

Paper: Position Paper on Self-Represented Litigation (CCJ/COSCA 2000)



In this 2000 White Paper, a COSCA sub-committee notes that self-represented litigants are by no means a new phenomenon in the courts. However, the then recent surge in self-represented litigation was unprecedented and shows no signs of abating. While no single explanation could account for this national trend, the paper posits that the drastic reduction in funding for civil legal services has resulted in significantly fewer attorneys serving low-income individuals and was a significant contributing factor. For those with lower incomes, the impact of escalating costs of litigation was presumed to encourage self-representation. In addition, the proliferation of information available through self-help books and on the Internet fostered the perception that the legal process can easily be navigated without a lawyer. The impact of increasing self-representation on the courts--on court

management and the administration of justice--was found to be of overwhelming significance. The challenge facing the courts was identified as how to deal with the growing crisis in order to best serve the public, ensure equal access to justice for all citizens, provide for efficient case management, and maintain the integrity of the judicial process. Recognizing the significant impact self-represented litigants have on all court systems, the paper recommends that COSCA and CCJ should assume a leadership role in both acknowledging the trend and the pursuing information to guide policymakers.

Recommendations:

1. COSCA and/or CCJ should consider an affirmative response to needs of the self-represented litigant as a means for further building trust and confidence in the courts.
2. COSCA should assert its leadership by raising consciousness and understanding both within the courts and the public generally.
3. COSCA and/or CCJ should devote time on the agenda of the upcoming annual or midyear conference to exploring this issue in depth.
4. COSCA should request that the National Center for State Courts use the Best Practices Institute as a means for highlighting and replicating particularly effective programs aimed at the self-represented.
5. COSCA should support the National Center for State Courts, State Justice Institute sponsored initiative to experiment with re-engineering the dispute resolution process.
6. COSCA should sponsor an examination into the most effective use of plain language forms.
7. COSCA should encourage its membership to use the Internet as a primary vehicle for disseminating information to the self-represented.
8. COSCA and CCJ should look for opportunities to assert its leadership in advocating for increased funding for civil legal services, promoting pro bono services, and encouraging the consideration for ways to reduce lawyer costs.
9. COSCA should establish partnerships with the American Bar Association and the Legal Services Corporation to encourage the legal community at the national and state level to support these efforts.
10. COSCA should identify strategies and protocols to assist trial court judges in managing cases and in conducting proceedings.

11. COSCA seek the involvement of CCJ in establishing and co-chairing a task force with representatives from the AJA, NACM, and ABA to develop a proposed action plan to address the above recommendations

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