

A do-it-yourself trend in court

Lawyerless Minnesotans save money at self-help centers but also contribute to delays and errors.

BY FREDERICK MELO
Pioneer Press
TwinCities.com-Pioneer Press

Article Last Updated: 04/22/2007 11:36:42 PM CDT

Does he who represents himself in court have a fool for a client?

Not according to Ryan Cody, who figures he saved himself hundreds - if not thousands - of dollars in attorney's fees by acting as his own divorce lawyer.

"It was pretty straightforward," said the 26-year-old factory worker from Hastings, who divorced his wife in August without much fanfare. "We sat there and answered yes and no to the questions the judge asked. It took 15 minutes, tops."

After a successful first run through the courts, Cody hopes to tackle the dicier task of gaining sole custody of his 3-year-old daughter, Ava. His legal counsel? Again, it probably will be himself.

If that sounds like a risky step, it's one that Stephen Baker thinks makes sense - provided that plaintiffs do plenty of homework and know what they're getting into.

"Lawyers are expensive. Lawyers get in the way of getting things done," said Baker, an attorney who has been helping litigants file their own divorce and family-law cases since 2002, when a legal Self-Help Center opened at Dakota County's law library.

Unable or unwilling to afford the high cost of legal representation, more and more people are choosing to represent themselves in court, especially in divorces and other family-law disputes.

The do-it-yourself legal trend, however, worries some judges, who find many pro se cases (a Latin term meaning "for self") especially time-consuming and fraught with legal errors. They say presiding impartially is difficult when one side needs constant nudging to understand the finer points of the law.

HELP IS ON ITS WAY

The uptick in cases also has forced the hands of court administrators, who are diverting more resources to law libraries, drop-in legal clinics and other venues where self-represented litigants can bone up on the law.

While pro se cases aren't tracked in Minnesota, Hennepin County's Self-Help Service Center advised 3,000 visitors when it opened in 1997. By 2006 that number had reached 33,000.

Hennepin County soon will put interactive forms online that will make it easy to fill out divorce paperwork from one's living room, aided by pop-up guides. The Minnesota Judicial Branch has created a "virtual Self-Help Center" on its Web site. Informational videos there explain how to start divorces, handle a small-claims hearing, file a motion or seek to have a criminal record expunged.

Eager to keep pace with the high demand for pro se counseling, the state plans to install computer workstations linked to the Web site in 87 county courthouses. If legislative funding for staffing comes through, workstation users might be able to simply pick up a phone and call a county staffer for help with forms.

From divorces to felony defenses, it seems a new era of self-representation has dawned. But some attorneys might call it the error of self-representation. They say many pro se clients need guidance they aren't receiving, leaving judges in a bind.

"I think pro se clients get a little more leniency, but they're not supposed to," Dakota County Judge David Knutson said.

LEEWAY FOR THE DO-IT-YOURSELFERS

Knutson said many self-represented litigants don't realize that judges and courthouse staff have to be neutral and are barred by judicial standards from giving legal advice or advocating for either side. In court, he sometimes hears heartbreaking questions like, "Judge, what do you think I should do?"

Eager to see justice served, many judges will bend the rules and grant pro se litigants more time to track down missing paperwork, or allow

clerks to help them fill out forms and explain legal jargon, among other legal niceties they might not offer an attorney.

"Especially in criminal cases, the judges are going to bend over super-backwards to make sure their rights are protected," Baker said. "And the same is true in family court."

Sia Hamilton, who oversees the Self-Help Center in Ramsey County, said many pro se litigants make vague, limited or contradictory statements on their affidavits and legal paperwork, under the mistaken impression that a judge will base his ruling entirely on their oral statements in court.

Many "haven't educated themselves, or don't care to educate themselves, to understand the process," Hamilton said. "Well, I want to change custody because I love my child.' We see that a lot."

Knutson recalled a defendant who was dumbfounded when the opposing counsel kept interrupting his arguments with legal objections.

"I had a gentleman say, 'I'm just so sick of all these objections from this lady. She won't even let me tell my story,'" Knutson said. "I said, 'Well, that's because there are rules.'"

Pro se cases can be especially problematic in a testy divorce where one spouse has hired legal counsel. As the case lingers, both sides tend to suffer for it.

"If the opposing party does not have an attorney, it tends to be more expensive for your client," said Julie La Fleur, a Maplewood-based family-law attorney who volunteers at self-help legal clinics. "They drag things out. There's no professional courtesy. ... You have to put everything in writing. They don't respond to things right away."

In addition to knowing the ins and outs of the law, attorneys can help defuse some of the emotion attached to a case and can foresee what approaches will lead to all-out legal battles. The pro se litigant likely is flying blind.

"They can't predict what would happen if they tried the case. It's more difficult to get settlements, because they don't know what they should ask for," Knutson said. "In some cases, they're asking for things they're not entitled to, or not asking for things they're entitled to. ... They don't know their rights."

PRICEY, PRICEY

So why are so many people going pro se?

For most, it's the cost. Divorce lawyers charge between \$150 and \$450 an hour, on top of possible charges for parking, mileage and research by a paralegal, La Fleur said.

Court filing fees for divorce cases, which are set by the Legislature, have nearly tripled in the past seven years to reach \$330 as of July 2005. Legal motions, which were free until three years ago, now cost \$55 apiece.

Stephen Marks, 38, of Farmington, figures he spent \$30,000 on the two attorneys who handled his divorce four years ago.

Tapped for cash but eager to alter his visitation rights, the real estate broker represented himself in court last year and plans to do so again soon.

"It's a little bit intimidating, because you're nervous, and the opposing attorney came with both guns blazing," said Marks, who spent several hours online studying state statutes before his debut. "But I feel I did very well. I basically got what I wanted."

Despite the potential pitfalls, some studies show that pro se litigants are generally satisfied customers. In a 2004 Hennepin County survey of 70 self-represented litigants, most gave the courts extremely high marks for fairness and found the Self-Help Center a good resource in preparing their cases.

Jean Lastine, executive director of the Minneapolis-based Central Minnesota Legal Services, said her agency can afford to serve only about 20 percent of the people who come seeking free legal representation in civil matters such as family law and housing disputes.

The guidelines for Legal Aid eligibility specify income between 125 percent and 200 percent of the federal poverty standard - from \$21,000 to \$34,000 for a family of three. "Even a lot of working poor people don't qualify, let alone middle class people," said Steve Hirsh, who staffs the Minnesota Bar Association's Pro Se Committee.

Cody, whose divorce began amicably, said he doesn't regret representing himself in court. But even after studying up on the process beforehand, he thinks an attorney might have helped him word his divorce papers differently.

Firmer legal language might have protected him from having to pay the couple's outstanding rent and utility bills by himself after his ex-wife

moved out of state.

"Judges make every effort to try and accommodate pro se litigants, but by the same token, the rules of evidence apply to everyone," said Judy Wieland, chief judge in Hennepin County.

Frederick Melo can be reached at fmelo@pioneerpress.com or 651-228-2172.

The Minnesota Judicial Branch maintains a "virtual" Self-Help Center online. It offers court forms, tips for representing yourself in court, links to law libraries, and video tutorials on divorce, motions and criminal expungements: www.mncourts.gov/selfhelp/

Dakota, Hennepin, Ramsey and Washington counties also maintain legal-advice clinics, offering free, 30-minute consultations with a volunteer family law attorney. In many cases, sessions are booked up nearly two months in advance.

Dakota: www.co.dakota.mn.us/LawJustice/LegalResearch; 651-438-8080

Ramsey: www.mncourts.gov/district/2/?page=790; 651-266-2842

Washington: www.co.washington.mn.us/info_for_residents/law_library/where_to_go_for_help; 651-430-6296

Hennepin: www.mncourts.gov/district/4; 612-596-8519 (family cases) or 612-348-9399 (other cases)

Southern Minnesota Regional Legal Services offers free legal assistance for low-income people facing critical legal problems:

www.smrls.org; 651-222-4731

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