

## In the Legal Community

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# District Court in Chicago Launches Pro Se Litigant Assistance Program

**IN PARTNERSHIP WITH the private bar and legal aid providers, the U.S. District Court for the Northern District of Illinois has established an assistance program for pro se litigants—the first of its kind at any federal trial court in the country. Using space in the district court clerk’s office, the Self-Help Assistance Program is staffed on a part-time basis by an attorney who has counseled more than 250 self-represented persons since**

since the desk opened to the public on Jan. 5 of last year. The staff attorney advises prospective litigants whether they have a viable federal court claim and assists in the preparation of pleadings and discovery, but does not appear in court on anyone’s behalf.

The work of the staff attorney is supplemented by the availability online of a unique array of resources, including a converted and updated version of the district court’s pro se litigant guide and interactive automated forms, such as a civil action cover sheet, appearance form, employment discrimination complaint, summons, waiver of service form, motion for appointment of counsel, and petition for leave to proceed in forma pauperis.

Chief District Judge James F. Holderman says that the establishment of the Self-Help Assistance Program—together with a newly announced program in which volunteer attorneys will assist pro se litigants with settlement conferences in their cases—places the Northern District of Illinois “on the cutting edge of providing services to pro se litigants.”

### **Origins of the Self-Help Assistance Program**

At the ceremony marking the inauguration of the Self-Help Assistance Program, then-Chief Judge Charles P. Kocoras stated that there had been “a crying need for such a service. It is no exaggeration to say that, for most laypeople, including pro se filers, the procedural and substantive aspects of the law represent an unsolvable maze.” In the past, judges, courtroom deputies, clerk’s office intake staff, and courthouse library personnel all struggled to assist self-represented

litigants to negotiate this maze while taking care not to offer them legal advice. “Small wonder,” Judge Kocoras said, “that frustration often attends the efforts of pro se litigants as they enter the world of a professional specialty, with all these special words that they have never used before and probably never will again.”

The Self-Help Assistance Program had its origins in 2001, when District Judge William J. Hibbler and one of his law clerks at the time, Michael M. Cabonargi, discussed the need for a more formalized approach to helping self-represented persons. Judge Hibbler recalls noting that “we’ve had pro se complaints that are literally gibberish. Trying to make heads or tails of their complaints was a big effort. There might be a kernel of a case there, but it’s so poorly articulated that it gets dismissed. People need technical help to formulate complaints in such a fashion that we can deal with them.”<sup>30</sup>

In February 2002, Judge Hibbler met with Judge Kocoras to discuss the concept of a pro se help desk, and Judge Kocoras requested that Judge Hibbler, District Judge Joan M. Gottschall, and the clerk of the court cooperate in preparing a more detailed proposal.

After a series of meetings, in July 2005, Cabonargi, now an attorney with the Midwest Regional Office of the Securities and Exchange Commission, prepared a memorandum detailing both the problem and the proposed solution. “Some pro se litigants may require assistance understanding and completing the requisite forms and documents to file a claim,” Cabonargi wrote, whereas “other individuals may or may not have an actionable claim, and simply need an attorney to listen to them and explain the deficiencies in the purported claim and the challenges they face.”

On behalf of Judges Hibbler and Gottschall and the clerk of the court, Cabonargi proposed the creation of a “help desk operating in the clerk’s office” that “would assist pro se plaintiffs and defendants on a walk-in basis throughout their cases in interpreting and filling out court-required documents” and “how to follow the judge’s orders.” Judge Hibbler sent Cabonargi’s memorandum to Judge Kocoras, who approved the proposal in concept.

In anticipation of establishing a help desk for pro se litigants, the court grappled with ways to provide

sufficient funding for the program. Due to budget limitations, the Administrative Office of the U.S. Courts had dramatically reduced financial resources available to each court, and the only other funds available to the court came from the district court fund, to which attorneys are required to pay a fee upon their admission to the trial bar. Since chambers and clerk's office personnel are prohibited by statute from giving legal advice, the court determined that it would be unwise to fund a help desk directly.

At about the same time, a member of the board of directors of the Chicago Bar Foundation approached the district court's supervising staff attorney for prisoner cases, Sally T. Elson, to ask whether the court had any interest in establishing a pro se help desk modeled after comparable assistance desks created or funded by the foundation in various divisions of the circuit court of Cook County, Ill., headquartered in Chicago. After Elson confirmed that the district court already was working on the concept of a self-help desk, the Chicago Bar Foundation approved a grant of more than \$100,000 to fund the project during its first two years of operation. This funding was made possible by several cy pres awards to the bar foundation that had been approved in cases before the district court.

The Chicago Bar Foundation also recruited the Legal Assistance Foundation of Metropolitan Chicago to provide staff support for the Self-Help Assistance Program and asked Illinois Legal Aid Online to furnish electronic resources for pro se litigants. The district court had initially expected to staff the Self-Help Assistance Program solely with volunteers, but the foundation strongly recommended using paid staff instead of volunteers. According to Bob Glaves, the executive director of the foundation, "successful help desks depend on the consistent presence of trained attorneys and other staff to assist litigants. While volunteers can serve as an important supplement to staff, 'all-volunteer' models have not worked well because it is very difficult to properly train a sufficient number of them to handle the issues and there is a far greater risk that volunteers—usually for very valid reasons—will not be able to fulfill their commitments," leaving the desk unstaffed, "which can leave litigants who expect to have that resource available more frustrated than if it had never been available in the first place."

### Daily Operation of the Help Desk

Initially, the office of the Self-Help Assistance Program in the Northern District of Illinois was open to the public Monday through Friday from 9 a.m. until 2 p.m.; since last March, the office has been open for full days twice a week and from 10:30 a.m. to 2:30 p.m. on two other days. The Legal Assistance Foundation of Metropolitan Chicago hired Margot Klein to serve as the staff attorney for the program and to provide consultations to pro se litigants in 45-minute increments on an appointment-only basis. Appoint-

ments can be made at the intake desk of the clerk's office either in person or by telephone. From time to time, a small handful of volunteer attorneys assist Klein with her work.

Each pro se litigant with whom Klein consults must review and sign a Notice and Consent to Consultation form, which advises that the staff attorney "is available to provide you with limited legal advice and assistance about your federal court case," but that, "even if you consult with the help desk, you continue to represent yourself in court and you continue to make decisions about your case as you see fit." As stated in the form, Klein provides self-represented litigants with information about federal court procedure and the law as it applies to the facts described by the litigant; assists litigants in the preparation of their own pleadings, motions, and other court documents; and refers litigants in appropriate cases to other providers of civil legal services or to social service agencies. The Notice and Consent to Consultation form, which makes it clear that the staff attorney is not employed by the court, also advises each litigant that the staff attorney will not appear in court on the litigant's behalf, will not "research or write court documents for you," will not "conduct any investigation into the facts of your case," and will not "negotiate with your opponent or with your opponent's attorney."

Of the 175 self-represented plaintiffs with whom Klein consulted during the first nine months that the self-help assistance office was open, 106 had employment discrimination claims, 35 had other civil rights claims, and the remainder had claims ranging from administrative appeals to breach of contract to copyright infringement. Klein also consulted with 13 pro se defendants on commercial disputes, mortgage foreclosures, and student loan recovery actions. In addition, Klein met with 62 people who sought assistance regarding matters pending in other courts or questions about whether to file a claim or where to do so.

Klein praises the support that the Self-Help Assistance Program has received from both district and magistrate judges and the clerk's office. "As the program has become more settled into the routine of the Court," Klein says, "it is clear that more and more judges are advising pro se litigants of the availability of the service. Many judges have made informational materials about the Self-Help Assistance Program available in their courtrooms or on bulletin boards outside of their courtrooms. Some judges also have incorporated specific information for pro se litigants onto their pages on the court's Web site" ([www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov)).

Judge Hibbler says, "I send people there with some regularity, and I have had feedback from them that it has helped them decide how to proceed or whether to proceed." According to Klein, Judge Hibbler is not alone in making "specific suggestions to the litigants

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in open court about visiting the Self-Help Assistance Program office.” In addition, she says, some judges “have incorporated express referral suggestions into their orders or have provided program information along with their orders.”

For example, one self-represented litigant visited Klein’s office shortly after Senior District Judge John F. Grady had dismissed his complaint without prejudice but suggested in the order that the plaintiff consult with the Self-Help Assistance Program. In an effort to assist the plaintiff in making an appointment,

Judge Grady even provided the telephone number of the clerk’s office intake desk and the program’s office hours.

From the beginning, the clerk’s office has also been extremely supportive of the Self-Help Assistance Program. The clerk provided office space and a waiting area for the program, computer and telephone access, and periodic use of a conference room. The manager of judicial services, Ted C. Newman, prepared an informational flyer about the program that he distributed to all courtroom deputies, and Klein noted that he “arranged for me to participate in a meeting of the deputies in order to further discuss the program and to answer their questions regarding the legal services that I can provide.”

Klein commends the staff of the clerk’s intake desk for its “invaluable assistance” in scheduling appointments for her. In addition, Klein says, “the desk staff are often the litigant’s first contact with the court system, and the staff have been quick to suggest to unrepresented litigants that they utilize the pro se assistance program.”

Illinois Legal Aid Online has supplemented Klein’s work by developing user-friendly information and self-help resources for pro se litigants on its Web site for the public ([www.illinoislegalaid.org](http://www.illinoislegalaid.org)). To give self-represented litigants easier access to this Web site, the clerk’s office has made a computer terminal available in its public area. According to the agency’s executive director, Lisa Colpoys, Illinois Legal Aid Online made recommendations regarding appropriate technology for this terminal; coordinated the installation of necessary hardware, software, and the Internet connection for the computer; and developed and posted user in-

structions.

### **Success of the Self-Help Assistance Program**

Judges, court staff, and pro se litigants alike consider the Self-Help Assistance Program a considerable success. Judge Kocoras believes that the program is “working extremely well,” and says that it has moved the Northern District of Illinois closer to the “dream” or “ideal” expressed by Michael S. Greco, the former president of the American Bar Association: that every civil litigant will one day have counsel. At the inaugural ceremony for the Self-Help Assistance Program, Judge Kocoras predicted that “making things easier to do and providing assistance and guidance” to self-represented litigants would not only afford them needed help, but would also, “coincidentally, help others, including judges.” Today, Kocoras says, “that view has been solidified” by the actual performance of the Self-Help Assistance Program.

Judge Hibbler states that the program has accomplished two goals: improving citizens’ access to the court and “weeding out lawsuits that do not belong here.” Chief Judge Holderman is “buoyed by the fact that [the program] has been in effect for such a short time, but is already helping not only the public but also the judiciary.” Donald Walter, who is the courtroom deputy to District Judge James B. Zagel, agrees that the Self-Help Assistance Program “assists the pro se litigant, the clerk’s office and the court with more efficient processing of cases. It shows that this court is user friendly to both trained and untrained litigants.” In addition, Walter says, the “inception of the program has caused a significant drop in my contact with pro se litigants,” who previously had made “repeated calls or appearances at my office for advice or explanations of the Federal Rules of Civil Procedure before proceeding with their case.” And, according to District Judge David H. Coar’s courtroom deputy, Patricia McQuarter-Figgs, since the inception of the Self-Help Assistance Program, “pro se litigants seem to have more of a handle on how they should proceed and what they need to file.” She says that she no longer encounters “a deluge of questions by the pro se litigants.”

Margot Klein believes that “pro se litigants are overwhelmingly appreciative of the services that we provide. Taking the time to listen thoughtfully to a person’s legal issues and to describe the resources available to the person often in and of itself can provide the critical assistance that the person needs in understanding and maneuvering through a difficult situation.” Klein adds that “several pro se litigants have returned to the office following certain court dates to report how differently the process worked for them when they understood the dynamics involved.” She reports that they are pleased to have the ability to respond appropriately to specific courtroom challenges.

One person who intends to file a pro se complaint

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for employment discrimination, and who asked not to be identified in this article, has already consulted Klein several times about his case. “What I like about” the Self-Help Assistance Desk, he says, is that Klein “answers all of my questions. I’m not a lawyer, and I was not expressing my case correctly to meet the statute” before consulting Klein about the applicable legal requirements and deadlines for his complaint. “She’s just been a great confidence booster for me, and keeps me in a comfort zone so that I have at least some idea what I’m doing. I don’t know what I’d do without her. I’d just be lost.”

Shortly after the Self-Help Assistance Program started, one former pro se litigant said, “I’m really glad they did that. There needs to be something done to assist people like me. A lot of people can’t afford an attorney, and they are afraid of this building because they don’t know how things work.”<sup>2</sup>

Judge Hibbler says that he is “sure that the process of filing a lawsuit here is very intimidating to the average person,” confessing that he too “was intimidated when I first came to this building” as a district judge in 1998, “even though I had been a state court judge” for 12 years beforehand. Now, however, instead of intimidation, self-represented litigants in the Northern District of Illinois find a helping hand at the Self-Help Assistance Program’s office.

### Room for Improvement

Although the Self-Help Assistance Program is still in its infancy, those who have contributed to its success already have ideas on how to improve the program. Pro se litigants who schedule consultation appointments with Klein often wait up to one week to see her. Other self-represented persons may come to the courthouse when the Self-Help Assistance Program’s office is closed. The solution to these problems may be to hire an additional staff attorney or to recruit more volunteer attorneys and paralegals.

Klein says that “longer office hours and more staff or volunteers simply would enable more services to be provided.” For example, a staff attorney or volunteers could meet in person with more pro se litigants. Additional program personnel could schedule consultations more promptly and could allow Klein to devote more time to projects such as “developing written materials to explain certain fundamental parts of the litigation process.”

In addition, Klein says, “although free computers have been made available to the public [in the clerk’s office and the courthouse library], many people require assistance using them. The presence of additional volunteers who could provide help with those tools would increase their utility for the pro se population,” she notes.

In addition, Bob Glaves believes that “a social worker at the desk would be an excellent complement to the attorney staff. Many issues facing people visiting the desk cannot be solved within the legal system.

The social worker could help them access any number of governmental and social services from which they could benefit.” Judge Kocoras agrees, pointing out that “a lot of people in this society need help, but not always legal help.”

Of course, increasing the staff or the volunteer base of the Self-Help Assistance Program would, in turn, require additional workspace for the program, a commodity that the clerk’s office is, at least for the time being, unable to offer. Another possible innovation, according to Judge Hibbler, would be to require a pro se litigant to visit the Self-Help Assistance Program’s office before filing suit. “The sooner they get on the right track,” Judge Hibbler says, “the better it is for everyone.”

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### Endnotes

<sup>1</sup>Kari Lydersen, *Navigating the Maze: U.S. Court Opens Do-It-Yourself Help Desk*, WASH. POST at A21 (Feb. 1, 2006).

<sup>2</sup>*Id.*

## Sidebar: Settlement Assistance Program for Pro Se Cases

FOR many years the U.S. District Court of the Northern District of Illinois has been a leader in providing pro bono assistance to low-income pro se litigants by mandating that members of the trial bar accept periodic appointments to work on cases involving prisoners’ rights and discrimination. Recently, the district court has stepped up its efforts: it has instituted both the Self-Help Assistance Desk and the new Settlement Assistance Program. The former provides valuable procedural help and assistance; whereas the latter provides pro se litigants with a lawyer who can explain how the law applies to their facts, how they can best argue their facts in light of the law, and how they can reach their optimal objective in a settlement conference.

Presiding Magistrate Judge Morton Denlow created the Settlement Assistance Program in 2005 with the help of the Chicago office of Mayer Brown Rowe & Maw. The pro bono program provides settlement assistance to pro se litigants who face a settlement con-

ference. With the pro bono assistance of lawyers from Mayer Brown, to date 75 percent of the pro se cases have been resolved. Because everyone has an obvious financial and emotional investment in their work and in their work identities, there are more pro se employment discrimination cases than any other type of pro se case in federal court; therefore, most of these pro se cases involved employment discrimination.

Under the new Settlement Assistance Program, if a federal judge thinks that a particular case might benefit from pro se settlement assistance, the judge will appoint settlement counsel for the pro se party, and the lawyer will verify that the case will not involve a conflict of interest. As James Grogan, chief counsel of the Illinois Attorney Registration and Disciplinary Commission, notes, “A lawyer who wishes to assist a civil litigant solely for purposes of a settlement conference should run a conflicts check. But if that conflicts check shows that the settlement assistance matter does not involve a current or former client, and the settlement assistance will not result in any public position or judicial opinion, it is hard to see how the settlement assistance could pose any issue conflict, i.e., any risk that the lawyer’s conduct would adversely affect another client.”

Next, the judge and the pro bono attorney carefully describe to the pro se litigant the scope of the legal services to be provided and explain that these services will not include preparation of discovery, pleadings, or briefs. If the pro se party agrees to these conditions, he or she signs a “Notice and Consent to Limited Assistance.” Grogan notes that “the Rules of Professional Responsibility say that a lawyer can limit the objectives of his representation, as long as the lawyer discloses the limited objectives and the client consents after disclosure.”

Following disclosure of the limited scope of the assistance, the pro bono counsel meets with the pro se litigant, reviews any pleadings and discovery to date, helps the party prepare for the settlement conference, attends the settlement conference, and helps draft the settlement agreement. The pro bono appointment ends when the settlement effort reaches a conclusion.

From a judicial perspective, beyond the obvious value of enhancing the likelihood of settlement, pro bono counsel can relieve the judge of the perceived need to advise or translate arcane legal procedures for a party who is not represented by counsel. Chief Judge Holderman notes: “Our district’s judges appreciate the lawyers who are willing to voluntarily perform pro bono work. Without legal assistance, pro se litigants often expect the judge to advocate for and advise them.”

From the pro se party’s point of view, even an appointment that is limited to settlement assistance is of great value. Even though a pro se plaintiff might prefer an unlimited appointment, the practical choice for many pro se litigants is between some help and

no help—that is, the choice between being very unprepared to present the litigant’s best case to the other side and making an informed choice as to whether to accept a settlement of his or her case.

Moreover, mediation is more likely than litigation to serve a pro se litigants’ real needs. For example, in an employment discrimination case, one of the plaintiff’s needs is to feel that the employer valued his or her work. An employer is much more likely to convey that message in an informal mediation session than in a courtroom. If a plaintiff’s own job performance or behavior contributed to the employment problem, mediation can more effectively send that message as well.

Lawyers appreciate these short-term pro bono opportunities, because they provide experience in federal court negotiation and advocacy without requiring a long-term or open-ended commitment of time. In a weak case, the pro bono attorney can provide the pro se litigant a sincere and well-informed assessment of the case, explain the options and possible outcomes, and spare the party months or years of effort and exposure to a judgment for costs. For a case with merit, the pro bono attorney can help the party put his or her best case forward. In every case, the pro bono attorney provides low-income litigants an opportunity to tell their story and to move ahead with their lives.

In November 2006, under the leadership of Chief Judge James Holderman, the full court approved the Settlement Assistance Program, which is now administered through the Chicago Lawyers’ Committee for Civil Rights Under Law, which has 45 member law firms. The Chicago Lawyers’ Committee trains and supports lawyers who accept these pro bono assignments. Federal judges and experienced civil rights attorneys conduct the training, which enables lawyers without experience in the substantive law to handle these assignments comfortably.

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