



**THE CHICAGO BAR ASSOCIATION/ CHICAGO BAR FOUNDATION
RESOLUTION ON SELF-REPRESENTED LITIGANTS**

Adopted on September 21, 2009

WHEREAS, self-represented litigants are constitutionally entitled to meaningful access to justice; and it is the obligation of the judicial system to see to it that justice is as fair and efficient for represented and unrepresented litigants. In order to discharge this responsibility, the courts must financially support a continuum of support services for self-represented litigants to represent themselves in appropriate cases and actively encourage individuals to proceed with adequate legal representation when possible.

WHEREAS, a 2005 statewide legal needs study sponsored by The Chicago Bar Association (CBA), The Chicago Bar Foundation (CBF) and other bar groups found that tens of thousands of less fortunate individuals continue to lack access to legal assistance that is often critical to their safety and independence, forcing them to resolve complex legal problems on their own, including domestic violence, divorce, child custody, evictions, mortgage foreclosures and the physical and financial abuse of the elderly.

WHEREAS, many Illinois residents with moderate incomes also struggle to afford necessary legal services; and as a result, many of them try to represent themselves.

WHEREAS, the combination of these trends has led to an explosion of self-represented--or *pro se*--litigants in courts in Chicago and throughout the State of Illinois.

WHEREAS, at least 35,000 self-represented litigants were served last year by innovative advice desks that have been developed by the Circuit Court of Cook County (Circuit Court), the United States District Court for the Northern District of Illinois, the United States Bankruptcy Court for the Northern District of Illinois and the City of Chicago in partnership with the CBF and several legal aid organizations.

WHEREAS, in an effort to provide equal access to justice, the Circuit Court has empowered legal aid organizations, law school clinics, court and clerk personnel and private volunteers to provide assistance to self-represented litigants. While the CBA and CBF have helped to coordinate many of these services, there is no systemic collaboration or coordination from within the Circuit Court itself regarding services for self-represented litigants.

WHEREAS, with the active support of the CBA and CBF, Illinois Legal Aid Online (ILAO) is a growing resource for the public and self-represented litigants, with more than 80,000 visitors to its public website, www.IllinoisLegalAid.org, each month. All across the State, Internet-based self-help centers have proven to be a practical and efficient resource for self-represented litigants. The application of this technology has led to the development of Internet-based self-help centers supported by partnerships between local courts, law libraries, ILAO and

the Illinois Coalition for Equal Justice (the CBA and CBF are among the cosponsors of the Coalition).

WHEREAS, Rule 1.2(c) and newly enacted Rule 6.5 of the Illinois Rules of Professional Responsibility significantly expand access to the courts through limited scope legal representation, and many other states have adopted specific policies and guidelines, provided CLE programming and engaged in other efforts to advocate for and clarify limited scope practice so that it improves access to the courts for litigants with moderate incomes.

WHEREAS, the Cook County Law Library provides important resources for self-represented litigants, consistent with its mission to help both lawyers and the general public, and the Law Library is experiencing increased demands by self-represented litigants for its services.

WHEREAS, notwithstanding existing legal advice help desks and other existing programs, self-represented litigants routinely face barriers as they attempt to navigate a justice system designed for use by individuals with legal training, which not only often prevent self-represented litigants from obtaining meaningful access to justice but also impede the efficient administration of justice for other litigants.

WHEREAS, self-represented litigants are often unfamiliar with the substantive laws, procedures, rules and protocol that govern litigants' rights and responsibilities. This unfamiliarity with legal and courtroom proceedings places a strain on the judiciary's ability to efficiently and impartially handle matters involving self-represented litigants, often without the benefit of clear directions and written guidelines delineating what they can and should do.

WHEREAS, as guardians of the justice system, lawyers and judges are required to be leaders working to ensure that all Illinois residents are educated on the importance of having legal representation in contested matters and have access to legitimate legal information and assistance when they represent themselves.

WHEREAS, recognizing the urgency of this issue to our justice system, the CBF in partnership with the Circuit Court created the CBF Advisory Committee on *Pro Se* Services (*Pro Se* Advisory Committee) to develop recommendations to improve access to justice for self-represented litigants in the Circuit Court.

WHEREAS, several members of the *Pro Se* Advisory Committee participated in the American Judicature Society's Midwest Regional Conference on *Pro Se* Litigation in September, 2006, and that conference further underscored the urgent responsibility on the part of the principal stakeholders in Illinois' civil justice system to make the courts more user-friendly and accessible for the growing number of self-represented litigants in Chicago and throughout the state.

WHEREAS, the *Pro Se* Advisory Committee found that through a number of innovative projects and increasingly strong collaborations between the courts, the bar and other stakeholders, there have been some great strides over the past several years to make our justice system more user-friendly and accessible for self-represented litigants. The *Pro Se* Advisory

Committee also found that other states have developed innovative solutions to the issues surrounding self-represented litigants, and the *Pro Se* Advisory Committee believes that the recent experience here and the lessons from other states offer solid models for expansion or replication throughout the state.

WHEREAS, while the *Pro Se* Advisory Committee believes that the most effective response to the issues surrounding self-represented litigants is an increase in the availability of competent legal representation, there are some concrete strategies that the bar, the courts and other stakeholders can implement to greatly improve access to justice for the self-represented.

THEREFORE, it is resolved by The Chicago Bar Association and The Chicago Bar Foundation that:

1. The CBA and CBF will continue to work to ensure that competent legal assistance is meaningfully available to all people in the Chicago area who need it by:

- a. Advocating for proper federal, state and local funding for legal aid and related access to justice initiatives;
- b. Encouraging all CBA members to do pro bono work and provide financial support for our pro bono and legal aid system;
- c. Developing reduced fee or sliding scale programs, in consultation and partnership with existing state and local lawyer referral services, to provide affordable legal assistance to moderate-income Chicagoans;
- d. Encouraging lawyers and judges to direct *cy pres* awards to support legal aid and related access to justice initiatives to the maximum extent possible; and
- e. Creating partnerships in the broader philanthropic and business community to support legal aid and related access to justice initiatives.

2. The CBA and CBF will continue to partner with the courts and other relevant organizations to support existing legal advice desks and will advocate for the development of additional advice desks as appropriate.

3. The CBA and CBF will continue to advocate for the creation of a central starting point in each courthouse with designated staff to whom self-represented litigants and the public can be directed for information about:

- a. Legal representation and access to other court-based resources including services for litigants with limited English proficiency and disability accommodations;
- b. Litigants' rights and responsibilities;
- c. Court procedures; and
- d. Access to additional resources available through www.IllinoisLegalAid.org.

These central start points will operate in concert with the various legal advice desks staffed by attorneys who offer legal advice and limited legal assistance to self-represented litigants in appropriate matters.

4. The CBA and CBF will continue to work with the courts to provide litigants with information in advance of their court dates about advice desks and other court-based resources through courts' websites, summons and other court forms and other appropriate vehicles. The

CBA and CBF will also work with the courts to structure court calls to allow for reasonable access to advice desks and other resources for self-represented litigants before court.

5. The CBA and CBF will formally request that the Circuit Court and Illinois Supreme Court consider developing standard guidelines and education programs regarding interaction between self-represented litigants and judges, clerks and other court personnel.

6. The CBA and CBF will recommend that the Chief Judge of the Circuit Court engage, as a member of his staff, a full time *Pro Se Services Administrator* to coordinate existing pro se services, develop strategies to improve access to justice for self-represented litigants and design and oversee evaluation methods for those initiatives.

7. The CBA and CBF will continue to work with and support Illinois Legal Aid Online to expand the awareness and availability of reliable web-based legal information and resources for self-represented litigants.

8. The CBA and CBF will continue to include the Cook County Law Library in its discussions due to its important role in making the court system accessible to self-represented litigants. The CBA and CBF will also seek the support and authorization of the President of the Cook County Board and the Board of Commissioners for any projects that it undertakes to develop with the Law Library to serve the growing numbers of self-represented litigants seeking assistance from the Law Library.

9. The CBA and CBF recommend the creation of a special committee with representation from the CBA, ISBA, Illinois Judges Association, other bar groups and other stakeholders such as consumer and business groups, legal representatives and others, to develop standardized forms that would be acceptable for use in high volume self-representation matters in courts throughout the state. The CBA and CBF recommend that initial efforts should focus on small claims, divorce/family law, debt collection, landlord/tenant and core procedural forms (*e.g.*, the notice of motion).

10. The CBA and CBF will continue to advocate for a stable and consistent source of funding for the courts that also provides funding for self-representation centers, advice desks, pro bono mediation programs and information and resources for self-represented litigants.

11. The CBA and CBF will work with interested partners to clarify the circumstances under which lawyers can appropriately provide limited scope representation to clients, utilizing successful models from other states, and advocate for the provision of limited scope legal representation where appropriate. This will have the effect of not only increasing the availability of legal assistance for those in need, but also will help combat the unauthorized practice of law.

12. The CBA and CBF will collaborate with Chicago's colleges, universities and law schools to explore ways that their students can better assist the legal community in providing access and information to the public and self-represented litigants.

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