

I. MSBA Pro Se Task Force Mission Statement

In April 1996, the Minnesota Conference of Chief Judges Committee on the Treatment of Litigants and Pro Se Litigation (“Committee”) issued its report highlighting some of the issues faced by the court system when an individual appears without legal representation. The Committee’s report makes a number of recommendations to increase pro se litigants’ knowledge of the state court system and at the same time to ease the heavy strain placed on the system by pro se litigants. The Committee report recommends that there be some kind of “partnership” with the different bar associations.

In partial response to the Committee’s report, the MSBA Executive Committee voted unanimously to establish a Pro Se Task Force (“Task Force”). The purpose of this Task Force is to examine some of the issues raised by the Committee and to also more closely examine broader, related issues that impact upon the legal profession’s ability to fairly and effectively deliver legal services to those who need them the most. Specifically, the Task Force shall identify issues, gather research studies, do fact finding, conduct hearings, and deliver a report making affirmative recommendations on how to address pro se types of issues. The Task Force’s mission is:

1. To examine who pro se litigants are and why they go unrepresented;
2. To determine the extent to which pro se litigants place a heavy strain on the judiciary;
3. To examine methods of ensuring that pro se litigants are better prepared and informed of their procedural responsibilities and rights;
4. To examine the feasibility of how lawyers providing pro bono types of services might be utilized to educate pro se litigants about their procedural responsibilities and rights;
5. To examine the role of CLE courses and credits in educating pro se litigants or as a means of encouraging attorneys to provide procedural assistance to pro se litigants;
6. To examine whether attorneys providing unbundled services to pro se litigants is a viable method of ensuring that pro se litigants are better prepared and informed when entering the court system;
7. To examine the role of underutilized lawyers in providing legal services to pro se litigants; and
8. To examine carefully and closely the impact of the MSBA, Chief Judges, and other pro se litigant programs and recommendations upon practicing members of the bar.

The Task Force shall prepare a formal report for action. It shall submit its report and recommendations to the Executive Committee of the MSBA with the expectation that it will be presented at the MSBA Annual Meeting in June 1998.

II. Guiding Principles

In executing the MSBA Executive Committee's charge, the Task Force was mindful of the many similar and, at times, different perspectives and interests of the Task Force's constituents. Ten Guiding Principles were utilized by the Task Force as parameters in analyzing, weighing, and balancing pro se issues and in making its findings and recommendations found in this Report.

1. Self-represented litigants are constitutionally entitled to meaningful courtroom access and to represent themselves.
2. While the bar should aid the trial court in providing meaningful access for Minnesotans, it should simultaneously encourage individuals to proceed with adequate legal representation.
3. In most legal matters, self-represented litigants who can afford an attorney should be encouraged to obtain one.
4. The bar needs to promote the greater use of alternative models of providing legal services to self-represented litigants, such as unbundled legal services (hereinafter referred to as "select legal services"), ADR, low-moderate income panel, etc.
5. Attorneys can provide even greater pro bono services to self-represented litigants who are income eligible for such services.
6. New, senior, underutilized, and other attorneys have a role in providing legal representation, at reasonable cost, to self-represented litigants who are unable to afford regularly priced legal services.
7. Self-represented litigants need to be informed of their rights as well as their obligations as litigants in legal proceedings.
8. The bar and bench need to educate and inform their stakeholders about the issues and challenges surrounding self-represented litigants and recommend possible solutions to these challenges.
9. The bar and bench need to assist the state trial courts in reducing the number of self-represented litigants who abuse the legal system by repeatedly filing frivolous lawsuits.
10. The Task Force's recommendations are to be sensitive to the issues, needs, and available resources of a particular bar and judicial district, and should avoid making broad and administratively impractical recommendations.

III. Findings

1. That litigants are constitutionally entitled to meaningful access to the court system and to represent themselves.
2. That self-represented litigants are required by law to comply with the same laws, courtroom procedures, rules, and protocol that attorney-represented litigants are required to satisfy.
3. That self-represented litigants' rights are best represented and protected in a legal proceeding by attorneys who are skilled and trained in the substantive and procedural laws of the state.
4. That self-represented litigants are comprised of a heterogeneous group of Minnesotans from diverse educational, income, gender, and racial backgrounds.
5. That there are significant number of self-represented litigants who would prefer to represent themselves even though they could afford to retain attorneys.
6. That there are a large number of self-represented litigants who would prefer to retain an attorney but who either perceive that they cannot or actually cannot afford the services of an attorney.
7. That self-represented litigants, not surprisingly, are unfamiliar with the substantive laws, procedures, rules, and protocol that govern litigants' rights and responsibilities.
8. That unfamiliarity with legal and courtroom proceedings places a strain on the judiciary's ability to efficiently and impartially handle matters involving self-represented litigants.
9. That self-represented litigants place the heaviest strain on the court system in the areas of family and housing law.
10. That court administrators and their staff spend a significant amount of time assisting self-represented litigants without the benefit of clear directions and written guidelines delineating what they can and should not do.
11. That self-represented litigants often pose a dilemma and ethical issues for attorneys obligated to zealously represent their clients but who also have a special responsibility for the quality of justice.
12. That it is extremely important that the bar and bench's participation in pro se assistance programs do not divert nor distract from commitments, resources, and revenues dedicated to assisting the truly needy.

13. That there is a need to promote attorney participation and financial contribution to legal services programs in order to provide and promote even greater assistance to self-represented litigants who are income-eligible for legal services through those offices.
14. That there is a need to inform self-represented litigants about the availability and cost of legal representation and alternative models of legal services, such as, select legal services, alternative dispute resolution (“ADR”) such as mediation, low and moderate-income panels, etc.
15. That there is a need to promote the use of new, senior, underutilized, and other attorneys to self-represented litigants who are unable or unwilling to pay for *full* legal representation but who may be willing to pay for legal services on a reduced fee and/or select legal services basis.
16. That there is a need for continuing legal education (“CLE”) courses to provide information to attorneys interested in providing alternative forms of legal representation to self-represented litigants.
17. That the right to meaningful access to the court system carries with it certain responsibilities, including the obligation as a litigant to be adequately familiar with legal and courtroom proceedings.
18. That it may be appropriate in some counties to establish an “information and referral center” at the courthouse that would answer general, procedural, and logistical questions and would assist self-represented litigants with information on how to fill in basic forms and inform them about legal representation options.
19. That it may be appropriate to establish in some counties a “family law self-service center” to provide free legal advice and information to self-represented litigants who satisfy legal services’ income eligibility guidelines.
20. That there is a need for the MSBA and the judiciary to track and continue to closely monitor the numbers and needs of self-represented litigants and the design and implementation of pro se assistance programs in Minnesota in order to ensure that self-represented litigants have meaningful access to legal and courtroom proceedings.
21. That the number of self-represented litigants and the need for pro se assistance programs tend to be significantly greater in the Twin Cities metropolitan area than in most other areas of the state.

IV. Recommendations

Based on the Task Force findings, the bar and bench over the next three to five years **collaboratively** should:

A. Meaningful Access Initiatives

1. Provide meaningful access to self-represented litigants in legal and court proceedings by ensuring that all courthouses in Minnesota have basic “How to...” informational and procedural materials.
2. Where feasible, create an “information and referral center” and/or designate a staff person to whom the court staff can direct self-represented litigants and the public for i) legal representation options; ii) legal services organizations; and iii) basic procedural courtroom information.
3. Examine the feasibility of using kiosks in selected courthouses, public libraries, and community centers as a way to provide greater accessibility to basic legal system information and court forms.
4. Develop a court rule that requires self-represented litigants to view, upon filing or as soon thereafter as is practicable, a videotape that acquaints them with basic legal and courtroom procedures, rules, practices, terminology, etc.
5. Examine developing a “How to....” series of videotapes to provide self-represented litigants with basic information and answers to the most commonly asked questions about how the legal and court processes work.
6. Explore the use of the Internet and other computer technology to facilitate the public’s access to i) the court system, and ii) legal representation options.
7. Collaborate with Minnesota’s three law schools, state and county law libraries, public libraries, and social and community-based providers to explore ways that they can assist the legal community in providing greater meaningful access and information to the public and self-represented litigants.

B. Judiciary Initiatives

1. Examine the desirability and feasibility of establishing, in some judicial districts, a special pro se day or a block of time on the court’s calendar to hear exclusively matters involving self-represented litigants.

2. Explore the feasibility of creating uniform simplified courtroom procedures, practices, and policies for all litigants.
3. Examine and recommend changes to existing laws that hinder the courts in the efficient and effective administration of justice.
4. Establish a tracking system to determine the number of self-represented litigants going through the court system.
5. Conduct a broader-scope survey of self-represented litigants in order to obtain a more detailed profile.

C. Bar/Lawyers Initiatives

1. Launch a public awareness initiative to educate the public and self-represented litigants about i) their rights and obligations in legal and courtroom proceedings; ii) the complexity of legal and courtroom proceedings; iii) the value lawyers bring to the legal process; and iv) alternative models of legal representation and services.
2. Establish and promote, in some bar districts, a “moderate-income attorney panel” consisting of new, senior, underutilized, and other attorneys willing to provide full and select legal services to self-represented litigants on a reduced fee or sliding income scale basis.
3. Promote full legal representation to self-represented litigants, and in addition promote alternative models of legal services such as ADR, the moderate-income attorney panel, select legal services, sliding fee scales, “low-bono,” etc.
4. Work with continuing legal education providers to develop CLE programs that explore and address issues related to assisting self-represented litigants and the provision of alternative models of legal representation including select legal services.
5. Develop an “alternative legal services directory” listing legal services organizations and containing a listing of attorneys willing to i) provide services to self-represented litigants, including select legal services and ADR, and/or ii) serve on a moderate-income attorney panel.
6. Encourage attorneys to contribute to the reduction in the numbers of self-represented litigants by i) providing 50 hours of direct pro bono services to those who clearly cannot afford legal services, and ii) making direct financial contributions to legal services organizations pursuant to Rule 6.1 of the Minnesota Rules of Professional Conduct.

7. Explore more fully the legal, ethical, and professional liability issues surrounding the provision of select legal services.

D. Pro Se Program Initiatives

1. Examine the feasibility of piloting a “family law self-service center” in a selected judicial district for self-represented litigants who satisfy legal services’ income eligibility guidelines.

2. Examine the feasibility of piloting a “pro bono-pro se assistance” program consisting of volunteer attorneys willing to provide legal counseling, in non-family matters, to income-eligible self-represented litigants that legal services organizations’ case load do not allow them to accept or those ineligible cases due to conflict of interest.

3. Examine the feasibility of a volunteer attorney landlord-tenant panel to assist self-represented litigants with basic procedural and form questions regarding landlord-tenant matters.

4. Establish a “Feasibility and Implementation Committee” to assess and implement the recommendations in this Report.

5. Establish a “District Advisory Board” to advise and keep each bar and judicial district in Minnesota informed about the activities of the Feasibility and Implementation Committee.