

# **Tenth Judicial District Self-Represented Litigants Initiative: A Five-Year Retrospective**

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August 8, 2005

Since May 2000, Wisconsin's Tenth Judicial District has made concerted efforts to provide more meaningful and informed access to the courts for self-represented citizens. This collaborative effort was initiated by former Chief Judge Ed Brunner and was responsive to national and statewide recommendations to "meet the challenge of pro se litigation."<sup>1</sup>

The percentage of self-represented litigants in Tenth District family cases increased from 43% in 1996 to 53% in 1999 and to 63% in 2004. These figures and trends are consistent with what courts around the country have been experiencing. As Chief Justice Shirley Abrahamson noted in her 2003 State of the Judiciary message, "the number of self-represented litigants has exploded in the last few years." After acknowledging the accomplishments of the Tenth Judicial District and others, she stated, "These efforts will have an effect for generations to come."

With funding from the National Council of Juvenile and Family Court Judges, Judge Rebecca Albrecht, a nationally renowned leader on pro se issues from Phoenix, was the featured speaker at a two-day retreat for all Tenth District judges, family court commissioners and clerks of court in Cable on May 18-19, 2000. This kick-off meeting focused on strategies to improve services to self-represented litigants. NCJFCJ also awarded the Tenth District a \$500 grant to purchase for each judge in the district the American Judicature Society book, Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers.

During small group breakout sessions, participants first identified issues faced in each county and then identified possible solutions to such issues.<sup>2</sup> The key issues identified at the 2000 district retreat included:

1. Self-represented litigants don't know what they're doing; they look to the judge and family court commissioner for assistance.
2. Too much clerk of court staff time is spent helping unrepresented litigants.
3. There is imbalance in the courtroom when one party is represented and one is not.
4. There are inadequate forms and other resources.
5. Unprepared litigants delay proceedings.

Possible solutions identified at the retreat included:

1. Provide simplified forms and instructions.
2. Make forms and other materials available on the Internet and at public libraries.
3. Involve the local bar.
4. Develop resource list of attorneys.
5. Permit "unbundled" legal services.

6. Inform public about what is available.
7. Provide legal clinics and informational seminars.

Prior to the retreat, the Tenth District had submitted a proposal and was subsequently selected and funded for participation in the national Justice Management Institute workshop, “Developing Effective Pro Se Litigation Programs,” on May 22-24, 2000 in Minneapolis. Chief Judge Brunner appointed a diverse committee of two judges, a clerk of court, a court commissioner, an attorney, a community member, the district court administrator and a Supreme Court representative to lead the district’s initiative and attend the May 22-24 program. Attorney Tim O’Brien was appointed Chair of the committee, and he continues to serve in that capacity.

During the intensive program, the district team participated in both large group presentations and small team workshops. Plenary session topics included “Rethinking and Redesigning the Court’s Response to Unrepresented Litigants”, “Building Support for Assistance Programs”, “Establishing Community Linkages and Acquiring Resources and Funding”, and “Integrating Technology into Assistance Programs”. Attendees also toured the highly regarded Hennepin County Self-Help Center. During the small group sessions, team members set priorities for the workshop, identified key players and advocates, analyzed factors affecting change, and developed an action plan.<sup>2</sup>

Recognizing the diversity within the district’s 13 counties, the committee concluded that a “Levels of Service” approach would best meet the needs of the district. The lower levels of service would be applicable to all counties while the higher levels of service would more than likely be limited to the more populous counties. The “Levels of Service” that have guided the district’s efforts during the past five years are as follows:

- Level 1: Train court staff (distinction between legal information and legal advice), provide information on court procedures and process, develop roster of attorneys.
- Level 2: Maintain and provide forms and instructions
- Level 3: Provide informational legal seminars and free legal clinics
- Level 4: Establish a self-help legal center

Because the support, cooperation and understanding of the Bar would be so important for the success of the district’s efforts, Tim O’Brien and Chief Judge Brunner contacted all the local bar associations in October 2000. They asked to speak at local bar meetings to discuss issues of pro se litigants, share information and ask for attorney input and involvement. Mr. O’Brien and Judge Brunner subsequently attended meetings of most local bar associations. Although some attorneys expressed concerns, most were quite supportive.

A three-month time study in the 13 clerk of court offices during 2000 indicated that it takes a court employee nearly six minutes, on average, each time he or she provides assistance to an unrepresented litigant. It is estimated that 1,500 self-represented litigants each month seek assistance from court staff in the Tenth District. The impact of self-represented litigation on court staff and court operations is clearly significant.

Major collaborations were begun in 2000 and 2001, and they continue to this day. Most noteworthy are the collaborative efforts with UW-Superior Legal Studies Department, Wisconsin Judicare, St. Croix Valley Bar Association and the Douglas County Bar Association. These joint efforts have resulted in many accomplishments, including:

- Judicare law student intern who collected and analyzed all family forms and instructions used in Tenth District counties.
- Judicare law student intern who worked with St. Croix Valley Bar Association to develop first draft of divorce forms and instructions.
- St. Croix Valley Bar Association that developed both experimental and then final Tenth District divorce forms and instructions.
- UW-Superior that tested draft divorce forms with focus groups, established a forms clinic in cooperation with Douglas County Bar Association, conducted a district-wide survey of pro se litigants, and produced a script for an educational video.
- Judicare grant from the Otto Bremer Foundation to fund a major district-wide “access to justice” initiative in 2005-2007.

Local bar grants from the State Bar of Wisconsin helped fund some of these efforts.

In May 2002, a second district-wide retreat for judges, family court commissioners and clerks of court was held in Cable. Chief Justice Shirley Abrahamson provided the keynote remarks, “Access to Justice – Challenges for Judicial Branch Leaders.” In breakout group discussions, judges, commissioners and clerks reacted to the findings and conclusions in the 2002 publication of the American Judicature Society, Lessons from the Country: Serving Self-Represented Litigants in Rural Jurisdictions.<sup>2</sup> During the large group discussion, everyone agreed that standardized divorce forms and instructions should be used throughout the Tenth District, while recognizing that procedures for individual counties would still have to be unique.

Much of what was envisioned back in 2000 and 2002 has been accomplished. Court employees have received training to help them distinguish between helpful legal information (now required by SCR 70.41) and inappropriate legal advice. All attorneys in the district were contacted for inclusion in county-specific attorney rosters; these rosters, which will be updated soon, are available in all clerk of court offices to help unrepresented litigants find an attorney. The roster includes a variety of information, including whether the attorney is willing to provide limited representation and/or a free initial consultation.

Two useful guides were developed. One, entitled “Need Help With A Legal Problem?,” provides several suggestions, phone numbers and websites. The other, “Should I Represent Myself in Court?,” helps individuals make more informed decisions as to whether they should or should not represent themselves.

Thanks to the commitment and initiative of various local bar associations and many individual attorneys, free legal clinics are available in Eau Claire, Chippewa and St. Croix Counties. The Douglas County Bar Association also sponsors a forms clinic in cooperation with UW-Superior.

One of the most noteworthy accomplishments has been the creation of Tenth District divorce forms and instructions, which are available free on the Internet or for \$30/packet in any clerk of court office. These materials were developed primarily by the St. Croix Valley Bar Association with oversight provided by the Tenth District Self-Represented Litigants Committee. County-specific guidelines have also been developed by and for each local county. Available since January 1, 2003, the district divorce forms and instructions have received statewide recognition for their ease of use and legal sufficiency.

Because of the Tenth District's numerous achievements, particularly with development of divorce forms, a representative was invited to participate in a small, statewide committee to produce family forms and instructions that could be used throughout the State of Wisconsin. Judge Ed Vlack agreed to serve on that committee, and he has made major contributions. The statewide forms and instructions, which will also include county-specific procedures, were approved by the Wisconsin Court Records Management Committee (RMC) in April 2005. The Supreme Court has given RMC the authority to review and maintain all pro se forms. These materials, which are currently being pilot tested, will be available on the court website both as downloadable documents as well as in an interactive, Q&A format.

Beginning in May 2005, a two-year, \$150,000 grant from the Otto Bremer Foundation to Wisconsin Judicare is funding a collaborative pilot project to improve access to the Tenth District courts, particularly for low-income individuals.<sup>2</sup> As discussed at district meetings of judges, clerks of court and others, this project will build on the work and success of the Tenth District's five-year effort. Bob Hagness, a former court commissioner and former member of the State Bar of Wisconsin's Board of Governors, was chosen to coordinate this "access to justice" initiative.

In conclusion, much has been accomplished during the past five years, and all Tenth District judges, court commissioners, clerks of court, registers in probate and court staff should be deservedly proud. As the Supreme Court's Policy and Planning Advisory Committee noted in its recent report identifying the four most critical issues facing the Wisconsin court system, "The problem will not go away, and evidence indicates a trend toward even greater numbers of litigants choosing or being forced to represent themselves." Under the leadership of Chief Judge Ben Proctor, district committee chair Tim O'Brien and all members of the now-expanded committee, the Tenth District will continue to strive to provide meaningful and informed access to the courts for all citizens.

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<sup>1</sup> Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers; American Judicature Society and Justice Management Institute, 1998. 1999 National Conference on Pro Se Litigation, sponsored by American Bar Association, American Judicature Society and others. Meeting the Challenge of Pro Se Litigants in Wisconsin, report of The Wisconsin Pro Se Working Group, a Committee of the Office of the Chief Justice, 2000.

<sup>2</sup> For more details, contact Gregg Moore at [gregg.moore@wicourts.gov](mailto:gregg.moore@wicourts.gov).