

Resolution 31

In Support of a Leadership Role for CCJ and COSCA in the Development, Implementation and Coordination of Assistance Programs for Self-Represented Litigants

WHEREAS, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have long recognized that barriers to equal access to justice significantly impair public trust and confidence in the courts; and

WHEREAS, a fundamental requirement of access to justice is access to the courts, and this access extends to both lawyer-represented and self-represented litigants; and

WHEREAS, the demand for affordable legal services far outstrips the supply, forcing many low-income and moderate-income individuals to choose between pursuing legal claims without lawyers and foregoing legal rights and remedies available in the justice system; and

WHEREAS, the increase in the number of self-represented litigants poses challenges for the courts, the bar and self-represented litigants themselves; and

WHEREAS, COSCA previously adopted a Position Paper on Self-Represented Litigants recommending that:

- COSCA respond to the needs of self-represented litigants as a means of furthering public trust and confidence in the courts;
- COSCA assert its leadership by raising consciousness about this topic by the courts and by the public;
- CCJ and COSCA at an upcoming meeting explore this topic in depth;
- the National Center for State Courts (the Center) use the Best Practices Institute to highlight effective programs;
- COSCA support the Center's initiative to explore how courts might be reengineered to provide better access for self-represented litigants;
- COSCA examine methods to make the most effective use of plain language forms;
- courts use the Internet as a method to disseminate information to self-represented litigants;
- CCJ and COSCA advocate for increased participation of lawyers in pro bono programs, for increased funding for Legal Services, and increased use of unbundled legal services;
- CCJ and COSCA partner with the American Bar Association, the Legal Services Corporation and other organizations to improve access for self-represented litigants;
- CCJ and COSCA identify strategies and protocols to assist trials judges in meeting the needs of self-represented litigants; and
- CCJ and COSCA establish a joint Task Force to implement the COSCA recommendations; and

WHEREAS, a CCJ/COSCA Task Force on Pro Se Litigation thereafter undertook an examination of significant national trends in self-represented litigation, including obstacles to access, and existing program models and practices; and

WHEREAS, the Task Force identified innovative programs - often in partnership with legal services agencies, state and local bar associations, and community organizations - with potential to dramatically improve access to the justice system for self-represented litigants;

and

WHEREAS, the Task Force also found that continued bench and bar resistance to such programs could pose a major obstacle to future development and expansion of promising pro se assistance programs;

NOW, THEREFORE, BE IT RESOLVED that CCJ and COSCA:

1. Recognize that courts have an affirmative obligation to ensure that all litigants have meaningful access to the courts, regardless of representation status;
2. Endorse the recommendations proposed in the COSCA Position Paper on Self-Represented Litigation;
3. Urge its members to take a leadership role in their respective jurisdictions to encourage the expansion of successful pro se assistance programs, to identify and develop programs to address unmet needs, and to coordinate the delivery of program services effectively and efficiently; and
4. Support the establishment of court rules and policies that encourage the participation of judges, court staff, legal services agencies, state and local bar associations, and community organizations in the implementation and operation of assistance programs for self-represented litigants; and

BE IT FURTHER RESOLVED that the Presidents of CCJ and COSCA advance the recommendations of the Task Force by assigning this topic to the appropriate standing committee of their respective organizations, and provide for a progress report to be presented to their members at the 2004 Annual Meeting.

Adopted as proposed by the CCJ/COSCA Task Force on Pro Se Litigation in Rockport, Maine on August 1, 2002.