

Comment,  
**PRO SE LITIGANTS IN DOMESTIC  
RELATIONS CASES**

## **I. Introduction**

The American courtroom is undergoing a transformation. Gone are the days of competing lawyers battling for rights and property in domestic relations cases. Instead, the parties in a domestic matter often find themselves facing off before the judge, without the assistance of an attorney. While national estimates of the number of self-represented parties in domestic relations cases are not available, a 2002 study in California showed a range of thirty-one to ninety-five percent of all litigants appeared pro se, with a state mean of sixty-seven percent appearing without the assistance of counsel.<sup>1</sup> In the eight year period from 1996 to 2004, the Tenth Judicial District of Wisconsin faced a twenty percent increase in the number of self-represented litigants in family cases, from forty-three percent to sixty-three percent.<sup>2</sup> This is due to the dramatic increase in the number of people who forgo legal counsel and represent themselves, appearing pro se in courts of law across the country. This pro se phenomenon<sup>3</sup> has had a large impact on court systems throughout the country as dockets are changing, uses of limited resources are being altered and attorneys are encountering new roles at every corner.

This Comment will take a look at the background of the pro se phenomenon, explore some of the issues that have arisen due to the increase in self-representation, including ineffective resolution of domestic relations cases, increased frustration of parties and court personnel and look at the changing role of the attorney in domestic relations cases. The Comment will conclude with a look toward the future of domestic relations law in the United

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<sup>1</sup> JUD. COUNCIL OF CAL., STATEWIDE ACTION PLAN FOR SERVING SELF-REPRESENTED LITIGANTS, at 87 (2003), available at [http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/Full\\_Report.pdf](http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/Full_Report.pdf).

<sup>2</sup> Gregg More, TENTH JUDICIAL DISTRICT SELF-REPRESENTED LITIGANTS INITIATIVE: A FIVE-YEAR RETROSPECTIVE, at 1 (2005), available at <http://www.wicourts.gov/about/organization/programs/docs/10distlitigants.pdf>.

<sup>3</sup> Drew A. Swank, *The Pro Se Phenomenon*, 19 *BYU J. PUB. L.* 373 (2005).

States and suggest ways that the legal system may assist in the resolution of all domestic relations matters through the provision of community resources, pro bono assistance and unbundled legal services.

## II. The Rise of Pro Se Litigation

Every attorney has that dreaded case, the one he took on without completely understanding what it was he was up against. The facts may vary, but for many family law attorneys, that case is arising with increasing frequency. In the family law arena, one of those dreaded cases is one where the other party is unrepresented. These cases tend to be driven by unrepresented parties,<sup>4</sup> who appear in courtrooms with greater frequency, often taking up more time and greater resources than trying a case against opposing counsel.

### A. *The Increase in Pro Se Litigants*

*Black's Law Dictionary* defines "pro se" as "one who represents oneself in a court proceeding without the assistance of a lawyer."<sup>5</sup> Across the country, there has been a significant increase in the number of parties who appear in court pro se. The increase in self-representation is changing the legal system. While statistics vary by state, depending on the type of proceeding, studies show that in between fifty-five and eighty percent of domestic relations matters, at least one party appears pro se.<sup>6</sup>

Pro se litigants are a variety of people, ranging from indigent to upper class and from high school dropouts to the most educated members of society. The poor and middle class are increasingly unable to afford adequate legal representation, yet their need for adequate representation continues to increase.<sup>7</sup> In addition to not being able to afford adequate legal services, many

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<sup>4</sup> Sondra I. Harris, *THE JOY OF SETTLEMENT* 42-44 (Gregg Herman ed., ABA 1997).

<sup>5</sup> *BLACK'S LAW DICTIONARY* (8th ed. 2004)

<sup>6</sup> M. Sue Talia, *Engaging the Private Bar: A Path to Reducing the Need for Self-Represented Litigation Support*, Paper Eight in the Summit on the Future of Self-represented Litigation 97 (2005) [hereinafter Talia, *Engaging the Private Bar*], available at [http://ncsconline.org/WC/Publications/Res\\_ProSe\\_FutSelfRepLitfinalPub.pdf](http://ncsconline.org/WC/Publications/Res_ProSe_FutSelfRepLitfinalPub.pdf).

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

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people in this group are above the income guidelines to qualify for legal aid or other pro bono projects that provide legal services to the truly indigent members of a community.<sup>8</sup> Pro se litigants appear that way for many reasons. For some, it is simply a matter of being unable to afford legal representation, but for others the reasons vary from not wanting to complicate a relatively simple matter, such as a short-term marriage with no children and little property to be divided, to wanting to maintain control of their situation or simply the impulse to take advantage of the increased availability of resources, such as online forms, that make self-representation an easier task than in the past.<sup>9</sup> Regardless of the reason, the number of litigants who are trying to “go it alone” instead of seeking traditional legal services has increased dramatically in recent years. These pro se litigants are finding resources from other sources, seeking the advice of the judiciary and court personnel, visiting self-help centers, signing up for prepaid and unbundled legal services, finding local legal assistance services and utilizing the Internet.<sup>10</sup>

*B. The Impact of Pro Se Litigation on Court Resources*

Pro se litigants put intense strain on the courts.<sup>11</sup> Court personnel spend their time providing information to pro se litigants or deflecting question which they are not permitted to answer due to ethical restrictions limiting who may provide legal assistance. Judicial proceedings are prolonged and continuances must be granted when incorrect or improper paperwork is filed, providing the court with little or nothing on which to proceed.<sup>12</sup> When proceedings occur, unrepresented parties often find it difficult to abide by procedural or evidentiary rules or to present

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<sup>8</sup> *Id.* at 101.

<sup>9</sup> Carolyn D. Schwarz, *Pro Se Divorce Litigants: Frustrating the Traditional Role of the Trial Court Judge and Court Personnel*, 42 FAM. CT. REV. 655, 656 (2004).

<sup>10</sup> Conference of Chief Justices & Conference of State Ct. Adm'rs, FINAL REPORT OF THE JOINT TASK FORCE ON PRO SE LITIGATION 5-8 (2002), available at [http://www.ncsconline.org/WC/Publications/Res\\_ProSe\\_FinalReportProSeTaskForcePub.pdf](http://www.ncsconline.org/WC/Publications/Res_ProSe_FinalReportProSeTaskForcePub.pdf).

<sup>11</sup> Talia, *supra* note 6, at 99.

<sup>12</sup> *Id.*

adequate and relevant information for the judge to make a final determination.<sup>13</sup>

Frustration arises for all parties when, despite the desire to do so, a litigant has not been able to obtain counsel. Those litigants may not qualify for free legal services yet they often do not have the means to obtain private counsel. They are frustrated with the legal system and the frustration is compounded at every turn, from their initial attempts to obtain counsel, to the inability of the court to hold the pro se litigant to a lower standard during trial.<sup>14</sup> These individuals are held to the same standards as lawyers who appear in the courtroom. Under the ABA Model Code of Judicial Conduct, judges are required to remain “faithful to the law” and shall “accord to every person who has an interest in a legal proceeding . . . the right to be heard according to the law.”<sup>15</sup> Accordingly when representing themselves, pro se litigants may be held to the same rules of evidence and procedure as a party who is represented by an attorney.<sup>16</sup> Without some knowledge and assistance along the way, the unrepresented party has no chance of “living up to the standard set for attorneys.”<sup>17</sup>

Despite the frequent frustration, self-representation is not always harmful to the legal system. Some pro se litigants are correct in their assumption that their case is simple enough that they do not need professional legal assistance. Pro se litigants are less likely than attorneys to request continuances, and are less likely to have hearings or trials in their cases.<sup>18</sup> When comparing the length of time it takes for final disposition in a legal matter, the Washington State Judicial Services Division found that the more legal representation in the case, the longer it will take to reach

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<sup>13</sup> *Id.*

<sup>14</sup> *Sabouri v. Ohio Dep’t of Job & Family Services*, 763 N.E.2d 1238, 1240 (Ohio Ct. App. 2001), (stating that “[i]t is well established that *pro se* litigants are presumed to have knowledge of the law and legal procedures and that they are held to the same standard as litigants who are represented by counsel.”)

<sup>15</sup> Model Code of Judicial Conduct Canon 3(B) (2004).

<sup>16</sup> *Sabouri*, 763 N.E. 2d at 1240.

<sup>17</sup> Waine Riches, *Creating Access to Justice: Moving Toward Success: A View from the Trenches*, 17 UTAH B.J. 7, 11 (2004).

<sup>18</sup> John M. Greacen, *Self-Represented Litigants and Court and Legal Services Responses to Their Needs, What We Know*, at 10 (2002), available at <http://www.courtinfo.ca.gov/programs/cfcc/pdf/files/SRLwhatweknow.pdf>.

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final disposition.<sup>19</sup> This may be attributed to many things, including the complexity of the matter, which is often a factor in deciding to obtain counsel, and the availability of resources, including forms and assistance for pro se litigants.<sup>20</sup>

Despite positive aspects of self-representation, the practice has some dangers as well. The cases in which parties are choosing or are forced to appear pro se often have serious consequences that extend beyond the two named parties to the case. In family court, paternity, parenting time, and child support are often resolved without the assistance of counsel. These determinations have prolonged consequences for the parties when children are involved and the court orders some type of continuing relationship between the parties. In matters such as these, representation can be especially beneficial since an attorney is more removed from the emotions and hurt feelings experienced by the parties. Family law is rarely a happy area of practice. Most matters leave the parties with hurt feelings and an altered life. If the matter goes to trial, a judge is suddenly telling the parties how and when they will see their children, how their property will be divided or what to do with their money. The issues are personal, and often the parties will be more content with a resolution they have helped obtain with the assistance of counsel.<sup>21</sup>

Despite increased efforts of the judiciary and the legal profession to resolve matters out of court, some matters need a judicial decision. Without the advice of counsel, many unrepresented parties may not be aware of the opportunities available to assist in party-determinative resolution. To facilitate pre-trial resolution among pro se litigants, courts should ensure that all parties are given notice of and access to any court-sanctioned or community resources that may assist in dispute resolution.

Unless a jurisdiction has adopted special rules related to pro se proceedings, pro se litigants are held to the same standards and rules as attorneys, yet very few, if any pro se litigants would

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<sup>19</sup> Judicial Services Division, Administrative Office of the Courts, *An Analysis of Pro Se Litigants in Washington State 1995-2000*, 8-15, available at [http://www.courts.wa.gov/wscsr/docs/Final%20Report\\_Pro\\_Se\\_11\\_01.pdf](http://www.courts.wa.gov/wscsr/docs/Final%20Report_Pro_Se_11_01.pdf); see also Greacen, *supra* note 18, at 11.

<sup>20</sup> *Id.*

<sup>21</sup> Riches, *supra* note 17, at 12.

be able to meet this standard.<sup>22</sup> Pro se pleadings may be viewed with tolerance, but the court is not required or technically permitted to provide any other assistance.<sup>23</sup>

### III. When Opposing Pro Se Litigants

In addressing the influx of pro se litigants, the legal system needs to consider both how to help those who are capable of proceeding without legal assistance and how to provide adequate assistance to those who cannot proceed on their own. As members of a professional organization, attorneys need to actively pursue means to “uphold legal process” and ensure equal access to courts, as is mandated by the Model Rules of Professional Responsibility.<sup>24</sup>

Providing assistance to pro se litigants will result in a variety of benefits for the legal system, including saved time in courtrooms, minimized unproductive court appearances, expeditious handling of cases and an increased ability of the court to deal with its overflowing caseload.<sup>25</sup> By protecting the legal system, the overall community will also benefit from the more efficient handling of legal matters by the court system, cases will be resolved sooner, workers will need less time away from work to handle their legal matters and the public will have greater confidence in the legal system.<sup>26</sup> Despite the benefits of providing limited assistance to an unrepresented party, attorneys must use extreme caution in their dealings with these parties, since there exists a great potential for malpractice or ethical complaints.<sup>27</sup>

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<sup>22</sup> Brian L. Champion, *Defending Against a Pro Se Plaintiff: When the Plaintiff is David and You're Goliath*, 20 ME. B.J. 236, 237 (2005); see also Riches, *supra* note 17, at 11.

<sup>23</sup> Champion, *supra* note 22, at 237.

<sup>24</sup> MODEL RULES OF PROF'L CONDUCT . (2004).

<sup>25</sup> Executive Summary, California Judicial Council's Task Force on Self-Represented Litigants, at 2 (2003) [hereinafter Task Force on Self-Represented Litigants], available at [http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/Executive\\_Summary.pdf](http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/Executive_Summary.pdf).

<sup>26</sup> *Id.* at 3.

<sup>27</sup> Cornelius D. Helfrich, *Facing a Pro Se Opponent*, 14 COMPLEAT LAW 41, 42 (Sum. 1997).

### A. *When Opposing Pro Se Litigants*

As litigants increasingly appear pro se in family law matters, it is important for all attorneys to follow the lead of the best lawyers in the field. The Model Rules mandate that attorneys “zealously” advocate on behalf of clients, but the same standards also suggest promotion and improvement of the law to strengthen the entire system.<sup>28</sup> Attorneys need education on how to maintain the integrity of the system through providing competent representation to their clients and treating the opposing party in a manner that is courteous, fair and forthcoming with necessary and relevant information. Courts also need to create channels through which unrepresented parties may obtain the assistance they need to fully access the legal system in an expeditions and reasonable manner.

In addition to basic guidelines to ensure justice, attorneys are required to comply with certain obligations in their contact with their opponents. When dealing with anyone, but especially an unrepresented party, an attorney should “not state or imply that the lawyer is disinterested.”<sup>29</sup> For the sake of justice, it is imperative that an attorney correct any misunderstanding that an unrepresented party may have as it relates to the role of the attorney in the proceeding.<sup>30</sup> The attorney must take precautions to ensure that the unrepresented party fully understands the adversarial nature of the court system and knows that the attorney is representing someone whose interests may directly conflict with the interests of the unrepresented party. The attorney dealing with unrepresented parties shall not give legal advice other than to suggest obtaining the advice of independent counsel, especially when the interests of the opposing party are in direct conflict with the interests of the attorney’s client.<sup>31</sup>

An attorney, however, is not prohibited by this rule from negotiating a settlement with an unrepresented party.<sup>32</sup> Under those circumstances, attorneys should again disclose their relationship with their clients and recommend obtaining independent

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<sup>28</sup> MODEL RULES OF PROF’L CONDUCT . (2004).

<sup>29</sup> MODEL RULES OF PROF’L CONDUCT R. 4.3 (2004).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> ETHICAL GUIDELINES FOR SETTLEMENT NEGOTIATIONS Sec. 4.3.4 (2002), at <http://www.abanet.org/litigation/ethics/settlementnegotiations.pdf>.

legal advice to the unrepresented parties, but after that attorneys are permitted to inform unrepresented parties of the terms under which their clients will settle, prepare any settlement documents and explain the attorney's views of the meaning of the document and any associated legal obligations.<sup>33</sup> Any settlement that is reached should be put on the record in front of a judge with the attorney questioning the unrepresented party to ensure that party's full understanding of the agreement and to determine their satisfaction with the agreement at the time it is reached.<sup>34</sup>

When an attorney is opposing a pro se litigant, the attorney should consider having a conversation with the client about the some of the differences that may arise in a dispute with a self-represented opponent, including potential delays that may arise and the common difficulties that pro se parties encounter in the judicial system.<sup>35</sup> In addition to having a discussion with the client about the opposing party, it may be necessary to write a letter to the opposing pro se party, making sure that the letter contains a suggestion to retain counsel, and clearly stating that as an attorney for their opposition, the lawyer will not be providing any advice and will in fact be in an adversarial relationship with them due to the nature of the court process.<sup>36</sup> When writing this letter, or sending any other information on the matter, attorneys should make sure that the documents are sent in a manner that can be traced and that copies are kept in the file in the event that disputes arise in the future.<sup>37</sup> Despite the inherently adversarial nature of the relationship, an attorney should treat a pro se opponent with the same courtesy, respect and patience that is due to any courtroom opponent.<sup>38</sup> Other suggestions to continue the natural progression of the matter may include providing pro se parties with copies of appropriate rules of evidence and procedure.<sup>39</sup>

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<sup>33</sup> Harris, *supra* note 4, at 43-44.

<sup>34</sup> Helfrich, *supra* note 27, at 42.

<sup>35</sup> Champion, *supra* note 22, at 238.

<sup>36</sup> Harris, *supra* note 4, at 42.

<sup>37</sup> *Id.*

<sup>38</sup> Laura W. Morgan, *Ethical Consideration for an Attorney Dealing with a Pro Se Party*, 10 DIVORCE LITIG. 94 (1998).

<sup>39</sup> Champion, *supra* note 22, at 238.



If the matter goes to trial, attorneys will likely face additional problems in determining how to both zealously advance the interests of their clients and ensure timely resolution of the conflict. The pro se litigant is unlikely to fully understand the nature and requirements of the proceeding. If possible, in trial or in pre-trial discussions, begin with a statement of procedural or evidentiary issues that may arise. This will often create a roadmap to assist all parties in advancing the proceedings.<sup>40</sup> Additionally, attorneys have a duty to their clients and to the court to preserve the record. If the unrepresented party is presenting inadmissible testimony or evidence, it may be best to use some discretion and object to testimony that will be damaging to the attorney's case but allowing in neutral or helpful evidence, so as to not irritate the court or anger the unrepresented party.<sup>41</sup> In all matters both in and out of court, the unrepresented party will, like anyone else, respond to the tone that is set. As the only representative of the legal profession, it is the duty of the attorney to keep all matters professional and respectful. This will ensure a happier resolution for all involved.

#### **IV. The Role of the Bar in the Future of Domestic Relations Law**

In addition to interacting with unrepresented opponents, the bar has other opportunities to shape the development of the "pro se phenomenon."<sup>42</sup> This can be accomplished in many ways, including the expansion of unbundled legal services, increased pro bono assistance, and the provision of more resources, including the provision of both financial assistance and educational information about the court system and specific legal processes.

A simple web search for a common legal term, such as "dissolution" or "child custody" will bring up a variety of websites. The information and forms provided may or may not be proper for the circumstances or the jurisdiction. By providing assistance to the unrepresented party, either through unbundled services, limited advice, research assistance or through the provision of

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<sup>40</sup> Helfrich, *supra* note 27, at 43.

<sup>41</sup> *Id.* at 42-43.

<sup>42</sup> Swank, *supra* note 3, at 373, 385.

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simple forms on a court's website, time, effort, money and other resources can be preserved.

Providing assistance to pro se litigants will result in a variety of benefits for the legal system, including saved time in courtrooms, minimized unproductive court appearances, expeditious handling of cases and an increased ability of the court to handle its overflowing caseload.<sup>43</sup> By protecting the legal system, the overall community will also benefit from the more efficient handling of legal matters by the court system, cases will be finally resolved sooner, workers will need less time away from work to handle their legal matters and the public will have greater confidence in the legal system.<sup>44</sup>

In a paper for the future of self-represented litigation, M. Sue Talia lists several ways to "engage the private bar," in the development of programs to assist parties who are unwilling or unable to pay for full legal counsel. Included in the list are permitting the expansion of unbundled legal services, seeking attorneys who would be interested in providing limited scope legal services, and providing training and resources to those attorneys.<sup>45</sup>

A. *Unbundled Legal Services*

Despite financial restrictions, many people are willing and able to pay for some type of limited assistance as they prepare for their day in court.<sup>46</sup> When people have been permitted to purchase limited scope legal services, they have been pleased with the assistance and attorneys tend to report equal satisfaction in providing unbundled services.<sup>47</sup>

While full legal representation may be impractical and unnecessary for many pro se litigants, limited scope or unbundled services are often viable options.<sup>48</sup> Unbundled services that may prove to be beneficial may include coaching a client for trial, preparing pleadings for a client to file (sometimes referred to as ghostwriting), or providing information to a client about an area

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<sup>43</sup> Task Force on Self-Represented Litigants, *supra* note 25, at 2.

<sup>44</sup> *Id.* at 3.

<sup>45</sup> Talia, *supra* note 6, at 100.

<sup>46</sup> *Id.* at 99-100.

<sup>47</sup> *Id.* at 100.

<sup>48</sup> *Id.*

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of particular concern, such as custody or property division.<sup>49</sup> The provision of limited legal services tends to improve the satisfaction of otherwise unrepresented parties with the legal system.<sup>50</sup> Many attorneys who provide limited services find that this area provides as much or more satisfaction than their regular service clients.<sup>51</sup> Additionally, limited representation may open up the market for legal clients, providing legal assistance to those members of society who can pay or are willing to pay for legal services, but on a somewhat limited basis.<sup>52</sup>

Some areas of unbundled services have presented problems for the attorneys who engage in them. Across the country courts have looked at “ghostwriting”—the drafting of pleadings for a pro se litigant to file with the court without acknowledgment of the attorney having drafted the document—with disfavor.<sup>53</sup> The disapproval stems from the more lenient standards that are imposed by the court when a pro se pleading faces a motion to dismiss or a motion for sanctions: if the court is not informed that the document was prepared by an attorney, the court does not have all of the facts necessary to make an informed decision.<sup>54</sup> Courts have dealt with the practice of ghostwriting in different ways. Colorado, for example, requires the drafting attorney to include his or her name, address telephone number and registration number on the pleading, but says that the inclusion of this information on the document does not create an entry of appearance.<sup>55</sup>

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<sup>49</sup> Margaret Graham Tebo, *Loosening Ties: Unbundling of Legal Services Can Open Door to New Clients*, 89 A.B.A.J. 35 (2003).

<sup>50</sup> Talia, *supra* note 6, at 100.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Kerry Hill, *Meeting the Challenge of Pro Se Litigation; An Update of Legal and Ethical Issues*, American Judicature Society, (2000), (update of the 1999 document by Nancy Biro), available at [http://www.ajs.org/prose/pro\\_legal\\_ethical.asp](http://www.ajs.org/prose/pro_legal_ethical.asp). The American Bar Association issued an opinion in 2007 stating that the fact that a litigant submitting papers to a tribunal had received legal assistance “behind the scenes” is not material to the merits of the litigation and therefore no disclosure of the “ghostwriting” is required. ABA For. Op. 446 (May 5, 2007). (Undisclosed Legal Assistance to Pro Se Litigants).

<sup>54</sup> James M. McCauley, *The Ethics of Making Legal Services Affordable and Making the Legal System More Accessible to the Public*, Virginia State Bar, available at <http://members.aol.com/jmccauesq/ethics/articles/probono.htm>.

<sup>55</sup> Hill, *supra* note 53.

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Through the expansion of unbundled services, attorneys may be better able to offer pro bono services on a limited basis. This would enable more attorneys to offer funding or some specific limited services such as the donation of several hours each month to assist pro bono clients through research assistance or providing a general understanding of the court system and the particular type of proceeding in which the pro se party will be participating.<sup>56</sup>

B. *Self-Help Centers*

A 2002 report prepared for the Center for Families, Children & the Courts California Administrative Office of the Courts found that current self-help programs only serve a small proportion of the pro se litigants in any jurisdiction, but that these programs are “universally appreciate[d]” by the self-represented litigants who do utilize them.<sup>57</sup> The appreciation of the public often stems from the generally higher levels of preparation, self-confidence and better case presentation.<sup>58</sup>

By providing services to pro se litigants, the legal system will receive many benefits. Unrepresented parties may be better prepared when they come into the courtroom. They will have a better understanding of the proceeding and their evidence may be in better order than if they had proceeded completely on their own. Additionally, through support, some litigants may discover that the legal system is not the best route through which to achieve their desired results.<sup>59</sup> Additionally, through client contact, self-help centers may help individuals determine that their cases are too complex or too important (e.g., cases involving denial of parenting time or significant division of property) to not have additional assistance from a professional and provide referrals to state bar associations or pro bono organizations if the individual is unable to pay for legal services.<sup>60</sup>

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<sup>56</sup> Riches, *supra* note 17, at 8-11.

<sup>57</sup> Greacen, *supra* note 18, at 2.

<sup>58</sup> *Id.*

<sup>59</sup> Tina Rasnow, *Where We Are and Where We Should be Going: Helping People Before the Court*, Paper Three in the Summit on the Future of Self-Represented Litigation 38, available at [http://ncsconline.org/WC/Publications/Res\\_ProSe\\_FutSelfRepLitfinalPub.pdf](http://ncsconline.org/WC/Publications/Res_ProSe_FutSelfRepLitfinalPub.pdf).

<sup>60</sup> *Id.*

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In viewing self-help centers, which are found in many jurisdictions across the country, a public court-based self-help center seems to be most effective in assisting pro se litigants and increasing consumer confidence in the legal system.<sup>61</sup> In creating these centers, it is recommended that an attorney supervise the center in order to best serve the public.<sup>62</sup> The centers seem to best serve the public when they are able to work with the litigant up front and conduct an initial “triage” assessment to help move the case in the best direction.<sup>63</sup> After providing the initial information, the service should remain open to litigants throughout the entire process, including helping the litigant obtain post-judgment relief, if necessary.<sup>64</sup>

To be most effective, the self-help centers should be implemented on the same basis across a jurisdiction, in a manner that would allow the center in one location to provide support throughout the state.<sup>65</sup>

Court systems can provide additional assistance for the community they serve by offering outreach and education programs. These programs can be useful in educating the public on the general court process, how to proceed in different types of cases, where to find additional assistance and realistic court expectations.<sup>66</sup> Such programs have been developed through public access television, educational facilities and libraries across the country.

*C. Internet Services*

Many web sites offer legal forms or legal services with the click of a button. Unfortunately, many for-profit on-line services create additional problems for the pro se litigant. They may charge exorbitant prices for a simple form. They may misrepresent the services that will be provided, such as providing a ge-

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<sup>61</sup> See generally Maryland Administrative Office of the Courts, FINAL REPORT: AN EXECUTIVE PROGRAM ASSESSMENT FOR STATE COURT PROJECTS TO ASSIST SELF-REPRESENTED LITIGANTS, (2005), (providing an assessment of client satisfaction, program assets and areas of improvement of nine programs developed to assist pro se litigants in various jurisdictions across the country).

<sup>62</sup> Task Force on Self-Represented Litigants, *supra* note 25, at 4.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 4-5.

<sup>66</sup> *Id.* at 6.

neric form when the service paid for was jurisdiction specific, leaving the purchaser with an expensive but inadequate document that the court cannot accept.

Many court systems across the country have developed comprehensive information online.<sup>67</sup> These web sites are valuable sources of information for pro se litigants, providing forms, local rules, procedural information and other standards related to litigation preparation. The sites generally have standardized information, but they do not provide legal advice or individualized assessment.

## V. Conclusion

The influx of pro se litigants is changing the American court system. To provide equal access to justice and maintain work for the profession, the legal system must take steps to preserve its integrity when dealing with the self-represented opposing party and it must continue to pursue alternative to traditional legal services that are available to pro se litigants at realistic prices. The number of pro se litigants will continue to increase and place additional burdens on the courts. Attorneys still have a valuable role to play in indirectly assisting these litigants and thereby promoting the interest of justice.

Leslie Feitz

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<sup>67</sup> Mary Flaherty, *How Courts Help You Help Yourself: The Internet and the Pro Se Divorce Litigant*, 40 FAM. CT. REV. 91, 94 (2002). Examples of comprehensive court-administered self-help websites include California Courts Self-Help Center at [www.courtinfo.ca.gov/selfhelp/](http://www.courtinfo.ca.gov/selfhelp/) and the Superior Court of Arizona, Maricopa County's Self-Service Center at <http://www.superiorcourt.maricopa.gov/sscl/>.