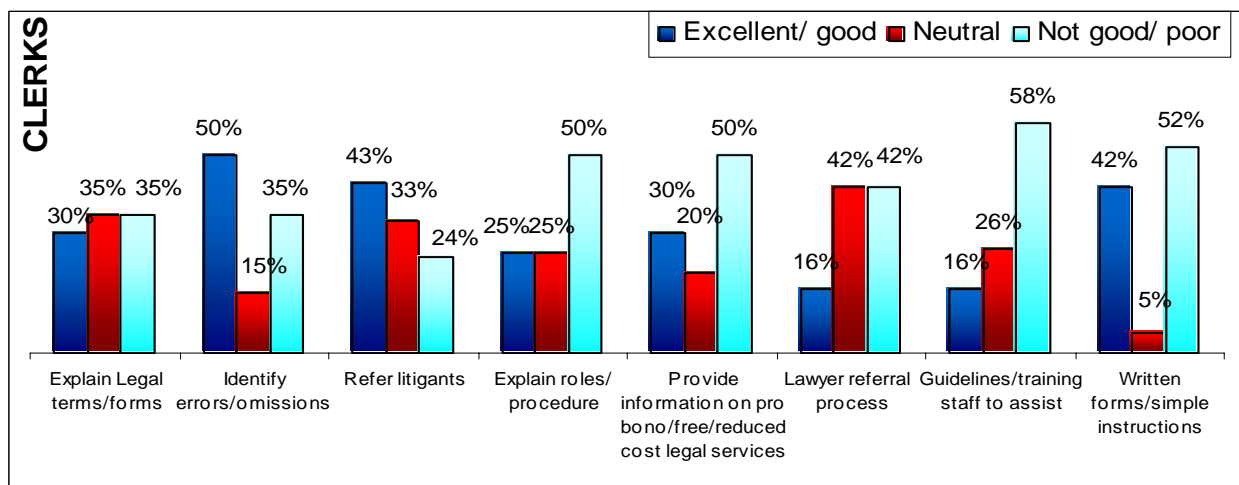
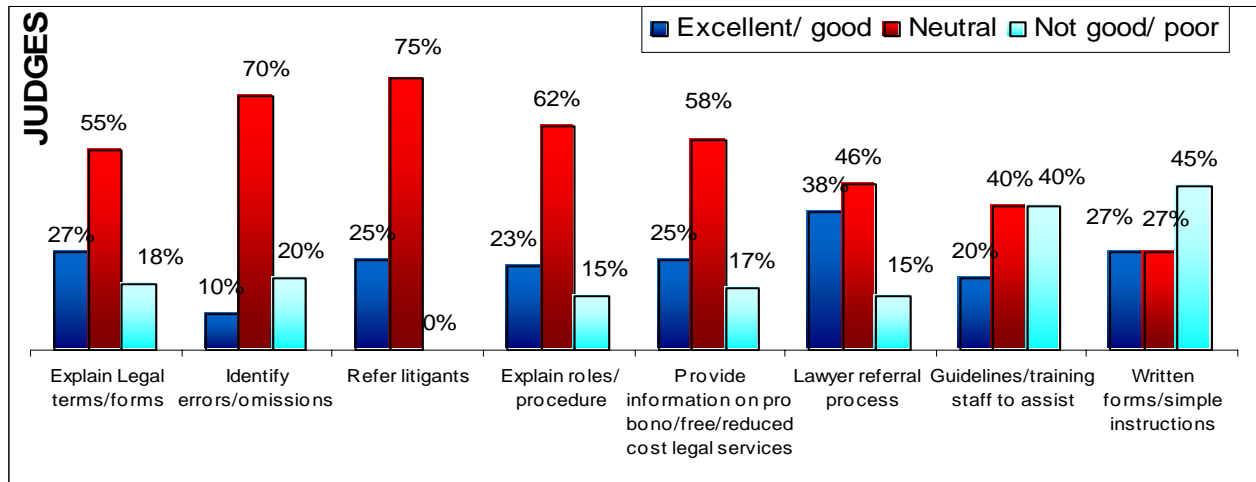
Section 6 - Current court forms, procedures, practices and responses to the self-represented: Each group was asked to rate nine types of services provided to self-represented litigants. The rating was based on the following five point scale: (5) Excellent service; (4) Good service; (3) neither good nor poor service; (2) Service is not good; (1) poor service. The following types of services were provided:

- 1) Explain, provide and help with legal terms and forms;

- 2) Identify missing information or errors;
- 3) Refer litigants to other court staff or non-court agencies;
- 4) Explain the role of the judge and other court personnel and what to expect from the court proceedings;
- 5) Provide information on the availability of pro bono/free and reduced cost legal services;
- 6) Lawyer referral process;
- 7) Educational legal clinics;
- 8) Provide guidelines and training for court personnel to assist self-represented litigants;
- 9) Provide written forms with clear and simple instructions for the self-represented litigants.

CHART 8 – HOW WELL IS THE JACKSON COUNTY COURT SYSTEM CURRENTLY SERVING SELF-REPRESENTED LITIGANTS





The responses provided have a common theme in that a high percentage of the attorneys and the judges rate services as neither good nor poor. The clerks have the most contact with the self-represented litigant and therefore have a better idea of what services are being provided and

how well these services are being performed. The clerks feel the court is doing a poor job in many of these areas. For example, 50% of the clerks identified that the court is doing a poor job when it comes to explaining the role of the judge and other court personnel and what to expect from the court proceedings. The litigants are on the receiving end of these services but since half of the litigants have been provided assistance through the Self-Represented Awareness Program, the numbers may be skewed.

Approximately 50% of the attorneys and judges were neutral or had no opinion on the availability of reduced or free legal service. Such a high percentage of both these groups probably fails to have an opinion because attorneys and judges rarely refer litigants to free legal services. Those who make a referral probably never know whether the litigant was provided free legal services or not. On the other hand, 50% of the clerks rated service as not good or poor in regard to the availability of reduced or free legal services. The clerks speak with self-represented litigants on a daily basis and are more aware of those litigants who were unable to obtain free or reduced legal services. In Missouri, there are few if any avenues available for reduced cost on attorney's fees.

All four participants gave low ratings as to whether excellent or good service is being provided in regard to the lawyer referral process. The clerks' ratings were especially low. The attorneys would be receiving these referrals so they may have a better idea of the referrals they receive. On the other hand, the clerks are probably responsible for making many of these referrals and they do not have a very good opinion of the process. This indicates that we need to look further into what information is given and what options are available for lawyer referrals. The Committee is also studying this issue and what options are available. The statistics still identify a problem in this area.

When the surveys were distributed to the court clerks, judges and attorneys, the legal clinic had not started so as far as these three groups are concerned the only legal clinic that was available

was the clinic given by legal aid. This would hold true for part of the litigants as well.

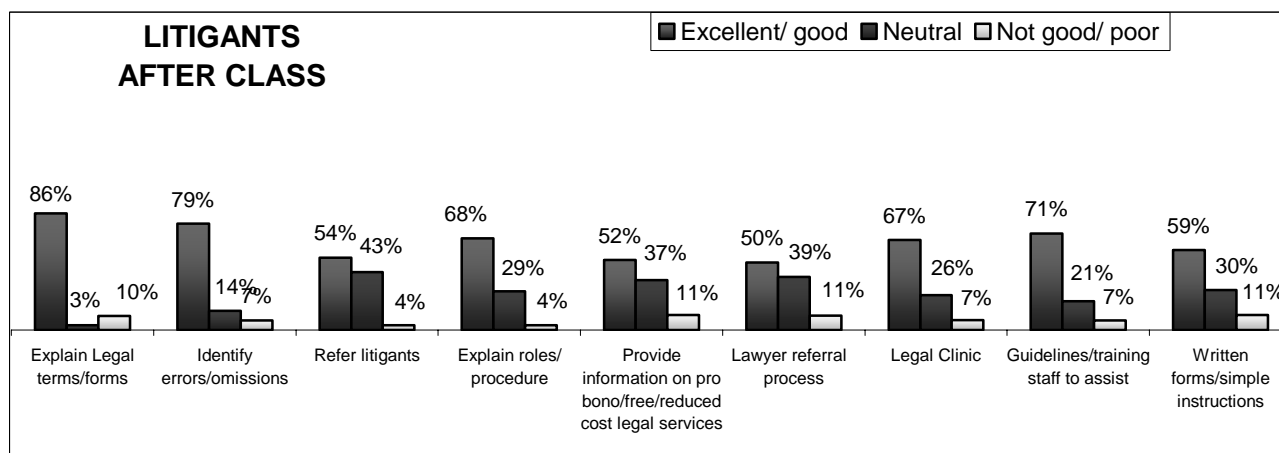
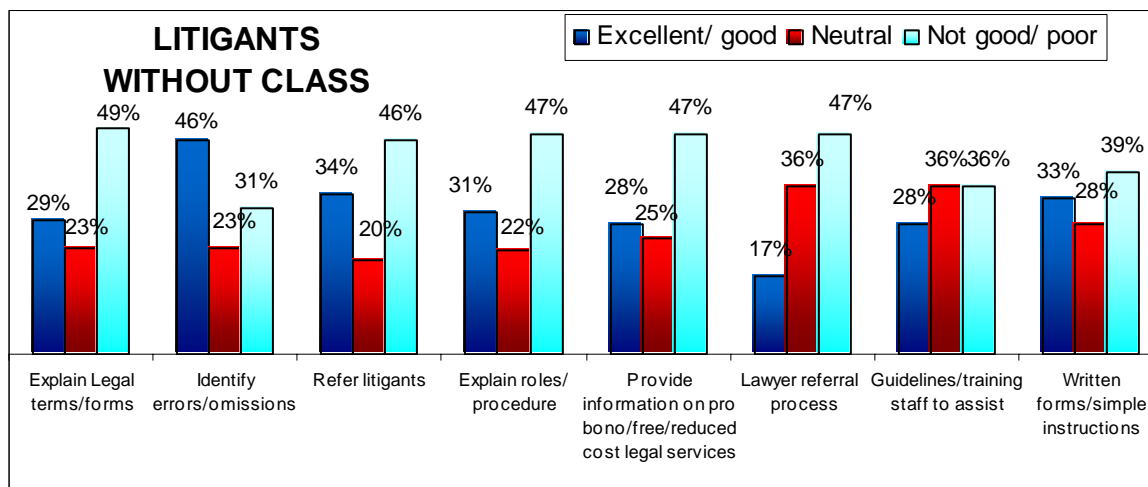
Approximately half of the litigants were surveyed after attending a legal clinic given by the court.

The other half of the litigants did not have an option of attending a legal clinic. Sixty-seven percent of the self-represented litigants who attended the Self-Represented Awareness Program, i.e. legal clinic, had an excellent or good opinion of the legal clinic, twenty-six percent had no opinion and seven percent had a not good or poor opinion.

Fifty-eight percent of the court clerks recognized that the service was not good or poor in the Jackson County Court system in regard to the guidelines and training provided to the court clerks. Forty percent of the judges, thirty-three percent of the bar and twenty-three percent of the litigants also recognized that the service was poor in this area. The Committee recognized that this was a problem and has drafted guidelines and is working on a training curriculum. These statistics reinforce the need for guidelines and training material.

Fifty-two percent of the court clerks, forty-five percent of the judges, twenty-seven percent of the litigants and twenty-eight percent of the attorneys recognized that the service was not good or poor in the Jackson County Court system in regard to the written forms and clear simple instructions provided to the self-represented litigants. This again confirms that the Committee is on track by providing forms and simple instructions for the self-represented litigant. These statistics included all the litigants surveyed, but again half of these litigants received forms and instruction at the Self-Represented Awareness Program, so the number of excellent and good service ratings may have increased. The graph below reflects whether attendance of the class affected a change. (See Appendix C, pages 122-124 for participant responses).

CHART 9 – LITIGANT RESPONSES AS TO HOW WELL JACKSON COUNTY IS DOING BASED ON THOSE LITIGANTS WHO ATTENDED THE SELF-REPRESENTED AWARENESS PROGRAM AND THOSE LITIGANTS WHO RECEIVED NO ASSISTANCE



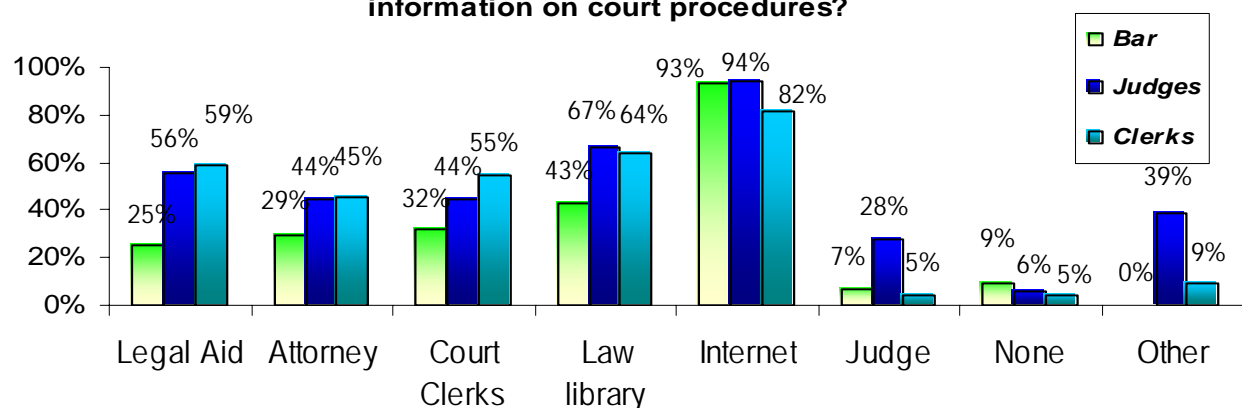
The difference in the ratings between those who attended the class and those who did not reflects a huge change in opinion by the self-represented litigant. Those individuals who attended the class had an overwhelmingly positive opinion of the court as compared to those litigants who had not attended the class and received little assistance. This indicates that providing some assistance to the self-represented litigant can go a long way towards improving the public's perception of the court.

The overall comments in this section had a consistent theme: The judges, clerks and lawyers had issues with the court providing assistance and the litigants thought more assistance should be provided. Attorneys provided ten comments and 75% thought they could not personally provide any assistance because it would be viewed as an attorney/client relationship. The judges provided seven comments and 57% stated that it was not the role of the court to provide assistance to self-represented litigants. One judge said he/she provides some assistance to self-represented litigants. There were six comments made by court personnel and 75% expressed concerns about “practicing law.” They also stated that they were “only permitted to provide information or forms on certain cases” and they “are advised to tell people to go to a law library or hire an attorney.” The litigants were asked to rate how well the Jackson County Court system currently serves self represented litigants in these same areas. There were approximately nine comments from the self-represented litigants. Sixty-seven percent thought the court should provide assistance and found that the court failed to provide that assistance. Twenty-two percent thought that the court failed to provide forms or provided insufficient forms online.

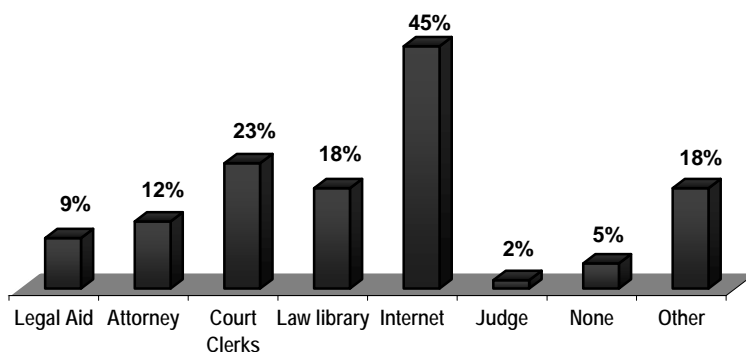
Section 6(B) asks all four groups to indicate where they think litigants would obtain or, in the case of the litigants, where they obtained information or forms on court procedures.

CHART 10 – WHERE DO SELF-REPRESENTED LITIGANTS OBTAIN INFORMATION OR FORMS

Where do you believe that self-represented obtain forms and information on court procedures?



**Where did you obtain forms and information on court procedures ?
(Litigant Responses)**



The judges, clerks, and attorneys overwhelmingly thought self-represented litigants obtained forms or information on court procedures from the internet. In reality, when the litigants were asked directly where they obtained forms and information on court procedures, 47% marked the internet. These statistics tell us that if we want to provide assistance to the self-represented litigant, the internet is a readily accessible place for most individuals to obtain these forms, but at the present time is not accessed as often as thought. For those litigants not proficient on the computer there are law libraries and other public agencies that might provide assistance. Twenty percent of the litigants obtained forms or information from the law library. The law library and public library should be notified and kept informed as to all changes in procedures and forms, so that the same information is provided to all self-represented litigants.

Eighteen percent of the litigants marked “other.” The only comment from the litigants on what “other” might mean indicated that one litigant purchased the forms from a “document preparation company.” The clerks and judges have also mentioned that many self-represented litigants are filing forms purchased from outside vendors. The problem with vendors who sell forms is that many of these form packages are very expensive and the packages do not contain half

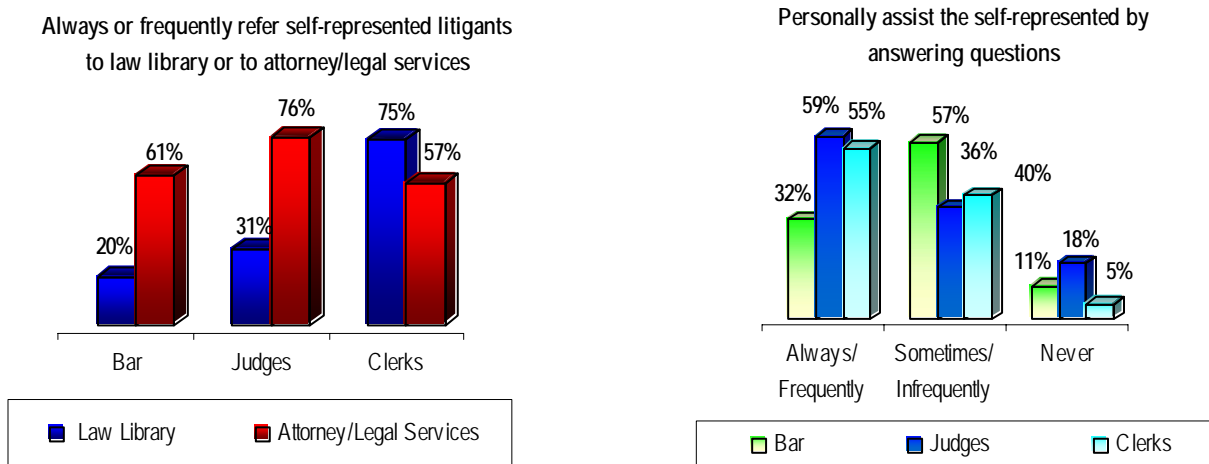
of the local forms needed to obtain a judgment. (See Appendix C, page 125 for participant responses).

Section 6C - asks the lawyers, judges and court personnel/staff to rate six types of guidance they personally provide to self-represented litigants. The rating was based on the following five point scale: (5) Always provide service; (4) Frequently provide service; (3) Sometimes provide service; (2) Infrequently provide service; (1) Never provide service. The following types of services were provided:

- 1) provide forms;
- 2) answer questions;
- 3) refer to law library;
- 4) assist at public access terminal;
- 5) refer to attorney/legal services;
- 6) identify errors and omissions in forms.

The following graphs show how often the bar, court personnel and judges answer questions and refer the self-represented to a law library or to attorney/legal services.

CHART 11 – ASSISTANCE PERSONALLY PROVIDED OR REFERRALS BY JUDGES, ATTORNEYS OR CLERKS



These statistics show that the judges and court clerks are personally providing the most assistance to litigants by answering questions. It re-emphasizes how important it is to provide guidelines and training for court personnel. The other three questions on providing forms, assisting at public access terminals and identifying errors and omissions in forms have previously been discussed and do not provide any more useful information. The court clerks and judges are referring a high percentage of litigants to the law library for assistance, which again proves that collaboration between the law library and the courts should be established. If the law library cannot accommodate these individuals we should refer them elsewhere.

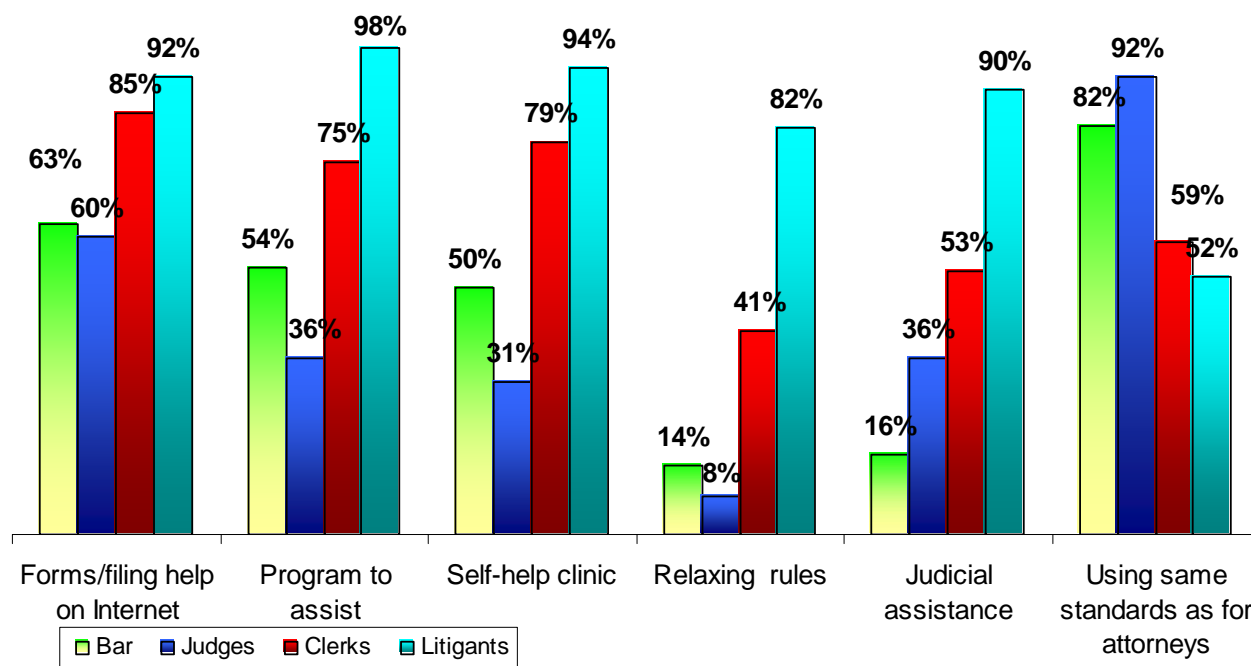
Over 50% of all three groups are referring self-represented litigants to attorneys/legal services. If legal services/legal aid cannot provide any assistance because the self-represented litigant does not meet the financial guidelines, then we should stop wasting the litigant's and legal aid's time by making these referrals. (See Appendix C, pages 125-126 for participant responses).

Section 7 - What is the appropriate judicial response to the self-represented: Each group was asked to rate six statements on the appropriate judicial system response to the self-represented litigant. The rating was based on the following five point scale: (5) Strongly agree; (4) Somewhat agree; (3) No opinion; (2) Somewhat disagree; (1) Strongly disagree. The following statements were offered:

- 1) The judicial system should provide forms and help with filing for the self-represented litigants through the internet;
- 2) The judicial system should establish a court based program to assist self-represented litigants;
- 3) The judicial system should establish a self-help clinic (a class that explains how to process and file a legal claim);
- 4) The court should relax procedural and evidentiary rules;
- 5) Judges should assist self-represented litigants in the courtroom;
- 6) The court should hold self-represented litigants to the same standard as attorneys.

CHART 12 – APPROPRIATE JUDICIAL SYSTEM RESPONSE

THE APPROPRIATE JUDICIAL RESPONSE IS TO ASSIST THE SELF-REPRESENTED LITIGANT BY



A majority of attorneys and judges strongly or somewhat agreed with Statement One, that the judicial system should provide forms and help with filing for the self-represented litigants through the internet, and the percentage of court clerks and litigants in favor of providing forms on the internet was even higher. As demonstrated in this paper, the attorneys and judges are for the most part against providing assistance, while the litigants and clerks are overwhelming in favor of providing assistance to the self-represented. Based on the statistics, the providing of forms on the internet seems to garner the least resistance from the attorneys and judges. As a matter of fact the majority of the attorneys and judges would not oppose this assistance. This might imply that the internet would be the least controversial place to begin providing some assistance to self-represented litigants.

An overwhelming majority of court clerks and litigants strongly or somewhat agreed with Statement Two, that the judicial system should establish a court-based program to assist self-represented litigants, while the judges and the attorneys to a lesser extent, are not in favor of a court-based program. The difference in these statistics reflects that the court clerks who are on the frontline dealing with these litigants and the litigants themselves would appreciate some assistance from those higher up in the system who can affect change. Judges and to some extent attorneys are against assisting the self-represented litigant for fear that they will be stealing business from the attorneys. Another concern sometimes expressed by judges is the lack of resources available and the concern that court clerks cannot handle any more responsibilities.

The statistics on Statement Three, on whether the judicial system should establish a self-help clinic (a class that explains how to process and file a legal claim) are to some extent redundant because the description given was of a class that explains how to process and file a legal claim. There is little difference between a class and a court based program for self-represented litigants. In either case, the attorneys and the judges, especially the judges, are the least in favor of providing this sort of assistance to self-represented litigants. The litigants and clerks are overwhelmingly in favor.

The next three statements in this section do not deal with making programs available for self-represented litigants but deal more with changing procedures in the courtroom. The judges and attorneys are overwhelmingly against Statement Four, that the court should relax procedural and evidentiary rules, probably because the legal system is steeped in tradition and there is a fear that any deviation from these standards would create chaos. The clerks were more in favor of relaxing procedures but are still more aware of the rules and standards than the litigants. This probably makes the litigants more in favor of changes because they are not aware of the importance of these

rules and standards to maintain order. The litigant needs to be given some direction/guidance on how and where to find the rules and standards that they should follow.

A low percentage of attorneys and to a lesser extent judges strongly or somewhat agreed with Statement Five, that the judges should assist self-represented litigants in the courtroom. While 53% of court clerks and 90% of litigants strongly or somewhat agreed with Statement Five, the court clerks are more in favor of providing assistance to the litigants in the courtroom because they have to deal with the litigants' frustration when a case is continued, dismissed or there is an unfavorable result because the litigant does not understand what is required or fails to follow procedures. In many instances, judges assist attorneys in small ways, by guiding them in the right direction or indicating what is missing in a filing. The same courtesy could and probably should be extended in assisting the self-represented litigant.

A majority of all four groups and especially the attorneys and judges agreed with Statement Six, that the court should hold self-represented litigants to the same standard as attorneys. It is an essential rule of the court that everyone is treated fairly and impartially. This theme has reoccurred over and over in the responses to the surveys. The court must remain neutral, but does provide rules, forms and standards that must be applied in every case for all individuals. The judicial system is more fair and impartial when all the parties, including the self-represented, understand the process. Perhaps providing assistance in the courtroom should be viewed as a leveling of the playing field for all the parties so that everyone is treated the same whether they are represented by an attorney or a self-represented litigant. (See Appendix C, pages 126-128 for participant responses).

Section 8 - Additional comments or thoughts: This section asked all four groups to share any additional thoughts they may have regarding self-represented litigants: There were nine additional comments made by the judges. Five out of nine stated that the court should not provide

any help to self-represented litigants, although some of those judges are not opposed to supporting others, such as legal aid or law students to assist; four out of nine stated that some assistance should be provided by the court. There were four comments made by court clerks and they all suggested that some form of help should be provided to self-represented litigants. Two suggested forms be provided on the internet; One suggested that a list of attorneys willing to work on a payment plan should be provided on the internet, and that classes be provided. Another clerk stated that more help is needed than legal aid. No attorneys or litigants provided any additional thoughts.

CONCLUSIONS AND RECOMMENDATIONS

As with many other jurisdictions nationwide there is a definite increase in the filings of family law cases by self represented litigants in Jackson County, Missouri. Through the survey results and statistics accumulated for this paper, in conjunction with other national data and the work of the Missouri Commission and Committee, it is clear that both Jackson County and the State of Missouri face challenges similar to the rest of the nation. The multi-faceted problems arising from increasing numbers of self represented litigants nationwide and in Missouri and Jackson County include: questions regarding the cost of attorneys, resistance to the court's providing what is perceived as 'legal help', how to best provide forms and assistance in the courtroom for the litigant, and how to train and educate both the litigants and the court clerks/judges who deal with them. The solutions to these multi-faceted problems are addressed in the following recommendations:

Recommendation One: Missouri Trial Courts Must Work with the Missouri Supreme Court and the Office of the State Court Administrator to Develop Programs and Forms for the Self-Represented Litigant

It is imperative that the many state trial courts in Missouri work in conjunction with the Missouri Supreme Court and the Office of the State Court Administrator, to provide uniform inclusive assistance to self-represented litigants. The State of Missouri and the Committee created by the state to review and provide recommendations have taken a considerable amount of time and effort to analyze the problems in these cases and their efforts should be studied and implemented. This said, and as discussed below the state may want to assess commercial packages and the cost of hiring a commercial vendor for the development of a web site for the self represented litigant and assisting them in filing their cases. This may produce faster and more useable results.

Jackson County shows a significant increase in self-represented litigants in family law cases same as the national trends, but in contrast to the national trends the data did not support the belief that individuals self-represent because of their negative perceptions about lawyers, the availability of legal self-help information, or the belief that they can handle legal matters on their own. Only a small percentage of the litigants surveyed said they self-represented because they were familiar with the law and thought they could represent themselves or they had previously had a bad experience with an attorney. Although, the survey in Jackson County, Missouri only addressed the economic status of self-represented litigants in a cursory manner, it could be concluded that most self-represented litigants in Jackson County, Missouri represent themselves because they cannot afford representation.

Recommendation Two: Information Should be Collected Both to Evaluate On-Going Programs and to Develop New Procedures and Programs for Self-Represented Litigants

Jackson County and the State of Missouri need to continue to collect information on the income level of Missouri self-represented litigants. This information will help in the development of new programs as those individuals without financial resources, may have to be handled somewhat differently if a complex issue arises. The development of pro bono legal services and referrals will become increasingly important if the number of self-represented litigants without financial resources proves to be an increasing problem. Missouri also follows the national trend of having a high percentage of citizens who qualify as the “working poor”. The working poor cannot afford attorneys but yet they do not qualify for free legal assistance. These individuals will prove to be Jackson County’s biggest hurdle and providing these litigants some assistance could prove to be of the most benefit to the judicial system. The working poor need to be provided a compass and other tools that will lead them in the right direction so they can navigate the waters of the judicial

system. The court process can be either a stormy ride or a calm ride with little to no turbulence for all those individuals involved in the judicial process.

Based on the survey results and other national data, more information needs to be obtained from the attorneys and litigants as the return rates are very low for these two groups. The best way to obtain data from the attorneys and litigants is to hand-deliver the surveys at dockets or programs where these two groups will be present. Based on the low return rates, some of these numbers may not accurately reflect the perceptions of the attorney and self-represented litigant. As programs are implemented in Jackson County and the State of Missouri, surveys should be built in to the programs so more data can be obtained which either substantiates or disproves the theories on self-represented litigants.

Recommendation Three: Education of All Participants

Education is the key component to success in the process of assisting the self-represented litigant. All the participants need to be provided information and then educated on how to present that information to the parties involved in the process whether they be the litigant, the attorney, the judge or the court clerk. The data collected in the survey and across the nation reinforces that this educational piece needs to begin with the court clerks. One hundred percent of the court clerks had the perception that there had been an increase in the number of self-represented litigants and that these same litigants do not have the tools necessary to access the justice system. This lack of knowledge places a heavy burden on the court clerks, in time and emotional stress. The self-represented litigant further frustrates the attorneys and judges by the failure to correctly complete the paperwork required in the courtroom. Incomplete paperwork and the lack of knowledge in regard to the process frustrate the judges and attorneys as it causes delays and clogs the dockets.

Recommendation Four: Clerk Education

Besides funding for self-representation services, staff education is needed to provide

direction and information for people representing themselves and to remedy the lack of court policies to guide self-represented litigants. The numerous phone calls received after the Jackson County Circuit Court's Self-Represented Awareness Program was started indicate that many individuals are trying to access the justice system but are having a difficult time doing so. With assistance, initially the number of filings for dissolutions may increase but it should level off pretty quickly. It will be interesting to look at these statistics a year from now. Exit surveys are being developed for completion after they attend the Self-Represented Awareness Program and for after the hearing. The feedback will hopefully help the court determine where improvements can be made.

The clerks will have to be educated on what assistance can be provided to the self-represented litigant and what resources are available. In order to accomplish this educational piece of the puzzle the clerks will need to be provided guidelines and training. Clerks often express their frustration since they are required to work with self-represented litigants but are not actively involved in finding solutions for the numerous problems presented by them. The Committee is in the process of addressing this issue. The Supreme Court has approved the rules and guidelines for court clerks that were submitted by the Committee. These rules and guidelines should be disseminated to the courts as soon as possible. (See Appendix D for copies of the proposed rule and guidelines for court personnel). Now the Committee, in conjunction with the State Court Administrator's Office, is working to develop a curriculum and training program for court staff, clearly defining information which staff can disseminate to litigants versus giving legal advice, which must be avoided. The Supreme Court Rule will strengthen the clerk's position and give direction as to what assistance can be provided to self-represented litigants. Ten or fifteen years ago, the Missouri Supreme Court passed a rule mandating that clerks provide assistance in small claims and adult abuse cases. This mandate went a long way towards removing the barriers

imposed by the court in filing these cases. Today assistance in these areas is readily provided by the judicial system.

**Recommendation Five: The Education and Development of Guidelines
and Procedures for The Self Represented Litigant**

Education of the self-represented litigant is the next key component to success, although attorneys and judges would probably try to limit the programs and assistance provided. For example, judges and attorneys were strongly against relaxing evidentiary and procedural rules and against the judge providing assistance in the courtroom and overwhelmingly in favor of holding self-represented litigants to the same standards as attorneys. If we want to hold self-represented litigants to the same standards as attorneys then it is incumbent on the judicial system that we educate these individuals on the standards and rules that apply to the judicial system. The participants also identified that it was a problem that self-represented litigants often cannot prepare orders and judgments. In simple, routine cases many states have provided a proposed judgment that the self-represented litigant can complete for the judge to review. If assistance is to be provided to the self-represented litigant, all of these problems will need to be addressed.

One of the recommendations made by the Commission was that self-represented litigants should be required to participate in an education program that describes the risk and responsibilities of proceeding without an attorney and also explains some of the requirements for filing a lawsuit in family law cases. The Committee has placed this program on the website and is in the process of developing a statewide brochure for distribution in all circuits. The creation of a brochure is a good way to disseminate information to all the counties in Missouri. (See Appendix E for a copy of the risk and responsibilities program). The judges and attorneys in Jackson County, Missouri will approve of any program that promotes the hiring of an attorney, as they believe that other types of assistance provided to the self-represented litigant takes viable business away from attorneys. The Committee needs to move forward with educational services. In time it will become

obvious that most individuals self-represent because they cannot afford an attorney, and that only a few are too stubborn to hire an attorney. The education of self-represented litigants may lead to more business for the attorneys, as these individuals realize the process is more difficult than they originally thought. The Committee needs to take this educational piece even further than the risk and responsibilities of self-representation.

The Committee also needs to develop some guidelines and procedures for how these individuals should conduct themselves in the courtroom. The committee could possibly give some information on how to introduce evidence, question witnesses, general decorum, and what role everyone plays in the court process. This piece of the puzzle is missing from the materials created thus far. This problem can be solved by providing some education to the self-represented litigant. Understanding the process will eliminate confusion and criticism of the judicial system. This will go a long way towards making self-represented litigants feel like they received a fair and impartial trial, which will in turn improve the public perception of the judicial system.

Recommendation Six: Judicial Education

The next key component for success will be the education of the judges. If the judges are not willing to provide some assistance to the self-represented litigant then none of these programs can move forward. As found in the national trends, many judges in Jackson County, Missouri are afraid that assistance provided to self-represented litigants will not solve the problem. These same individuals tend to feel that attorneys are the only individuals who can improve the process. Very few of the judges believe that the court should provide assistance or educate the self-represented litigant so they can make intelligent decisions, even though 73% of the judges thought that individuals self-represent due to lack of access to free or reduced legal services. The comments made by the judges would suggest that they believe that self-represented litigants should be assisted by the bar association and possibly law schools.

In Jackson County, we recently have had buy-in from a couple of judges who have agreed to create a docket for self-represented litigants on uncontested dissolutions. Now Jackson County is looking to law students and pro bono attorneys to complete the picture. The possibility that the Supreme Court may mandate that assistance be provided to self-represented litigants has helped move things forward in Jackson County. The Committee is in the process of developing a curriculum and training for the judiciary on how to best handle self-represented cases. The responses provided by the judges and attorneys indicate that many judges resist providing assistance to self-represented litigants because of the fear that the court will not appear to be neutral. In the survey, the judges stressed the concept of being fair and impartial. My recommendation on the curriculum and training for judges is based on the principle that the playing field needs to be level for all participants. The assistance they might provide to a new attorney should also be provided to the self-represented litigant. If the Committee develops some procedures and guidelines for the courtroom, the judges need to be made aware of this resource and the best way to utilize this resource.

The curriculum developed for the judges should also stress that access to justice is a right held by every individual and the fact that you lack funds to pay an attorney or that you choose to self-represent for other reasons should not affect that right. Denial of these rights may well be what leads to poor public perceptions of both the judicial system and the bar. The other concept that should be stressed from the national data is that an individual has a better overall opinion of the courts not based on whether they win or lose but based on whether they feel they received a fair and impartial hearing. It is important to most individuals that they had an opportunity to explain their case and that the judge appeared to be listening. The National Center for State Courts has

developed a curriculum for judges⁶² that embody many of these principles and the Committee should obtain a copy to see if it should be utilized in Missouri.

Recommendation Seven: Education of Lawyers, Legal Referrals and Pro Bono Services

The education of attorneys is probably the most challenging concept put forth by the Commission. The education of the attorney, means obtaining buy-in on the concept of providing assistance to the self-represented litigant. In the past, attorneys have been expected to provide services to self-represented litigants. Many referrals are made to agencies by participants in the judicial system. The survey shows that the services provided by the lawyer referral service, legal aid and other pro bono services are insufficient and inaccessible to most self-represented litigants. If the court is going to refer self-represented litigants to these resources they need to be legitimate sources of good information and assistance. The survey further showed that one cannot expect self-represented litigants to follow the standards and rules of the court if the court does not provide this information to them. The court needs to provide some sort of manual/brochure that explains the process. The survey also points out that attorneys need to be involved in the process. Although a majority of cases might be simple enough for the self-represented litigant to handle, there will always be more complex issues for which the assistance of an attorney will be necessary. It seems indisputable that not all cases need the expertise of an attorney. In those cases, if the court can clarify the process so that individuals could handle their own cases, it could improve the whole system.

The Committee is looking for ways to promote legal referrals and pro bono services and strengthen alliances with state and local bar associations. These referral programs will link the self-represented litigant with lawyers who can provide services in family law cases at reasonable or

⁶² Zorza, Richard; National Center for State Courts, *Trends in Self-Represented Litigation: Future Trends in State Courts 2006*, NCSC (2006), page 85

reduced fees. The Committee has studied and should continue to study a way of marketing to the attorneys the concept of unbundled legal services or any other program that would make the services of an attorney available at a reduced cost. The Committee has drafted rules for unbundled services and needs to get the Supreme Court Rule approved. Until the rule is approved, the Committee cannot take the next step, which is recruiting attorneys to provide unbundled services. The local bar associations should be included in the recruitment and help in providing referral lists for unbundled services.

The participation of attorneys in the process is a key factor, as the data gathered from the reports and surveys clearly demonstrates that a majority of litigants self-represent because they cannot afford an attorney. The Committee needs to create some incentives to attorneys for providing pro bono services. The desk book created for use by pro bono attorneys is a great idea. The Committee needs to work on ways to get the attorneys involved. In Jackson County some attorneys are providing pro bono services by teaching the Self-Represented Awareness Program. If the attorneys could get some continuing legal education (CLE) credit for teaching the class this might increase the number who wish to assist. Law Students are being used by some of the larger metropolitan counties and the Committee should continue to study how to best utilize their services.

The services provided by pro bono attorneys are extremely important because most of the litigants who cannot afford an attorney also do not qualify for free legal services through Legal Aid. According to the participants' responses from the survey, a majority of the participants refer self-represented litigants to Legal Aid. Legal Aid will only provide assistance to those individuals who are found to be indigent or meet the financial guidelines. The Committee should provide these financial guidelines to the court by posting this information on the website. Legal Aid appears to receive referrals from the court on a regular basis. If court personnel, judges and attorneys had a

clearer understanding and a website where self-represented litigants could determine if they meet the qualifications it would eliminate the number of unnecessary phone calls directed to Legal Aid and litigants could avoid the frustration of being passed on to an agency that cannot provide assistance.

The self-represented litigants are often told they need an attorney. The Kansas City Metropolitan Bar has a referral line that is often provided. This referral would be helpful if there was a breakdown on attorneys who might accept payments on a payment plan or handle part of the case through unbundled services. Most attorneys require large retainers that many self-represented litigants cannot afford. The bottom line is that all the parties involved in self-representation in Jackson County and the State of Missouri need more options.

Recommendation Eight: Standardized Forms and Instructions on the Internet

A majority of the participants believed that self-represented litigants utilized the internet to obtain forms for filing their lawsuit, and 47% of the litigants surveyed stated they used the internet. These statistics verify that the internet will make an excellent resource for most self-represented litigants. The Missouri Supreme Court website being developed by the Committee, which will include standardized forms and instructions, is a very important part of the process in providing assistance to the self-represented litigant. The internet is the best way to provide information to all the participants not just the litigants. The Committee needs to study the forms and standard instructions developed by other states. There are vendors that could develop interactive forms and standard instructions for Missouri faster and possibly more user-friendly than those being developed in-house. If forms are developed in-house the State of Missouri should strive to make these forms as interactive as possible. The litigant should be able to enter the information in one place and have that information populate to all the forms necessary for filing a family court case. Once the court's website is functional it would probably be beneficial to establish some

connections with law libraries and public libraries. Legal aid and other agencies who give referrals might also be told about the website so that it can be widely disseminated.

Based on the literature review, New Mexico has successfully piloted and its Supreme Court has approved 16 uncontested divorce and paternity forms and ten sets of instructions for self-represented litigants. These forms are available on the New Mexico court website at www.nmcourts.com under the Family Law Forms heading.⁶³ The Committee may want to study some of the forms and instructions created in New Mexico. In New Mexico the forms are divided by Petition for Dissolution with Children and Without Children. The Committee has approved standardized forms for the Petition for Dissolution of Marriage, Answer and Proposed Judgment but the Committee should consider breaking these forms into two different versions, one with children and one without children. The forms that include children are much more complicated. The data collected on the types of family law cases which most often have self-represented litigants revealed that the focus on dissolution cases was merited, but there was also a high percentage of self-represented litigants in modification cases.⁶⁴ The lowest percentage of cases with self-represented litigants was paternity cases, Thus, the paternity forms being developed by the Committee might be developed later.

The next form the committee might want to concentrate on is the Form 14, Missouri Child Support Worksheet. New Mexico created a child support worksheet that has been a huge success. Maybe Missouri could come up with something similar. The Child Support Worksheet is very complicated for most self-represented litigants. An interactive or simplified Child Support Worksheet might be useful to both the attorneys and self-represented litigants. The Parenting Plan form for self-represented litigants has been developed but is not on the website as of yet. The

⁶³ See Note 47 *supra*, New Mexico, page 2.

Committee needs to revise the existing parenting plan on the Supreme Court website as some of the law is not correct. It may also want to look at combining or integrating the two different parenting plans into one document. The Committee should insure that they get early evaluations of the projects and forms and try to discover and correct as many deficiencies as possible before placing the forms on the internet. Although the forms are a good tool for court personnel to help guide the litigants through the process, the Committee may still need to discuss who is going to answer the self-represented litigants' questions. Finding the funding or resources available to link litigants with a person who can assist and answer questions is a problem that has yet to be addressed by the Committee.

The Commission recommended that the Committee work towards a statewide, internet-based, centralized clearinghouse that will serve as a repository for all self-represented services and programs. This recommendation was not addressed in the survey but the national data, especially the recommendations from New Mexico, suggest this is a good policy. New Mexico has successfully piloted interactive forms on the internet. They only place Supreme Court approved forms on the internet, and not forms in the pilot stage. (Only hard copies are used at the participating pilot sites).⁶⁴ The Implementation Committee may want to consider this policy for Missouri. Apparently, in New Mexico, if pilot forms were available on the internet, the self-represented litigants used the forms in counties that were not pilots and where use of the form had not been approved. The continued growth and all progress made in the creation of forms and programs to assist self-represented litigants will rest in the hands of the Committee. The Committee should seek solutions that unify the groups. The Committee must consider what

⁶⁴ Hopefully, the assistance provided in the dissolution cases might lower the number of modifications filed. If the judgment/decreed of dissolution is correctly prepared this might eliminate further court appearances by those litigants trying to modify their decree of dissolution.

⁶⁵ Ibid., 3-4.

motivates each group, address their fears and uncertainties and take into consideration technical constraints, scarcity of resources and the inherent conflicts that exist between the groups. The Commission has made great strides in identifying the needs of attorneys, judges, court administrators and court clerks and including them in the process. One problem that may exist is that all the members of the judicial system, especially the judges and attorneys, have not taken ownership in the self-representation problem. We need better buy-in from these two groups if a remedy is to be created that will better fit the organization of the court and the needs of the self-represented litigant. The clerks can initiate these processes but in order to improve services they will need the judges and attorneys to buy-in and help work as a team to provide solutions.

Recommendation Nine: The Supreme Court Must Continue to Support the Programs and Recommendations Being Developed and Implemented by the Missouri Pro Se Committee

In conclusion, most of the trends for self-represented litigants identified through national data also apply to the Circuit Court of Jackson County, Missouri. Many states have addressed the issues and developed resolutions for self-represented litigants that worked well for all participants in the judicial system. Recommendations made by the Commission coincide with the national trends and the programs developed by other states that have proven to be successful. The public perception of the judiciary in Jackson County and across the state is not positive. The education and assistance of self-represented litigants could substantially improve the perception of the public. The attacks on the judiciary from the legislature and the public have become more numerous over the last few years and the judicial system needs to do something to stem the tide. It is important that the Supreme Court continue to support the efforts of the Committee and that it is given wide discretion. Long term and on-going education and monitoring will be imperative for the success of this endeavor. This will be an on-going process for years to come and its success will depend on a strong leadership and the members of the committee.

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APPENDIX A

FEDERAL AND STATE SLIDING SCALE GUIDELINES FOR FREE REPRESENTATION

2006-2007 INCOME GUIDELINES FOR LAWMO

Effective January 31, 2006

SCHEDULE A – 125% of Poverty

<u>FAMILY SIZE</u>	<u>MONTHLY GROSS</u>	<u>ANNUAL GROSS</u>
1	\$1,020	\$12,250
2	1,375	16,500
3	1,729	20,750
4	2,083	25,000
5	2,437	29,250
6	2,791	33,500
7	3,145	37,750
8	3,500	42,000

For family units with more that eight members, add \$4,250 to annual gross or \$354 to monthly gross for each additional member.

SCHEDULE B – 200% of Federal Poverty Guidelines

<u>FAMILY SIZE</u>	<u>MONTHLY GROSS</u>	<u>ANNUAL GROSS</u>
1	\$1,633	\$19,600
2	2,200	26,400
3	2,766	33,200
4	3,333	40,000
5	3,900	46,800
6	4,466	53,600
7	5,033	60,400
8	5,600	67,200

For family units with more than eight members, add \$6,800 to annual gross or \$566 to monthly gross for each additional member.

APPENDIX B

SURVEYS – ATTORNEY, JUDGE, COURT CLERK AND LITIGANT

Carson & Coil, P.C.

LAW OFFICES

P.O. Box 28

515 East High Street

Jefferson City, Missouri 65102

(573) 636-2177

(573) 636-7119 (fax)

www.carsoncoil.com

September 6, 2006

Re: Self-Represented / Pro Se Litigant Survey on Family Law Cases

The Missouri Supreme Court, in cooperation with the Missouri Bar, has established a Joint Pro Se Implementation Commission to study and implement procedures and forms to address the increasing challenge presented to the courts by self-represented litigants in family law cases. A foundational component of the self-represented/pro se program is to educate self-represented litigants about the risk and responsibilities of proceeding without counsel.

Some other components include:

- (i) the removal of any obstacles for attorneys that may want to offer their services on part of a case, but not provide full representation (i.e., unbundled legal services);
- (ii) provision of clear definitions and training for court personnel regarding the information a clerk can and cannot provide to self-represented litigants;
- (iii) expansion of legal services to low income citizens;
- (iv) referral of low income and indigent citizens to attorneys willing to assist;
- (v) providing guidance to judges on dealing with the self-represented litigant; and
- (vi) development of a statewide website by January 2007 containing approved dissolution forms and other information needed to effectively move self-represented litigants through the judicial process.

This is a survey intended to address some of the concerns that will need to be examined by the Pro Se Commission. Please complete and return this survey as directed. Your assistance is very valuable to us in determining our direction. We appreciate your cooperation.

Lori J. Levine, Co-Chairperson
Joint Pro Se Implementation Commission


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 because knowledge is everything

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 Template Summary 50 - 9807

Design Survey Show All Pages and Questions

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To change the **look** of your survey, select a choice below. Click 'Add' to create your own custom theme.

Theme: Blue Metal

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THE JACKSON COUNTY CIRCUIT COURT ATTORNEY SURVEY ON

[Add Page](#)

1. Untitled Page

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The below survey has eight questions and should take approximately 10 minutes to understand family law cases and self-representation. *Self-represented litigant represents his or her own interests in the legal process without the aid of an attorney.

General information will be compiled and shared generally with the justice court improvements but individual responses will not be identified without permission. Your participation is much appreciated.

Please return the completed survey via e-mail to:

Cindy Cook, Special Projects Coordinator
 Court Administrator's Office
 415 E. 12th Street, Room 303B
 Kansas City, MO 64106.

[Add Question](#)
[Add Page](#)

2. Basic Attitude Regarding Court Assistance of Self-Represented Litigant

[Add Question](#)
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[Add Logic](#)

* 1. In your opinion, should the Jackson County Court System assist members of the public who have no attorney and represent themselves before the Jackson County Courts in family law cases?

Yes
No

☐
☐

[Add Question](#)
[Add Page](#)
[Edit](#)
[Delete](#)
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2. If your answer is no, why not?

NOTE: Even if you answered no to the question above, please complete the remaining questions.

[Add Question](#)
[Add Page](#)

3. Perceptions of the Court and Self-Represented Litigants [Edit Page](#) [Delete Page](#)

[Add Question](#)
[Add Page](#)
[Edit](#) [Delete](#) [Copy/Move](#)

3. The court is available to everyone who needs it.

	Strongly Disagree	Somewhat Disagree	No opinion	Somewhat Agree	Strongly Agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#)
[Add Page](#)
[Edit](#) [Delete](#) [Copy/Move](#)

4. People without an attorney have reasonable access to the court.

	Strongly Disagree	Somewhat Disagree	No opinion	Somewhat Agree	Strongly Agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#)
[Add Page](#)
[Edit](#) [Delete](#) [Copy/Move](#)

5. The court is user-friendly, easy to use and understand.

	Strongly Disagree	Somewhat Disagree	No opinion	Somewhat Agree	Strongly Agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#)
[Add Page](#)
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* 6. The court disposes of family law cases in a reasonable amount of time.

	Strongly Disagree	Somewhat Disagree	No opinion	Somewhat Agree	Strongly Agree
	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Respond to the statement using the following scale:



[Add Question](#) [Add Page](#)

[Edit](#) [Delete](#) [Copy/Move](#)

* 7. More individuals are representing themselves due to cutbacks in free legal services funded by the state and by the federal government.

Strongly Disagree Somewhat Disagree No opinion Somewhat Agree Strongly Agree

Respond to the statements using the following scale:



[Add Question](#) [Add Page](#)

4. Type and Number of Cases with Self-Represented Litigants [Edit Page](#) [Delete](#)

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8. In your opinion, has the overall number of self-represented litigants in family law cases increased in the last three years?

Yes No



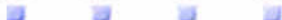
[Add Question](#) [Add Page](#)

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9. If yes, approximately what percentage do you believe it has increased?

0% to 25% 26% to 50% 51% to 75% 76% to 100%

Please check the appropriate percentage.



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10. Comments:

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* 11. How often do you think self-represented litigants appear in the

following types of proceedings?

Dissolution of marriage case with children.

	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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* 12. How often do you think self-represented litigants appear in the following types of proceedings?

Dissolution of marriage case without children.

	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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* 13. How often do you think self-represented litigants appear in the following types of proceedings?

Child support cases.

	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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83

	Edit	Delete	Copy/Move												
<p>* 14. How often do you think self-represented litigants appear in the following types of proceedings?</p> <p>Motion to modify/other post-decree matter.</p> <table> <tr> <td></td> <td>Very significant numbers of self-represented litigants</td> <td>Significant numbers of self-represented litigants</td> <td>Some self-represented litigants</td> <td>Infrequently, rarely</td> <td>None at all</td> </tr> <tr> <td>Respond to the statement using the following scale:</td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> </tr> </table>					Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all	Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all										
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>										
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<p>* 15. How often do you think self-represented litigants appear in the following types of proceedings?</p> <p>Paternity.</p> <table> <tr> <td></td> <td>Very significant numbers of self-represented litigants</td> <td>Significant numbers of self-represented litigants</td> <td>Some self-represented litigants</td> <td>Infrequently, rarely</td> <td>None at all</td> </tr> <tr> <td>Respond to the statement using the following scale:</td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> </tr> </table>					Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all	Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all										
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>										
Add Question		Add Page													

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<p>* 16. How often do you think self-represented litigants appear in the following types of proceedings?</p> <p>Visitation.</p> <table> <tr> <td></td> <td>Very significant numbers of self-represented litigants</td> <td>Significant numbers of self-represented litigants</td> <td>Some self-represented litigants</td> <td>Infrequently, rarely</td> <td>None at all</td> </tr> <tr> <td>Respond to the statement using the</td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> <td><input type="radio"/></td> </tr> </table>					Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all	Respond to the statement using the	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all										
Respond to the statement using the	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>										

following
scale:

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* 17. How often do you think self-represented litigants appear in the following types of proceedings?

Other domestic cases.

Very
significant
numbers of
self-
represented
litigants

Significant
numbers of
self-
represented
litigants

Some self-
represented
litigants

Infrequently,
rarely

None at
all

Respond to the
statement
using the
following
scale:



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5. Profile of the Self-Represented Litigant

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* 18. Reasons for Self-Representation:

Most self-represented litigants represent themselves because they cannot afford an attorney.

Strongly
disagree

Somewhat
disagree

No
opinion

Somewhat
agree

Strongly
agree

Respond to the
statement using the
following scale:



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* 19. Reasons for Self-Representation:

Most self-represented litigants represent themselves because they think they are familiar with the law and have the ability to handle the case themselves.

Strongly
disagree

Somewhat
disagree

No
opinion

Somewhat
agree

Strongly
agree

Respond to the
statement using the
following scale:



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* 20. Reasons for Self-Representation:

Most self-represented litigants represent themselves because they have had a bad experience with a previous attorney.

	Strongly disagree	Somewhat disagree	No opinion	Somewhat agree	Strongly agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#) [Add Page](#)

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21. Other Reasons or Comments:

[Add Question](#) [Add Page](#)

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* 22. Utilization of Attorneys by the Self-Represented:

In your opinion, how many self-represented litigants seek advice or speak with an attorney before deciding to represent themselves?

	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#) [Add Page](#)

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* 23. Utilization of Attorneys by the Self-Represented:

In your opinion, how many self-represented litigants speak to more than one attorney before deciding to represent themselves?

	Very significant numbers of self-represented litigants	Significant numbers of self-represented litigants	Some self-represented litigants	Infrequently, rarely	None at all
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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24. Comments:
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6. Problems Encountered by or with Self-Represented Litigants: [Edit Page](#)

Edit Delete Copy/Move	Definitely not a problem	See as an issue, but not a problem	No opinion	Somewhat a problem	Definitely a problem
* 25. The self-represented litigant doesn't know how to file a case and/or respond to a case filed against him or her.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Respond to the statement using the following scale:

[Add Question](#) [Add Page](#)

Edit Delete Copy/Move	Definitely not a problem	See as an issue, but not a problem	No opinion	Somewhat a problem	Definitely a problem
* 26. The self-represented litigant doesn't know rules of evidence (i.e. how to present documents or question witnesses in court).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Respond to the

statement using the following scale:

Add Question

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* 27. The self-represented litigant doesn't know the case law or statutes on which a decision is based.

Definitely
not a
problem

See as
an issue,
but not a
problem

No
opinion

Somewhat
a problem

Definitely
a
problem

Respond to the statement using the following scale:



Add Question

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* 28. The self-represented litigant doesn't know court procedures.

Definitely
not a
problem

See as
an issue,
but not a
problem

No
opinion

Somewhat
a problem

Definitely
a
problem

Respond to the statement using the following scale:



Add Question

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* 29. The self-represented litigant cannot prepare orders after the case is over.

Definitely
not a
problem

See as
an issue,
but not a
problem

No
opinion

Somewhat
a problem

Definitely
a
problem

Respond to the statement using the following scale:



Add Question

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* 30. The self-represented litigant lacks the knowledge to move through the court process efficiently, resulting in delays and multiple appearances.

Definitely
not a
problem

See as
an issue,
but not a
problem

No
opinion

Somewhat
a problem

Definitely
a
problem

Respond to the statement using the



following scale:

Add Question

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7. Current Court Forms, Procedures, Practices and Responses to the E

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* 31. How well is the Jackson County Court system currently serving self-represented litigants?

Explain, provide and help with legal terms and forms.

Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service
-----------------	------------------------	--	-----------------	----------------------

Respond to the
statement using the
following scale:

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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* 32. How well is the Jackson County Court system currently serving self-represented litigants?

Identify missing information or errors.

Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service
-----------------	------------------------	--	-----------------	----------------------

Respond to the
statement using the
following scale:

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------	-----------------------	-----------------------

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* 33. How well is the Jackson County Court system currently serving self-represented litigants?

Refer litigants to other court staff or non-court agencies.

Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service
-----------------	------------------------	--	-----------------	----------------------

Respond to the
statement using the
following scale:

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------	-----------------------	-----------------------

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<p># 34. How well is the Jackson County Court system currently serving self-represented litigants?</p> <p>Explain the role of the judge and other court personnel and what to expect from the court proceedings.</p> <table> <tr> <td>Poor service</td> <td>Service is not good</td> <td>Neither good nor poor service</td> <td>Good service</td> <td>Excellent service</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <p>Respond to the statement using the following scale:</p> <p align="center"> Add Question Add Page </p>	Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service					
Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service						

Edit Delete Copy/Move										
<p># 35. How well is the Jackson County Court system currently serving self-represented litigants?</p> <p>Provide information on the availability of pro bono/free and reduced cost legal services.</p> <table> <tr> <td>Poor service</td> <td>Service is not good</td> <td>Neither good nor poor service</td> <td>Good service</td> <td>Excellent service</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <p>Respond to the statement using the following scale:</p> <p align="center"> Add Question Add Page </p>	Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service					
Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service						

Edit Delete Copy/Move										
<p># 36. How well is the Jackson County Court system currently serving self-represented litigants?</p> <p>Lawyer referral process.</p> <table> <tr> <td>Poor service</td> <td>Service is not good</td> <td>Neither good nor poor service</td> <td>Good service</td> <td>Excellent service</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <p>Respond to the statement using the following scale:</p> <p align="center"> Add Question Add Page </p>	Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service					
Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service						

Edit Delete Copy/Move
<p># 37. How well is the Jackson County Court system currently serving self-represented litigants?</p> <p>Educational legal clinics,</p> <p align="center">Neither</p>

	Poor service	Service is not good	good nor poor service	Good service	Excellent service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Add Question Add Page					

Edit Delete Copy/Move					
<p># 38. How well is the Jackson County Court system currently serving self-represented litigants?</p> <p>Provide guidelines and training for court personnel to assist self-represented litigants.</p>					
	Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Add Question Add Page					

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<p># 39. How well is the Jackson County Court system currently serving self-represented litigants?</p> <p>Provide written forms with clear and simple instructions for the self-represented litigant.</p>					
	Poor service	Service is not good	Neither good nor poor service	Good service	Excellent service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Add Question Add Page					

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<p>40. Other Services and Comments:</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	
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41. Where do self-represented litigants obtain forms or information on court procedures? (check all that apply)

Legal Aid office	Attorney or paralegal	Court staff	Law library	Web page/Internet	Judge	None
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Add Question **Add Page**

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42. Other and comments:

Add Question **Add Page**

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43. Type of guidance you personally provide to self-represented litigants?

Provide forms.

	Never provide service	Infrequently provide service	Sometimes provide service	Frequently provide service	Always provide service
Respond to the statement using the following scale:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Add Question **Add Page**

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44. Type of guidance you personally provide to self-represented litigants?

Answer questions.

	Never provide service	Infrequently provide service	Sometimes provide service	Frequently provide service	Always provide service
Respond to the statement using the following scale:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Add Question **Add Page**

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45. Type of guidance you personally provide to self-represented litigants?

Refer to law library.

	Never provide	Infrequently provide	Sometimes provide	Frequently provide	Always provide
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	service	service	service	service	service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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46. Type of guidance you personally provide to self-represented litigants?

Assist at public access terminal.

	Never provide service	Infrequently provide service	Sometimes provide service	Frequently provide service	Always provide service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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47. Type of guidance you personally provide to self-represented litigants?

Refer to attorney/legal services.

	Never provide service	Infrequently provide service	Sometimes provide service	Frequently provide service	Always provide service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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48. Type of guidance you personally provide to self-represented litigants?

Identify errors and omissions in forms.

	Never provide service	Infrequently provide service	Sometimes provide service	Frequently provide service	Always provide service
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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49. Other and comments:

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8. What is the Appropriate Judicial System Response to the Self-Repri

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* 50. The judicial system should provide forms and help with filing for self-represented litigants through the Internet.

	Strongly disagree	Somewhat disagree	No opinion	Somewhat agree	Strongly agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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* 51. The judicial system should establish a court-based program to assist self-represented litigants.

	Strongly disagree	Somewhat disagree	No opinion	Somewhat agree	Strongly agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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* 52. The judicial system should establish a self-help clinic - a class that explains how to process and file a legal claim.

	Strongly disagree	Somewhat disagree	No opinion	Somewhat agree	Strongly agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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* 53. The court should relax procedural and evidentiary rules.

	Strongly	Somewhat	No	Somewhat	Strongly
	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	disagree	disagree	opinion	agree	agree
Respond to the statement using the following scale:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#) [Add Page](#)

Edit	Delete	Copy/Move		Strongly disagree	Somewhat disagree	No opinion	Somewhat agree	Strongly agree
* 54. Judges should assist self-represented litigants in the courtroom.								
Respond to the statement using the following scale:			<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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Edit	Delete	Copy/Move		Strongly disagree	Somewhat disagree	No opinion	Somewhat agree	Strongly agree
* 55. The court should hold self-represented litigants to the same standards as attorneys.								
Respond to the statement using the following scale:			<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

[Add Question](#) [Add Page](#)

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56. Please share any additional thoughts you may have regarding self-represented litigants that you have not already stated in your responses to the above questions.			
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**THE JACKSON COUNTY CIRCUIT COURT
JUDICIAL SURVEY
ON SELF-REPRESENTED LITIGANTS
IN FAMILY LAW CASES**

The below survey has eight questions and should take approximately 10 minutes to complete. These responses will help the court better understand family law cases and self-representation. **“Self-represented litigant” as used in this survey is defined as “a person who represents his or her own interests in the legal process without the aid of an attorney”.**

General information will be compiled and shared generally with the justice community in order to make recommendations and plan improvements but individual responses will not be identified without permission. Your time and effort in answering these questions is very much appreciated.

Please return the completed survey in the attached stamped envelope or hand deliver to:

Cindy Cook, Special Projects Coordinator
Court Administrator’s Office
415 E. 12th Street, Room 303B
Kansas City, MO 64106.

1. Basic Attitude Regarding Court Assistance of Self-Represented Litigants in Family Law Cases:

In your opinion, should the Jackson County Court System assist members of the public who have no attorney and represent themselves before the Jackson County Courts?

Circle your response Yes or No

If your answer is no, why not? _____

NOTE: Even if you answered no to the question above, please complete the remaining questions.

2. Perceptions of the Court and Self-Represented Litigants:

Respond to the statements below using the following scale:

- (5) strongly agree,
- (4) somewhat agree,
- (3) no opinion,
- (2) somewhat disagree,
- (1) strongly disagree

- | | | | | | | |
|----|--|---|---|---|---|---|
| 1. | The court is available to everyone who needs it. | 5 | 4 | 3 | 2 | 1 |
| 2. | People without an attorney have reasonable access to the court. | 5 | 4 | 3 | 2 | 1 |
| 3. | The court is user-friendly, easy to use and understand. | 5 | 4 | 3 | 2 | 1 |
| 4. | The court disposes of family law cases in a reasonable amount of time. | 5 | 4 | 3 | 2 | 1 |
| 5. | More individuals are representing themselves due to cutbacks in free legal services funded by the state and by the federal government. | 5 | 4 | 3 | 2 | 1 |

3. Type and Number of Cases With Self-Represented Litigants:

A. In your opinion, has the overall number of self-represented litigants in family law cases increased in the last three years?

Circle your response Yes or No

If yes, approximately what percentage do you believe it has increased?
(Please check the appropriate percentage).

- ☐ 0 % to 25%
☐ 26% to 50%
☐ 51% to 75%
☐ 76% to 100%

Comments: _____

B. How often do you think self-represented litigants appear in the following types of proceedings?

Respond to the statements below using the following scale:

- (5) Very significant numbers of self-represented litigants,
- (4) Significant numbers of self-represented litigants,
- (3) Some self-represented litigants,
- (2) Infrequently, rarely
- (1) None at all

- | | | | | | | |
|----|---|---|---|---|---|---|
| 1. | Dissolution of marriage case with children | 5 | 4 | 3 | 2 | 1 |
| 2. | Dissolution of marriage case without children | 5 | 4 | 3 | 2 | 1 |
| 3. | Child support cases | 5 | 4 | 3 | 2 | 1 |
| 4. | Motion to modify/other post-decree matter | 5 | 4 | 3 | 2 | 1 |

5.	Paternity	5	4	3	2	1
6.	Visitation	5	4	3	2	1
7.	Other domestic cases	5	4	3	2	1

4. Profile of the Self-Represented Litigant

A. Reasons for Self-Representation

Respond to the statements below using the following scale:

- (5) Strongly agree,
- (4) Somewhat agree,
- (3) No opinion,
- (2) Somewhat disagree,
- (1) Strongly disagree

- | | | |
|----|--|-----------|
| 1. | Most self-represented litigants represent themselves because they cannot afford an attorney. | 5 4 3 2 1 |
| 2. | Most self-represented litigants represent themselves because they think they are familiar with the law and have the ability to handle the case themselves. | 5 4 3 2 1 |
| 3. | Most self-represented litigants represent themselves because they have had a bad experience with a previous attorney. | 5 4 3 2 1 |

Other Reasons or Comments: _____

B. Utilization of Attorneys by the Self-Represented

Respond to the statements below using the following scale:

- (5) Very significant numbers of self-represented litigants,
- (4) Significant numbers of self-represented litigants,
- (3) Some self-represented litigants,
- (2) Infrequently, rarely
- (1) None at all

- | | | |
|----|---|-----------|
| 1. | In your opinion, how many self-represented litigants seek advice or speak with an attorney before deciding to represent themselves? | 5 4 3 2 1 |
| 2. | In your opinion, how many self-represented litigants speak to more than one attorney before deciding to represent themselves? | 5 4 3 2 1 |

Comments: _____

5. Problems Encountered by or with Self-Represented Litigants:

Respond to the statements below using the following scale:

- (5) Definitely a problem,
- (4) Somewhat a problem,
- (3) No Opinion,
- (2) See as an issue, but not a problem,
- (1) Definitely not a problem

- | | | | | | |
|---|---|---|---|---|---|
| 1. The self-represented litigant doesn't know how to file a case and/or respond to a case filed against him or her. | 5 | 4 | 3 | 2 | 1 |
| 2. The self-represented litigant doesn't know rules of evidence (i.e. how to present documents or question witnesses in court). | 5 | 4 | 3 | 2 | 1 |
| 3. The self-represented litigant doesn't know the case law or statutes on which a decision is based. | 5 | 4 | 3 | 2 | 1 |
| 4. The self-represented litigant doesn't know court procedures. | 5 | 4 | 3 | 2 | 1 |
| 5. The self-represented litigant cannot prepare orders after the case is over. | 5 | 4 | 3 | 2 | 1 |
| 6. The self-represented litigant lacks the knowledge to move through the court process efficiently, resulting in delays and multiple appearances. | 5 | 4 | 3 | 2 | 1 |

6. Current Court Forms, Procedures, Practices and Responses to the Self-Represented

A. How well is the Jackson County Court system currently serving self-represented litigants?

Respond to the statements below using the following scale:

- (5) Excellent service,
- (4) Good service,
- (3) Neither good nor poor service,
- (2) Service is not good,
- (1) Poor service

- | | | | | | |
|---|---|---|---|---|---|
| 1. Explain, provide and help with legal terms and forms | 5 | 4 | 3 | 2 | 1 |
| 2. Identify missing information or errors | 5 | 4 | 3 | 2 | 1 |

3.	Refer litigants to other court staff or non-court agencies	5	4	3	2	1
4.	Explain the role of the judge and other court personnel and what to expect from the court proceedings	5	4	3	2	1
5.	Provide information on the availability of pro bono/free and reduced cost legal services	5	4	3	2	1
6.	Lawyer referral process	5	4	3	2	1
7.	Educational legal clinics	5	4	3	2	1
8.	Provide guidelines and training for court personnel to assist self-represented litigants	5	4	3	2	1
9.	Provide written forms with clear and simple instructions for the self-represented litigant.	5	4	3	2	1

Other services and comments: _____

B. Where do self-represented litigants obtain forms or information on court procedures? (check all that apply)

- _____ Legal Aid office
- _____ Attorney or paralegal
- _____ Court staff
- _____ Law library
- _____ Web page/Internet
- _____ Judge
- _____ None
- _____ Other

Other and comments: _____

C. Type of guidance you personally provide to self-represented litigants?

Respond to the statements below using the following scale:

- (5) Always provide service,
- (4) Frequently provide service,
- (3) Sometimes provide service,
- (2) Infrequently provide service,
- (1) Never provide service

1.	Provide forms	5	4	3	2	1
2.	Answer questions	5	4	3	2	1
3.	Refer to law library	5	4	3	2	1
4.	Assist at public access terminal	5	4	3	2	1
5.	Refer to attorney/legal services	5	4	3	2	1
6.	Identify errors and omissions in forms	5	4	3	2	1

Other and comments: _____

7. What is the Appropriate Judicial System Response to the Self-Represented?

Respond to the statements below using the following scale:

- (5) Strongly agree,
- (4) Somewhat agree,
- (3) No opinion,
- (2) Somewhat disagree,
- (1) Strongly disagree

1.	The judicial system should provide forms and help with filing for the self-represented litigants through the Internet.	5	4	3	2	1
2.	The judicial system should establish a court-based program to assist self-represented litigants.	5	4	3	2	1
3.	The judicial system should establish a self-help clinic - a class that explains how to process and file a legal claim.	5	4	3	2	1
4.	The court should relax procedural and evidentiary rules.	5	4	3	2	1
5.	Judges should assist self-represented litigants in the courtroom.	5	4	3	2	1
6.	The court should hold self-represented litigants to the same standards as attorneys.	5	4	3	2	1

8. Please share any additional thoughts you may have regarding self-represented litigants that you have not already stated in your responses to the above questions.

**THE JACKSON COUNTY CIRCUIT COURT
COURT PERSONNEL SURVEY
ON SELF-REPRESENTED LITIGANTS
IN FAMILY LAW CASES**

The below survey has eight questions and should take approximately 10 minutes to complete. These responses will help the court better understand family law cases and self-representation. **“Self-represented litigant” as used in this survey is defined as “a person who represents his or her own interests in the legal process without the aid of an attorney”.**

General information will be compiled and shared generally with the justice community in order to make recommendations and plan improvements but individual responses will not be identified without permission. Your time and effort in answering these questions is very much appreciated.

Please return the completed survey in the inter-office mail or hand deliver to:

Cindy Cook, Special Projects Coordinator
Court Administrator’s Office
415 E. 12th Street, Room 303B
Kansas City, MO 64106.

1. Basic Attitude Regarding Court Assistance of Self-Represented Litigants in Family Law Cases:

In your opinion, should the Jackson County Court System assist members of the public who have no attorney and represent themselves before the Jackson County Courts?

Circle your response Yes or No

If your answer is no, why not? _____

NOTE: Even if you answered no to the question above, please complete the remaining questions.

2. Perceptions of the Court and Self-Represented Litigants:

Respond to the statements below using the following scale:

- (5) strongly agree,
- (4) somewhat agree,
- (3) no opinion,
- (2) somewhat disagree,
- (1) strongly disagree

- | | | | | | | |
|----|--|---|---|---|---|---|
| 1. | The court is available to everyone who needs it. | 5 | 4 | 3 | 2 | 1 |
| 2. | People without an attorney have reasonable access to the court. | 5 | 4 | 3 | 2 | 1 |
| 3. | The court is user-friendly, easy to use and understand. | 5 | 4 | 3 | 2 | 1 |
| 4. | The court disposes of family law cases in a reasonable amount of time. | 5 | 4 | 3 | 2 | 1 |
| 5. | More individuals are representing themselves due to cutbacks in free legal services funded by the state and by the federal government. | 5 | 4 | 3 | 2 | 1 |

3. Type and Number of Cases With Self-Represented Litigants:

A. Overall has the number of self-represented litigants in family law cases increased in the last three years?

Circle your response Yes or No

If yes, approximately what percentage do you believe it has increased?
(Please check the appropriate percentage).

- ☐ 0 % to 25%
☐ 26% to 50%
☐ 51% to 75%
☐ 76% to 100%

Comments: _____

B. How often do you think self-represented litigants appear in the following types of proceedings?

Respond to the statements below using the following scale:

- (5) Very significant numbers of self-represented litigants,
- (4) Significant numbers of self-represented litigants,
- (3) Some self-represented litigants,
- (2) Infrequently, rarely
- (1) None at all

- | | | | | | | |
|----|---|---|---|---|---|---|
| 1. | Dissolution of marriage case with children | 5 | 4 | 3 | 2 | 1 |
| 2. | Dissolution of marriage case without children | 5 | 4 | 3 | 2 | 1 |
| 3. | Child support cases | 5 | 4 | 3 | 2 | 1 |
| 4. | Motion to modify/other post-decree matter | 5 | 4 | 3 | 2 | 1 |

5.	Paternity	5	4	3	2	1
6.	Visitation	5	4	3	2	1
7.	Other domestic cases	5	4	3	2	1

4. Profile of the Self-Represented Litigant

A. Reasons for Self-Representation

Respond to the statements below using the following scale:

- (5) Strongly agree,
- (4) Somewhat agree,
- (3) No opinion,
- (2) Somewhat disagree,
- (1) Strongly disagree

- | | | |
|----|--|-----------|
| 1. | Most self-represented litigants represent themselves because they cannot afford an attorney. | 5 4 3 2 1 |
| 2. | Most self-represented litigants represent themselves because they think they are familiar with the law and have the ability to handle the case themselves. | 5 4 3 2 1 |
| 3. | Most self-represented litigants represent themselves because they have had a bad experience with a previous attorney. | 5 4 3 2 1 |

Other Reasons or Comments: _____

B. Utilization of Attorneys by the Self-Represented

Respond to the statements below using the following scale:

- (5) Very significant numbers of self-represented litigants,
- (4) Significant numbers of self-represented litigants,
- (3) Some self-represented litigants,
- (2) Infrequently, rarely
- (1) None at all

- | | | |
|----|---|-----------|
| 1. | In your opinion, how many self-represented litigants seek advice or speak with an attorney before deciding to represent themselves? | 5 4 3 2 1 |
| 2. | In your opinion, how many self-represented litigants speak to more than one attorney before deciding to represent themselves? | 5 4 3 2 1 |

Comments: _____

5. Problems Encountered by or with Self-Represented Litigants:

Respond to the statements below using the following scale:

- (5) Definitely a problem,
- (4) Somewhat a problem,
- (3) No Opinion,
- (2) See as an issue, but not a problem,
- (1) Definitely not a problem

1. The self-represented litigant doesn't know how to file a case and/or respond to a case filed against him or her. 5 4 3 2 1
2. The self-represented litigant doesn't know rules of evidence (i.e. how to present documents or question witnesses in court). 5 4 3 2 1
3. The self-represented litigant doesn't know the case law or statutes on which a decision is based. 5 4 3 2 1
4. The self-represented litigant doesn't know court procedures. 5 4 3 2 1
5. The self-represented litigant cannot prepare orders after the case is over. 5 4 3 2 1
6. The self-represented litigant lacks the knowledge to move through the court process efficiently, resulting in delays and multiple appearances. 5 4 3 2 1

6. Current Court Forms, Procedures, Practices and Responses to the Self-Represented

A. How well is the Jackson County Court system currently serving self-represented litigants?

Respond to the statements below using the following scale:

- (5) Excellent service,
- (4) Good service,
- (3) Neither good nor poor service,
- (2) Service is not good,
- (1) Poor service

1. Explain, provide and help with legal terms and forms 5 4 3 2 1
2. Identify missing information or errors 5 4 3 2 1

- | | | | | | | |
|----|---|---|---|---|---|---|
| 3. | Refer litigants to other court staff or non-court agencies | 5 | 4 | 3 | 2 | 1 |
| 4. | Explain the role of the judge and other court personnel and what to expect from the court proceedings | 5 | 4 | 3 | 2 | 1 |
| 5. | Provide information on the availability of pro bono/free and reduced cost legal services | 5 | 4 | 3 | 2 | 1 |
| 6. | Lawyer referral process | 5 | 4 | 3 | 2 | 1 |
| 7. | Educational legal clinics | 5 | 4 | 3 | 2 | 1 |
| 8. | Provide guidelines and training for court personnel to assist self-represented litigants | 5 | 4 | 3 | 2 | 1 |
| 9. | Provide written forms with clear and simple instructions for the self-represented litigant. | 5 | 4 | 3 | 2 | 1 |

Other services and comments: _____

B. Where do self-represented litigants obtain forms or information on court procedures? (check all that apply)

- ☐ Legal Aid office
- ☐ Attorney or paralegal
- ☐ Court staff
- ☐ Law library
- ☐ Web page/Internet
- ☐ Judge
- ☐ None
- ☐ Other

Other and comments: _____

C. Type of guidance you personally provide to self-represented litigants?

Respond to the statements below using the following scale:

- (5) Always provide service,
- (4) Frequently provide service,
- (3) Sometimes provide service,
- (2) Infrequently provide service,
- (1) Never provide service

1.	Provide forms	5	4	3	2	1
2.	Answer questions	5	4	3	2	1
3.	Refer to law library	5	4	3	2	1
4.	Assist at public access terminal	5	4	3	2	1
5.	Refer to attorney/legal services	5	4	3	2	1
6.	Identify errors and omissions in forms	5	4	3	2	1

Other and comments: _____

7. What is the Appropriate Judicial System Response to the Self-Represented?

Respond to the statements below using the following scale:

- (5) Strongly agree,
- (4) Somewhat agree,
- (3) No opinion,
- (2) Somewhat disagree,
- (1) Strongly disagree

- | | | |
|----|--|-----------|
| 1. | The judicial system should provide forms and help with filing for the self-represented litigants through the Internet. | 5 4 3 2 1 |
| 2. | The judicial system should establish a court-based program to assist self-represented litigants. | 5 4 3 2 1 |
| 3. | The judicial system should establish a self-help clinic - a class that explains how to process and file a legal claim. | 5 4 3 2 1 |
| 4. | The court should relax procedural and evidentiary rules. | 5 4 3 2 1 |
| 5. | Judges should assist self-represented litigants in the courtroom. | 5 4 3 2 1 |
| 6. | The court should hold self-represented litigants to the same standards as attorneys. | 5 4 3 2 1 |

8. Please share any additional thoughts you may have regarding self-represented litigants that you have not already stated in your responses to the above questions.



CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

415 E. 12TH STREET
KANSAS CITY, MISSOURI 64106

TERESA YORK
Court Administrator

CYNTHIA COOK
Assistant Legal Counsel

October 6, 2006

Re: Self-Represented / Pro Se Litigant Survey on Family Law Cases

The Missouri Supreme Court, in cooperation with the Missouri Bar, has established a Joint Pro Se Implementation Commission to study and implement procedures and forms to address the increasing challenge presented to the courts by self-represented litigants in family law cases. A foundational component of the self-represented/pro se program is to educate self-represented litigants about the risk and responsibilities of proceeding without counsel.

Some other components include:

- (i) the removal of any obstacles for attorneys that may want to offer their services on part of a case, but not provide full representation (i.e., unbundled legal services);
- (ii) provision of clear definitions and training for court personnel regarding the information a clerk can and cannot provide to self-represented litigants;
- (iii) expansion of legal services to low income citizens;
- (iv) referral of low income and indigent citizens to attorneys willing to assist;
- (v) providing guidance to judges on dealing with the self-represented litigant; and
- (vi) development of a statewide website by January 2007 containing approved dissolution forms and other information needed to effectively move self-represented litigants through the judicial process.

This is a survey intended to address some of the concerns that will need to be examined by the Pro Se Commission. Please complete and return this survey by November 1, 2006. Your assistance is very valuable to us in determining our direction. We appreciate your cooperation.

Sincerely,

Cynthia A. Cook
816-881-3716

**THE JACKSON COUNTY CIRCUIT COURT
LITIGANT SURVEY
ON SELF-REPRESENTED LITIGANTS
IN FAMILY LAW CASES**

The below survey has eight questions and should take approximately 10 minutes to complete. These responses will help the court better understand family law cases and self-representation. **“Self-represented litigant” as used in this survey is defined as “a person who represents his or her own interests in the legal process without the aid of an attorney”.**

General information will be compiled and shared generally with the justice community in order to make recommendations and plan improvements but individual responses will not be identified without permission. Your time and effort in answering these questions is very much appreciated.

Please return the completed survey in the enclosed self-addressed, stamped envelope to:

Cindy Cook, Special Projects Coordinator
Court Administrator’s Office
415 E. 12th Street, Room 303B
Kansas City, MO 64106.

1. Basic Attitude Regarding Court Assistance of Self-Represented Litigants in Family Law Cases:

Should the Jackson County Court System assist members of the public who have no attorney and represent themselves before the Jackson County Courts?

Circle your response Yes or No

If your answer is no, why not? _____

NOTE: Even if you answered no to the question above, please complete the remaining questions.

2. Perceptions of the Court and Self-Represented Litigants:

Respond to the statements below using the following scale:

- (5) strongly agree,
- (4) somewhat agree,
- (3) no opinion,
- (2) somewhat disagree,
- (1) strongly disagree

5. Problems Encountered by or with Self-Represented Litigants:

Respond to the statements below using the following scale:

- (5) Definitely a problem,
- (4) Somewhat a problem,
- (3) No Opinion,
- (2) See as an issue, but not a problem,
- (1) Definitely not a problem

1. The self-represented litigant doesn't know how to file a case and/or respond to a case filed against him or her. 5 4 3 2 1
2. The self-represented litigant doesn't know rules of evidence (i.e. how to present documents or question witnesses in court). 5 4 3 2 1
3. The self-represented litigant doesn't know the case law or statutes on which a decision is based. 5 4 3 2 1
4. The self-represented litigant doesn't know court procedures. 5 4 3 2 1
5. The self-represented litigant cannot prepare orders after the case is over. 5 4 3 2 1
6. The self-represented litigant lacks the knowledge to move through the court process efficiently, resulting in delays and multiple appearances. 5 4 3 2 1

6. Current Court Forms, Procedures, Practices and Responses to the Self-Represented

A. How well is the Jackson County Court system currently serving self-represented litigants?

Respond to the statements below using the following scale:

- (5) Excellent service,
- (4) Good service,
- (3) Neither good nor poor service,
- (2) Service is not good,
- (1) Poor service

1. Explain, provide and help with legal terms and forms 5 4 3 2 1
2. Identify missing information or errors 5 4 3 2 1
3. Refer litigants to other court staff or non-court agencies 5 4 3 2 1

- | | | | | | | |
|----|---|---|---|---|---|---|
| 4. | Explain the role of the judge and other court personnel and what to expect from the court proceedings | 5 | 4 | 3 | 2 | 1 |
| 5. | Provide information on the availability of pro bono/free and reduced cost legal services | 5 | 4 | 3 | 2 | 1 |
| 6. | Lawyer referral process | 5 | 4 | 3 | 2 | 1 |
| 7. | Educational legal clinics | 5 | 4 | 3 | 2 | 1 |
| 8. | Provide guidelines and training for court personnel to assist self-represented litigants | 5 | 4 | 3 | 2 | 1 |
| 9. | Provide written forms with clear and simple Instructions for the self-represented litigant | 5 | 4 | 3 | 2 | 1 |

Other services and comments: _____

**B. Where did you obtain forms or information on court procedures?
(check all that apply)**

- _____ Legal Aid office
- _____ Attorney or paralegal
- _____ Court staff
- _____ Law library
- _____ Web page/Internet
- _____ Judge
- _____ None
- _____ Other

7. What is the Appropriate Judicial System Response to the Self-Represented?

Respond to the statements below using the following scale:

- (5) Strongly agree,
- (4) Somewhat agree,
- (3) No opinion,
- (2) Somewhat disagree,
- (1) Strongly disagree

- | | | | | | | |
|----|--|---|---|---|---|---|
| 1. | The judicial system should provide forms and help with filing for the self-represented litigants through the Internet. | 5 | 4 | 3 | 2 | 1 |
|----|--|---|---|---|---|---|

2. The judicial system should establish a court-based program to assist self-represented litigants. 5 4 3 2 1
 3. The judicial system should establish a self-help clinic - a class that explains how to process and file a legal claim. 5 4 3 2 1
 4. The court should relax procedural and evidentiary rules. 5 4 3 2 1
 5. Judges should assist self-represented litigants in the courtroom. 5 4 3 2 1
 6. The court should hold self-represented litigants to the same standards as attorneys. 5 4 3 2 1
- 8. Please share any additional thoughts you may have regarding self-represented litigants that you have not already stated in your responses to the above questions.**

APPENDIX C

PARTICIPANT RESPONSES TO SURVEY

COURT PERSONNEL SURVEY ON SELF-REPRESENTED LITIGANTS IN FAMILY LAW CASES

1. Basic Attitude Regarding Court Assistance of Self-Represented Litigants in Family Law Cases:

Should the Jackson County Court System assist members of the public who have no attorney and represent themselves before the Jackson County Courts?

	Bar		Judges		Clerks		Litigants	
Yes	54%	37	56%	10	55%	2	97%	65
No	46%	31	44%	8	45%	10	3%	2

2. Perceptions of the Court and Self-Represented Litigants:

1. The court is available to everyone who needs it.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	20%	13	53%	10	27%	6	52%	34
Somewhat Agree	32%	21	37%	7	55%	12	23%	12
No Opinion	8%	5	5%	1	0%	0	11%	9
Somewhat Disagree	26%	17	5%	1	14%	3	14%	5
Strongly Disagree	14%	9	0%	0	5%	1	14%	5

2. People without an attorney have reasonable access to the court.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	12%	8	32%	6	23%	5	33%	22
Somewhat Agree	37%	24	47%	9	32%	7	27%	18
No Opinion	5%	3	16%	3	9%	2	18%	12
Somewhat Disagree	29%	19	5%	1	27%	6	12%	8
Strongly Disagree	17%	11	0%	0	9%	2	9%	6

3. The court is user-friendly, easy to use and understand.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	6%	4	0%	0	0%	0	20%	13
Somewhat Agree	5%	3	16%	3	36%	8	32%	21
No Opinion	9%	6	32%	6	18%	4	18%	12
Somewhat Disagree	49%	32	53%	10	27%	6	14%	9
Strongly Disagree	31%	20	0%	0	18%	4	17%	11

4. The court disposes of family law cases in a reasonable amount of time.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	14%	9	21%	4	10%	2	20%	13
Somewhat Agree	38%	25	47%	9	40%	8	25%	16
No Opinion	8%	4	16%	3	35%	7	26%	17
Somewhat Disagree	22%	14	11%	2	10%	2	14%	9
Strongly Disagree	18%	12	5%	1	5%	1	15%	10

5. More individuals are representing themselves due to cutbacks in free legal services funded by the state and by the federal government.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	20%	13	37%	7	41%	9	52%	32
Somewhat Agree	125%	16	21%	4	32%	7	18%	12
No Opinion	28%	18	21%	4	14%	3	14%	13
Somewhat Disagree	17%	11	5%	1	14%	3	8%	2
Strongly Disagree	11%	7	16%	3	0%	0	8%	7

2. Type and Number of Cases With Self-Represented Litigants:

A. Overall has the number of self-represented litigants in family law cases increased in the last three years? (Non-litigants Only)

	Bar		Judges		Clerks	
Yes	78%	45	83%	10	100%	18
No	22%	13	17%	2	0%	0

If yes, approximately what percentage do you believe it has increased?

	Bar		Judges		Clerks	
<= 25%	52%	23	73%	8	28%	5
26% - 50%	41%	18	27%	3	61%	11
51% - 75%	7%	3	0%	0	12%	2
> 75%	0%	0	0%	0	0%	0

**B. What type of case did you just file and/or appear in court for:
(Litigants Only)**

1. Dissolution of marriage case with children	46%	29
2. Dissolution of marriage case without children	51%	32
3. Child support cases	0%	0
4. Motion to modify/other post-decree matter	0%	0
5. Paternity	0%	0
6. Visitation	1.5%	1
7. Other domestic cases	1.5%	1

**B. How often do you think self-represented litigants appear in the following types
of proceedings? (Non-litigants)**

1. Dissolution of marriage case with children

	Bar		Judges		Clerks	
Very Significant Number	5%	3	0%	0	18%	2
Significant Number	16%	10	12%	2	73%	8
Some	53%	33	65%	11	0%	0
Infrequently, Rarely	24%	5	24%	4	9%	1
None	2%	1	0%	0	0%	0

2. Dissolution of marriage case without children

	Bar		Judges		Clerks	
Very Significant Number	10%	6	12%	2	29%	6
Significant Number	37%	23	24%	4	48%	10
Some	44%	27	65%	11	19%	4
Infrequently, Rarely	10%	6	0%	0	5%	1
None	0%	0	0%	0	0%	0

3. Child support cases

	Bar		Judges		Clerks	
Very Significant Number	26%	16	6%	1	18%	4
Significant Number	32%	20	29%	5	23%	5
Some	35%	22	47%	8	45%	10
Infrequently, Rarely	6%	4	18%	3	14%	3
None	0%	0	0%	0	0%	0

4. Motion to modify/ other post-decree matter

	Bar		Judges		Clerks	
Very Significant Number	6%	4	0%	0	9%	2
Significant Number	31%	19	19%	3	27%	6
Some	42%	26	63%	10	50%	11
Infrequently, Rarely	18%	11	19%	3	9%	2
None	3%	2	0%	0	5%	1

5. Paternity

	Bar		Judges		Clerks	
Very Significant Number	21%	13	0%	0	23%	5
Significant Number	19%	12	18%	3	14%	3
Some	42%	26	53%	9	27%	6
Infrequently, Rarely	15%	9	29%	5	27%	6
None	3%	2	0%	0	9%	2

6. Visitation

	Bar		Judges		Clerks	
Very Significant Number	6%	4	0%	0	14%	3
Significant Number	29%	18	24%	4	27%	6
Some	56%	35	65%	11	45%	10
Infrequently, Rarely	8%	5	12%	2	5%	1
None	0%	0	0%	0	9%	2

7. Other domestic case

	Bar		Judges		Clerks	
Very Significant Number	6%	4	0%	0	10%	2
Significant Number	26%	16	6%	1	25%	5
Some	58%	36	69%	11	55%	11
Infrequently, Rarely	10%	6	19%	3	5%	1
None	0%	0	6%	1	5%	1

4. Profile of the Self-Represented Litigant

A. What were your reasons for representing yourself in the case just completed. If there is more than one reason, please check all reasons that apply. (Litigants Only)

1.	I could not afford an attorney.	78%	53
2.	I am familiar with the law and thought I had the ability to handle the case myself.	13%	9
3.	I had a bad experience with a previous attorney.	12%	8
4.	Other	15%	10
Total Respondents			68

A. Reasons for Self-Representation (Non-Litigants)

1. Most self-represented litigants represent themselves because they cannot afford an attorney.

	Bar		Judges		Clerks	
Strongly Agree	28%	17	24%	4	86%	19
Somewhat Agree	44%	27	47%	8	9%	2
No Opinion	2%	1	0%	0	5%	1
Somewhat Disagree	21%	13	24%	4	0%	0
Strongly Disagree	5%	3	6%	1	0%	0

2. Most self-represented litigants represent themselves because they think they are familiar with the law and have the ability to handle the case themselves.

	Bar		Judges		Clerks	
Strongly Agree	3%	2	0%	0	5%	1
Somewhat Agree	28%	17	35%	6	32%	7
No Opinion	3%	2	12%	2	14%	3
Somewhat Disagree	39%	24	35%	6	32%	7
Strongly Disagree	26%	16	18%	3	18%	4

3. Most self-represented litigants represent themselves because they have had a bad experience with a previous attorney.

	Bar		Judges		Clerks	
Strongly Agree	2%	1	0%	0	9%	2
Somewhat Agree	28%	17	12%	2	41%	9
No Opinion	26%	16	18%	3	32%	7
Somewhat Disagree	31%	19	53%	9	18%	4
Strongly Disagree	13%	8	18%	3	0%	0

**B. Did you speak with any attorneys before deciding to represent yourself?
(Litigants Only)**

	Response Percentage	Response Total
Yes	53%	36
No	47%	32

If yes, how many attorneys did you speak with?

Number of Attorneys	Response Percentage	Response Total
1	49%	18
2	28%	10
3	14%	5
4	3%	1
5	6%	2

B. Utilization of Attorneys by the Self-Represented (Non-Litigants)

1. In your opinion, how many self-represented litigants seek advice or speak with an attorney before deciding to represent themselves?

	Bar		Judges		Clerks	
Very Significant Number	7%	4	6%	1	0%	0
Significant Number	28%	17	17%	3	29%	6
Some	43%	26	56%	10	52%	11
Infrequently, Rarely	23%	14	22%	4	19%	4
None	0%	0	0%	0	0%	0

2. In your opinion, how may self-represented litigants speak to more than one attorney before deciding to represent themselves?

	Bar		Judges		Clerks	
Very Significant Number	3%	2	0%	0	0%	0
Significant Number	18%	11	24%	4	10%	2
Some	38%	23	24%	4	52%	11
Infrequently, Rarely	38%	23	53%	9	19%	4
None	3%	2	0%	0	19%	4

5. Problems Encountered by or with Self-Represented Litigants:

1. The self-represented litigant doesn't know how to file a case and/or respond to a case filed against him or her.

	Bar		Judges		Clerks		Litigants	
Definitely Problem	61%	36	58%	11	68%	15	24%	16
Somewhat Problem	19%	11	37%	7	23%	5	26%	17
No Opinion	5%	3	5%	1	0%	0	17%	11
Issue, Not Problem	15%	9	0%	0	9%	2	14%	9
Definitely Not Problem	0%	0	0%	0	0%	0	19%	13

2. The self-represented litigant doesn't know rules of evidence (i.e. how to present documents or question witnesses in court).

	Bar		Judges		Clerks		Litigants	
Definitely Problem	78%	46	84%	16	73%	16	27%	18
Somewhat Problem	8%	5	16%	3	14%	3	27%	18
No Opinion	3%	2	0%	0	5%	1	26%	17
Issue, Not Problem	10%	6	0%	0	5%	1	8%	5
Definitely Not Problem	0%	0	0%	0	5%	1	19%	7

3. The self-represented litigant doesn't know the case law or statutes on which a decision is based.

	Bar		Judges		Clerks		Litigants	
Definitely Problem	75%	44	84%	16	82%	18	29%	19
Somewhat Problem	7%	4	11%	2	14%	3	35%	23
No Opinion	5%	3	0%	0	0%	0	20%	13
Issue, Not Problem	14%	8	5%	1	0%	0	6%	4
Definitely Not Problem	0%	0	0%	0	5%	1	19%	7

4. The self-represented litigant doesn't know court procedures.

	Bar		Judges		Clerks		Litigants	
Definitely Problem	66%	39	63%	12	73%	16	24%	16
Somewhat Problem	12%	7	37%	7	23%	5	27%	18
No Opinion	3%	2	0%	0	0%	0	26%	17
Issue, Not Problem	19%	11	0%	0	0%	0	9%	6
Definitely Not Problem	0%	0	0%	0	5%	1	19%	9

5. The self-represented litigant cannot prepare orders after the case is over.

	Bar		Judges		Clerks		Litigants	
Definitely Problem	76%	45	74%	14	73%	16	22%	14
Somewhat Problem	5%	3	11%	2	9%	2	27%	17
No Opinion	2%	1	0%	0	9%	2	36%	23
Issue, Not Problem	14%	8	11%	2	5%	1	6%	4
Definitely Not Problem	3%	2	5%	1	5%	1	9%	6

6. The self-represented litigant lacks the knowledge to move through the court process efficiently, resulting in delays and multiple appearances.

	Bar		Judges		Clerks		Litigants	
Definitely Problem	53%	31	53%	10	59%	13	28%	18
Somewhat Problem	25%	15	37%	7	36%	8	29%	19
No Opinion	5%	3	0%	0	0%	0	20%	13
Issue, Not Problem	15%	9	5%	1	0%	0	11%	7
Definitely Not Problem	2%	1	5%	1	5%	1	12%	8

6. Current Court Forms, Procedures, Practices and Responses to the Self-Represented

A. How well is the Jackson County Court system currently serving self-represented litigants?

1. Explain, provide and help with legal terms and forms

	Bar		Judges		Clerks		Litigants	
Excellent Service	0%	0	0%	0	0%	0	19%	12
Good Service	18%	10	21%	3	33%	7	36%	23
Neither Good nor Poor Service	47%	27	57%	8	33%	7	14%	9
Service Not Good	28%	16	14%	2	14%	3	8%	5
Poor Service	7%	4	7%	1	19%	4	23%	15

2. Identify missing information or errors

	Bar		Judges		Clerks		Litigants	
Excellent Service	4%	2	0%	0	5%	1	22%	14
Good Service	16%	9	8%	1	48%	10	38%	24
Neither Good nor Poor Service	49%	28	69%	9	14%	3	19%	12
Service Not Good	28%	16	15%	2	14%	3	5%	3
Poor Service	4%	2	8%	1	19%	4	16%	10

3. Refer litigants to other court staff or non-court agencies

	Bar		Judges		Clerks		Litigants	
Excellent Service	5%	3	0%	0	14%	3	19%	12
Good Service	18%	10	27%	4	32%	7	24%	15
Neither Good nor Poor Service	60%	34	67%	10	32%	7	30%	19
Service Not Good	18%	10	7%	1	23%	5	11%	7
Poor Service	0%	0	0%	0	0%	0	16%	10

4. Explain the role of the judge and other court personnel and what to expect from the court proceedings

	Bar		Judges		Clerks		Litigants	
Excellent Service	2%	1	0%	0	4%	1	22%	14
Good Service	26%	15	19%	3	24%	5	25%	16
Neither Good nor Poor Service	49%	28	56%	9	24%	5	25%	16
Service Not Good	19%	11	25%	4	24%	5	9%	6
Poor Service	4%	2	0%	0	24%	5	19%	12

5. Provide information on the availability of pro bono/free and reduced cost legal services

	Bar		Judges		Clerks		Litigants	
Excellent Service	7%	4	0%	0	10%	2	25%	16
Good Service	26%	15	20%	3	24%	5	13%	8
Neither Good nor Poor Service	49%	28	53%	8	19%	4	30%	19
Service Not Good	16%	9	13%	2	10%	2	5%	3
Poor Service	2%	1	13%	2	38%	8	27%	17

6. Lawyer referral process

	Bar		Judges		Clerks		Litigants	
Excellent Service	5%	3	0%	0	10%	2	16%	10
Good Service	40%	23	38%	6	10%	2	16%	10
Neither Good nor Poor Service	44%	25	38%	6	40%	8	37%	24
Service Not Good	11%	6	6%	1	15%	3	9%	6
Poor Service	0%	0	19%	3	25%	5	22%	14

7. Educational legal clinics

	Bar		Judges		Clerks		Litigants	
Excellent Service	2%	1	0%	0	10%	2	19%	12
Good Service	12%	7	13%	2	10%	2	22%	14
Neither Good nor Poor Service	49%	28	47%	7	25%	5	30%	19
Service Not Good	26%	15	7%	1	15%	3	3%	2
Poor Service	11%	6	33%	5	40%	8	25%	16

8. Provide guidelines and training for court personnel to assist self-represented litigants

	Bar		Judges		Clerks		Litigants	
Excellent Service	0%	0	0%	0	5%	1	22%	14
Good Service	7%	4	15%	2	15%	3	25%	16
Neither Good nor Poor Service	60%	34	38%	5	25%	5	30%	19
Service Not Good	30%	17	38%	5	15%	3	2%	1
Poor Service	4%	2	8%	1	40%	8	22%	14

9. Provide written forms with clear and simple instructions for the self-represented litigant.

	Bar		Judges		Clerks		Litigants	
Excellent Service	2%	1	0%	0	5%	1	29%	18
Good Service	21%	12	21%	3	40%	8	16%	10
Neither Good nor Poor Service	49%	28	21%	3	5%	1	29%	18
Service Not Good	23%	13	57%	8	25%	5	3%	2
Poor Service	5%	3	0%	0	25%	5	24%	15

B. Where do self-represented litigants obtain forms or information on court procedures? (check all that apply)

	Bar		Judges		Clerks		Litigants	
Legal Aid Office	25%	14	56%	10	59%	13	9%	7
Attorney or Paralegal	29%	16	44%	8	45%	10	12%	8
Court Staff	32%	18	44%	8	55%	12	23%	15
Law Library	43%	24	67%	12	64%	14	18%	12
Web Page/Internet	5%	3	94%	17	82%	18	45%	29
Judge	93%	52	28%	5	5%	1	2%	1
None	7%	4	6%	1	5%	1	5%	3
Other	9%	5	39%	7	9%	2	18%	2

C. Type of guidance you personally provide to self-represented litigants. (Non-litigants Only)

1. Provide forms

	Bar		Judges		Clerks	
Always	4%	2	6%	1	42%	9
Frequently	7%	4	12%	2	5%	1
Sometimes	27%	15	6%	1	24%	5
Infrequently	33%	18	29%	5	5%	1
Never	29%	16	47%	8	24%	5

2. Answer questions

	Bar		Judges		Clerks	
Always	11%	6	18%	3	24%	5
Frequently	21%	12	41%	7	28%	6
Sometimes	41%	23	24%	4	38%	8
Infrequently	16%	9	12%	2	5%	1
Never	11%	6	6%	1	5%	1

3. Refer to law library

	Bar		Judges		Clerks	
Always	9%	5	0%	0	53%	11
Frequently	11%	6	35%	6	19%	4
Sometimes	30%	17	35%	6	14%	3
Infrequently	18%	10	18%	3	0%	0
Never	32%	18	12%	2	14%	3

4. Assist at public access terminal

	Bar		Judges		Clerks	
Always	0%	0	0%	0	37%	8
Frequently	7%	4	6%	1	14%	3
Sometimes	14%	8	0%	0	10%	2
Infrequently	23%	13	6%	1	10%	2
Never	55%	31	88%	14	29%	6

5. Refer to attorney/ legal services

	Bar		Judges		Clerks	
Always	16%	9	41%	7	36%	8
Frequently	45%	25	35%	6	18%	4
Sometimes	27%	15	12%	2	23%	5
Infrequently	9%	5	0%	0	9%	2
Never	4%	2	12%	2	14%	3

6. Identify errors and omissions in forms

	Bar		Judges		Clerks	
Always	2%	1	41%	7	15%	3
Frequently	4%	2	29%	5	15%	3
Sometimes	23%	13	6%	1	30%	6
Infrequently	29%	16	18%	3	10%	2
Never	43%	24	6%	1	30%	6

7. What is the Appropriate Judicial Response to the Self-Represented

1. The judicial system should provide forms and help with filing for the self-represented litigant through the Internet.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	19%	11	32%	6	68%	15	77%	50
Somewhat Agree	42%	24	32%	6	14%	3	9%	6
No Opinion	2%	1	0%	0	5%	1	6%	4
Somewhat Disagree	12%	7	21%	4	5%	1	2%	1
Strongly Disagree	25%	14	16%	3	9%	2	6%	4

2. The judicial system should establish a court-based program to assist self-represented litigants.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	16%	9	28%	5	54%	12	84%	56
Somewhat Agree	28%	16	11%	2	18%	4	9%	6
No Opinion	5%	3	0%	0	5%	1	6%	4
Somewhat Disagree	19%	11	22%	4	18%	4	0%	0
Strongly Disagree	32%	18	39%	7	5%	1	1%	1

3. The judicial system should establish a self-help clinic --- a class that explains how to process and file a legal claim.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	21%	12	22%	4	59%	13	79%	53
Somewhat Agree	26%	15	17%	3	14%	3	13%	9
No Opinion	5%	3	6%	1	9%	2	1%	1
Somewhat Disagree	25%	14	22%	4	9%	2	4%	3
Strongly Disagree	23%	13	33%	6	9%	2	1%	1

4. The court should relax procedural and evidentiary rules

	Bar		Judges		Clerks		Litigants	
Strongly Agree	2%	1	0%	0	14%	3	45%	29
Somewhat Agree	12%	7	11%	2	18%	4	13%	8
No Opinion	0%	0	11%	2	18%	4	30%	19
Somewhat Disagree	18%	10	16%	3	27%	6	8%	5
Strongly Disagree	68%	39	63%	12	23%	5	5%	3

5. Judges should assist self-represented litigants in the courtroom.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	2%	1	5%	1	14%	3	49%	33
Somewhat Agree	14%	8	26%	5	27%	6	28%	19
No Opinion	2%	1	5%	1	18%	4	13%	9
Somewhat Disagree	26%	15	21%	4	18%	4	7%	5
Strongly Disagree	56%	32	42%	8	23%	5	1%	1

6. The court should hold self-represented litigants to the same standards as attorneys.

	Bar		Judges		Clerks		Litigants	
Strongly Agree	54%	31	47%	9	27%	6	23%	15
Somewhat Agree	28%	16	32%	6	18%	4	18%	12
No Opinion	0%	0	11%	2	18%	4	21%	14
Somewhat Disagree	16%	9	11%	2	14%	3	17%	11
Strongly Disagree	2%	1	0%	0	23%	5	21%	14

APPENDIX D

COURT RULE AND GUIDELINES FOR COURT PERSONNEL

PROPOSED RULE:

Services rendered by Court clerks and court staff in family law cases

Court clerks are authorized to provide the following services to self-represented litigants to achieve fair and efficient resolution of their family law case. The services within the bounds of this rule, when delivered by a court clerk or court staff, shall not constitute legal advice. Rendering legal advice is not authorized for any court clerk or court staff member who is not a member of the legal profession in good standing. No court clerk or court staff member shall lead any litigant to believe that they represent the litigant as a lawyer in any capacity, nor shall they induce the public to rely upon them for legal advice.

Notwithstanding ethics rules that govern legal professionals, there is no conflict of interest in providing the following services to all litigants. Court clerks and court staff may:

- 1) encourage self-represented litigants to obtain legal advice;
- 2) provide information about available *pro bono* legal services, low cost legal services, legal aid programs and lawyer referral services;
- 3) Provide docketed case information for the litigant's case;
- 4) provide information about available approved forms, without providing advice or recommendation as to any specific course of action;
- 5) provide approved forms and approved instructions on how to complete the forms;
- 6) engage in communications to assist a person in completion of blanks on approved forms, without recommending specific content or phrasing for a pleading, specific types of claims or arguments to assert in pleadings, or recommend objections to pleadings;
- 7) Record information provided by a self-represented litigant on approved form when a litigant has limited literacy, physical infirmity or other disabilities to the extent required by the Americans with Disabilities Act;
- 8) Provide definitions of commonly used legal terms, orally or in writing, without advising whether or not a particular definition is applicable to the self-represented litigant's situation;
- 9) Provide citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the self-represented litigant's situation;

- 10) Provide form of approved script for use by self-represented litigants in court;
- 11) Provide general information about local court operations and facilitate the setting of hearings;
- 12) Provide information about required parent and/or child education courses and mediation;and
- 13) Provide information about community services.

Each court clerk shall conspicuously post the following notice describing services the court clerk and court staff may and may not provide to self-represented litigants. A copy of the notice shall be provided to any person on request.

GUIDELINES FOR MISSOURI COURT CLERKS & COURT STAFF

Court Clerks & Staff May	Court Clerks and Staff May Not
Encourage pro se litigants to obtain legal advice; provide information about pro bono legal services; low cost legal services and lawyer referral services	Provide legal advice, including but not limited to: recommend a specific course of action, perform legal research for litigants, interpret how the law would apply in a specific situation, predict the outcome of a particular case strategy or action
Provide appropriate court approved forms & instructions, provide information about court approved forms, and answer questions to assist person in filling in blanks on court approved forms, record info provided by pro se on approved forms, check court approved forms for completeness, and provide appropriate aid and services for individuals who are illiterate or who have disabilities to extent required by ADA	Recommend any specific course of action; whether to file a pleading; recommend specific content or phrasing for a pleading or recommend specific types of claims or arguments to assert in pleadings or objections to pleadings
Define commonly used terms	Advise on how a particular term or definition applies it to a specific situation
Provide, orally or in writing, citation of statutes, court rules and local rules	Interpret statutes or rules or advise whether or not a particular statute/rule applies in a specific situation
Provide docketed case information	Provide information that must be kept confidential by statute, court rule or case law
Provide general information about court process, practice and procedure, information on deadlines specified by statute or court rule, and facilitate the setting of hearings	Recommend specific techniques for presenting evidence, specific questions to ask witnesses, objections to raise at trial, whether to settle or appeal, or compute deadlines specified by statute or court rule
Provide information about mediation and required educational programs and community services	

APPENDIX E

PROGRAM ON RISKS AND RESPONSIBILITIES OF REPRESENTING YOURSELF

Representing Yourself In Missouri Courts



The Supreme Court of Missouri in Jefferson City

MAKE AN INFORMED CHOICE



The State of Missouri Court system hopes that this guide in representing yourself (*pro se*) will give you a better idea of how your Missouri court system works. This guide will provide you very basic steps and concepts to obtain a dissolution of marriage commonly known as divorce.

Most people will hire lawyers to handle their case in the court system. That is a good idea, because it is NOT EASY to do without the training, experience, and the knowledge of how the system works.

If you decide to represent yourself (*pro se*) in court, it is good to start by talking to a lawyer about your problem to find out if your case is a simple one or one that can get complicated.

Risk and Responsibilities

Should I Represent Myself?

There are significant risks and responsibilities associated with representing yourself in court without an attorney. You should explore the risks and determine if you can fulfill the responsibilities required. Your case may be too complex to handle on your own. Sometimes when people represent themselves, they have to hire an attorney to “fix” their mistakes which could be costly.

Included in this resource guide is a [self assessment tool](#). You should complete this tool before proceeding as it will assist you in making an informed choice about representing yourself.

You can decide whether to hire a lawyer or you can decide to do it on your own (*pro se*). If you decide to do it *pro se*, then you need to understand the [risks](#) you are taking if you go to court with out a lawyer. Some of these [risks](#) include:

- The rules that apply to experienced lawyers also apply to you; there is generally no special treatment because you are representing yourself;
- You may permanently end up with an outcome you did not want, or may need to hire an attorney to “undo” your unexpected result;
- You may put your property and/or children at risk with potentially great consequences.

Keep in mind that some cases are better left to a trained professional.

The objective of this guide is to help better educate you on the Missouri court system. You will learn the process—step by step. Please read the entire contents and take advantage of the additional information provided in the blue links.

Most importantly, remember that this guide is meant to give you helpful information, not [legal advice](#).



Making the Decision

(Words in **red** are listed in the Legal Terms section)

Can I go to court without a lawyer?

Yes. You have the right to represent yourself in Missouri state court. Many people in Missouri go to court without a **lawyer**. Some people can't afford to hire a lawyer. Others decide that they would rather handle their legal problem on their own.

Should I go to court without a lawyer?

You should complete the [self assessment](#) tool. This guide was developed to help you make that decision. Some cases are fairly simple and can be handled without a lawyer. Others involve complicated procedures and legal issues that require the experience and training of a lawyer. Again, if possible, you should talk to a lawyer about your case. Whether you decide to hire a lawyer or go to court on your own, it helps to know how the court system works.

Can I get help with my case if I need it?

Yes. There are a variety of [resources](#) that may help you. Missouri does allow [court clerks](#) to help you with certain information. Court clerks are limited in the assistance they can provide you.

If domestic violence is an issue in your case and you meet certain [income guidelines](#) , you may be eligible for free representation through [Legal Aid](#).

What if I need extra help because of a disability or a language barrier?

Everyone has a right to come to court and participate in the legal system. This includes people who use wheelchairs, people with hearing and vision problems, and people who don't speak English. If you or anyone participating in your case needs special arrangements, first contact the **court** where you filed the case.

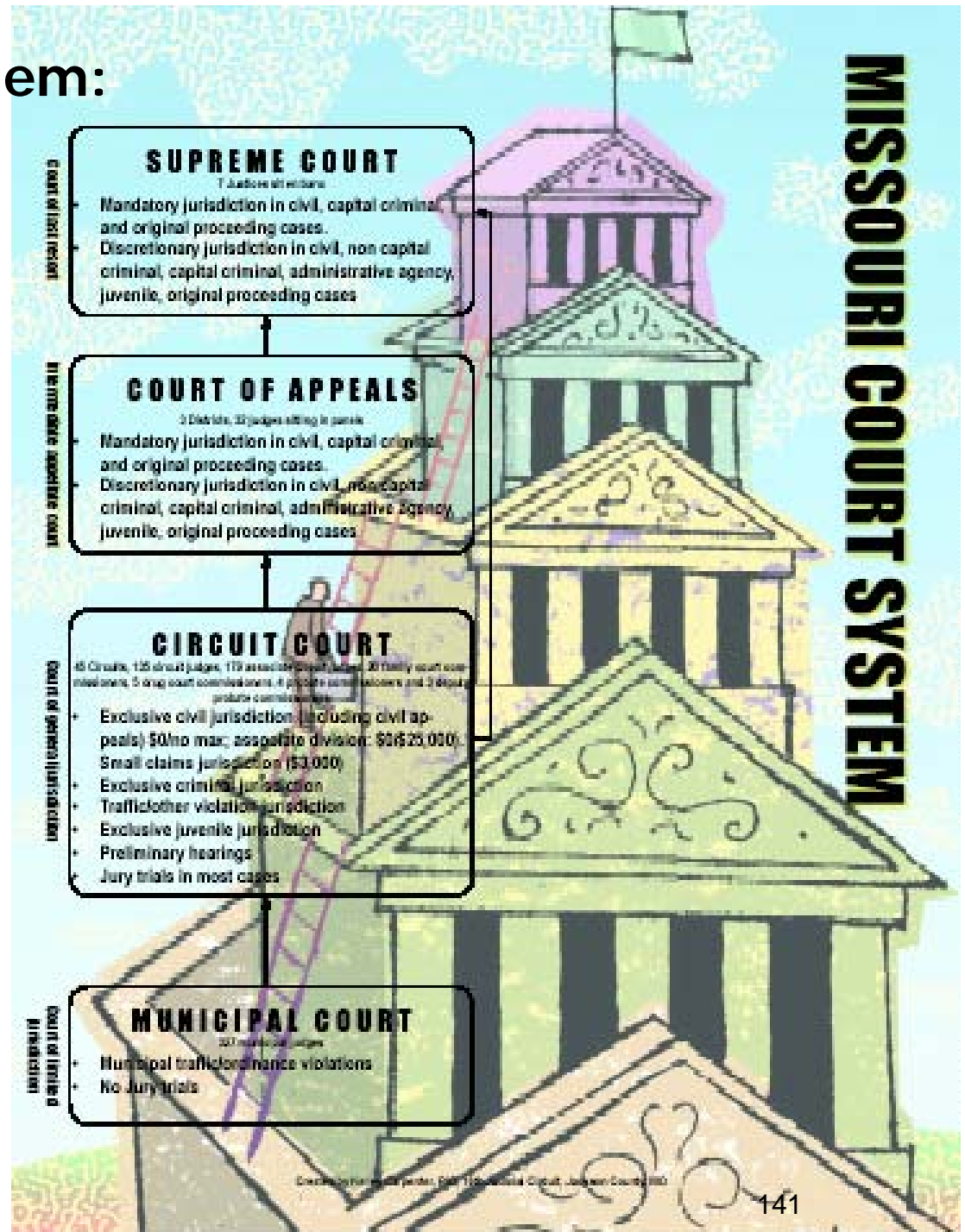
What can I do to make the court process easier?

You may be able to resolve some issues through a process called **mediation**. Mediation gives people a chance to sit down with a neutral **mediator**. A mediator is a trained problem-solver who can help parties reach an **agreement**. Mediators usually charge a fee for their services, but mediation could save you time and money in the long run.

The mediator can help you and your spouse think of possible solutions and alternatives. Ask the court for a list of [trained mediators](#) available in your area.

The Missouri Court System:

In Missouri, Family law cases are filed in the Circuit court. Some areas have special courts called "Family Courts" that are a part of the Circuit Court. Family Court cases include dissolutions, annulments, paternity actions, name changes, modifications, child support, domestic violence, etc. The Missouri Court of Appeals and the Missouri Supreme Court deal with legal mistakes made in the Circuit Court.



COURT PROCESS

- basic steps in a lawsuit

I. Starting your case: The petition

The spouse who starts the dissolution case is called the **petitioner**. The spouse on the other side is called the **respondent**. The petitioner has to tell the court IN WRITING what the case is about, who the case is against, and what outcome (known as **relief**) is wanted. For example, a person seeking a divorce would explain IN WRITING what the case is about (a dissolution) and the “relief” wanted which may include the divorce along with the division of property, child custody and child support. This writing is called the “**petition**.”

The petition must be complete and include certain information required by law.

II. Filing

How do I file?

The petition must be **verified** before it can be filed. You must swear to or affirm the truth of the facts in the petition. Then, you must sign the petition under oath before a notary. Most banks have notaries that can do this for a small fee.

Where can I file?

A case **MUST** be filed in the proper **location**. Sometimes making this decision can be complicated and can have a negative effect on the outcome of your case if you make a mistake. There are **local court rules** and state laws that determine where parties may file law suits.

Lawyers know these rules and can help you make this decision. The general rule of thumb is *file where the thing happened* or in *the city or county where you live*.

You must decide which county and what court in Missouri is right for your case. This is called finding the right **venue**. The case is usually filed where you live or where the action took place.

How much will it cost to file?

Filing fees vary depending on the type of case. You will need to ask the clerk at your local courthouse how much it will cost to file your particular action. Some courts post this information online.

What if I cannot afford the filing fee?

The court can waive filing fees in some special cases. If you cannot afford the court filing fee, you may ask the court clerk for a waiver form, called an **In Forma Pauperis**. You will have to provide the court with detailed financial information so that a judge can decide if you are eligible for a waiver.

Are there any other forms that need to be filed?

Yes. Effective January 1, 2007, in Missouri, ALL PRO SE parties MUST use the state [standard forms](#) for self-representation. There are many standard forms that must be filed along with the petition so that the court has enough information about you to review the circumstances of your case before a hearing.

III. Service

How do I notify the other party that I am starting a case against them?

When you file your dissolution petition you must provide the other side, the respondent, with official notice. This is called **service of process**. Service is very important and must be done correctly. Doing it incorrectly will cause not only delay of your case, but MAY cause dismissal of your case. Service is proper when the respondent receives a copy of the petition and the official notice to come to court or the **summons**.

When you file your petition you can arrange for service at the court. The most common methods of “service” are listed below:

Waiver of Personal Service: When the respondent is willing to accept the petition, you can give the respondent a copy, and have them SIGN, VERIFY and NOTORIZE a form called “**Entry of Appearance and Waiver of Service**.” This form must be filed with the court.

Personal Service: The sheriff or other court officer hand delivers the petition and the summons to the respondent. It is important to provide the court with very specific information on where, how and when to find the respondent.

Private or Special Process Server

You may want to consider obtaining a special or private process server when the respondent is difficult to find or if they are trying to avoid being served. This is a situation where you may need to consult with an attorney who will know how to help you.

Service by Publication: THIS METHOD CAN BE USED ONLY IF YOU DO NOT KNOW HOW TO LOCATE THEM. This method of service also requires that a **Motion** be made to the court that you have attempted all other means to try to locate or reach the other party. You will need to get specific information from the court on which newspapers are acceptable for service by publication once the court approves your motion to allow this method. You may want to check with a lawyer before doing service by publication because this method of service can affect and/or restrict you from collecting maintenance or child support.

IV. Answer

What happens when the respondent is served?

Once the respondent receives the summons and petition they have 30 days to file a written response to tell their side of the story. This is called the **Answer**. If this Answer is not received within 30 days, the respondent is in **default**. This means the petitioner can go to court and ask for the relief requested in your petition.

What if we agree on everything?

Agreement on all the issues means your case is "**uncontested**." This means that the dissolution process will be faster. You still must go to court to show that you meet the legal requirements for a dissolution and to obtain the court's approval.

What if we can't agree?

If you cannot agree on all issues, your case is **contested**. The fastest and least expensive way to resolve disputes is to try to work out the issues with the other party in advance. If you are not able to work out your differences, you should contact an attorney.

Can I contact the judge assigned to my case if I have questions or concerns?

No! Judges must be fair to all parties and therefore may not speak to or otherwise communicate in any way with the parties outside of a hearing.

V. PREPARING FOR THE HEARING

My papers have been filed and the respondent has been served. What do I do to get ready for my hearing?

There are additional forms that need to be prepared and filed with the court before your hearing other than the petition. You need to check with your court for local court specific forms. There are some general forms required in all Missouri courts. These include:

- **Financial Statements:** to help the judge make decisions about dividing property and providing child support and setting maintenance if appropriate in certain cases. The family court will need copies of financial records, like income tax statements, pay check stubs, the monthly bills, deeds to property, bank accounts, and pension plans.
- **Parenting Plan:** If children are involved, a parenting plan is required detailing the proposed schedule for time with the other parent. It will list when the children will be with each parent and who will make decisions about the children. It is best if both parents can agree on a parenting plan.

- Documentation of Attendance at Parent and Self-Representation classes: In Missouri, attendance at parent and self representation (*pro se*) classes is mandatory. [Schedules](#) of these required classes through your local court are available online.

What should I bring to the hearing?

You need to bring all the paperwork involved in your case. If your case is contested you will have to prove your case with evidence which can include the testimony of other witnesses, documents and **exhibits**.

Can I find out what the other party is going to say and bring to the hearing?

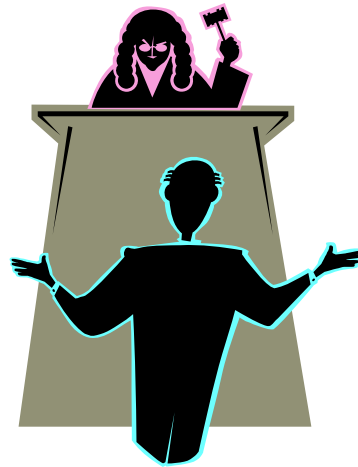
Both you and the respondent have the right to get information about witnesses and copies of documents before the hearing. The process of obtaining and exchanging such information or evidence is called **discovery**.

The rules of what you are allowed to get through discovery are complicated, and strict time limits apply. You may need to talk to a lawyer if you need to get a lot of discovery for your case.

Can I try to settle my case before the hearing?

Even after legal proceedings are initiated parties can settle their differences before the hearing. Settling your disputes between yourselves versus the judge or **commissioner** making a decision always results in a better outcome.

Most cases do settle out of court without a hearing. It is better for everyone when parties agree. Mediation is always available at anytime throughout the legal process and highly recommended. The family court judge/commissioner can and many times will appoint a mediator, particularly if parents can't agree on how the children will be cared for and how the parents will share their parenting responsibilities.



VI. THE HEARING

How do I get a hearing?

In Missouri, the circuit court will schedule hearings. The court will send both parties **Notice of Hearing** telling them when and where the hearing will take place.

I've never been to court. What should I expect?

Some courts use a formal room like those portrayed in movies or on television. But some hearings may be held in a smaller courtroom or even in the judge's or commissioner's office.

What will I need to do on the day of my hearing?

- Arrive at court early.
- Find out in advance where the court house is and the specific courtroom where your case is assigned.
- When you arrive at court, check-in with the division your case is assigned to.
- The judge or commissioner will call your case for the hearing.
- When your case is called for hearing, respond that you are present and you can come forward to the front of the courtroom.

- The judge or commissioner will make some remarks before your hearing begins. Listen to the judge and ask for any clarification if you do not understand anything.
- An official court reporter will be taking down the testimony or the hearing will be tape recorded. Make sure you speak loud enough to be heard.
- The petitioner will be heard first. At this time you and your witnesses will be heard by the court to tell your side of the case. You may want to outline your case to present it better.
- Before the witnesses testify they will be given an oath by the judge.
- When you question witnesses (other than yourself), ask questions, do not make statements. It is the witness giving testimony, so it needs to be their answer.
- The respondent may object to evidence which you offer. You may respond to their objection. The judge or commissioner will decide if the objection is valid. Wait for the judge's decision before you proceed.
- The respondent is heard second. The petitioner may object to evidence offered by the respondent.
- During the course of the hearing the judge may ask questions at anytime. Listen attentively to the question and then answer.

- After the respondent's presentation, the Petitioner may present **rebuttal** (to mitigate testimony the other party presented) evidence.
- After the evidence the Judge will decide your case and tell you his/her decision. The decision will be sent to you in writing in the form of a **Judgment**.

When will the judge decide my case?

The judge or commissioner may make a decision at the hearing. But often the judge or commissioner will take additional time to consider the evidence and the law before deciding a case. Once the judge or commissioner decides your case, the judge or commissioner will issue an **order**, with findings and recommendations. The court clerk will mail you a copy of the order.

What do I have to do after the judge signs the dissolution?

First you must do all the things that the judge ordered you to do in the dissolution judgment. That means you may have to transfer property, sign documents or pay money. Failing to do what the judge ordered may result in additional court proceedings for enforcement of the judgment or for contempt of court.

If your spouse fails to comply with the judge's orders you will need to bring **enforcement** or **contempt proceedings** against your former spouse.

Next, it is your own responsibility to change names on the property that used to be marital property. This includes names on automobile titles, insurance policies, bank accounts, retirement accounts, credit card accounts and deeds. If your dissolution judgment affected title to real estate, you must file a certified copy of the dissolution judgment with the recorder of deeds. Also, you need to inform the appropriate government agencies, employers, creditors and businesses of your dissolution and any name change. You may also need to provide copies of your dissolution judgment to others



7 Tips

For representing yourself in court

1. Use a lawyer if you need help.

2. Make a good impression.

3. Be respectful.

4. Know what to ask.

5. Arrive early.

6. Tell your story.

7. Come prepared.

- Remember, you can use a lawyer if you need help. You may start this case on your own, but later realize that you need the help of a good attorney.
- If you dress nicely, it tells the judge that you respect the courtroom and care about your case.
- Be respectful to everyone in court, including the other party – and don't argue with the judge. Try to remain calm. Do not interrupt others; you will get your opportunity to tell your story. Remember to rise for the judge or commissioner when he or she enters and leaves the courtroom.
- You can ask court officials for information about the process and what type of information to put on the forms. But remember, court employees can't tell you what words to write on the forms or what to say at the hearing.
- Most judges like to start on time. But some cases take longer than expected, so be prepared to wait.
- Tell the judge in a few brief sentences what your case is about and how you plan to prove the facts of your case. Lawyers call this an opening statement.
- Know your case number. You can find this on the filed petition. Bring at least three copies of any evidence you plan to use. Write out the questions you plan to ask and go over them with your witnesses before the hearing. It is helpful to have all your papers organized in a folder or notebook.

LEGAL TERMS

Action – a judicial proceeding whose purpose is to obtain relief from a court of law; a lawsuit.

Agreement – an oral or written promise to do something.

Answer – the defendant's or respondent's written response to the claims in the complaint.

Answer – the defendant's or respondent's written response to the claims in the complaint.

Appeal – request to a higher court for a different judgment.

Certificate of Delivery – a form that shows the opposing party was given the complaint or answer in a timely and proper manner.

Certificate of Service – a form filed with the clerk's office stating that the opposing party in a lawsuit received the papers filed in the case.

Child Support – court-ordered funds paid by one parent for a minor child after a divorce or separation.

Circuit Court – a court in which trials may occur. Within the Circuit Court, there are various divisions, such as associate circuit, small claims, municipal, family, probate, criminal, and juvenile. Missouri's counties and the city of St. Louis are organized into forty-five judicial circuits. There is a court in every county.

Civil Case – an action brought by a person, company, or other entity to protect some right or to help recover money or property from another person or company.

Commissioner – judicial officer of the limited jurisdiction court.

Counterclaim – a claim filed to oppose another claim in a legal action.

Court Clerk – the person whose duty it is to establish and maintain dockets and records for the court, to assist in preparing court reports, and to carry out the duties of the court on behalf of the magistrates or judges, as well as assist the public.

Court of Appeals - the court immediately above the Circuit Court to hear a case if the outcome of a Circuit Court decision is challenged by any of the parties involved in the action.

Court Rules – a set of procedures adopted by courts to be followed by parties and their lawyers. Most states have statewide rules of court.

Default Judgment – when a party who has been sued fails to answer, either the clerk of the court may enter a judgment by default against that party.

Defendant – the person against whom relief or recovery of money or property is being sought in a civil lawsuit. Also used to designate the accused in a criminal case; similar to respondent.

Discovery – a pretrial proceeding where a party to an action has an opportunity to learn information known by other parties, witnesses, or other persons.

Evidence – any presented proof, which may be established by witnesses, testimony, records, documents, etc.

Family Court – a court that has authority over cases involving divorce, child custody, visitation, support, and domestic violence.

Financial Statement – a statement showing the details of income and expenses for a given period of time.

Hearing – any proceeding before a judge or commissioner without a jury in which evidence and argument is presented to determine some issue of fact or both issues of fact and law.

In Forma Pauperis (Fee Waiver and Fee Waiver Form) – I a sworn statement used to determine whether someone meets the income guidelines so that they are not required to pay court fees.

Judge – a public official who hears and decides cases brought before a court of law.

Jurisdiction – authority of a court to hear certain cases.

Lawyer – a person authorized to practice law, conduct lawsuits, or give legal advice.

Mediation – a method of solving problems without going to court.

Mediator – a person who helps resolve disputes between two or more parties.

Notice of Hearing – an official notice telling the parties when a hearing is scheduled.

Opening Statement – a summary of the case and the evidence that will be presented, given at the beginning of a hearing.

Order – the written decision of a judge.

Parenting Plan – a plan that states which parent will be responsible for the children and decision-making, and how disputes will be decided between parents.

Petition – a formal written request to a court for an order of the court.

Additionally, in a civil case, written statements stating the claims against the defendant.

Petitioner or Plaintiff – in a civil case, the person who files a claim against another person. In divorces, this is the person who files or starts the divorce.

Remedy – the relief given or ordered by a court to enforce a right or prevent a wrong, such as returning property or the monetary value of a loss.

Respondent – the person a civil lawsuit or a divorce is being brought against; similar to defendant.

Restitution – returning to the proper owner property or the monetary value of a loss.

Service of Process – the legal methods of delivering papers to the other party in a lawsuit and proving to the court (by filing a Certificate of Service) that the papers were received.

Settlement – an oral or written promise to resolve a problem, especially before going to court.

Spousal Support – payment for support of an ex-spouse (or a spouse while a divorce is pending) ordered by the court. More commonly called alimony.

Subpoena – a written legal notice requiring a person to appear in court and give testimony or produce documents.

Summons – a notice to the person named that an action has been filed against that person.

Supreme Court of Missouri – the highest court in Missouri where seven Supreme Court Justices hear appeals of decisions made in lower courts and interpret the laws and constitutions of Missouri and the United States.

Testimony – a solemn statement made under oath.

Unbundled Legal Services – agreement between a party and a lawyer to a limited representation, i.e. reviewing documents prepared by a party representing himself or herself in court.

Venue – the specific county, city, or geographical area over which a court has authority.

Witness(es) – one who can give a firsthand account of something seen, heard, or experienced.

Writ – a written order of a judge requiring specific action by the person or entity to whom the order is directed.