

THE SELF-REPRESENTED LITIGANT IN FAMILY COURT

Peggy and Mark are divorcing after 10 years of marriage. Mark had an attorney briefly, but couldn't afford to pay him and was unrepresented when the final judgment was entered. Peggy was represented by counsel throughout the proceeding. The final judgment allocated to Peggy all significant decision-making authority and the majority of parenting time, and obligated Mark to pay \$2000 per month (28% of his net income) for child support. During the marriage, Peggy worked at home raising the children and Mark worked at a boat dealership that he owns and operates.

1. **[JUDGE WILBRANDT – SRL makes incomplete request for modification of parental responsibility/Does not serve pleading on other side]** One year later, still unrepresented by counsel, Mark files a motion to "appeal the judgment based on new evidence," alleging an emergency that requires an immediate change in the allocation of parental responsibilities. He does not attach a supporting affidavit, and there is no indication that he served the emergency motion upon Peggy. *What should the judge do? What explanation, if any, should be given?*

The parties reach an agreement as to allocation of parental responsibilities, but a separate dispute about child support emerges. Mark files a petition to modify child support asking to reduce payments due to the loss of business income caused by the divorce and parenting disputes which distracted him from his business. Peggy, who is still represented by counsel, files an answer and counterclaim arguing that Mark's payments should actually be *increased* because the original amount was based on a tax return that grossly (and probably illegally) understated Mark's income.

2. **[JUDGE SULLIVAN – SRL's mother sends ex parte communications to judge]** The judge receives a letter from Mark's mother explaining how difficult the divorce has been on him and his business, how the tax fraud was Peggy's idea, and how badly Peggy treated Mark during their marriage. *What should the judge do with the letter? What should the judge say to Mark and Peggy?*
3. **[JUDGE CONLON – SRL exhibits signs of mental illness]** At the next hearing, Mark accuses the judge of communicating ex parte with Peggy and conspiring against him. Mark seems increasingly paranoid and angry and begins yelling at the judge. *How should the judge handle the situation?*
4. **[JUDGE ORTIZ – SRL seeks to disqualify judge]** Mark files a complaint against the judge with the Judicial Inquiry Board claiming the judge is biased against him specifically, pro se litigants in general, and pro se fathers most of all. Mark then files a motion to disqualify the judge based on the complaint. *What should the judge do?*

5. **[JUDGE SULLIVAN – Attorney seeks discovery sanctions against SRL for missing deposition]** Peggy’s attorney notices Mark for a deposition, but he does not show up nor does he show up when the deposition is re-scheduled. Peggy’s attorney asks for sanctions, including dismissal of Mark’s petition. *What should the judge do?*

6. **[JUDGE WILBRANDT – SRL gives irrelevant testimony/Does not understand the necessary elements of his case]** When the case finally goes to trial, the animosity between the ex-spouses is immediately apparent. Mark talks directly to Peggy and mutters under his breath a lot. Mark testifies about Peggy’s spending habits when they were married, her use of alcohol, and her disreputable friends. After delivering what he clearly thinks is damaging evidence, he says he is done testifying. However, he has not given any testimony about the alleged change in circumstances that would justify his request to reduce child support. *What, if anything, should the judge do?*

THE SELF-REPRESENTED LITIGANT IN HOUSING COURT

Li Wen, a Chinese immigrant, owns an apartment building. One of the units is rented to Shu Chan, also a Chinese immigrant. Without the assistance of an attorney, Wen files a Forcible Entry and Detainer Action seeking to evict Chan for non-payment of rent. Both Wen and Chan appear in court on the return date without counsel. Wen speaks English fairly well, but the judge finds it difficult to understand Chan.

1. **[JUDGE CONLON – SRL does not object to premature filing of complaint/Possible language access issue]** After a cursory glance at the file, the judge notices that the complaint was prematurely filed — Wen filed the case against Chan before the statutorily required Termination Notice had expired. Chan, however, does not raise that defense before the court. *What should the judge do? If the judge chooses to dismiss the case, what explanation should she give to Wen?*
2. **[JUDGE ORTIZ – SRL asks judge for guidance resolving issues outside the scope of litigation]** After the judge has issued her ruling, Chan asks if this means she has to pay rent to the landlord despite the bad conditions in the unit. She also asks how she can force the landlord to fix the apartment. *What, if anything, should the judge tell her?*
3. **[JUDGE SULLIVAN – SRL wants to use friend as interpreter]** Wen decides to hire an attorney and re-file the case. This time, Wen waits for the notice period to pass before filing the case. Chan appears in court without an attorney, but with a friend who volunteers to serve as an interpreter for the court proceeding. The friend speaks English and Mandarin fluently. *Should the judge let the friend act as an interpreter?*
4. **[JUDGE CONLON – SRL signs unconscionable Agreed Order]** After court, Chan discusses the case with the landlord's attorney. At the attorney's request, Chan signs an Agreed Order for Possession that awards Wen possession of the apartment along with back rent, attorney's fees, and court costs. The Agreed Order also states that Wen forfeits her security deposit. The Agreed Order does not provide any offset for the conditions in the apartment. *Should the judge enter the Agreed Order without comment?*

THE SELF-REPRESENTED LITIGANT IN TRAFFIC COURT

Janet Spencer is pulled over by a police officer while driving her car. She is cited for cruising a public passenger vehicle in a "no cruising" zone and is given a court date the following week. Assume for the purposes of this exercise that this is a minor criminal traffic offense punishable by fine only.

1. **[JUDGE WILBRANDT – SRL mistakenly thinks she qualifies for public defender]** Janet did not retain a lawyer before her first court date because she thought she would be assigned a public defender. When she steps up before the judge, she asks how to get a public defender. *What should the judge say to her?*
2. **[JUDGE ORTIZ – SRL makes oral request without filing required form]** Janet tells the judge that she would like her case to be heard by a jury. However, she did not file a jury demand. *Should the judge honor the request?*
3. **[JUDGE CONLON – SRL is reluctant to enter guilty plea]** After some discussion, the State's Attorney indicates that the parties have reached a plea bargain. The judge reviews the terms of the agreement with Janet and asks if this is how she wants to proceed. She looks nervous, glances around the room, and says "I don't know. I don't really have a choice. Sure, I guess..." *Should the judge accept the guilty plea? What, if anything, should he say to Janet?*
4. **[JUDGE SULLIVAN – SRL wants continuance on date of trial]** Janet withdraws her plea and the case moves forward. On the trial date, Janet asks the judge for a continuance to collect all of her paperwork and evidence. The case is set for trial and the police officer who issued the citation is present and ready to testify. *Should the judge grant the continuance?*