# Nevada Supreme Court Access to Justice Commission

**Meeting - Wednesday, June 25, 2025 3:00 PM – 5:00 PM**

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Meeting ID: 854 2824 1082

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## Meeting Agenda

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| **I.** | **Opening Statements from Co-Chairs & Commission Roll Call** | **5 minutes** | |
| **II.** | **Minutes Approval** | **5 minutes** | **Tab 1** |
| | • **Approval of March 28, 2025 Commission Meeting Minutes** | | |
| **III.** | **Discussion Items** | | **Tab 2** |
| | • **Ethical Approach to Judicial Law Clerk Pro Bono** | **10 minutes** | |
| | • **Self-Represented Litigant Bench Guide** | **10 minutes** | |
| | • **Peremptory Challenges** | **5 minutes** | |
| | • **New/Existing Provider Annual Report Chart Draft** | **5 minutes** | |
| | • **Commission Membership Vote** | **5 minutes** | |
| | • **IOLTA SCR 217 "Located in Nevada"** | **5 minutes** | |
| | • **2025 Section Pro Bono Challenge** | **5 minutes** | |
| | • **Dues Check Off** | **5 minutes** | |
| | • **Sealed Cases Permission Form (EJDR 5.213)** | **5 minutes** | |
| | • **Legislative and Eviction Diversion Update** | **10 minutes** | |
| | • **Future Commission Meeting Day/Time** | **5 minutes** | |
| | • **On Deck:** | | |
| | ○ **Update Statewide Service Delivery Plan (Summer)** | | |
| | ○ **IOLTA Formula Discussion (Fall)** | | |
| **IV.** | **Legal Aid Provider Reports** | **15 minutes** | |
| **V.** | **Other Business** | **5 minutes** | |
| **VI.** | **Informational Items** | | **Tab 3** |
| | • Legal Aid Provider Highlights | | |
| | • Self-Help Center Statistics | | |
| | • Triannual Provider Call Recap | | |

## Upcoming Access to Justice Commission Meetings

**2025 meetings**
Wednesday, June 25, 3-5pm
Friday, November 21, 2-4pm (tentative)

## *Our Purpose*

- Assess current and future civil legal needs.
- Develop statewide policies to improve legal service delivery.
- Improve self-help and pro bono services.
- Increase public awareness of the impact of limited access to justice.
- Investigate and pursue increased funding.
- Recommend legislation or rules affecting access to justice.

## *Key Nevada Supreme Court Strategic Plan Strategies*

- Simplify and improve public access to the courts while continuing to ensure that all parties are treated fairly.
- Support sustainable and user-focused court innovations to improve the delivery of court services.

**ACCESS TO JUSTICE COMMISSION**

Access to Justice Commission Meeting Minutes
Friday, March 28, 2025 – 2:00 p.m.

**Commission Members Present**
Justice Kristina Pickering, Co-Chair
Sr. Justice James Hardesty
Rachel Anderson
Mark Brandenburg
Alex Cherup
Diane Fearon
John Fortin
Judge Kriston Hill
Judge Joanna Kishner
Ann Walsh Long
Victoria Mendoza
Judge Bridget Robb
Doreen Spears Hartwell
David Spitzer
Michael Wendlberger

**Guests Present**
Lester Bird
Bailey Bortolin
Barbara Buckley
Giulia Duch Clerici
Chelsea Crowton
Chantyel Hasse
Elisha Lisson
Emily Reed
Susan Splan

**Staff Present**
Brad Lewis

**Call to Order/Roll Call/Minutes**

The Access to Justice Commission meeting was called to order. Justice Pickering welcomed all and recognized Justice Hardesty on his 50-Year Club recognition by the Clark County Bar Association. In addition, she recognized the following who earned State Bar of Nevada awards including John Fortin for Young Lawyer of the Year, Mark Brandenburg for Volunteer of the Year, and Justice Douglas for the Trailblazer award. She congratulated them all. She then asked that a roll call be conducted. She asked for changes or approval of the minutes. Hearing no changes she requested approval. Judge Robb moved, Doreen Spears Hartwell seconded, a vote was called, and the minutes were voted unanimously and adopted for the record.

**Pew Courts & Communities**

The Pew Charitable Trusts' Courts & Communities project works to build open, effective, and equitable state and local legal systems. The focus is to allow everyone to meaningfully participate in court proceedings, with the goal to expeditiously resolve cases and avoid unnecessary court interactions. They do this by using data-driven research to identify and advance improvements.

The Commission received a presentation from the Pew team, including Giulia Duch Clerici and Lester Bird. They shared Pew conducts court data analyses, brings in national context, engages stakeholders,

and builds support for solutions. They shared information which revealed that the same businesses file the most lawsuits across the U.S. These primarily include banks, bill collectors, debt collection and recovery agencies, and payday lenders. Pew collects and lists business names by state and city. For example, Midland Funding is the top lawsuit filer in at least Michigan, Minnesota, Oklahoma, Virginia and Philadelphia. They shared statistics such as how courts handle the cases has a direct impact on the outcomes. For example, states that use "answer courts" for default judgments in collections cases have a much higher default judgment rate than states using "appearance courts". An example is Minnesota's district "answer courts" has a default judgment rate of 82%, however Minnesota's conciliation "appearance court" has a 54% default judgment rate.

One project that has turned into a national campaign is court text reminders. Evidence-based research has demonstrated the efficacy of court text reminders. By analyzing court data, Pew can trace what courts are doing and where they're struggling and catalyze support for change.

The Pew team then outlined free technical assistance that is sometimes available to courts. This includes evictions and debt, trial court funding, and court appearance. Additionally, they have a Rural Research Project initiative that may be available to an interested Nevada court. Finally, initiatives that can support traffic and family courts are projects that may be pursued if interest.

Ms. Clerici shared that Pew likes partnering with willing state court partners to analyze court data. She says you can see from the default judgement analysis the difference seemingly small changes can make to outcomes for the public. They can also identify outdated processes or processes that have not adapted to the way the public interacts today, such as the court text reminder program. They can ask, who's coming to court, why, and how to streamline and improve outcomes.

Justice Pickering stated that the rural areas of Nevada are vast, and that sometimes the internet is an issue, or no broadband is available. Also, some travel long distances to their nearest court. Mr. Bird shared Pew's process is to look at drivers of rural court dockets and to understand the court customer's journey. He shared that Pew's Rural Research Project initiative can identify issues and solutions.

Barbara Buckley asked a question about vacating cases and stated it's important for pro se litigants to have a hearing v. a default judgment. Ms. Clerici stated that Pew has learned that for self-represented litigants (SRLs), filing paper is often difficult. If the goal is to increase appearances, building guardrails for SRLs can help.

Alex Cherup liked the text message reminders and noted that if they included the Zoom link for the hearing that would advance appearances. He also shared he and Nevada Legal Services serve and are interested in the rurals so if Pew is interested, they may be able to help.

Justice Hardesty asked if Pew had recommendations for technology-challenged rural courts. Mr. Bird said that if SRLs are in remote areas, Pew has seen that it's also best for courts to allow persons to attend in person v. only by Zoom. Also that, unfortunately, one can't "technology" themselves out of court problems.

Judge Robb said that 75-80% in her courtroom are SRLs and noted that the Las Vegas Justice Court appears to text SRLs. The Second Judicial District Court texts jurors, but not litigants. She noted some reservations about the process for appearances in evictions and debt matters v. family matters, and shared that one issue may be causing confusion if different cases are handled in different ways. She concluded by sharing that in her court, if litigants show up but haven't filed, the case is set aside with time for them to file and then return to appear.

**CLE Requirements for EAPB**

Justice Pickering reported that the Commission's ADKT 0623 to relax CLE requirements for Emeritus Pro Bono Attorneys (EAPB) was Ordered and filed on March 5. The amendment will allow attorneys certified under Rule 49.1(1)(b) associated with a nonprofit organization providing pro bono legal services to waive the CLE rule as is required of other categories of limited practice. This will advance the volunteer service of retired attorneys willing to help with pro bono cases. She thanked the committee for their work.

**Ethical Law Clerk Pro Bono**

This item was added to the agenda at the request of Elisha Lisson, law clerk in the Eighth Judicial District Court. The hope was that perhaps rules and guidelines in Nevada may be eased so that interested law clerks can accept pro bono cases. Currently, law clerks may only represent themselves or their families, or act as a mediator or arbitrator. After a brief discussion, Ms. Buckley suggested that perhaps UNLV could assist with research into what other states are doing, and that perhaps a subcommittee could be formed. John Fortin echoed this idea. Justice Pickering noted that certainly a law clerk could participate in improving the law, or as an example, working with organizations like Pew, the Administrative Office of the Courts, etc.

Justice Hardesty agreed on all shared and added that it would seem reasonable to do most work outside of case work. For example, participate in an Ask-A-Lawyer session. Perhaps we could catalog opportunities that do not present a conflict. For example, work in a Federal v. State court. He believed it would offer an opportunity to learn a lot for law clerks. He related a story about his granddaughter drafting a will and trust. With so many law clerks, perhaps it's a good opportunity.

Bailey Bortolin raised her hand to work with Brad and coordinate with UNLV and potentially her students to be involved. It was agreed to proceed on research with a subcommittee.

**ATJC Application for Approved Status**

Brad shared that the draft application shared at the Commission's November 2024 meeting had been tentatively finalized and included in the materials for review. It is currently on the Commission's webpage in beta form.

**Peremptory Challenges**

Preliminary discussions have been held around fee waivers for legal aid and self-represented (SRLs) litigants to make the opportunity to change a judge fairer available to all. A discussion ensued with Judge Kishner noting that one concern is judge-shopping. Ms. Buckley said that if there are concerns, perhaps the committee could continue their work. Ms. Bortolin shared that she would be happy to be part of a committee and Mr. Cherup also offered. John Fortin said that $450 is a high fee for many. Ms. Buckley said that one option for a rule change is to include reference to in forma pauperis and/or SOLA. Judge Kishner said that one option is to reference 12.015(8).

Judge Robb suggested that perhaps rather than a rule change, we could consider a pilot program for one year to gather data, as it seems the use estimates referenced in the materials are mostly guesstimates. Ms. Buckley said that a pilot worked in the case of unbundling and we could do something similar. Justice Pickering pointed out that pilots can sometime cause sunsetting issues. Justice Hardesty felt that perhaps the way to go was simply to develop a draft and pass it on to the Supreme Court and let them discuss and decide. Justice Pickering agreed that $450 is a lot of money. Ms. Buckley agreed proceeding with a draft was probably the simplest way.

**Commission Membership**

Doreen Spears Hartwell, Commission Membership Chair, referred the Commission to the nomination memo in the meeting materials and asked for a vote. Dawn Jensen, in the Nevada Attorney General's public attorney slot, term expires soon and Ms. Jensen would like to renew her membership on the Commission. The vote passed unanimously.

**IOLTA Formula**

Justice Pickering shared that she believes the IOLTA formula should be reviewed more regularly with fresh eyes and that a discussion among Brad and the providers should happen this year. Ms. Buckley noted that we did discuss this on the Triannual Provider Call, sharing that with more dollars coming in, it is reasonable to look at this along with data from the new annual report. She also liked the idea of having a process in place should there ever be a concern over the service delivery model on progress on any front, noting there is always room to improve. Justice Hardesty was in support, while noting adjustments to the formula can be tricky, but a more regular review is reasonable.

**Section Pro Bono Challenge**

Brad reported that early points are 54% ahead of last year. So far, 107 lawyers have taken 72 cases and pledged to join 127 Ask-A-Lawyer or Lawyer in the Library sessions. The Construction Law Section has pledged $500. The challenge runs February 1 through May 31.

**Legislative and Eviction Diversion**

Ms. Bortolin shared that Jonathan Norman is in Carson City and unable to join but offered an update. Housing is a major issue and the Nevada Coalition of Legal Service Providers is once again supporting having landlords file first in eviction cases. The Coalition is also supporting eviction record sealing, education, and a sizeable appropriation for eviction diversion to expand beyond seniors and the disabled to families with small children.

**Supervised Practice**

Ms. Buckley updated that the next generation Nevada bar exam has advanced, with an implementation plan currently being developed. A new feature will be 40 to 60 hours of supervised practice – where practitioners will be paired as co-counsel with experienced lawyers.

**Future Commission Days and Times**

It has been found that Friday afternoons are increasingly difficult for full attendance due primarily to travel and suggestions for more opportune days and times were sought. Ultimately, it was agreed that a poll should be conducted to see what days and times may be best for most.

**Legal Aid Reports**

- *Nevada Legal Services* – Alex Cherup shared that he has been very pleased with the collaboration among all of Nevada's legal aid providers**.** The legal kiosks program is expanding and going well. He noted that tribal pro bono collaboration has been effective. Finally, he referred everyone to the NLS report submitted for specifics as to program numbers.
- *Southern Nevada Senior Law Program* – Diane Fearon said that increased IOLTA funding has allowed the Senior Law Program to boost staff. She thanked Doreen Spears Hartwell for her pro bono efforts. SLP hosted five geographically dispersed events at senior centers throughout the Las Vegas valley. She shared a story about helping a senior who received a social security overpayment followed by a demand letter that her attorneys were able to sort. She then outlined that the senior population in Nevada increased 40% between 2010 and 2020.
- *Northern Nevada Legal Aid* – David Spitzer also shared that increased IOLTA funding has allowed NNLA to increase hiring in both their adult guardianship and child advocacy programs. The funds have allowed opportunities for expansion. He remined all of NNLA's *Voices for Justice* luncheon on May 15 and a new 60th anniversary event set for October 2.

- *Volunteer Attorneys for Rural Nevadans* – Victoria Mendoza also emphasized the value of IOLTA funds. VARN's goal for 2025 is to be fully staffed, with a second lawyer interview happening next week. She said VARN has seen early success with their new case management system, Legal Server. She said 2024 saw VARN serving the most people ever with a very high demand for services. She also shared that the call for domestic violence services is high with complex cases.
- *Legal Aid Center of Southern Nevada* – Barbara Buckley said that 2024 was a challenging year and we likely face another with changes underway including various Federal changes. She noted pressure on DEI policies and immigration. While there is potential for disruptive year, she's confident in Legal Aid Center's staff and legal aid organizations' ability to address the challenges. She said in the last 12 years, Legal Aid Center increased people served from 58,000 to 200,000 and has increased staff from 63 to 202. She shared that a groundbreaking on Legal Aid Center's new Advocacy & Justice Complex at the former US Bank building would be held on April 10.

Justice Pickering shared that she read each of the provider's reports and thanked everyone for their work during these uncertain times.

**Informational Items**

Informational items included the following. Details upon request from the Commission:

- Legal Aid Provider Highlights
- Self-Help Center Statistics
- Triannual Provider Call Recap

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|---|---|
| To: | Brad Lewis, Access to Justice Commission (ATJC) |
| From: | Justin Iverson, Boyd School of Law at UNLV |
| Subject: | Pro Bono Work for Judicial Law Clerks |
| Date: | 11 June 2025 |

Link to access supporting documents/sources:
https://bsl.box.com/s/4uanr0370e02y8ax4w1kjgw8evawh2ko

## Research Mandate

The Nevada ATJC is interested in opportunities for judicial law clerks to ethically serve the community in a pro bono capacity. Boyd was asked to conduct a regional and/or national survey to identify best practices in this area from other jurisdictions and to determine what source(s) of law generally permit such work. Specifically, the ATJC would like to know where the tension points are and in what instances other jurisdictions have made exceptions for direct representation or other types of legal assistance.

## Summary of Findings

These findings largely do not include prohibitions on legal practice as most jurisdictions have those in place. However, where there is an explicit prohibition for law clerks (rather than "judges" or "judicial employees," that has been reposted here. In some states, like Florida and Mississippi, the rules of professional conduct encourage pro bono activity but provide exemptions for members of the judiciary and their staff. The findings section below contains rules that may allow some wiggle room on pro bono work.

The ABA has done a partial survey on this topic, but their results are undated. Some of the rules in their sources have been renumbered, so it's likely at least a few years out of date. Still, the results below may shed additional light as there are some rules at the link below that provide explicit prohibitions, which, again, this memo largely excludes:

https://www.americanbar.org/groups/probono_public_service/policy/judicial-participation/employee-rules/

Most states have rules generally providing that judges may not engage in civic or charitable activities that could impact the public's perception of their impartiality or raise the possibility of excessive conflicts of interest leading to frequent disqualifications or recusals. Many codes also apply the judicial code to their law clerks. Some states have law clerk-specific provisions, though most rules applicable to law clerks use the catch-all term "judicial employees." The two most similar rules to Nevada's own are Tennessee and the Bankruptcy Court for the Northern District of California (discussed below).

## Detailed Findings

### Arizona

- Source: Ariz. Rev. Stat. Ann. § 1-303: Code of Conduct for Judicial Employees, Rule 2.6: Assistance to Litigants [LINK]

- Summary: Permissible activities detailed below do not include direct representation, but rather the provision of legal information amounting to legal customer service.

- Text: Employees are authorized to provide the following assistance:
  (A) Explain how to accomplish various actions within the court system and provide information about court procedures, without recommending a particular course of action;
  (B) Answer questions about court policies and procedures, without disclosing confidential or restricted information as provided in Rule 3.2;
  (C) Explain legal terms, without providing legal interpretations by applying legal terms and concepts to specific facts;
  (D) Provide forms and answer procedural questions about how to complete court papers and forms with factual information by the court customer, without recommending what words to put on the forms;
  (E) Provide public case information, without providing confidential case information as provided in Rule 2.5;
  (F) Provide information on various procedural options, without giving an opinion about what remedies to seek or which option is best;
  (G) Cite statutes, court rules or ordinances a judicial employee knows in order to perform the employee's job, without performing legal research for court customers;
  (H) When asked to recommend a legal professional such as an attorney, a legal document preparer, or process server, refer the customer to a resource like a directory or referral service, without recommending a specific legal professional; and
  (I) Provide scheduling and other information about a case, without prejudicing another party in the case or providing information to or from a judge that is impermissible ex parte (one party) communication about a case.

### Delaware

- Source: Code of Conduct for Law Clerks (1995), Canon 5(D): Practice of Law [LINK]

- Text: A law clerk shall not practice law in any federal, state, or local court, or undertake to perform legal services, whether or not for remuneration.

**D.C.**

1. *Code of Judicial Conduct*
   - Source: Code of Judicial Conduct, Appendix A: Conduct of Law Clerks (2018) [LINK], amended by D.C. Court Order in 2023 [LINK]

   - Summary: Law clerks can provide pro bono representation with permission from their judge and subject to certain additional considerations listed below.

   - Text: The court's personnel policies allow law clerks and interns to perform legal services on a pro bono basis provided that (1) they do not appear before any court or administrative agency, (2) the services do not involve a matter of public controversy, an issue likely to come before the District of Columbia courts, or litigation against federal, state or local government, and (3) they first consult with their judge. . . . A law clerk's ability to receive compensation for outside activities is also limited. . . . A law clerk may not use court resources for outside or personal activities, except for incidental use in law-related activities or as otherwise permitted by law.

2. *Handbook of Practice for the DC Circuit*
   - Source: Handbook of Practice and Internal Procedures, United States Court of Appeals for the District of Columbia Circuit (2024), Rule A(3): Exclusion from Practice [LINK]

   - Text: As a general rule, employees of the Court may not engage in the practice of law while employed by the Court. *See* D.C. Cir. Rule 1(c).

3. *DC Circuit Rules*
   - Source: United States Court of Appeals for the District of Columbia Circuit (2024), Circuit Rule 1(C): Court Employees Not to Practice Law [LINK]

   - Text: No one employed in any capacity by this court may engage in the practice of law while continuing in such position.

**Federal**

1. *Court Rules for the 1st Circuit*
   - Source: United States Court of Appeals for the First Circuit Rulebook (2025), Circuit Local Rule 46.0(e): Staff Attorneys and Law Clerks [LINK]

- Text: No one serving as a staff attorney to the court or as a law clerk to a member of this court or employed in any such capacity by this court shall engage in the practice of law while continuing in such position.

2. *Court Rules for the Federal Circuit*
   - Source: United States Court of Appeals for the Federal Circuit Rules of Practice (2024), Rule 50: Employee and Former Employee [LINK]

   - Text: No employee of the court may engage in the practice of law. . . . For purposes of this rule, a person serving at the court as an intern, whether in a judge's chambers or otherwise, is considered an employee of the court, whether such service is for pay, for law school credit, or voluntary.

3. *ND California Bankruptcy Court*
   - Source: United States Bankruptcy Court, Northern District of California, Code of Conduct for Judicial Employees (2015), Canon 4: Practice of Law [LINK]

   - Summary: This rule is generous, allowing judicial law clerks to provide pro bono legal services in some situations. It is also drafted similarly to Nevada's rule.

   - Text: A judicial employee should not engage in the practice of law except that a judicial employee may act pro se, may perform routine legal work incident to the management of the personal affairs of the judicial employee or a member of the judicial employee's family, and may provide pro bono legal services in civil matters, so long as such pro se, family, or pro bono legal work does not present an appearance of impropriety, does not take place while on duty or in the judicial employee's workplace, and does not interfere with the judicial employee's primary responsibility to the office in which the judicial employee serves, and further provided that:
     (1) in the case of pro se legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings);
     (2) in the case of family legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings) and does not involve the entry of an appearance in a federal court;
     (3) in the case of pro bono legal services, such work
        (a) is done without compensation;
        (b) does not involve the entry of an appearance in any federal, state, or local court or administrative agency;

(c) does not involve a matter of public controversy, an issue likely to come before the judicial employee's court, or litigation against federal, state or local government; and
(d) is reviewed in advance with the appointing authority to determine whether the proposed services are consistent with the foregoing standards and the other provisions of this code.

Judicial employees may also serve as uncompensated mediators or arbitrators for nonprofit organizations, subject to the standards applicable to pro bono practice of law, as set forth above, and the other provisions of this code.

A judicial employee should ascertain any limitations imposed by the appointing judge or the court on which the appointing judge serves concerning the practice of law by a former judicial employee before the judge or the court and should observe such limitations after leaving such employment.

**Iowa**

- Source: Employee Code of Ethics (2006), Rule 11.3: Outside Employment and Activities [LINK]

- Summary: This rule may allow lawyer-in-the-library events but probably prevents ask-a-lawyer events sponsored by legal aid organizations that represent litigants in court.

- Text: Each employee's position with the Judicial Branch is the Employee's primary employment and deserves primary attention. Outside employment is permissible only if it complies with all of the following criteria:
  a. The outside employment is not with an entity that regularly appears in court or conducts business with the court system.
  b. It does not require the employee to have frequent contact with attorneys who regularly appear in the court system.
  c. The outside employment is capable of being fulfilled outside working hours and is not incompatible, inconsistent, or in conflict with the performance of the employee's duties and responsibilities.
  d. The outside employment does not require or induce the employee to disclose confidential information contained in court records or acquired through official duties.
  e. The employee has received supervisory approval, in writing, prior to accepting the outside employment.

f. Judicial Branch employees may not perform work for another state agency or department which is the same or substantially similar to the work performed as part of your regular duties.

**Minnesota**

- Source: Minnesota Judicial Council, Minnesota Judicial Branch Policy 307: Practice of Law Other Than Court Employment (2015) [LINK]

- Summary: This policy is generous by comparison to other jurisdictions, allowing law clerks who are licensed attorneys to serve as mediators or work with a pro bono clinic, among other areas discussed below. In particular, if a matter is uncontested, the law clerk may provide legal services.

- Text: Subject to the Code of Judicial Conduct, Rules of Professional, Employee Code of Ethics, and other applicable Human Resource Rules and Policies, an attorney employed by the Minnesota Judicial Branch may:
  1. Perform legal services for themselves.
  2. Give legal advice to and draft or review documents for members of his or her immediate family. The attorney may be compensated for such representation only to the extent permitted by law, rule, or ethical canon.
  3. Participate in activities for improving the law, the legal system or legal profession.
  4. Serve as a mediator or arbitrator.
  5. Perform legal services through a pro bono legal clinic, approved pursuant to Rule 2B of the Continuing Legal Education Board, involving uncontested matters or matters not pending before any court or government agency, e.g., preparation of wills through Wills for Heroes. An attorney employee providing pro bono legal services may not appear in court, give legal advice pertaining to, or draft or review documents for matters that may come before any court or government agency as a contested matter.

  With respect to paragraphs 3, 4 and 5, an attorney employee must obtain prior written approval from the appointing authority and the District or MJC Human Resources Manager before engaging in any of these activities. An attorney employee shall promptly provide a copy of the written approval from the appointing authority to the District or MJC Human Resources Manager.

  When an attorney employee does perform legal services:
  1. The attorney's job duties as a Minnesota Judicial Branch employee shall take priority over legal services provided to others. The legal services shall not be performed if they would interfere with the job duties of the attorney employee.

2. Any legal services that are performed shall not be within the scope of the attorney's employment.
3. No legal services or related activities authorized under this policy shall take place during the attorney's usual working hours, unless appropriate leave is authorized and charged.
4. No public resources may be used in connection with the legal services provided to others.
5. Any costs or attorney fees awarded as a result of the attorney employee's representation in a pro bono matter must be returned to the referring legal organization.

Reasonable precautions must be taken in all cases by the Court or court-related agency and authorized employees to avoid actual and perceived conflicts of interest, the actual or perceived lending of the prestige or power of the public offices or positions of the employees, or conveying the impression that such employees are in a special position to exert influence over the outcome of any proceeding.

**Nevada**

- Source: Model Code of Conduct for Court Professionals in the State of Nevada (2025), Rule 3.2(A): Practice of Law [LINK]

- Summary: This rule only allows law clerks to perform legal services for themselves and their family members, though they may also serve as mediators or arbitrators.

- Text: A full-time judicial employee who is otherwise qualified to practice law in the State of Nevada shall not engage in the practice of law except that a judicial employee may act pro se and may perform routine legal work incident to the management of the personal affairs of the judicial employee or a member of the judicial employee's family, so long as such pro se or family legal work does not present an appearance of impropriety, does not take place while on duty or in the judicial employee's workplace, and does not interfere with the judicial employee's primary responsibility to the office in which the judicial employee serves, and further provided that:
  (1) In the case of pro se legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings); and
  (2) In the case of family legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings) and does not involve the entry of an appearance in court.

> Court professionals may also serve as uncompensated mediators or arbitrators for nonprofit organizations, subject to the provisions of this Code.
>
> A court professional shall ascertain any limitations imposed by the appointing judge or the court on which the appointing judge serves concerning the practice of law by a former judicial employee before the judge or the court and shall observe such limitations after leaving such employment.

**New Jersey**

*1. Employee Code of Conduct*

- Source: Employee Code of Conduct, Canon 5: Outside Employment and Other Activities [LINK]

- Summary: This code allows a law clerk to request permission for an activity that is normally not allowed.

- Text: To avoid impropriety and/or conflict of interest or the appearance thereof, the following provisions shall apply to the holding of outside employment by judiciary employees. . . .
  (6) No judiciary employee shall engage in the practice of law, except as permitted by Court Rule.
  (7) No judiciary employee shall engage in outside employment that regularly requires the employee's appearance in court, or before an arbitrator, mediator, or hearing officer. . . .
  (9) No judiciary employee shall engage in outside employment with attorneys, persons, or business entities who regularly appear in court. . . .
  (15)(C)(1) Law clerks, judges' secretaries, and employees in high-level managerial or policy-making positions shall be subject to the same limitations imposed on judges by the Guidelines for Extrajudicial Activities for New Jersey Judges, which are incorporated by reference herein. Employees subject to this Canon may apply for permission on a case-by-case basis to undertake activities otherwise precluded that could not reasonably be perceived by the public as impairing the appearance of impartiality of the judiciary. Such application shall be made in writing to the Advisory Committee on Outside Activities of Judiciary Employees. Employees subject to this Canon are also subject to the provisions concerning fundraising which are contained in Canons 5.D.1 and 5.D.2.

*2. Judicial Code of Conduct*

- Source: Revised Code of Judicial Conduct (2016), Canon 5.1: Extrajudicial Activities in General [LINK]

- Summary: This rule is fairly generous, allowing judges to make their own decisions about outside activities provided they protect both their role and image of impartiality.

**Pennsylvania**

- Source: Rules of Appellate Procedure (2013), Rule 3121: Practice of Law by Staff [LINK]

- Summary: This rule allows pro bono legal services by court staff provided they are performed without compensation, outside of any court, and with approval of the supervising judge.

- Text: (brackets in original) Neither the prothonotary, deputy prothonotary, chief clerk, nor any person employed in the Office of the Prothonotary, nor any [law clerk, administrative assistant, or secretary] personal staff employed by an appellate court or by any judge thereof, shall practice [in the court] before any court or tribunal of this Commonwealth. Nor shall any such person otherwise practice law [without prior approval of the judge on whose staff such person is employed or of the president judge if such person is not so employed]. Such a person may act pro se, and may perform routine legal work incident to the management of the personal affairs of the person or a member of the person's family, as long as the work is performed without compensation and does not involve the entry of an appearance on behalf of the family member in a court or other tribunal. Such limited practice is also subject to the disclosure of employment within the Unified Judicial System to the parties and the court in which the employee represents himself or herself.

  This rule does not apply to pro bono activities, provided that they are performed without compensation; do not involve the entry of an appearance before any court or tribunal; do not involve a matter of public controversy, an issue likely to come before the person's court, or litigation against federal, state or local government; and are undertaken after written approval of the Justice or Judge for whom the person is employed and the Chief Justice, or the President Judge of the Superior Court or Commonwealth Court, depending on which court employs the person.

**Tennessee**

- Source: Supreme Court Rules, Rule 5: Research Assistants [LINK]

- Summary: This rule seems most similar to Nevada's rule, but importantly, Tennessee has a third section listed in the text below that Nevada lacks. An easy fix could be to model a new section 3 onto Nevada's rule.

- Text: The employment of Research Assistants (Law Clerks) for the members of the appellate judiciary is governed by Tenn. Code Ann. § 8-23-108 and § 8-23-109. The employment of research assistants also is governed by Tenn. Code Ann. § 16-3-804(b). . . .

  (b) Research assistants shall not engage in the practice of law during the term of their employment, except as provided in paragraph (c). For the limited purpose of this rule, however, the term "practice of law" shall not include service as a research assistant.

  (c) Notwithstanding the provisions of paragraph (b), a research assistant ("assistant") may act pro se, may perform routine legal work incident to the management of the personal affairs of the assistant or a member of the assistant's family, and may provide pro bono legal services in civil matters, so long as such pro se, family, or pro bono legal work does not present an appearance of impropriety, does not take place while on duty or in the assistant's workplace, and does not interfere with the assistant's primary responsibility to the judge or justice whom the assistant serves, and further provided that:

    (1) in the case of pro se legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings);

    (2) in the case of family legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings) and does not involve the entry of an appearance in any court;

    (3) in the case of pro bono legal services, such work: (i) is done without compensation; (ii) does not involve the entry of an appearance in any court, (iii) does not involve a matter of public controversy, an issue likely to come before the assistant's court, or litigation against federal, state or local government; and (iv) the proposed services are reviewed in advance with the appointing authority to determine whether the proposed services are consistent with the foregoing standards.

## Washington

- Source: RCW 2.56.020: Assistants not to Practice Law [LINK]

- Summary: While the rule generally prohibits practice of law, it allows the performance of legal services for charitable purpose, which could include pro bono work.

- Text:

(1) The administrator for the courts, with the approval of the chief justice of the supreme court of this state, shall appoint and fix the compensation of such assistants as are necessary to enable performance of the power and duties vested in the administrative office of the courts.

(2) Neither the administrator nor any assistant shall engage in the private practice of law except as otherwise provided for in this section.

(3) Except as provided in subsection (4) of this section, nothing in this section prohibits the administrator or any assistant from:

(a) Performing legal services for himself or herself or his or her immediate family; or

(b) Performing legal services of a charitable nature.

(4) The legal services identified in subsection (3) of this section may not be performed if they would interfere with the duties of the administrator or any assistant and no services that are performed shall be deemed within the scope of employment.

**Ethical Law Clerk Pro Bono Limitations List** –

Many of the rules or canons are generally prohibitive, however, if allowed, the following are common limitations:

- Civil cases only
- No court or agency appearances
- Avoid any matter of public controversy
- Avoid conflicts
- Outside of work hours
- Some notation of wills or “Ask”-type events
- No compensation
- Permission

## Supreme Judicial Court

# Judicial Guidelines for Civil Cases with Self-Represented Litigants

## *2025 Edition*

"Until we create a world in which all who need counsel in civil cases have access to counsel, we must do all we can to make the court system more understandable and accessible for the many litigants who must represent themselves."

- Hon. Ralph D. Gants (1954-2020)
Former Chief Justice of the Supreme Judicial Court
*State of the Judiciary Address, October 30, 2019*

# Table of Contents

# Statement from the Supreme Judicial Court Regarding the Judicial Guidelines for Civil Cases with Self-Represented Litigants (2025 Edition)

The Supreme Judicial Court recommends that all judges and other court staff refer to these Guidelines for guidance in civil cases with self-represented litigants. The Guidelines provide a helpful compendium of principles and approaches applicable to these cases, drawn from the Massachusetts Code of Judicial Conduct; governing case law; relevant court rules, orders, and policies; and widely accepted best practices. The Guidelines are not intended to establish a new set of rules independent of those underlying authorities, but rather to present their contents in a more readily accessible format. We encourage all interested persons to consult the Guidelines as an important resource for civil cases with self-represented litigants.

Chief Justice Kimberly S. Budd

Justice Frank M. Gaziano

Justice Scott L. Kafker

Justice Dalila Argaez Wendlandt

Justice Serge Georges, Jr.

Justice Elizabeth N. Dewar

Justice Gabrielle R. Wolohojian

## Preface by the Supreme Judicial Court Committee on Judicial Guidelines Concerning Self-Represented Litigants

These Judicial Guidelines for Civil Cases with Self-Represented Litigants (2025 Edition) update and supersede the Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants that were approved by the Supreme Judicial Court in 2006 (2006 Guidelines). The 2006 Guidelines were among the first efforts by a state court system to address the judicial role in civil cases in which one or more parties appeared without counsel. Based upon the law and ethical requirements that existed at the time, the 2006 Guidelines offered judges practical advice on how to exercise their discretion to afford self-represented litigants the opportunity to have their cases fairly heard, without compromising judicial neutrality. Massachusetts appellate cases frequently cited the 2006 Guidelines for their persuasive value, and other jurisdictions looked to them as a model.

Over time, however, it became evident that the 2006 Guidelines needed to be revised to take into account important developments, e.g., subsequent appellate decisions involving issues relating to self-representation; the adoption of a new 2016 Massachusetts Code of Judicial Conduct that includes specific provisions concerning accommodations for self-represented litigants; the emergence of nationally recognized best practices for judges in cases with self-represented litigants; the development of new technologies; and the expansion of court initiatives and resources to support the diverse and growing population that comes to court without lawyers.[1] As a result, in May 2021, Chief Justice Kimberly S. Budd and the Justices of the Supreme Judicial Court appointed a special committee of judges (Committee)[2] to review and revise the 2006 Guidelines. The new Guidelines are the result of more than three years of effort by Committee members, advisors, and staff.

*February 2025*

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[1] Like other state courts, the Massachusetts courts have evolved to respond to the rapid growth in self-representation. For example, the Trial Court's strategic planning process has placed specific focus on access to justice and the court user experience. Six of the Trial Court's seven departments have authorized limited assistance representation, and some have integrated alternative dispute resolution and other diversionary programs into the litigation process. The Trial Court has adopted a robust language access plan and specific standards for accommodating litigants with disabilities. Efforts are in progress to simplify and standardize court processes and forms. Court websites provide copious information to all court users, and Court Service Centers - brick-and-mortar as well as virtual - are available to assist litigants across the state. Technological access to the courts, including the advent of remote hearings during the COVID-19 pandemic, is now available.

[2] The members of the Committee are: Chair, Hon. Richard J. McMahon (ret.), Probate & Family Court; Hon. Julie J. Bernard (ret.), District Court; Hon. Amy Lyn Blake, Appeals Court; Hon. Debra A. DelVecchio, Boston Municipal Court; Hon. Robert G. Fields, Housing Court; Hon. Robert B. Foster, Land Court; Hon. Sylvia Gomes, Juvenile Court; Hon. Valerie A. Yarashus, Superior Court. Advisors to the Committee: Hon. Cynthia J. Cohen (ret.), Appeals Court, and former Chair of the SJC Steering Committee on Self-Represented Litigants; Hon. Dina E. Fein (ret.), Housing Court, and former Special Advisor to the Trial Court for Access to Justice Initiatives. Staff Liaison to the Supreme Judicial Court: Chip Phinney, Chief Counsel for Judicial Policy, Supreme Judicial Court. Staff Liaison to the Executive Office of the Trial Court: Elizabeth R. Cerda (currently Clerk Magistrate, Waltham District Court) and Erin Harris, Access to Justice Coordinator (per diem).

## Introduction

Large numbers of self-represented civil litigants appear daily in the courts of the Commonwealth. While the court system has undertaken a variety of initiatives to address their needs and meet the practical demands of serving the public, judges bear the ultimate responsibility to ensure that cases involving self-represented litigants are fairly heard and decided. This is not an easy task. Having been schooled in the adversary system, judges often find that cases involving self-represented litigants present special challenges. The purpose of these Judicial Guidelines for Civil Cases with Self-Represented Litigants (2025 Edition) is to assist judges in meeting these challenges efficiently, effectively, and in a manner that provides meaningful access to justice for all litigants – represented and unrepresented alike.

The Guidelines provide statements of principle as well as suggested techniques for managing litigation with one or more self-represented parties. They are intended to help judges comply with the Massachusetts Code of Judicial Conduct, governing case law, court rules, orders, and policies, and widely accepted best practices for handling cases with self-represented litigants. In accordance with these authorities, the Guidelines provide that judges may, generally should, and sometimes must, adapt the litigation process to provide reasonable accommodations for the self-represented. These accommodations are especially critical in cases involving essential civil legal needs, such as shelter, sustenance, safety, health, and child custody,[3] where the stakes are extremely high and most self-represented litigants are compelled by economic circumstances or other impediments to represent themselves. At the same time, the Guidelines recognize the obligations of judges to maintain impartiality and fairness toward all parties, represented as well as unrepresented. The Guidelines also acknowledge the realities of administrative imperatives, and the fact that judges – notwithstanding their unique role in the court system – do not operate alone or in a vacuum, and that other court resources are a critical component of serving the self-represented.

The Guidelines are organized by general topic, covering legal and ethical principles; general practices; courtroom management; settlement and alternative dispute resolution; the litigation process; post-hearing matters; and the judge's wider role in promoting access to justice. Within these general topics, individual guidelines address more specific points, such as explaining the applicable law or handling evidence. Thus, while the Guidelines are best understood as a whole, they are also designed so that judges can quickly refer to a particular guideline for guidance on a specific issue. Each guideline is also accompanied by commentary. The commentary is integral to the Guidelines, providing supporting citations, explanations, illustrations, and other resources.

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[3] See Resolution 5, Reaffirming the Commitment of Meaningful Access to Justice for All, adopted by the Conference of Chief Justices and Conference of State Court Administrators at their 2015 Annual Meeting (calling upon state courts to facilitate access to effective assistance in adversarial proceedings involving basic human needs, such as shelter, sustenance, safety, health, and child custody).

Massachusetts has a strong tradition of commitment to justice for all of its residents. The Guidelines are intended to assist judges in ensuring that this tradition is manifest in the day-to-day work that they undertake in managing cases, courtrooms, and litigants across the Commonwealth. Further, while primarily directed at judges in their adjudicative role, the Guidelines also provide a roadmap for the administration of justice. Judges acting in their administrative capacity have the responsibility to ensure that court operations are structured to facilitate and encourage compliance with the Guidelines. Finally, to the extent relevant, the Guidelines are also intended to be a resource for appellate judges as well as trial court judges, and for court staff in addition to judges.

## Terminology

Appropriate judicial responses to the challenges associated with self-represented litigants range from discretionary to mandatory. Accordingly, the Guidelines incorporate language and terms intended to reflect the range of appropriate responses:

- the use of "shall" or "must" signifies that compliance with the guideline is mandatory pursuant to the Code of Judicial Conduct, other court rules and standing orders, or governing case law;

- the use of "should" signifies that compliance with the guideline is advisable pursuant to the Code of Judicial Conduct, other court rules and standing orders, governing case law, or widely accepted best practices; and

- the use of "may" signifies that compliance with the guideline is discretionary pursuant to the Code of Judicial Conduct, other court rules and standing orders, governing case law, or widely accepted best practices.

# Guidelines

## 1. General Legal Principles

**1.1 Ethical Framework. Judges do not compromise their impartiality by making reasonable accommodations to ensure that self-represented litigants have their matters fairly heard. As set forth in the Massachusetts Code of Judicial Conduct and its comments, judges may exercise their discretion to make reasonable accommodations for self-represented litigants and, in some instances, may be required by law to do so.**

*Commentary*

Effective January 1, 2016, the Supreme Judicial Court approved a new Massachusetts Code of Judicial Conduct (S.J.C. Rule 3:09) that specifically addresses ethical considerations relating to cases with self-represented litigants. Rule 2.2 of the Massachusetts Code of Judicial Conduct requires judges to "perform all duties of judicial office fairly and impartially." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.2 (2016). Comment 4 to Rule 2.2 explicitly states that "[i]t is not a violation of this Rule for a judge to make reasonable accommodations to ensure self-represented litigants are provided the opportunity to have their matters fairly heard."

Rule 2.6 (A) of the Code further provides that "[a] judge may make reasonable efforts, consistent with the law, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard." Comment 1A to Rule 2.6 explains that "[i]n the interest of ensuring fairness and access to justice, judges may make reasonable accommodations that help self-represented litigants to understand the proceedings and applicable procedural requirements, secure legal assistance, and be heard according to law," provided that such "accommodations do not give self-represented litigants an unfair advantage or create an appearance of judicial partiality." "In some circumstances, particular accommodations for self-represented litigants are required by decisional or other law. In other circumstances, potential accommodations are within the judge's discretion." *Id.* Comment 1A to Rule 2.6 also lists examples of accommodations that judges may properly make to ensure that self-represented litigants have the opportunity to be fairly heard. It provides that "a judge may:

(1) construe pleadings liberally;

(2) provide brief information about the proceeding and evidentiary and foundational requirements;

(3) ask neutral questions to elicit or clarify information;

(4) modify the manner or order of taking evidence or hearing argument;

(5) attempt to make legal concepts understandable;

(6) explain the basis for a ruling; and

(7) make referrals as appropriate to any resources available to assist the litigants."

**1.2 Affording Constitutional Due Process. Judges must provide self-represented litigants with accommodations that are necessary to afford them constitutional due process.**

*Commentary*

The right to due process of law, as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Articles 10 and 12 of the Declaration of Rights in the Massachusetts Constitution, requires judges to make such accommodations for self-represented litigants as are necessary to ensure a fair proceeding. Depending on the circumstances, such accommodations may include giving self-represented litigants clear notice of critical questions in the case and taking steps to elicit relevant information from them. See *Turner* v. *Rogers*, 564 U.S. 431, 435, 449 (2011) (incarceration of indigent self-represented parent on finding of civil contempt for failure to pay child support violated due process, where proceeding lacked adequate procedures to ensure a fair determination of whether the parent was able to comply with the support order; parent did not receive clear notice that his ability to pay would constitute a critical question in his civil contempt proceeding, and he did not receive a form designed to elicit information about his financial circumstances); *Department of Revenue Child Support Enforcement* v. *Grullon*, 485 Mass. 129, 133-138 (2020) (judge erred in finding self-represented defendant in civil contempt for failure to pay child support, where defendant did not receive adequate procedural due process protections in accord with *Turner*; among other shortcomings, judge did not inquire into whether defendant had present ability to pay his child support, and did not provide defendant with opportunity to respond to statements and questions about his financial status). See also commentary to Guideline 1.3.

In assessing the accommodations and procedural safeguards necessary to protect the due process rights of self-represented litigants, judges must "consider the private interest that will be affected, the risk of an erroneous deprivation of such interest through the procedures used, the probable value of additional or substitute procedural safeguards, and the government's interest involved." *Adoption of Patty*, 489 Mass. 630, 638 (2022), citing *Mathews* v. *Eldridge*, 424 U.S. 319, 335 (1976).

**1.3 Ensuring the Right to Be Heard. Judges must ensure that self-represented litigants are provided the opportunity to meaningfully present their claims and defenses.**

*Commentary*

"[S]elf-represented litigants must be provided the opportunity to meaningfully present claims and defenses." *Cambridge St. Realty, LLC* v. *Stewart*, 481 Mass. 121, 132-133 (2018), quoting *I.S.H.* v. *M.D.B.*, 83 Mass. App. Ct. 553, 561 (2013). See also *Carter* v. *Lynn Hous. Auth.*, 450 Mass. 626, 637 n.17 (2008), quoting Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants § 3.2 (2006) ("self-represented litigants must be provided 'the opportunity to meaningfully present their cases'").

The right of self-represented litigants to meaningfully present their claims and defenses is rooted in the constitutional right to due process, which "includes 'the right to be heard at a meaningful time and in a meaningful manner.'" *Guardianship of V.V.*, 470 Mass. 590, 592 (2015),

quoting *Armstrong* v. *Manzo*, 380 U.S. 545, 552 (1965). See *Adoption of Patty*, 489 Mass. 630, 631-632 (2022) (conduct of virtual trial concerning termination of self-represented mother's parental rights violated her right to due process under Fourteenth Amendment to United States Constitution and art. 10 of Massachusetts Declaration of Rights, where trial was plagued by technological issues and inadequate safeguards, resulting in self-represented mother's inability to participate and causing her to miss presentation of evidence against her); *Morse* v. *Ortiz-Vazquez*, 99 Mass. App. Ct. 474, 484 (2021) ("judges must ensure that all parties, represented and unrepresented alike, receive a fair trial and that principles of due process are followed"; holding that judge abused discretion in denying self-represented tenant's motion to file late answer in eviction proceeding, where prejudice to tenant, depriving him of statutory right to present affirmative defense, far outweighed any inconvenience to landlord); *Glendale Assocs., LP* v. *Harris*, 97 Mass. App. Ct. 454, 455, 464-465 (2020) (judgment in favor of landlord was "not consonant with due process" where judge entered default against pro se tenant even though tenant had denied allegations against him and had been litigating case, thereby denying tenant opportunity to present defense and to confront and cross-examine witnesses against him).

Depending on the context, the right of self-represented litigants to meaningfully present their claims and defenses may also be protected by applicable statutes, regulations, court rules, and standing orders. See *Cambridge St. Realty*, 481 Mass. at 132-134 (citing both due process cases and Housing Court standing order requiring that "each judge … must, consistent with applicable statutes and the rules of court, exercise sound judgment in a manner that affords the parties a fair opportunity to develop and present their claims to the court," in holding that self-represented tenant was denied fair opportunity to present her claims where she did not have notice of trial until afternoon when it occurred and court denied her request for a continuance, in violation of another standing order provision, that would have enabled her to receive assistance through a lawyer for the day program); *Carter*, 450 Mass. at 633-635 (citing Federal regulations that required hearing on decision to terminate Section 8 rental assistance, and that authorized hearing officer to consider all relevant circumstances, in holding that family affected by termination was entitled to opportunity to present evidence and arguments and statement of findings by hearing officer addressing evidence and arguments presented).

To ensure that all litigants, including self-represented litigants, receive due process, judges must play "an affirmative role in facilitating the ability of every person who has a legal interest in a proceeding to be fairly heard." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016). The judge's function is "to provide a self-represented party with a meaningful opportunity to present [his or] her case by guiding the proceedings in a neutral but engaged way." *Morse* v. *Ortiz-Vasquez*, 99 Mass. App. Ct. at 484, quoting *CMJ Mgt. Co.* v. *Wilkerson*, 91 Mass. App. Ct. 276, 283 (2017). As discussed in the commentary to Guideline 1.1, comment 1A to Rule 2.6 of the Code of Judicial Conduct provides examples of accommodations that judges may properly make to ensure that self-represented litigants have the opportunity to be fairly heard. At the same time, as with any other litigant or attorney, judges also have the authority to place reasonable limits on self-represented litigants' presentation of their positions. See Guideline 3.1 and related commentary.

**1.4 Exercising Discretion. A judge's decision to make or decline to make an accommodation for a self-represented litigant ordinarily will be reviewed for abuse of discretion. The standard for "abuse of discretion" is whether the judge made a clear error of judgment in weighing the factors relevant to the decision such that the decision falls outside the range of reasonable alternatives. The judge should ensure that the record reflects the factual basis for the judge's decision. If the record reflects that the judge failed to recognize that the court had discretionary authority and/or failed to exercise it, that itself is an abuse of discretion.**

*Commentary*

The appellate courts have generally applied an abuse of discretion standard of review to lower court decisions to provide or deny accommodations to self-represented litigants. See, e.g., *Department of Revenue Child Support Enforcement* v. *Grullon*, 485 Mass. 129, 130 (2020); *Cambridge St. Realty, LLC* v. *Stewart,* 481 Mass. 121, 122 (2018); *Morse* v. *Ortiz-Vasquez*, 99 Mass. App. Ct. 474, 484 (2021). A "judge's discretionary decision constitutes an abuse of discretion where . . . the judge made a clear error of judgment in weighing the factors relevant to the decision, such that the decision falls outside the range of reasonable alternatives" (citations and internal quotation marks omitted). *L. L.* v. *Commonwealth,* 470 Mass. 169, 185 n.27 (2014). In *L. L.*, the Supreme Judicial Court adopted this new articulation of the abuse of discretion standard of review in place of the prior iteration of the standard, which permitted a reviewing court to reverse a judge's discretionary decision only where it concluded that "no conscientious judge, acting intelligently, could honestly have taken the view expressed by him [or her]." *Id*. Although the revised standard is less deferential than the prior standard, it continues to give "great deference to the judge's exercise of discretion; it is plainly not an abuse of discretion simply because a reviewing court would have reached a different result." *Id*.

A judge's failure to recognize that the judge has discretionary authority to act in a given instance, or the failure to exercise that discretionary authority, also constitutes an abuse of discretion. Judges should also take care that the record adequately reflects their exercise of discretion when they choose to grant or deny an accommodation. See *Carter* v. *Lynn Hous. Auth*., 450 Mass. 626, 635-636 (2008) (where record did not indicate any awareness by the hearing officer of his discretionary authority to take mitigating circumstances into account, and did not contain any factual findings that would demonstrate his awareness, the case was remanded for further proceedings).

**1.5 Applying the Law. While the law – including but not limited to the elements of claims and defenses, the allocation of burden of proof, the rules of evidence, and the rules of procedure – applies to all litigants whether or not they are represented by counsel, this principle does not prevent judges from adjusting procedures or technical requirements, so long as the opposing party's right to have the case fairly decided is not prejudiced.**

*Commentary*

Although "[a] pro se litigant is bound by the same rules of procedure as litigants with counsel," *International Fid. Ins. Co.* v. *Wilson,* 387 Mass. 841, 847 (1983), some leniency should be accorded to self-represented litigants in determining whether they have met procedural rules and other requirements. See *Tynan* v. *Attorney Gen.*, 453 Mass. 1005, 1005 (2009) ("some leniency is appropriate in determining whether the papers of a self-represented litigant comply with applicable court rules"); *Carter* v. *Lynn Hous. Auth.*, 450 Mass. 626, 638 (2008) ("Vulnerable tenants" who are self-represented "must not be deprived of protected interests solely on the basis of their lack of familiarity with the intricacies of regulations that, ironically, were designed to protect those very interests"); *Lamoureux* v. *Superintendent, Mass. Correctional Inst.*, 390 Mass. 409, 410 n.4 (1983) ("A handwritten pro se document is held to a less stringent standard than pleadings drafted by an attorney and is to be liberally construed"); *I.S.H.* v. *M.D.B.*, 83 Mass. App. Ct. 553, 561 (2013) (self-represented defendant father residing in Florida did not waive objection to Massachusetts court's exercise of personal jurisdiction over him, even though he did not use words "personal jurisdiction," where it was sufficiently clear from his reluctance to come to Massachusetts, his statements about proceedings in Florida, and his undisputed nonresident status that he was not appearing in Massachusetts voluntarily); *Loebel* v. *Loebel,* 77 Mass. App. Ct. 740, 743 n.4 (2010) (self-represented mother's "inability to articulate in the moment the precise procedural vehicle to obtain . . . a hearing" to provide further support for her argument for custody of her children "should not have ended the matter"; holding that judge abused discretion in denying mother opportunity to present new evidence to address best interests of children); S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016) (judge may construe pleadings liberally and modify manner or order of taking evidence or hearing argument to facilitate ability of self-represented litigants to be fairly heard).

Judges should bear in mind that the rules of evidence may be relaxed in certain types of proceedings where parties are frequently self-represented, including proceedings under G. L. c. 209A and G. L. c. 258E, and small claims. See commentary to Guideline 5.5 for a more in-depth discussion of these exceptions.

Judges should also be wary of "interpreting . . . too broadly" decisions holding that pro se defendants must comply with relevant procedural and substantive rules and "as a consequence abdicating [their] proper role as a judge." *Commonwealth* v. *Sapoznik*, 28 Mass. App. Ct. 236, 241 n.4 (1990) (holding that judge who failed to intervene in trial or to rule on admissibility of evidence absent any objection by pro se defendant erred in admitting prior bad act evidence against defendant; "the judge should have recognized . . . that the prosecutor was engaging in improper tactics and taking advantage of the defendant's unrepresented status" and "should have promptly intervened, not to be of assistance to the defendant, but to assert a judge's traditional role of making sure that all the parties receive a fair trial"). On the other hand, judges cannot go so far

as to create new procedures that entirely disregard the requirements of statutes and court rules. See *Mmoe* v. *Commonwealth*, 393 Mass. 617, 620 (1985) ("The broad powers of a . . . judge to adopt procedures to promote justice . . . do not include the power to fashion procedures in disregard of the Massachusetts Rules of Civil Procedure") (holding that judge committed reversible error by considering not only pro se litigant's complaint, but also her independent oral statements and written materials presented over three days of hearings, in ruling on defendant's motion to dismiss for failure to comply with Mass. R. Civ. P. 8 and 9). In sum, judges should adopt a balanced approach that provides the accommodations that are necessary to enable self-represented litigants to present their case and ensure a fair proceeding, while respecting the rights of other litigants and the requirements of the law.

**1.6 Providing Legal Information. Judges and court staff do not compromise their neutrality by providing self-represented litigants with information about the law and the legal process. On the other hand, judges and court staff may not provide self-represented litigants with legal advice, e.g., guidance about which course of action they should take to further their interests.**

**Judges should be familiar with court resources that provide information and support to self-represented litigants and should make referrals to those resources as appropriate.**

*Commentary*

Judges and court staff may properly provide legal information as needed to self-represented litigants, including information about how the court system works, what they need to file, how to complete forms, and where they can find further assistance. Judges and court staff should be knowledgeable about resources that are available to help litigants who lack counsel – including Court Service Centers, Trial Court law libraries, court webpages, Lawyer for the Day programs, lawyer referral services, and legal aid programs – and should refer those litigants to these resources as appropriate. See *Rental Prop. Mgt. Servs.* v. *Hatcher*, 479 Mass. 542, 549 n.8 (2018) (noting that "[n] onattorneys may provide information to self-represented litigants to help them understand their legal rights," and that "the Massachusetts Trial Court . . . provides walk-in court service centers at certain large courthouses where non-attorneys 'help people navigate the court system' by assisting with forms, providing information about court procedures, and answering questions about how the court works"); *In re Powers*, 465 Mass. 63, 68 (2013), citing Supreme Judicial Court Steering Committee on Self-Represented Litigants, Serving the Self-Represented Litigant: A Guide by and for Massachusetts Court Staff 3-7 (2010) (describing duties of clerk's office) ("The clerk's office . . . provides legal information (as opposed to legal advice) to persons seeking restraining orders or other relief from the court as to how the court system works, what they need to file, and how to complete court forms. . . . Further, the clerk's office provides language assistance to those seeking legal redress who are unable to speak, understand, or read English," and "court staff [are] permitted to act as 'scribes' when litigant[s] [are] unable to complete form[s] due to language barrier[s]." "In addition, the clerk's office provides self-represented litigants with information about the availability of trial court libraries, and how to contact lawyer referral services or legal aid programs to obtain legal advice"); S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016) (judges may "make referrals as appropriate to any resources available to assist the litigants").

Within the context of a particular proceeding, judges may also properly "provide brief information about the proceeding and evidentiary and foundational requirements" to enable self-represented litigants to understand what they have to do to present their case. *Id.*

Unfortunately, however, confusion about the distinction between legal information and legal advice may lead judges and court personnel to be overly cautious and unduly reticent when providing information to self-represented litigants, to avoid any appearance of impropriety. This practice has an adverse effect on self-represented litigants and increases the gap in access to justice. See Lauren Sudeall, *The Overreach of Limits on "Legal Advice,"* 131 Yale L. J. F. 637 (2021-2022).

The table below, the content of which is derived from a manual previously produced by the Supreme Judicial Court Steering Committee on Self-Represented Litigants, Serving the Self-Represented Litigant: A Guide by and for Massachusetts Court Staff 3 (2010), provides guidance for distinguishing between permissible legal information and impermissible legal advice.

| Legal Information | Legal Advice |
|---|---|
| • A written or oral statement that describes and explains court processes, procedures, rules, practices, legal phrases or terms, and options available to court users. | • Advising court users whether to bring particular cases or problems before the court. |
| • Answering questions about how the court system works. | • Suggesting which of several procedures or options court users should follow. |
| • Identifying for court users standard court forms and/or sample pleadings that meet the court users' needs. | • Providing advice or information for the purpose of giving one party an advantage over another. |
| • Providing general instructions on how to complete court forms. | • Assisting court users in developing a strategy regarding their cases. |
| • Answering questions containing the words, "Can I?" or "How do I?" | • Telling court users what to say in court. |
| | • Predicting for court users what a judge is likely to do in a case. |
| | • Answering questions containing the words, "Should I?" |

See the Massachusetts Court Service Center website (https://www.mass.gov/info-details/asking-for-help-with-court-matters) for additional examples of information that court employees can provide to self-represented litigants.

## 2. General Practices

**2.1 Legal Representation. At the earliest opportunity in cases involving self-represented litigants, judges should explain to self-represented litigants that:**

- **self-represented litigants have a right to represent themselves;**
- **self-represented litigants have the right to hire and be represented by counsel throughout the case, or to be represented by counsel for discrete portions of a case under rules permitting Limited Assistance Representation;**
- **where a Lawyer for the Day program, clinic or other program is available, self-represented litigants may be eligible to take advantage of these services;**
- **counsel for the opposing party does not represent and may not advise a self-represented litigant except to suggest that the self-represented litigant secure independent counsel; and**
- **while the judge may provide some legal information at various stages of the case, the judge will not be able to provide legal advice to them as an attorney would be able to do, because the judge must remain impartial.**

**Judges are expected to be knowledgeable about civil matters in their court department where indigent litigants have a right to appointed counsel. In such cases, judges must inform litigants of that right and explain the process for obtaining appointment of counsel. In addition, when there is a right to appointed counsel, and a litigant chooses to self-represent, judges should explain the challenges of representing oneself in litigation.**

**Judges should refer litigants to resources that provide information about obtaining counsel but may not personally solicit legal representation for a litigant.**

*Commentary*

"[I]ndividuals in criminal and civil matters have a constitutional right to represent themselves." *Commonwealth* v. *Means,* 454 Mass. 81, 89 (2009). Where individual litigants appear without counsel, judges should inform them not only of that right, but also of available options to seek counsel if they wish to be represented.

In particular, where indigent civil litigants have a right to appointed counsel, judges must inform them of that right. See, e.g., *L.B.* v. *Chief Justice of the Probate and Family Court Dep't*, 474 Mass. 231, 246 (2016) (indigent parent who presents meritorious claim to remove guardian for minor child, or to modify terms of guardianship, has due process right to counsel, and to be so informed); *Guardianship of V.V.*, 470 Mass. 590, 592-593 (2015) ("an indigent parent whose child is the subject of a guardianship proceeding is entitled to, and must be furnished with,

counsel"); *Adoption of Meaghan*, 461 Mass. 1006, 1007 (2012) (child and indigent parent are entitled to appointed counsel in adoption proceeding, whether it is commenced by state agency or prospective adoptive parents); G. L. c. 119, § 29 ("Whenever the department or a licensed child placement agency is a party to child custody proceedings, the parent, guardian or custodian of the child, or a parent or guardian of an adult who is the responsibility of the department . . . shall have and be informed of the right to counsel at all such hearings . . . , and that the court shall appoint counsel if the parent, guardian or custodian is financially unable to retain counsel"); S.J.C. Rule 3:10, § 2, as appearing in 475 Mass. 1301 (2016) ("If any party to a proceeding appears in court without counsel where the party has a right to be represented by counsel under the law of the Commonwealth, the judge shall advise the party or, if the party is a juvenile, the party and a parent or legal guardian, where appropriate, that: (a) the party may be entitled to the appointment of counsel at public expense; and (b) the Committee for Public Counsel Services will provide counsel to the party at no cost or at a reduced cost if the court finds that the party wants but cannot afford counsel").

Where litigants have a right to appointed counsel and nevertheless choose to represent themselves, judges should inform them of the challenges of doing so, noting in particular that they cannot rely on the judge or opposing counsel for legal advice, as discussed below. In appropriate cases, the judge may decide that it would be prudent to assign standby counsel.

Where litigants do not have a right to appointed counsel, judges should direct those litigants to resources such as Court Service Centers, Lawyer for the Day programs, and online websites where they can obtain information about lawyer referral services, pro bono counsel, and legal aid organizations. Judges also should explain that litigants may retain counsel to represent them for only certain tasks or portions of the case. See Trial Court Rule XVI: Uniform Rule on Limited Assistance Representation. Judges may not, however, personally solicit counsel for an unrepresented litigant. See Supreme Judicial Court Committee on Judicial Ethics, Frequently Asked Questions.

Judges should also advise litigants appearing without counsel of the consequences of representing themselves. Judges should inform litigants appearing without counsel that judges must remain impartial. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.2 (2016). Although judges can provide legal information about the proceedings, they cannot provide legal advice the way a lawyer would. See Guideline 1.6; S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A. Although judges are permitted to make reasonable accommodations for self-represented litigants, those litigants generally still must comply with applicable procedural requirements. See Guidelines 1.1, 1.5; S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.2 comment 4 & Rule 2.6 comment 1A. Judges should also warn self-represented litigants that counsel for the opposing party does not represent them and cannot advise them, except to recommend that they seek independent counsel. See Mass. R. Prof. C. 4.3, as appearing in 471 Mass. 1442 (2015).

**2.2 Plain Language. Judges should use plain language in all oral and written communications with self-represented litigants, avoid legal jargon, and minimize the use of complex legal terms. Judges should make reasonable efforts to ensure that litigants understand what has been communicated to them.**

*Commentary*

Most self-represented litigants are unfamiliar with complicated legal terms. The use of such terms can delay proceedings and necessitate lengthy explanations of concepts that are more readily understood if stated in plain language.

While Massachusetts has not codified the use of plain language, judges should use plain language whenever possible. On January 31, 2023, then-Chief Justice Jeffrey A. Locke issued an Order on Forms Management for the Massachusetts Trial Court which provides that "all new and revised forms and instructional materials must use plain language." The Order adopted the Massachusetts Trial Court Readability Guidelines for Printed Self-Help Materials and Forms (https://www.mass.gov/doc/readability-guidelines-for-printed-self-help-materials-and-forms/download). The following suggestions contained therein are useful not only with regard to forms but also with regard to oral communications:

- assume that the court user has a fifth-grade or lower literacy in English;
- use the active voice. (e.g., "Submit the form" vs. "The form should be submitted."); and
- define difficult legal terms, but do not necessarily eliminate them.

Further instructions on the use of plain language can be found in the Superior Court Guidelines for Drafting Model Jury Instructions (2021), which explain in Section 1.1 that plain language and clarity should be used because "we serve justice better if we provide instructions that jurors of all backgrounds can actually absorb and follow." These Guidelines offer a multitude of practical suggestions for how to use plain and clear language, such as:

- use short sentences and paragraphs;
- be brief;
- use simple words;
- avoid abstract terms;
- avoid legalisms;
- avoid the passive voice;
- use positive rather than negative statements; and
- be direct.

To learn more about plain language best practices, judges should consult Applying Plain Language at the Trial Court, a training program is available through the TC Learning Center (https://tclearning.csod.com/login/render.aspx?id=defaultclp) and at PlainLanguage.gov (http://www.plainlanguage.gov).

**2.3 Language Barriers. Judges must be attentive to language barriers experienced by self-represented litigants and must ascertain whether a litigant has limited English proficiency. Judges must provide qualified interpreters to self-represented litigants who are of limited English proficiency throughout the court proceeding.**

*Commentary*

The importance of language access in our courts must not be overlooked. Not only is language access required by the Massachusetts General Laws, but the failure to provide adequate language access is a form of national origin discrimination prohibited by Title VI of the Civil Rights Act of 1964 and by Executive Order 13166, as it relates to recipients of Federal funds. See U.S. Dep't of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455-41472 (June 18, 2002). Pursuant to G. L. c. 221C, § 2, judges must not require any litigant with limited English proficiency to go forward with any stage of a legal proceeding without the assistance of a qualified interpreter, or a certified interpreter if no qualified one is available. See G. L. c. 221C, § 2. Because "certified" and "qualified" interpreters are defined with specificity by G. L. c. 221C, § 1, judges should not assume that friends or family members accompanying the litigant are proficient enough in English to serve as translators or interpreters. See G. L. c. 221C, § 1 (defining "certified interpreter" as one duly trained and certified under the coordinator of interpreter services and "qualified interpreter" as one who has passed an examination and been qualified for interpreting in the federal courts in Massachusetts.)

When, during court proceedings, a judge becomes aware of the need for an interpreter, the judge should suspend or continue the hearing until an interpreter is available. Judges are encouraged to familiarize themselves with the process and procedure for court staff to request an interpreter when one has been ordered by the court, as set forth in Section 8.03 of the Standards and Procedures of the Office of Language Access. Additional information regarding language access services in the Trial Court can be found in the 2014 Trial Court Language Access Plan (http://www.mass.gov/doc/massachusetts-trial-court-language-access-plan-0/download) (LAP) and the Standards and Procedures of the Office of Language Access (http://www.mass.gov/doc/standards-and-procedures-of-the-office-of-language-access/download).

The rights of individuals who are deaf or hard of hearing are addressed separately in Guideline 2.4, as those rights are governed by the Americans with Disabilities Act (ADA), and G. L. c. 6, § 194, rather than Title VI of the Civil Rights Act and G. L. c. 221C.

**2.4 Disabilities. Judges must be attentive to self-represented litigants with disabilities and ensure that they are given reasonable accommodation. When it is questionable whether a self-represented litigant is competent to adequately represent their own interests, judges should consider utilizing options that are available in their court, such as guardians ad litem, court clinicians, or appointment of counsel.**

*Commentary*

Under the Americans with Disabilities Act (ADA) and Massachusetts law, qualified court users with disabilities are entitled to request certain aids and services that are needed for them to participate equally in the services, programs, and activities of our courts. See 42 U.S.C. §§ 12101-12213; Massachusetts Constitution, as amended by Article 114 of the Amendments; Massachusetts Equal Rights Act (MERA), G. L. c. 93, § 103(a); G. L. c. 221, § 92A (providing that individuals who are deaf or hearing-impaired shall be appointed a qualified interpreter to interpret the court proceedings and assist in communications with counsel). These laws collectively support fair and equitable treatment of individuals with disabilities.

Under the ADA, disability is defined as "a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarding as having such an impairment." 42 U.S.C. § 12102. Some examples of qualifying ADA disabilities are ADHD; vision impairments; emotional or mental illness; a specific learning disability (e.g., dyslexia); cancer; cerebral palsy; hearing impairment; diabetes; epilepsy; HIV infection; intellectual disabilities; mobility impairments; drug addiction; and alcoholism. See 28 C.F.R. § 36.105 (b).

Judges should allow "reasonable" requests for accommodation from court users with disabilities, i.e., those that do not fundamentally alter the nature of the court's services, programs, or activities, or result in an undue financial or administrative burden. See Exec. Order No. 13217, 66 Fed. Reg. 33155 (June 21, 2001) ("States must avoid disability-based discrimination unless doing so would fundamentally alter the nature of the service, program, or activity provided by the State"). Some examples of accommodations that may be "reasonable" are reassigning a hearing to an accessible site; allowing frequent breaks; and providing an assistive listening device or computer-assisted real-time transcription (CART).

Judges are encouraged to familiarize themselves with the most current information on ADA Accessibility at the Courts (https://www.mass.gov/ada-accessibility-at-the-courts), and direct questions to the ADA Coordinator for that court location.

In general, judges have the power to appoint guardians ad litem, both as a matter of inherent authority and by virtue of various statutes, to protect the rights of persons who lack the capacity to do so on their own. See, e.g., *Bower* v. *Bournay-Bower,* 469 Mass. 690, 698-699 (2014) ("a probate court possesses broad and flexible inherent powers," including "authority . . . to appoint a guardian ad litem in order to protect the interests of a person in a proceeding before it or to ensure the proper functioning of the court"); *Commonwealth* v. *Nieves*, 446 Mass. 583, 593 n.9 (2006) ("A judge has inherent authority to appoint a guardian ad litem"); *Adoption*

*of Georgia*, 433 Mass. 62, 68 (2000) (citing judge's inherent and statutory authority to appoint guardian ad litem); G. L. c. 190B, § 1-404 (a) (authorizing appointment of guardian ad litem under Massachusetts Uniform Probate Code for "a minor, a protected person, an incapacitated person or a person not ascertained or not in being [who] may be or may become interested in any property, real or personal or, in the enforcement or defense of any legal rights"); G. L. c. 203E, § 305 (authorizing appointment of guardian ad litem under Massachusetts Uniform Trust Code to "act on behalf of a minor, incapacitated or unborn individual or a person whose identity or location is unknown"); G. L. c. 208, § 15 (authorizing appointment of a suitable guardian to appear and answer for a defendant incapacitated by reason of mental illness in divorce action); G. L. c. 215, § 56A (authorizing appointment of guardian ad litem to investigate in proceedings relating to care, custody or maintenance of minor children and in certain other matters); G. L. c. 231, § 140C1/2 (authorizing appointment of guardian ad litem in settlements involving personal injury to minor or incompetent person). See also Supplemental Probate and Family Court Rule 5 ("[W]henever it shall appear that a minor, intellectually disabled person, a person under disability, an incapacitated person, a person to be protected or a person not ascertained or not in being is interested in any matter pending, a guardian ad litem for said person may be appointed by the court at its discretion").

Judges should acquaint themselves with the practice for appointment of guardians ad litem in their court department.

**2.5 Indigency. Judges must ensure that inability to pay court costs and fees due to indigency does not prevent self-represented litigants from proceeding with their cases in a timely manner or obtaining necessary documents or services. Judges must familiarize themselves with the statutes and case law regarding indigency and waiver of costs and fees, and must promptly determine questions of indigency and waiver requests.**

*Commentary*

Under the Indigent Court Costs Law, G. L. c. 261, §§ 27A-27G, indigent parties may request waivers or reductions of various court fees and other costs incurred during litigation. See *Adjartey* v. *Central Div. of the Hous. Court Dep't,* 481 Mass. 830, 840 (2019); *Reade* v. *Secretary of the Commonwealth*, 472 Mass. 573, 574 (2015), cert. denied, 578 U.S. 946 (2016). An application for waiver or reduction of court fees and costs is first reviewed by the court clerk, but if the application is incomplete or does not adequately demonstrate indigency, the matter is referred to a judge. The judge's responsibilities in reviewing applications for waivers due to indigency are set forth in G. L. c. 261, § 27C, and discussed in great detail in *Adjartey, supra*, at 840-846.

Judges should be familiar with the requirements of the statute and guidance contained in *Adjartey*. Among other things, judges must be mindful of the confidential nature of affidavits of indigency and must be cognizant of the importance of issuing decisions on applications for indigency waivers as soon as possible. When indigency determinations are delayed, and applicants are unable to obtain relevant documents or services in advance of an upcoming court appearance, judges should exercise their discretion to postpone hearings to ensure that all parties have sufficient time to prepare. See *Adjartey, supra*, at 841-843.

## 3. Courtroom Management

**3.1 Courtroom Decorum. In accordance with the Code of Judicial Conduct, judges must maintain order and decorum in proceedings before the court, whether those proceedings are held in person, virtually, or in a hybrid format. Judges must also be patient, dignified, and courteous to all participants, including self-represented litigants, represented litigants, attorneys, witnesses, and staff, and must require similar conduct of lawyers, court personnel, and others who are subject to the judge's direction and control.**

**For additional information regarding conducting remote hearings, see Guideline 5.8 below.**

*Commentary*

Judges "shall require order and decorum in proceedings before the court." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.8 (A) (2016). Further, "judges have the inherent power to deal with contumacious conduct in the courtroom in order to preserve the dignity, order, and decorum of the proceedings." *Commonwealth* v. *Ulani U.*, 487 Mass. 203, 208 (2021), quoting *Sussman* v. *Commonwealth*, 374 Mass. 692, 695 (1978).

As part of their obligation to maintain proper decorum, judges must treat everyone in the courtroom with patience and courtesy and ensure that other participants do so as well. S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.8 (B) (2016). In particular, judges should treat self-represented litigants with the same respect that they would accord to represented litigants and counsel. See, e.g., *Commonwealth* v. *Jackson*, 419 Mass. 716, 721 (1995) (recognizing that self-represented litigants should be addressed with titles connoting equal respect to that afforded opposing counsel); *Commonwealth* v. *Stokes*, 11 Mass. App. Ct. 949, 949-950 (1981) (requiring self-represented defendant to conduct trial from prisoner's dock, not counsel table, was improper, absent showing of necessity). To avoid the appearance of favoritism, judges and court staff under a judge's control should also avoid overly familiar exchanges with counsel who regularly appear before the court.

While judges must facilitate the ability of all litigants, including self-represented litigants, to be fairly heard, judges retain broad discretion to control the presentation of arguments and evidence to ensure efficient use of the court's time. See *Demoulas* v. *Demoulas* 428 Mass. 555, 590 n.32 (1998), quoting *EEOC* v. *Steamship Clerks Union, Local 1066,* 48 F.3d 594, 609 (1st Cir.), cert. denied, 516 U.S. 814 (1995) ("[L]itigants have no absolute right to present their arguments in whatever way they may prefer. . . . The trial judge has broad authority to place reasonable limits on the parties' presentation of their positions"); Mass. G. Evid. § 403 (2024) ("The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence"). See also *Babaletos* v. *Demoulas Super Markets, Inc.*, 493 Mass. 460, 464-468 (2024) (trial judge did not abuse discretion in setting reasonable time limits on parties' presentation of evidence); *id*. at 469 (appendix offering guidance for judges concerning imposition of time limits).

In highly contentious cases, maintaining decorum can be challenging, and it may be especially difficult during hearings conducted remotely. Judges should not tolerate improper behavior by any party or counsel. Examples of improper behavior include general rudeness, interruptions, bullying, or raised voices.

The following tips may be helpful in maintaining courtroom decorum and addressing inappropriate conduct:

- Judges should not conduct in-person court sessions without the presence of a court officer and should not hesitate to request additional court officers for a particular case or situation, if warranted.

- To forestall inappropriate behavior in the courtroom, judges may wish to explain courtroom etiquette and procedures at the outset of the proceeding. Remote hearings should begin with an explanation of the ground rules for a virtual proceeding, as discussed in Guideline 5.8.

- Judges must insist that all participants be respectful of the court and all individuals present in the courtroom. Judges must not allow participants to talk over one another or make demeaning or inappropriate comments, facial expressions, or gestures.

- Judges may find it helpful to set expectations by reviewing the issues that will be addressed, and, where appropriate, establishing time limits for the parties' presentations. If litigants stray into irrelevant or inappropriate content, or they fail to adhere to time limits, judges should issue reminders as necessary.

- When addressing inappropriate behavior, judges should strive to remain composed. Judges should take pains to avoid creating the appearance of favoring any party on the merits.

- If an individual is particularly disruptive, a brief recess may calm or reset the courtroom. Persons who are out of control should not be allowed to remain in the courtroom if they can be removed.

The behavior of self-represented litigants who are persistently disruptive sometimes can be hard to interpret. It is not always immediately obvious (either in real time or from reviewing a transcript on appeal) whether a self-represented litigant is intentionally trying to disrupt the court process or genuinely does not understand the proceeding, due to impairment of some kind. See *Commonwealth* v. *Haltiwanger*, 99 Mass. App. Ct. 543 (2021). For example, the litigant may be unable or unwilling to stop talking – in a manner that is far outside the norm. In deciding how to respond to such a situation, the judge should keep in mind the stage of the proceeding and the purpose of the event. If the disruption occurs at a critical stage of the case (such as a waiver of counsel colloquy) the judge should consider making factual findings in the event that competence is raised as an appellate issue. See *id*. at 556-557. See also Guideline 2.4 on accommodations for self-represented litigants with disabilities.

A related issue is when self-represented litigants repeatedly file frivolous and groundless pleadings or motions. When a litigant persists in such conduct after being warned not to do so, a judge may issue an appropriately tailored order to prohibit the litigant's future filings absent leave from the court. See, e.g., *Bishay* v. *Superior Court Dep't of the Trial Court*, 487 Mass. 1012, 1013 (2021); *State Realty Co. of Boston* v. *MacNeil,* 341 Mass. 123, 123-124 (1960).

**3.2 Bias, Prejudice, and Harassment. Judges must perform all duties of judicial office without bias, prejudice, or harassment, and must refrain from manifesting bias or prejudice or engaging in harassment. Judges also must not permit lawyers, court personnel, and others subject to the judge's direction or control to engage in such prohibited behavior.**

*Commentary*

"A judge shall perform the duties of judicial office, including administrative duties, without bias, prejudice, or harassment." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.3 (A) (2016). "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice or engage in harassment, including bias, prejudice, or harassment based upon a person's status or condition." *Id.*, Rule 2.3 (B). Such behavior "impairs the fairness of the proceeding and brings the judiciary into disrepute." *Id.*, Rule 2.3 comment 1.

"[E]xamples of status or condition include but are not limited to race, color, sex, gender identity or expression, religion, nationality, national origin, ethnicity, citizenship or immigration status, ancestry, disease or disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation." *Id.*, Rule 2.3 comment 2.

Bias consists of "decisions made or actions taken on the basis of stereotyped attitudes regarding individuals of various racial and ethnic groups[,] rather than a fair, impartial appraisal of the merits with respect to each individual or situation." Evan R. Seamone, *Understanding the Person Beneath the Robe: Practical Methods for Neutralizing Harmful Judicial Biases*, 42 Willamette L. Rev. 1, 19 (Winter 2006) (quoting Mass. Supreme Judicial Court, Comm'n to Study Racial and Ethnic Bias in the Courts, Equal Justice: Eliminating the Barriers, final report 1994). Bias may be either explicit or implicit. "With explicit bias, individuals are aware of their prejudices and attitudes toward certain groups." U.S. Department of Justice, Understanding Bias: A Resource Guide (http://www.justice.gov/crs/media/1188566/dl?inline=).

"Unconscious or implicit bias is a discriminatory belief or association likely unknown to its holder. Multiple studies confirm the existence of implicit bias, and that implicit bias predicts real-world behavior." *Commonwealth* v. *Buckley*, 478 Mass. 861, 878 n.4 (2018) (Budd, J., concurring). "Although everyone has implicit biases, research shows that implicit biases can be reduced through the very process of discussing them and recognizing them for what they are." U.S. Department of Justice, Understanding Bias: A Resource Guide, at 2.

Any "words or conduct that may reasonably be perceived as manifesting bias or prejudice or engaging in harassment" must be avoided. S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.3 comment 1 (2016). "[E]xamples of manifestations of bias or prejudice include but are not

limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; improper suggestions of connections between status or condition and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey an appearance of bias or prejudice to parties and lawyers in the proceeding, jurors, the media, and others." *Id.*, Rule 2.3 comment 3.

Furthermore, a "judge also shall not permit court personnel or others subject to the judge's direction and control to engage in such prohibited behavior," and "shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice or engaging in harassment against parties, witnesses, lawyers, or others, including bias, prejudice, or harassment based upon a person's status or condition." *Id.*, Rule 2.3 (B) & (C). See also S.J.C. Rule 3:07, Mass. R. Prof. C. Rule 4.4 (a), as amended, 490 Mass. 1321 (2022) ("In representing a client, a lawyer shall not (1) use means that have no substantial purpose other than to embarrass, harass, delay, or burden a third person, . . . or (3) engage in conduct that manifests bias or prejudice against such a person based on race, sex, marital status, religion, national origin, disability, age, sexual orientation, or gender identity").

However, judges and lawyers may "mak[e] legitimate reference to a person's status or condition when it is relevant to an issue in a proceeding." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.3 (D) (2016); see S.J.C. Rule 3:07, Mass. R. Prof. C. 4.4 (a) (3) & comment 1B.

**3.3 Ex Parte Communication. To minimize the risk of being exposed to prohibited communications, judges should ensure that self-represented litigants are informed that:**

- **parties may not communicate about the case with the judge outside formal court proceedings;**
- **the judge, as a general rule, is prohibited from communicating with a party unless all parties are aware of the communication and have an opportunity to respond; and**
- **the parties must file all written communications to the judge (e.g., pleadings, motions, affidavits) with the clerk's office along with a notice that copies of those materials also have been provided to the opposing party.**

**If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge must make provision to promptly notify the parties of the substance of the communication.**

*Commentary*

The Code of Judicial Conduct generally prohibits judges from having ex parte communications with a party or the party's counsel without notice to and participation by all other parties or their representatives. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.9 & comment 1A (2016); see also Mass. R. Civ. P. 5 (a), as amended, 488 Mass. 1402 (2021) (requiring service of papers filed with the court on all parties); *Olsson* v. *Waite*, 373 Mass. 517, 533

(1977) (it is "unacceptable that one party should place . . . information before a judge intending that [the judge] rely on it in a contested matter without furnishing a copy of it to the other parties. It is contrary to the basic rules of fairness governing litigation under our adversary system, and it is not to be countenanced regardless of any rule of court on the subject"). Although it is understandable that misunderstandings may arise when a party is proceeding without counsel, "[a] judicial decision brought about by ex parte communications with the judge has no place in our adversary system." *Id*. Accordingly, to avoid such misunderstandings, judges should take care to inform self-represented litigants that they must adhere to the foregoing guidelines in communicating with the judge.

"Whenever the presence of a party or notice to a party is required by [Rule 2.9 of the Code], it is the party's lawyer, or if the party is self-represented, the party, who is to be present or to whom notice is to be given, unless otherwise required by law. For example, court rules with respect to Limited Assistance Representation may require that notice be given to both the party and the party's limited assistance attorney." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.9 comment 2 (2016).

The Code specifies certain exceptions to the general prohibition against ex parte communications. These include: (1) ex parte communications for scheduling, administrative, or emergency purposes; (2) ex parte communications in specialty courts, as authorized by law; (3) consulting with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges; (4) ex parte communications made with the consent of the parties in an effort to settle civil matters; and (5) ex parte communications otherwise authorized by law. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.9 (2016). Judges contemplating receiving or engaging in ex parte communications under any of these exceptions should consult the Code for additional applicable limitations and requirements.

## 4. Settlement and Alternative Dispute Resolution

**4.1 Raising the Possibility of Settlement. In general, judges may encourage parties to resolve matters in dispute; however, in cases involving self-represented litigants, judges must be mindful of special challenges that self-represented parties are likely to face when attempting to negotiate. Accordingly, in deciding whether to encourage settlement efforts in cases involving self-represented litigants, judges should take into account:**

- **whether self-represented parties have or will be given sufficient information about the law and potential court outcomes to make a knowledgeable decision;**
- **whether self-represented parties will be vulnerable to pressure because of a power imbalance, cognitive or emotional issues, or other factors; and**
- **whether self-represented parties with language access issues will be provided with the services of an interpreter.**

**In proceedings under G. L. c. 209A, it is never appropriate for judges to attempt to reconcile the parties settle the case, or refer the parties to alternative dispute resolution.**

*Commentary*

"A judge may encourage parties and their lawyers to resolve matters in dispute." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 (B) & comment 2 (2016). See also Mass. R. Civ. P. 16, as amended, 466 Mass. 1401 (2013) ("In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference to consider: . . .[t]he possibility of settlement"). Nevertheless, in deciding whether to encourage settlement discussions in a particular case, a judge should consider various factors, including whether any of the parties are self-represented and the relative sophistication of the parties in legal matters. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 2 (2016).

Where a self-represented litigant is involved, the judge must also consider whether settlement discussions would be adversely affected by an imbalance of power between the parties. See S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, Rule 6 (i), as amended, 442 Mass. 1301 (2004) ("The court shall give particular attention to the issues presented by unrepresented parties, such as . . . the danger of coerced settlement in cases involving an imbalance of power between the parties"). In particular, the judge should consider "whether there is a history of physical or emotional violence or abuse between the parties." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 2 (2016). Due to the imbalance of power that may exist where there is a history of abuse between the parties, "no court may compel parties to mediate any aspect of an abuse prevention proceeding under G. L. c. 209A, § 3." S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, Rule 5.

Judges may inquire whether self-represented litigants have consulted available resources to educate themselves about the law, such as the Court Service Center, handouts, Lawyer for the

Day programs, etc. Judges should also be acquainted with dispute resolution services offered by the judge's court department and whether they provide such information – keeping in mind that it is not legal advice to provide information about the law (e.g., elements of claims and defenses) or to identify the various outcomes that could result if the case were litigated to a conclusion.

In cases where a judge is the fact finder, the judge should refrain from commenting on the strength of the evidence before or during trial as a means of encouraging the parties to settle. See discussion *infra* in Guideline 4.2.

With regard to language access issues, note that § 8.01 of the Standards and Procedures of the Office of Language Access (2021) (http://www.mass.gov/doc/standards-and-procedures-of-the-office-of-language-access/download) specifically authorizes assignment of court interpreters for alternative dispute resolution, such as mediations and conciliations, within a courthouse facility.

**4.2 Judicial Participation in Settlement Discussions. In cases where settlement may be appropriate, judges generally may provide parties the opportunity to discuss settlement in the presence of the judge and may participate in the discussions, as long as the judge does not act in a manner that is coercive.**

**Caution is required, however, when the judge will be the trier of fact. If the case does not settle, and the judge has obtained information that could influence the judge's decision-making at trial or has expressed views that could call the judge's impartiality into question, the judge should consider whether disqualification may be appropriate.**

**During trial, fact-finding judges should not attempt to encourage settlement by offering their assessments of the strength of the parties' evidence before the evidence is closed.**

*Commentary*

"A judge . . . , in accordance with applicable law, may participate in settlement discussions in civil proceedings and plea discussions in criminal proceedings, but shall not act in a manner that coerces any party into settlement or resolution of a proceeding." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 (B) (2016).

Where a judge engages in settlement discussions involving one or more self-represented litigants, the judge, like a neutral in court-connected dispute resolution, "has a responsibility, while maintaining impartiality, to raise questions for the parties to consider as to whether they have the information needed to reach a fair and fully informed settlement of the case." S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, Rule 6 (i), as amended, 442 Mass. 1301 (2004).

In deciding whether to participate in settlement discussions, "[t]he judge should keep in mind the effect that the judge's participation may have not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if these efforts are unsuccessful and the case remains with the judge." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6

comment 2 (2016). "Judges must be mindful of the effect settlement or plea discussions can have not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during such discussions could influence a judge's decision-making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate." *Id*., Rule 2.6 comment 3. See *id*., Rule 2.11 (A) ("A judge shall disqualify himself or herself in any proceeding in which the judge cannot be impartial or the judge's impartiality might reasonably be questioned"). When a judge inquires about the parties' interest in settlement, such inquiries should ordinarily be conducted on the record. In courts that provide for judicial mediations or judicial settlement conferences that are conducted off the record by agreement of the parties, the record nevertheless should reflect the nature of the process that will be utilized and the parties' agreement.

A judge's involvement in settlement discussions can be especially problematic when the judge will be the fact finder. See *Furtado* v. *Furtado*, 380 Mass. 137, 151-152 (1980) (observing that when a judge participates in settlement discussions and subsequently serves as the trier of fact, the judge "must be most scrupulous both to avoid losing his impartiality and to maintain his unfamiliarity with disputed matters which may come before him and with extraneous matters which should not be known by him," potentially requiring disqualification depending on the circumstances). In particular, where the judge is the fact finder, the judge must avoid commenting on the strength of the evidence before or during trial as a means of encouraging the parties to settle their dispute. See *Adoption of Georgia*, 433 Mass. 62, 64-65 (2000), quoting *Preston* v. *Peck*, 271 Mass. 159, 164 (1930) ("[i]f a judge reaches a decision on an issue of fact before the testimony on that issue is completed and thus closes [her] mind to a fair consideration of competent evidence not yet heard, [she] has deprived the party of his right to a full and fair hearing upon the whole evidence"); *Adoption of Tia*, 73 Mass. App. Ct. 115, 121 (2008) (in making comments during trial assessing the evidence and encouraging settlement discussions, judge "departed from her appropriate role, both in assessing the strength of the evidence well before the evidence had closed and in trying to urge consideration of a settlement in a case where she was the ultimate fact finder"); cf. *Pestana* v. *Pestana*, 74 Mass. App. Ct. 779, 782 (2009) (statement made by the trial judge during a settlement conference indicating a mistaken understanding of his legal authority to defer sale of the former marital home was one factor considered in deciding to remand the matter for clarification).

Judges engaging in settlement discussions should also be mindful that such discussions are generally confidential and inadmissible as evidence. See Mass. G. Evid. § 408 (2024) (conduct or statements made during compromise negotiations are inadmissible to prove or disprove the validity or amount of a disputed claim); § 514 (mediation privilege).

**4.3 Alternative Dispute Resolution (ADR). When a case is appropriate for ADR, judges should inform the parties of the availability and benefits of such services.**

**Judges should familiarize themselves with potential ADR options, including those that are offered by the courts, those that are court-connected but offered by others (such as bar associations or volunteer organizations), and those that are provided in the community. Judges should be aware of ADR programs that provide free or low-cost services and should make that information available to litigants who may be eligible for them. When referring parties to a court-connected ADR process, judges should take steps**

**to ensure that the ADR processes in their court provide self-represented litigants with the tools needed to make an informed decision.**

**Judges may require parties and/or their attorneys to attend a screening session or an early intervention event regarding court-connected dispute resolution services and in some cases may require them to participate in dispute intervention as permitted by S.J.C Rule 1:18, Uniform Rules on Dispute Resolution. Judges should inform litigants that they are not required to settle their case.**

**Judges should work closely with any available court-connected ADR programs to ensure that, in those matters in which one or more litigant is self-represented, the ADR process integrates relevant legal information and mechanisms to enhance greater access to justice.**

*Commentary*

In determining if a case is appropriate for ADR, judges should be mindful of any safety concerns. Accordingly, in cases brought under G.L. c. 209A, judges shall not "compel parties to mediate any aspect of their case," although the parties may separately be referred for information gathering purposes to the Probation Department in the Probate and Family Court or victim/witness advocates. See G. L. c. 209A § 3; see also Guidelines for Judicial Practice: Abuse Prevention Proceedings § 1:01 commentary (Oct. 2021) and Guideline 4.1 and related commentary.

S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, as amended, 442 Mass. 1301 (2004), governs referrals to ADR programs for all departments of the Trial Court. See *id.*, Rule 1 (a). These Rules specifically direct courts, including judges, to give special attention to the needs of self-represented litigants who participate in ADR. "The court shall give particular attention to the issues presented by unrepresented parties, such as the need for the neutral to memorialize the agreement and the danger of coerced settlement in cases involving an imbalance of power between the parties. In dispute intervention, in cases in which one or more of the parties is not represented by counsel, a neutral has a responsibility, while maintaining impartiality, to raise questions for the parties to consider as to whether they have the information needed to reach a fair and fully informed settlement of the case." See *id.*, Rule 6 (i).

Courts may refer parties only to an ADR provider that is on the list of approved providers compiled by each Trial Court department, except in exceptional circumstances where special needs of the parties cannot be met by a program on the list. See *id.*, Rule 4 (a), and 6 (a). In some instances, these services may be available at no cost to parties who lack the financial resources to pay for them. In making a referral, courts must inform parties that they are free to select any approved provider on the list, subject to reasonable limitations, or any other ADR provider of their choosing. See *id.*, Rule 6 (a). In addition, the Housing Court and the Probate and Family Court offer court-based "dispute intervention" with housing specialists and specialized probation officers, respectively, who serve as neutrals, "identif[y] areas of dispute between the parties, and assist[] in the resolution of differences." *Id.*

In civil cases, courts may require parties and/or their attorneys to attend a screening session or an early intervention event regarding court-connected ADR services, except for good cause shown. *Id.*, Rule 6 (b). In general, the court cannot require the parties to participate in dispute resolution services. *Id.*, Rule 6 (d). However, the Probate and Family Court may require

parties to participate in dispute intervention and any court can require participation in a pilot program that is created under Rule 4 (c). *Id.* Courts must inform the parties that they are not required to make offers and concessions, or to settle their case. *Id.*, Rule 6 (i).

**4.4 Review of Settlement Agreements. Judges should personally review settlement agreements involving one or more self-represented litigants, including agreements resulting from ADR, whenever review has been requested by any party or the agreement will become a final dispositive order, judgment, or decree entered over the judge's signature, unless a comparable review has been conducted by a court facilitator acting under judicial supervision in connection with a court's own in-house ADR program.**

**Reviews of settlement agreements should incorporate the following practices:**

- **engaging in colloquy directly with all parties to the proposed settlement and counsel for any represented parties;**
- **determining whether the self-represented litigant understands the agreement and its consequences, including the relinquishment of statutory or other legal rights;**
- **determining whether the self-represented litigant has entered into the agreement knowingly and voluntarily;**
- **if settlement approval is required or permitted by statute or other law, determining whether the agreement meets the specified legal standard;**
- **informing the parties if the settlement agreement will be entered as a court order and confirming that they understand the legal consequences of the agreement;**
- **if a self-represented litigant has limited ability to understand or speak English, ensuring that the agreement has been interpreted, consistent with Guideline 2.3, verbatim into the self-represented litigant's primary language by a qualified court interpreter, and encouraging the self-represented litigant to obtain a written translation of the settlement documents, including any court order.**

**A judge shall not approve any settlement that the judge concludes is unconscionable or otherwise contrary to law.**

*Commentary*

The principle that judges should review settlement agreements with the parties when they include self-represented litigants was endorsed by the Supreme Judicial Court in § 3.4 of the 2006 Guidelines. Self-represented litigants may not be fully aware of their legal rights or potential court outcomes, and they may also be unusually vulnerable to pressure. See *Adjartey* v. *Central Div. of the Hous. Court Dep't*, 481 Mass. 830, 837 (2019) (observing that "[t]he challenges inherent

in navigating a complex and fast-moving process are compounded for those individuals who face summary process eviction without the aid and expertise of an attorney"); *In re Powers*, 465 Mass. 63, 66-67 (2013) (noting that, in most small claims and civil motor vehicle infractions cases, "the litigants represent themselves and know little of the applicable law or court procedures" and therefore "might not . . . be in a position to vindicate their rights" without assistance); S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, Rule 6 (i), as amended, 442 Mass. 1301 (2004) (noting "the danger of coerced settlement in cases involving an imbalance of power between the parties" where one or more litigants are unrepresented). Review of settlement agreements in cases involving self-represented litigants is therefore an important safeguard. Accordingly, judges, including judges with administrative responsibilities, are strongly encouraged to have systems in place that allow for thorough settlement review prior to the entry of judgment. See S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, Rule 9 commentary (encouraging "judicial participation in the review of agreements" involving unrepresented parties).

In some instances, judicial review and approval of settlement agreements is expressly authorized or required by law. For example, in small claims cases, if an agreement for judgment is proffered when the parties are present, the clerk-magistrate or judge presiding over a hearing "shall review the agreement and, if it includes a payment order, inquire of the defendant to ascertain that he or she is able to pay the payment order and understands the consequences of not complying with the payment order." Uniform Small Claims Rule 7 (a). In summary process eviction cases, judicial approval of a compromise agreement between the parties converts the agreement into a binding court order. See *Dacey* v. *Burgess*, 491 Mass. 311, 315 (2023); *Adjartey*, 481 Mass. at 856 (Appendix). A marital separation agreement between a divorcing couple is specifically enforceable only where the court has found that it is fair and reasonable and not the product of fraud or coercion. See *Knox* v. *Remick*, 371 Mass. 433, 436-437 (1976); *Slaughter* v. *McVey*, 20 Mass. App. Ct. 768, 773, rev. denied, 396 Mass. 1103 (1985); *Dominick* v. *Dominick*, 18 Mass. App. Ct. 85, 91, rev. denied, 392 Mass. 1103 (1984). A settlement for damages arising out of a personal injury to a minor or incompetent person is subject to judicial review and approval at the request of a party. See G. L. c. 231, § 140C1/2. See also G. L. c. 152, § 15 (judicial approval of tort settlements where workers' compensation insurer has lien); Mass. R. Civ. P. 23 (c), as amended, 471 Mass. 1491 (2015) (court approval of class action settlements).

More generally, judicial review of settlement agreements involving self-represented parties should be the norm, especially in cases where the interests at stake involve essential civil legal needs such as housing, family disputes, and consumer debt. This is in keeping with the national consensus to provide special attention to case types involving essential civil legal needs. See Resolution 5, Reaffirming the Commitment of Meaningful Access to Justice for All (https://ccj.ncsc.org/__data/assets/pdf_file/0013/23602/07252015-reaffirming-commitment-meaningful-access-to-justice-for-all.pdf), adopted by the Conference of Chief Justices and Conference of State Court Administrators at their 2015 Annual Meeting (calling upon state courts to facilitate access to effective assistance in adversarial proceedings involving basic human needs, such as shelter, sustenance, safety, health, and child custody). These high-stakes cases routinely include a very large percentage of self-represented litigants, most of whom are compelled by economic circumstances or other impediments to represent themselves.

In assessing voluntariness, the judge should be alert to potential coercion in any form. In assessing whether a self-represented litigant has knowingly entered into a settlement agreement, the judge should keep applicable legal protections in mind and confirm that the self-represented litigant has not waived them unknowingly.

The judge may also wish to ascertain whether the litigant had the benefit of self-help resources provided by the courts or others and refer the litigant to appropriate resources if it appears that the litigant could benefit from them. This is consistent with the policy stated in S.J.C. Rule 1:18, Uniform Rules of Dispute Resolution, Rule 6 (i), as amended, 442 Mass. 1301 (2004), that "a neutral has a responsibility, while maintaining impartiality, to raise questions for the parties to consider as to whether they have the information needed to reach a fair and fully informed settlement of the case." Cf. *Commonwealth* v. *Scott*, 467 Mass. 336, 345 (2014) ("A guilty plea is intelligent if it is tendered with knowledge of the elements of the charges against the defendant and the procedural protections waived by entry of a guilty plea"); Mass. R. Prof. C. 1.0 (g), as amended, 490 Mass. 1301 (2022) (defining informed consent as "agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct").

While this Guideline is directed at settlements that are dispositive of the case, judges may in their discretion conduct similar colloquies with respect to temporary orders.

Finally, it should be noted that some Trial Court departments provide ADR services through court personnel acting under judicial supervision. These services include mediation with housing specialists in the Housing Court, see *Dacey,* 491 Mass. at 315; *Adjartey*, 481 Mass. at 856 & n.17 (Appendix); Interim Housing Court Standing Order 1-23 (3) (ii) (E); mediation with assistant judicial case managers under the Pathways program in the Probate and Family Court, see Pathways Case Management Initiative in the Probate and Family Court (https://www.mass.gov/info-details/pathways-case-management-initiative-in-the-probate-and-family-court); and dispute intervention with probation officers in the Probate and Family Court, see Probate and Family Court approved Alternative Dispute Resolution (ADR) programs (https://www.mass.gov/info-details/probate-and-family-court-approved-alternative-dispute-resolution-adr-programs#:). Court personnel providing these ADR services are subject to the ethical standards set out in S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, which require neutrals to make every reasonable effort to ensure that the parties understand the process, and that they understand and voluntarily consent to any agreement reached in the process. See S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution, Rule 2 (defining a "neutral" to include a "housing specialist, probation officer, and any other court employee when that individual is engaged as an impartial third party to provide dispute resolution services"); Rule 9 (setting out ethical standards applicable to neutrals, including provisions concerning impartiality and obtaining parties' informed consent).

In cases such as these, where a settlement agreement has been reached as a result of a court's own in-house ADR program conducted by court personnel acting under judicial supervision, a judge (or other authorized judicial officer) may approve the settlement without convening the parties so long as the judge is satisfied that the court facilitator's review adhered to the practices enumerated in this Guideline.

## 5. The Litigation Process

**5.1 Adapting the Litigation Process for Self-Represented Litigants. Judges must afford self-represented litigants due process and provide them with the opportunity to meaningfully present their claims and defenses. In order to fulfill this obligation, judges may, generally should, and sometimes must, adapt the litigation process to provide reasonable accommodations to the self-represented.**

**Appropriate accommodations include, but are not limited to: construing pleadings liberally, explaining legal concepts, providing information about procedural and evidentiary requirements, making referrals to available resources, and asking questions to elicit or clarify facts necessary for decision. See Guidelines 5.2 through 5.8 for guidance as to specific aspects of the litigation process.**

*Commentary*

As discussed in Guidelines 1.2 and 1.3 and the related commentary, the constitutional right to due process requires judges to make such accommodations as are necessary to give self-represented litigants the opportunity to meaningfully present their claims and defenses and ensure a fair proceeding. See, e.g., *Turner* v. *Rogers*, 564 U.S. 431, 435, 449 (2011); *Adoption of Patty*, 489 Mass. 630, 631-632, 638, 648 (2022); *Department of Revenue Child Support Enforcement* v. *Grullon*, 485 Mass. 129, 133-138 (2020). "[J]udges must ensure that all parties, represented and unrepresented alike, receive a fair trial and that principles of due process are followed. . . . '[T]he judge's function . . . is to be the directing and controlling mind during the . . . proceedings, and to provide a self-represented party with a meaningful opportunity to present his or her case by guiding the proceedings in a neutral but engaged way.'" *Morse* v. *Ortiz-Vazquez*, 99 Mass. App. Ct. 474, 484 (2021), quoting *CMJ Mgt. Co.* v. *Wilkerson*, 91 Mass. App. Ct. 276, 283 (2017) (internal quotation marks and brackets omitted). Judges must play "an affirmative role in facilitating the ability of every person who has a legal interest in a proceeding to be fairly heard." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016).

"In the interest of ensuring fairness and access to justice, judges may make reasonable accommodations that help self-represented litigants to understand the proceedings and applicable procedural requirements, secure legal assistance, and be heard according to law," provided that these "accommodations do not give self-represented litigants an unfair advantage or create an appearance of judicial partiality." *Id*. Examples of permissible accommodations include construing pleadings liberally; providing brief information about the proceeding and evidentiary and foundational requirements; asking neutral questions to elicit or clarify information; modifying the manner or order of taking evidence or hearing argument; attempting to make legal concepts understandable; explaining the basis for a ruling; and making referrals as appropriate to any resources available to assist the litigants. *Id*. See Guideline 1.1; see also Guideline 1.6 (judges and court staff may properly provide legal information explaining how the court system works, but not legal advice).

These accommodations not only are permissible as a matter of judicial ethics, but also are recommended best practices that judges should follow in cases involving self-represented litigants to ensure that they understand the proceedings and that their cases are decided fairly on the merits. See, e.g., *Ensuring the Right to Be Heard: Guidance for Trial Judges in Cases Involving Self-Represented Litigants*, Institute for the Advancement of the American Legal System (November 2019), 11-16; *Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers*, Judicial Council of California (April 2019), 2-1–2-8; "Proposed Best Practices for Cases Involving Self-Represented Litigants," in Cynthia Gray, *Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants*, American Judicature Society (2005), 53-57; Rebecca Albrecht et al., *Judicial Techniques for Cases Involving Self-Represented Litigants*, Judges' Journal 42:1 (2003).

Furthermore, in some cases, depending on the circumstances, judges must make certain accommodations for self-represented litigants to meet the requirements of due process or other applicable statutes or court rules and orders. For example, judges may be required to:

- liberally construe pleadings or other arguments presented by self-represented litigants, see *Boston Hous. Auth.* v. *Y.A.*, 482 Mass. 240, 247 (2019) (reversing lower court order against tenant, where tenant's "mention of domestic violence as a possible factor in her failure to make the required [rent and arrearage] payments was a sufficient signal to the judge to inquire further to elicit additional facts in order to determine whether [tenant] was entitled to [Violence Against Women Act] protection"); *I.S.H.* v. *M.D.B.*, 83 Mass. App. Ct. 553, 561 (2013) (judge erred in concluding that self-represented litigant waived objection to personal jurisdiction, where it was sufficiently clear from litigant's statements that he was objecting to court's exercise of personal jurisdiction, even though he did not use words "personal jurisdiction"); *Loebel* v. *Loebel*, 77 Mass. App. Ct. 740, 743 n.4 (2010) (self-represented mother's "inability to articulate in the moment the precise procedural vehicle to obtain . . . a hearing" to provide further support for her argument for custody of her children "should not have ended the matter"; holding that judge abused discretion in denying mother opportunity to present new evidence to address best interests of children);

- allow reasonable flexibility in applying procedural rules, see *Morse*, 99 Mass. App. Ct. at 484-485 (citing principles of due process in holding that judge abused discretion in denying self-represented tenant's motion to file late answer in eviction proceeding, where prejudice to tenant, depriving him of statutory right to present affirmative defense, far outweighed any inconvenience to landlord); *Glendale Assocs., LP* v. *Harris*, 97 Mass. App. Ct. 454, 455, 464-465 (2020) (entry of default judgment against tenant for failure to file answer was "not consonant with principles of due process" where tenant had denied allegations against him and had been litigating case); and

- make sure that self-represented litigants have notice of critical questions in the case, such as issues that would be dispositive, and elicit information from them concerning these critical questions when necessary, see *Turner*, 564 U.S. at 435, 449 (incarceration of indigent self-represented parent for failure to pay child support violated due process, where parent did not receive clear notice that his ability to pay would constitute critical question in his civil contempt proceeding, and he did not receive form designed

to elicit information about his financial circumstances); *Grullon*, 485 Mass. at 137-138 (judge erred in finding self-represented defendant in civil contempt for failure to pay child support, where judge did not inquire into whether defendant had present ability to pay); *cf. Boston Hous. Auth.* v. *Y.A., supra.*

**5.2 Explaining the Litigation Process. At the earliest opportunity, and at each court appearance, judges should take steps to ensure that self-represented litigants understand the litigation process, including discovery, motion practice, and trial. Judges should explain the nature and scope of the particular event before the court and the process to be followed. Judges should also explain that the litigation process is governed by court rules that apply to all parties, including self-represented litigants, and should direct self-represented litigants to resources to assist them in understanding what is required of them.**

*Commentary*

In fulfilling their "affirmative role in facilitating the ability of every person who has a legal interest in a proceeding to be fairly heard," judges may "provide brief information about the proceeding and evidentiary and foundational requirements" to a self-represented litigant. S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 & comment 1A (2016). Judges may also "attempt to make legal concepts understandable" and "make referrals as appropriate to any resources available to assist the litigants." *Id*. This should be done on the record. See generally Cynthia Gray, *Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants,* American Judicature Society (2005), 2 ("It does not raise reasonable questions about a judge's impartiality for the judge to explain to all parties how the proceedings will be conducted, for example, to explain the process, the elements, that the party bringing the action has the burden to present evidence in support of the relief sought, the kind of evidence that may be presented, and the kind of evidence that cannot be considered").

Guidance on how to provide explanations that give the parties appropriate legal information, rather than impermissible legal advice, can be found in Guideline 1.6 and the related commentary.

**5.3 Explaining the Trial or Hearing Process. Judges should take steps to ensure that all litigants, including self-represented litigants, understand the process and ground rules for trials and evidentiary hearings. While the content will depend upon the nature of the event, in many cases the judge should inform the parties about:**

- **the role of each participant, including the judge and staff; and**
- **the scope of the issues to be decided.**

**The judge should also explain to the parties that:**

- **where applicable, a case may be tried with either a judge or jury as fact finder;**

- **the case will be decided based upon on the law and the evidence;**
- **each side will have the opportunity to present evidence;**
- **the judge will guide the proceedings and decide what evidence can be considered;**
- **the judge may ask questions, but the questioning should not be interpreted as providing assistance to one side or the other, or as indicating the judge's opinion of the case;**
- **the litigants, not the court, are responsible for subpoenaing witnesses and records; and**
- **except when examining or cross-examining witnesses, self-represented litigants, as well as counsel for any represented party, should address their remarks and questions to the judge and not to the opposing party or opposing counsel.**

*Commentary*

As discussed in the commentary to Guideline 5.2, providing self-represented litigants with information about the proceedings and applicable procedural requirements for trials and other evidentiary hearings is both appropriate and encouraged. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016) (judges may properly "provide brief information about the proceeding and evidentiary and foundational requirements" to enable self-represented litigants to understand what they have to do to present their case). Where applicable, judges should inform litigants of the options for trying the case with or without a jury, and how that decision may impact the way the proceeding is conducted. See Superior Court Rule 20 (2) (h) and 20 (8), and Land Court Rule 14 for examples of non-jury trial options.

Furthermore, where both parties are self-represented and there is no jury, judges may "facilitat[e] the ability of all litigants" to be fairly heard on the merits of their case by modifying trial procedure or adopting an informal process. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 & comment 1A (2016). For example, judges may allot each party a set amount of time to tell the judge relevant facts, without interruption from the opposing party, and the judge will ask questions as needed. See generally Jona Goldschmidt et al., *Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers,* American Judicature Society (1998), at 57 ("Most judges provide self-represented litigants with a detailed explanation of trial procedures, as time permits, and then allow narrative testimony").

Judges may properly question witnesses, even if doing so may strengthen one party's case, so long as the examination is not partisan in nature, biased, or a display of belief in one party's case over the other's. See *Commonwealth* v. *Shepherd*, 493 Mass. 512, 533 (2024), quoting *Commonwealth* v. *Carter,* 475 Mass. 512, 525 (2016) ("A judge may properly question a witness, even where to do so may reinforce the Commonwealth's case, so long as the examination is not partisan in nature, biased, or a display of belief in the defendant's guilt"); *Commonwealth* v. *Hassey*,

40 Mass. App. Ct. 806, 810 (1996) ("a trial judge may question witnesses to clarify the evidence, eradicate inconsistencies, avert possible perjury, and develop trustworthy testimony," but "may not, however, weigh in, or appear to do so, on one side or the other; the judge must avoid the appearance of partisanship"); see also *Adoption of Norbert*, 83 Mass. App. Ct. 542, 547 (2013) (judge's questioning was excessive, but did not deprive mother of impartial justice); Guidelines 5.4 and 5.5.

In some instances, a judge must examine a witness to ensure that there is sufficient evidence in the record from which a determination can be made. See *Boston Hous. Auth.* v. *Y.A.*, 482 Mass. 240, 247 (2019), citing S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 & comment 1A (2016) (tenant's "mention of domestic violence as a possible factor in her failure to make the required [rent] payments was a sufficient signal to the judge to inquire further to elicit additional facts in order to determine whether [tenant] was entitled to [Violence Against Women Act (VAWA)] protection"; "where a judge is given reason to believe that domestic violence is or might be relevant to a landlord's basis for eviction, the judge must ensure that he or she has sufficient evidence to make a determination whether the tenant is entitled to VAWA protections"); see also *Department of Revenue Child Support Enforcement* v. *Grullon*, 485 Mass. 129, 137-138 (2020) (judge erred in finding self-represented defendant in civil contempt for failure to pay child support, where judge did not inquire into whether defendant had present ability to pay child support).

Judges should be prepared to direct litigants to resources regarding subpoenaing witnesses and should instruct them about courtroom decorum. See Guidelines 1.6 and 3.1.

**5.4 Explaining the Applicable Law. At the outset of any hearing or trial, judges should take steps to help self-represented litigants understand the issues to be decided and the standard of proof they must meet. Using plain language, the judge should and sometimes must inform the litigants of the elements of their respective claims and defenses, the applicable burden of proof, and who must carry the burden on various issues.**

**The judge may find it helpful to convey this information in the same way that these concepts are explained to a jury in plain language jury instructions.**

*Commentary*

In *Turner* v. *Rogers*, 564 U.S. 431, 435, 449 (2011), and *Department of Revenue Child Support Enforcement* v. *Grullon*, 485 Mass. 129, 134-136 (2020), the United States Supreme Court and the Supreme Judicial Court respectively held that, to meet the requirements of due process, self-represented defendants must receive notice that their ability to pay is a critical issue in civil contempt proceedings where they face incarceration for failure to pay child support. Although most civil cases involving self-represented litigants do not entail the potential loss of liberty, they may result in the loss of a home or custody of a child, or in significant financial losses. Therefore, judges should routinely identify the critical issues to be decided. Judges should also explain the elements of the claims and defenses and the standard of proof that must be met. This practice will help to promote more efficient proceedings and more accurate and fair outcomes. See *Ensuring the Right to Be Heard: Guidance for Trial Judges in Cases Involving Self-Represented Litigants*, Institute

for the Advancement of the American Legal System (November 2019), 7 ("Although clearly beyond its precise holding, *Turner* v. *Rogers* provides the basis for articulating a right to 'informational justice' for self-represented parties. In order to participate effectively in a legal matter, both parties need to have a clear understanding of: . . . the legal elements that must be established, [including] the standard of proof that must be met, . . . [w]hat sort and types of evidence can be presented to meet those requirements, [and] [t]he affirmative defenses available to the other side, if there are any. . . .[L]aying this informational groundwork at the beginning of a . . . hearing, or trial significantly improves the likelihood of a just outcome to the proceeding" and "eliminates many of the procedural concerns that arise in appellate case law").

When explaining these concepts, the judge should use plain language. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016) (reasonable accommodations for self-represented litigants include making legal concepts understandable). Practical guidance on how to use plain language when dealing with complex legal concepts can be found in the Superior Court Guidelines for Drafting Model Jury Instructions. See Superior Court Guidelines for Drafting Model Jury Instructions, Section 1 (March 18, 2021). Additional guidance on plain language can be found in Guideline 2.2 and the related commentary.

**5.5 The Judge's Role at Trial. Whether or not the parties are represented by counsel, the judge's role at trial remains the same. The judge's function is to direct, control and guide the proceedings in a neutral but engaged way.**

*Commentary*

The trial judge's active role at trial is well-established by case law. "Whether a party is represented by counsel at a trial or represents himself, the judge's role remains the same. The judge's function at any trial is to be 'the directing and controlling mind at the trial, and not a mere functionary to preserve order and lend ceremonial dignity to the proceedings.'" *Commonwealth* v. *Sapoznik*, 28 Mass. App. Ct. 236, 241 n.4 (1990), quoting *Commonwealth* v. *Wilson*, 381 Mass. 90, 118 (1980). In cases involving one or more self-represented litigants, this role includes "provid[ing] a self-represented party with a meaningful opportunity to present her case by guiding the proceedings in a neutral but engaged way." *CMJ Mgt. Co.* v. *Wilkerson*, 91 Mass. App. Ct. 276, 283 (2017); see also *Morse* v. *Ortiz-Vazquez*, 99 Mass. App. Ct. 474, 479-480 (2021).

**5.6 Evidence. While the rules of evidence apply to all litigants whether or not they are represented by counsel, judges must be mindful of their obligation to ensure that self-represented litigants are provided the opportunity to meaningfully present their claims and defenses. To that end, judges should exercise their broad discretion over evidentiary matters to:**

- **establish the procedure that will be followed for the introduction of self-represented litigants' testimony;**
- **explain the process for offering evidence, including digital evidence;**
- **reduce procedural barriers to the entry of evidence;**

- **question witnesses to elicit or clarify information;**
- **explain foundational requirements and, if necessary, ask questions to determine whether those requirements are met;**
- **exclude or strike inadmissible evidence sua sponte;**
- **require counsel to explain objections in detail; and**
- **explain evidentiary rulings.**

*Commentary*

The judge's role as "the directing and controlling mind at the trial" includes direction of the process and procedure for the taking of evidence. *Commonwealth* v. *Sapoznik*, 28 Mass. App. Ct. 236, 241 n.4 (1990), quoting *Commonwealth* v. *Wilson*, 381 Mass. 90, 118 (1980). In all cases, judges "should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to: (1) make those procedures effective for determining the truth, (2) avoid wasting time, and (3) protect witnesses from harassment or undue embarrassment." Mass. G. Evid. § 611 (a) (2024).

In cases involving self-represented litigants, judges may be particularly proactive in evidentiary matters. As explained in the Code of Judicial Conduct, in order to fulfill the judge's affirmative role in facilitating the ability of self-represented litigants to be fairly heard, the judge may, for example, provide information about evidentiary and foundational requirements, ask neutral questions to elicit or clarify information, and modify the manner or order of taking evidence or hearing argument. S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 (A) & comment 1A (2016). Judges may also act sua sponte to exclude evidence when the circumstances warrant it. See *Commonwealth* v. *Lucien*, 440 Mass. 658, 664 (2004) (holding that "judge has discretion to exclude irrelevant evidence, sua sponte, provided he does not exhibit bias in the process"); *Commonwealth* v. *Haley*, 363 Mass. 513, 517-519 (1973), S.C. 413 Mass. 770 (1992) (discussing judge's power to exclude evidence sua sponte); *Sapoznik*, 28 Mass. App. Ct. at 241 n.4 ("At times during the course of any trial, even when a party is represented by counsel, it may become necessary for a judge to intervene although there has been no objection to the admissibility of certain evidence").

In non-jury cases where both parties are self-represented, it can be useful for the judge to allow them to give narrative testimony. See commentary to Guideline 5.3. When that procedure is utilized, the judge will be assumed to have applied evidentiary principles correctly to the parties' accounts. See *Commonwealth* v. *Batista*, 53 Mass. App. Ct. 642, 648 (2002) ("A trial judge sitting without a jury is presumed, absent contrary indication, to have correctly instructed himself as to the manner in which evidence was to be considered in his role as factfinder").

When self-represented litigants are unable to meet the procedural requirements for the presentation and preservation of evidence (such as providing multiple copies or having to pay fees

to obtain court records), judges and court staff should make reasonable accommodations when appropriate. This is especially true with regard to digital evidence, where the consideration and preservation of the evidence may present special challenges.

Because it has become commonplace for self-represented litigants to seek to rely upon digital evidence that exists on their cell phones, judges should familiarize themselves with the protocols for the presentation and preservation of digital evidence set forth in the Massachusetts Guide to Evidence, § 1119 (2024). Section 1119 (d) specifically provides that "[b]ecause self-represented litigants may be limited in their ability to present and object to digital evidence, a judge should make reasonable efforts, consistent with the law, to ensure that self-represented litigants are fully heard." Accordingly, when a litigant is unable to produce digital evidence from a personal device in a format that is suitable to mark as an exhibit, § 1119 (c) provides that the judge may not refuse to consider it and should, instead, inspect it. Protocols for receiving and preserving digital evidence are set forth in the Note accompanying § 1119.

For additional cases indicating that a judge may take a proactive role in evidentiary matters, see *Commonwealth* v. *Jackson*, 419 Mass. 716, 722 (1995) (rejecting defendant's contention that he was prejudiced by the judge's interruptions where they were an attempt to assist defendant by explaining how to show that witness made a prior inconsistent statement, and also concluding that the judge correctly excluded or curtailed repetitive, argumentative and improperly phrased questions); *Griffith* v. *Griffith*, 24 Mass. App. Ct. 943, 945 (1987) (where self-represented litigant tended to stray into irrelevant considerations, judge was warranted in attempting to narrow the issues, ask questions, and direct the course of trial); *Adoption of Seth*, 29 Mass. App. Ct. 343, 350-351 (1990) (interests of efficiency often require that judges become directly involved in the case; judge did not abuse his discretion by suggesting psychiatrist be called because suggestion was based on impressions formed from participation in the case, not from prejudicial information gleaned from extrajudicial source).

In some proceedings (e.g., small claims), the applicable rules may permit even greater informality and participation by judges in eliciting facts. See *McLaughlin* v. *Municipal Ct. of the Roxbury Dist*., 308 Mass. 397, 403 (1941) (no error where judge took charge of small claims procedure, because statute governing those procedures was intended to provide a simple, prompt, and informal means of disposing of such claims and gave judge wide discretion to manage case). These include:

- Proceedings under G. L. c. 209A and G. L. c. 258E. See Mass. G. Evid., § 1106 (2024) ("In all civil proceedings under G. L. c. 209A (abuse prevention) and G. L. c. 258E (harassment prevention), the law of evidence should be applied flexibly by taking into consideration the personal and emotional nature of the issues involved, whether one or both of the parties are self-represented, and the need for fairness to all parties"); *Frizado* v. *Frizado*, 420 Mass. 592, 597-598 (1995) (in a civil proceeding under G. L. c. 209A, "the rules of evidence need not be followed, provided that there is fairness in what evidence is admitted and relied on"); *A.P.* v. *M.T.*, 92 Mass. App. Ct. 156, 161 (2017) (applying same principle to proceedings under G. L. c. 258E).

- Small claims. See Small Claims Standards (2002), § 6:10 ("The court should not require strict adherence to the rules of evidence in small claims trials"). See also *id*., § 1.00, commentary ("The small claims experience is different from other court proceedings because litigants, other than commercial litigants, generally appear without lawyers. . . . Trial Court personnel should recognize this fact and make every effort to assist small claims litigants as they try to navigate the unfamiliar territory of the clerk-magistrate's office and the courtroom on their own").

**5.7 When Opposing Party Is Represented by Counsel. Judges must give lawyers the opportunity to present their clients' cases and advocate for their clients' interests, while, at the same time, conducting the proceedings in a manner that enables self-represented parties to meaningfully present their claims and defenses.**

**Judges may wish to alert the parties at the beginning of the trial that, in order to manage the case efficiently and allow both sides to participate fully, it may be necessary for the judge to play an active role in guiding the proceedings.**

**Judges must maintain control over the courtroom and not permit either the self-represented litigant or the lawyer to interrupt each other or obstruct the other's presentation. In cases where a self-represented litigant is testifying in narrative form, judges should pay particular attention to ensure that objections from counsel are handled in a manner that does not impede the testimony of the self-represented litigant while also ensuring a fair hearing for the represented party.**

*Commentary*

"At times during the course of any trial, even when a party is represented by counsel, it may become necessary for a judge to intervene although there has been no objection to the admissibility of certain evidence." *Commonwealth* v. *Sapoznik*, 28 Mass. App. Ct. 236, 242, n.4 (1990). "'[T]he judge is not required to sit idly by while counsel for either side questions a witness in an effort to obtain an answer which could be the basis of either a motion for mistrial or a claim on appeal that prejudicial matters were brought to the attention of the jurors.'" *Id*., quoting *Commonwealth* v. *Wilson*, 381 Mass. 90, 118 (1980). This does not mean that a judge must become a lawyer for a self-represented litigant; however, the judge should recognize when opposing counsel is "engaging in improper tactics and taking advantage of the [self-represented litigant's] unrepresented status" and "promptly intervene[ ], not to be of assistance to the [self-represented litigant], but to assert a judge's traditional role of making sure that all the parties receive a fair trial." *Id.*

Judges may require counsel to explain objections in detail, and judges should explain their evidentiary rulings. Cynthia Gray, *Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants*, American Judicature Society (2005), 39-40. To avoid the appearance of partiality, judges should explain that any questions the judge may ask are for the purpose of clarifying the testimony and should not be taken as an indication of the judge's opinion of the case. See *Commonwealth* v. *Hassey,* 40 Mass. App. Ct. 806, 810 (1996) (judge must avoid appearance of partisanship in questioning witnesses). This is particularly important in cases involving one self-represented litigant and one represented party.

**5.8 Jury Trials. Jury trials with self-represented litigants present special issues and require some additional actions by judges to make sure that the trial proceeds as fairly and smoothly as possible. The judge must remain in the role of the neutral presiding judge, while making sure that appropriate information is shared with the self-represented litigant. Judges should explain to the self-represented litigant that while judges can provide procedural information about what will be happening and some procedural guidelines, the judge cannot help self-represented litigants with the choices that they must make and the substance of their claims, defenses, and/or strategies.**

**At any time before a jury trial commences, judges may raise the issue of whether to have a jury or jury-waived trial. This issue is of particular importance when one or more parties are self-represented. The judge should encourage all of the parties to think about the advantages and disadvantages of proceeding with or without a jury. The judge should not coerce the decision, but may point out that it can be challenging to conduct a jury trial without an attorney and that there is the option of a trial without a jury, where the judge is the fact finder.**

**Judges should instruct the jury that they are not to consider questioning by the judge to be an indication of the judge's opinion as to how the jury should decide the case. Judges also should instruct the jury that, if for any reason they believe that the judge has expressed or hinted at any opinion about the facts of the case, they should disregard it.**

**Judges should instruct the jury on the right to self-represent in the pre-charge and final jury instructions.**

*Commentary*

In jury cases, judges should instruct the jury that they are not to consider questions asked by the judge as any indication of the judge's opinion as to how the jury should decide the case and that if the jury believes that the judge has expressed or hinted at any opinion about the facts of the case, they should disregard it. See Massachusetts Superior Court Civil Practice Jury Instructions §§ 1.2.1 (a), 1.2.2 (c) (Mass. Continuing Legal Educ. 3rd ed. 2014, & 2018 supp.); cf. Criminal Model Jury Instructions for Use in the District Court § 2.120 & supp. instruction 6 (Mass. Continuing Legal Educ. 3rd ed. 2009 & 2019 supp.).

**5.9 Remote Trials and Hearings. These guidelines apply equally to trials and hearings conducted in person, hybrid, and remotely, i.e., by telephone, video, or another virtual platform.**

**When a self-represented litigant is participating in a trial or hearing remotely, judges must take steps to ensure that the remote trial or hearing comports with the requirements of due process and provides the self-represented litigant equal access and a meaningful opportunity to be heard. In particular, judges must ensure, preferably in advance of the remote trial or hearing, that the self-represented litigant:**

- **has access to the technology necessary to participate in the trial or hearing;**

- **understands the process to be used for the trial or hearing, including but not limited to the availability and use of breakout rooms and document sharing; and**

- **understands the procedures to be used when the technology does not work as intended.**

**If the self-represented litigant does not have access to the preferred technology for a remote proceeding, the judge must determine what technology the self-represented litigant does have available that will enable the litigant to participate in the trial or hearing and take reasonable steps to assist the self-represented litigant with such technology. If the judge cannot ensure that the self-represented litigant has appropriate access and a meaningful opportunity to be heard, then the trial or hearing may not be conducted remotely.**

*Commentary*

Massachusetts appellate courts have found no per se violations of due process because of trials or hearings conducted hybrid or remotely as a result of the COVID-19 pandemic. However, special consideration must be given to put safeguards in place to address the potential pitfalls of reliance on technology. This Guideline is derived in large part from guidance that the Supreme Judicial Court provided in *Adoption of Patty*, 489 Mass. 630 (2022), regarding such safeguards. In that case, the Supreme Judicial Court concluded that "the use of an Internet-based video conferencing platform to conduct a trial on the issue whether to terminate a party's parental rights does not present a per se violation of due process provided that adequate safeguards are employed." *Id*. at 631. The court, however, ruled that the mother's due process rights were indeed violated because "[l]amentably, the first day of the two-day virtual bench trial conducted in this case was plagued by technological issues and inadequate safeguards, resulting in the self-represented mother's inability to participate either by video or by telephone, interrupting the testimony of the witnesses presented by the Department of Children and Families (department) during its case-in-chief, causing the mother to miss all but a few minutes of the department's evidence against her." *Id*. The court determined that the conduct of the virtual bench trial violated the mother's right to due process under the Fourteenth Amendment to the United States Constitution and art. 10 of the Massachusetts Declaration of Rights and vacated the decree. *Id*. at 631-632.

When conducting remote trials or hearings, judges "must ensure, preferably in advance of the hearing, that the participants understand the procedures to be used when the technology does not work as intended." *Id*. at 641. Judges should constantly and consistently make sure that the technology used to conduct the remote trial or hearing is functioning properly. When technological difficulties inevitably arise, judges should suspend the hearing and resume the hearing after the technological difficulty is resolved. *Id*.

Judges should take steps in advance of remote trials or hearings to make sure that self-represented litigants have the necessary technology to connect to the remote proceeding. *Id*. at 645. If a self-represented litigant does not possess this technology, judges should explore whether it would be possible to assist in obtaining access to such technology. *Id*. Furthermore, judges should consider encouraging the parties to share documents and exhibits in advance because it may be difficult to share such exhibits during a remote hearing by telephone. See *id*. at 646. If a remote hearing or trial is conducted using video conferencing, the judge should ensure that there is a plan for presenting evidence and other documents at the hearing.

Judges should take into consideration not just access to technology, but also a self-represented litigant's technological capabilities in using the technology. In some instances, the differing needs and abilities of the parties and witnesses when it comes to technology may make a hybrid format or other creative solutions appropriate. See Remote Hearings and Access to Justice During Covid-19 and Beyond (http://www.ncsc.org/__data/assets/pdf_file/0018/40365/RRT-Technology-ATJ-Remote-Hearings-Guide.pdf), National Center for State Courts (discussing the "digital divide" and noting "that access considerations require creative and inclusive practices beyond a blanket requirement for litigants to participate in hearings remotely"). See generally *Idris I.* v. *Hazel H.*, 100 Mass. App. Ct. 784, 789-90 (2022) (affording a meaningful opportunity to be heard in a remote hearing should include establishing a process for the exchange and use of documentary evidence).

To assist both the parties and the court in Superior Court hearings, judges should consider referring attorneys and self-represented litigants to the Superior Court Civil Committee, Tips for Attorneys and Self-Represented Litigants Appearing in Remote Civil Hearings Before the Superior Court, May 4, 2020 (https://www.mass.gov/info-details/tips-for-attorneys-and-self-represented-litigants-appearing-in-remote-civil-hearings-before-the-superior-court).

## 6. Post-Hearing Matters

**6.1 Post-Trial Submissions. Where a judge has discretion to decide whether to require post-trial submissions, such as proposed findings of fact and conclusions of law or a proposed judgment, the judge should consider the hardships and challenges that self-represented litigants may face in preparing such submissions.**

**When post-trial submissions are required, the judge should explain that these documents must comport with evidence admitted at trial. The judge should also inform the parties how and when to submit them.**

*Commentary*

This Guideline is consistent with provisions in the Code of Judicial Conduct permitting judges to exercise their discretion to make reasonable accommodations for self-represented litigants, so long as the accommodations do not give them an unfair advantage or create an appearance of judicial partiality. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016).

Note that in the District Court and the Boston Municipal Court, in most cases judges need not render specific findings of fact and conclusions of law after jury-waived trials unless at least one party submits proposed findings and conclusions. See Mass. R. Civ. P. 52 (c), as appearing in 450 Mass. 1404 (2008). By agreement, the parties may also waive written findings of fact by the judge in certain proceedings in Superior Court and Land Court. See Superior Court Rule 20 (2) (h) and 20 (8); Land Court Rule 14 (a) (approval of the judge is required in Land Court).

**6.2 Issuing the Decision. Judges may exercise their discretion in deciding whether to announce and explain their decisions from the bench with the parties present, or to take the matter under advisement. In deciding which course to take, judges should be mindful of any exigent circumstances.**

**If there is no immediate need to enter an order, and the judge wishes to take the matter under advisement, the judge should inform the parties that the judge would like to consider their evidence and arguments. If possible, the judge should give the parties a timeframe within which the decision will be issued. The judge should also inform them that the decision will be sent to the mailing address and/or e-mail address that the court has on file for them. If any party has a language access issue, the judge should inform the litigant that it is important to get the decision translated when it arrives.**

**The judge should make clear that until the decision is issued, any existing temporary orders remain in effect, and the parties must continue to comply with them. If the decision being issued is a temporary order, the judge should explain that there will be further proceedings for which the parties must prepare.**

*Commentary*

This Guideline is consistent with the provisions in the Code of Judicial Conduct that permit judges to make reasonable accommodations, such as explaining the basis for a ruling, in order to help self-represented litigants understand the proceedings and applicable procedural requirements. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016).

When one or more of the parties present before the court is of limited English proficiency, and there is an interpreter available in person or virtually to provide contemporaneous interpretation, the judge should consider this factor in deciding whether to rule from the bench. Consideration should always be given to safety, security, and courtroom management in deciding when and how to issue a decision.

**6.3 Content of the Decision. Decisions should be issued in plain language, make the outcome of the proceeding clear, and provide an understandable explanation for the rationale behind the decision.**

*Commentary*

To make decisions more intelligible, judges should consider the following recommended best practices:

- clearly explain the basis for the court's rulings and the legal concepts supporting the result;
- avoid legal jargon, abbreviations, acronyms, or shorthand; and
- include information about any further hearings, referrals, or other obligations.

See Cynthia Gray, *Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants,* American Judicature Society (2005), 20-21. See also. S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016). For more guidance on the use of plain language, see the resources listed in the commentary to Guideline 2.2.

**6.4 Appeals and Other Post-Judgment Matters. Judges should be familiar with available resources for self-represented litigants relating to appeals and other post-judgment matters. Upon inquiry, or when otherwise deemed appropriate, judges should direct self-represented litigants to those resources.**

*Commentary*

Judges may make referrals as appropriate to resources available to assist litigants. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6 comment 1A (2016). Numerous resources exist to assist litigants in complying with or enforcing the decision, taking an appeal, and pursuing other post-judgment matters such as motions for a new trial and motions to stay. See, e.g., Massachusetts Trial Court Law Libraries Handbook: Representing Yourself in a Civil Case

(2018) (https://www.mass.gov/info-details/representing-yourself-in-a-civil-case-ix-after-the-courts-decision), which provides explanations for self-represented litigants about enforcement (execution, payment hearings, supplementary process, contempt, and summary process), appeals of court decisions, and the impact of an appeal on enforcement.

Self-represented litigants also may obtain in-person and remote assistance with regard to appeals and other post-judgment actions from the Trial Court's Court Service Centers (https://www.mass.gov/info-details/learn-about-court-service-centers). In addition, detailed resources are available online from Trial Court websites, the Appeals Court website, the Supreme Judicial Court website, and websites sponsored by legal aid organizations, such as masslegalhelp.org.

## 7. The Judge's Wider Role in Promoting Access to Justice

**7.1 Services for Self-Represented Litigants. All judges, and especially those with administrative responsibilities, should encourage, support, and initiate efforts in the courts to improve services for self-represented litigants.**

*Commentary*

The excellence of our courts depends not only on what takes place in individual courtrooms, but also on the infrastructure that supports the fair and efficient adjudication of cases. Thus, the Code of Judicial Conduct provides not only that judges must decide their cases competently and diligently, but also that they must be mindful of administrative imperatives. See S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.5 (B) (2016) ("A judge shall cooperate with other judges and court officials in the administration of court business"); *id.*, comment 2 ("A judge should seek the necessary resources to discharge all adjudicative and administrative responsibilities").

The prevalence of self-representation has created many challenges for litigants and the courts. It is therefore essential that judges support efforts to ensure that self-represented litigants are able to navigate the court system effectively and have their cases fairly heard and decided.

Judges with administrative responsibilities can play an especially important role in improving access to justice for the self-represented by taking steps that facilitate the ability of judges under their authority to follow these Guidelines and adopt best practices in handling cases involving self-represented litigants.

Judges can also promote access to justice for the self-represented by supporting and improving existing self-help services, such as Court Service Centers, Lawyer for the Day programs, interpreter services, courthouse navigation aids, and online guidance. In addition, judges can learn about and support other innovations that are commonly used with success in other jurisdictions, such as the development of simplified uniform forms and the use of guided interview and document assembly programs that make it easier for self-represented litigants to complete and file court papers.

**7.2 Activities. Judges are encouraged, consistent with the Code of Judicial Conduct, to engage in activities to improve access to justice for self-represented litigants and other court users. Such activities might include:**

- **attending, developing, or speaking at educational programs concerning best practices for cases involving self-represented litigants;**
- **serving on court committees tasked with improving services for those who come to court without lawyers; and**

- **encouraging lawyers to increase access to legal services for those who cannot afford them by providing pro bono or reduced fee services, participating in court-based Lawyer for the Day and conciliation programs, or, in appropriate cases, providing clients with limited assistance representation (LAR).**

*Commentary*

"Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice." S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 3, Rule 3 comment 1 (2016). For that reason, under the Code of Judicial Conduct, "[a] judge is encouraged to participate in activities that . . . promote access to justice for all," and "to initiate and participate in appropriate community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice." *Id*., Canon 1, Rule 1.2 comments 4 & 6. These provisions are consistent with the national consensus that the judiciary must take a leading role in improving access to justice, as reflected in Resolution 5, Reaffirming the Commitment to Meaningful Access to Justice for All, adopted by the Conference of Chief Justices and Conference of State Court Administrators in 2015, which urged members to provide leadership in achieving the aspirational goal of 100 percent access to effective assistance for essential civil legal needs.

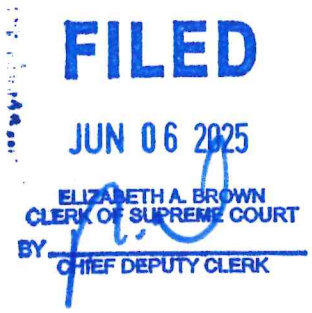
Within the courts, judges can and should promote access to justice by working with their colleagues to develop and support services and practices that make it easier for self-represented litigants to obtain assistance, navigate the litigation process. and have their cases fairly heard. See commentary to Guideline 7.1, *supra*.

Within the wider community, judges may be involved in activities that promote access to justice, subject to the requirements of S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 3, Rules 3.1 & 3.7 (2016). A specific example identified in the Code is that judges "may promote broader access to justice by encouraging lawyers to provide pro bono publico or reduced fee legal services, if in doing so the judge does not employ coercion or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono publico legal work, and participating in events recognizing lawyers who have done pro bono publico work." *Id*., Rule 3.7 comment 6.

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENT TO SUPREME COURT RULE 48.1 REGARDING FEE WAIVERS FOR PEREMPTORY CHALLENGES

ADKT 0625




*ORDER AMENDING SUPREME COURT RULE 48.1*

WHEREAS, on May 6, 2025, Kristina Pickering and Lidia S. Stiglich, Justices of the Nevada Supreme Court and Co-Chairs of the Access to Justice Commission, filed a petition to amend Supreme Court Rule (SCR) 48.1 to exempt a party to a proceeding in forma pauperis or via a legal aid program from the peremptory challenge filing fee (currently $450); and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on June 4, 2025; accordingly,

IT IS HEREBY ORDERED that the proposed amendments to the SCR 48.1 shall be adopted and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the amendments to SCR 48.1 shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the *Nevada Reports* and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of



25-25158

this order shall be conclusive evidence of the amendment and publication of the foregoing rules.

Dated this 4 day of June, 2025.

_____, C.J.
Herndon

_____, J.
Pickering

_____, J.
Parraguirre

_____, J.
Bell

_____, J.
Stiglich

_____, J.
Cadish

_____, J.
Lee

cc: Richard Dreitzer, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
All District Court Judges
Legal Aid Center of Southern Nevada
Northern Nevada Legal Aid
Nevada Legal Services
Southern Nevada Senior Law Project
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Douglas County Bar Association
Elko County Bar Association
Administrative Office of the Courts

## EXHIBIT A

## AMENDMENT TO SUPREME COURT RULE 48.1

**Rule 48.1. Procedure for change of judge by peremptory challenge.**

1. In any civil action pending in a district court, which has not been appealed from a lower court, each side is entitled, as a matter of right, to one change of judge by peremptory challenge. Each action or proceeding, whether single or consolidated, shall be treated as having only two sides. A party wishing to exercise the right to change of judge shall file a pleading entitled "Peremptory Challenge of Judge." The notice may be signed by a party or by an attorney, it shall state the name of the judge to be changed, and it shall neither specify grounds, nor be accompanied by an affidavit. If one of two or more parties on one side of an action files a peremptory challenge, no other party on that side may file a separate challenge.

2. A notice of peremptory challenge of judge shall be filed in writing with the clerk of the court in which the case is pending and a copy served on the opposing party. The filing shall be accompanied by a fee of $450, which the clerk shall transmit to the clerk of the supreme **[~~court.~~]** *court, unless the party is proceeding in forma pauperis, is "a client of a program for legal aid" as defined by NRS 12.015(8), or has otherwise qualified and been accepted for representation through a program for legal aid, in which case no fee will be collected.* The fee shall be collected by the clerk of the supreme court and deposited in the state treasury for the support of the travel and reasonable and necessary expenses of district judges, senior justices and judges, and former justices and judges incurred in the performance of judicial duties, and, thereafter for other expenditures deemed reasonable and necessary by the

supreme court. Within 2 days of the notice of peremptory challenge having been filed, the clerk of the district court shall:

(a) In a judicial district in which there are more than two departments, randomly reassign the case to another judge within the district;

(b) In a judicial district in which there are two or less departments, assign the case to the remaining judge. Alternatively, the presiding judge in the district may request the chief justice to assign the case to a judge of another district.

3. Except as provided in subsection 4, the peremptory challenge shall be filed:

(a) Within 10 days after notification to the parties of a trial or hearing date; or

(b) Not less than 3 days before the date set for the hearing of any contested pretrial matter, whichever occurs first.

4. If a case is not assigned to a judge before the time required for filing the peremptory challenge, the challenge shall be filed:

(a) Within 3 days after the party or his attorney is notified that the case has been assigned to a judge; or

(b) Before the jury is sworn, evidence taken, or any ruling made in the trial or hearing, whichever occurs first.

5. A notice of peremptory challenge may not be filed against any judge who has made any ruling on a contested matter or commenced hearing any contested matter in the action. Except as otherwise provided in subsection 8, a peremptory challenge may not be filed against any judge who is assigned to or accepts a case from the overflow calendar or against a senior or pro tempore judge assigned by the supreme court to hear any civil matter.

6. The judge against whom a peremptory challenge is filed shall not contact any party or the attorney representing any party, nor shall the judge direct any communication to the clerk of the district court with respect to reassignment of the case in which the peremptory challenge was filed.

7. The filing of an affidavit of bias or prejudice without specifying the facts upon which the disqualification is sought, which results in a transfer of the action to another district judge is a waiver of the parties' rights under this rule. A peremptory challenge under this rule is a waiver of the parties' rights to transfer the matter to another judge by filing an affidavit of bias or prejudice without specifying the facts upon which the disqualification is sought.

8. When a senior judge is appointed to hear a trial or dispositive motion more than 30 days prior to the trial or hearing, a party may follow the procedures in this rule to exercise a peremptory challenge to change the senior judge assigned to the trial or hearing. If a senior judge is assigned to such matter less than 30 days before the matter is to be decided, the parties may not exercise a peremptory challenge. A party may exercise one peremptory challenge against a senior judge in addition to the one peremptory challenge against a judge allowed by subsection 1 of this Rule.

9. Notwithstanding the prior exercise of a peremptory challenge, in the event that the action is reassigned for any reason other than the exercise of a peremptory challenge, each side shall be entitled, as a matter of right, to an additional peremptory challenge.

| 2024 | Legal Aid Center of Southern Nevada |
|---|---|
| | In this column, use unique persons, do not duplicate, as possible |
| **Total Served** | |
| Number of hotline calls, total calls or other, if tracked (specify) | **7,782** |
| Numbers served in community outreach | **4,545** |
| Numbers served in community legal education classes | **3,450** |
| Number of clients served in Ask-A-Lawyers | **6,004** |
| Numbers served at self-help centers | **148,376** |
| Numbers served through special projects (detail, E.g. kiosks) | **4,981** |
| Total clients assisted **with** litigation (extended services, includes opened and existing clients) | **17,101** |
| Total clients assisted **without** litigation (counsel and advice, brief service/limited action, includes opened and existing clients) | **6,533** |
| Pro Bono open cases | **2,178** |
| **Total Persons Served (includes newly opened and existing clients)** | **193,168** |
| **Pro Bono** | |
| Number of new cases placed (included in above) | **464** |
| Pro Bono Number of unique attorneys. Includes multiple lawyers working on the same matter | **668** |
| Number of pro bono hours (Total, includes cases, Asks, etc.) | **21,702** |
| Number of pro bono hours x local market rate | **$** |
| **Website(s)** | **Users/Page Views** |
| Main website | **203,000/625,000** |
| Other website(s), if any. List: | |
| FLSHC | **709,000/2,488,309** |

| | |
|---|---|
| CLSHC | **688,000/1,900,000** |
| Resiliency | **18,728/104,345** |
| Pro Bono | **17,000/47,000** |
| **Total** | **1,635,728/5,164,654** |
| **Staff (FTE = Full-Time Equivalent)** | |
| Full-time attorneys FTEs | **97** |
| Full-time support staff FTEs | **105** |
| Total number of employees FTEs | **202** |

**Other**

Number of counties served. Detail any change.

Is your membership payment to the Nevada Coalition of Legal Service Providers current?

*Secton below only for organizations operating as approved by the Access to Justifce Commission for less than 5 years*

**Attachments**

Organization annual report or most recent general report

General narrative including awareness, prevention, and program cost savings (ROI)

Describe staff training

Attach existing client survey(s) and other relevant information

**Organizational Self Assessment**

| | |
|---|---|
| *If a survey of **other** legal aid providers, nonprofits and the judiciary was conducted, on a scale from 1-5 how would **they** rate your organization on the following:* | 1=Poor, 2=Fair, 3=Good, 4=Very Good, 5=Excellent |
| Organizational presence/brand in the marketplace | |
| Communication with clients and stakeholders | |
| Relationship with clients and stakeholders | |
| Collaboration with other legal aid providers | |
| Relationship with other nonprofits | |
| Relationship with governmental partners | |
| Relationsip with grantors and donors | |

**ACCESS TO JUSTICE COMMISSION**

**MEMO**

**Date:** **June 25, 2025**
**To:** **Access to Justice Commission**
**From:** **Doreen Spears Hartwell, Chair, ATJC Nominating Committee**
**CC:** **ATJC Nominating Committee, Brad Lewis**

**RE:** **Access to Justice Commission Nominating Committee Recommendation**

A vote on Commission member replacement is needed. Below are recommended for a vote by the ATJC Nominating Committee.

| Nominated, SCR 15 slot: | Reappoint or **replace**/organization, slot: | Term to expire: |
|---|---|---|
| Zeynep Akgedik, 2(g) | **Emma Johnson**/UNLV PILA, 2(g) | 5/1/26 |
| Paul Matteoni, 2(3) | **Mark Brandenburg**/Nevada Bar Foundation, 2(e) | 7/1/28 |

We are happy to answer any questions. Thank you for your consideration.

**ACCESS TO JUSTICE COMMISSION**

# MEMO

**Date:** **April 16, 2025**
**To:** **IOLTA Rate Review Committee**
**From:** **Brad Lewis, Director, Access to Justice Commission**

**RE:** **Process for Approving New Nevada IOLTA Financial Institutions – "Located in Nevada" - Vote**

A key requirement of SCR 217 (1) is that any Nevada financial institution for IOLTA must be "located in Nevada". Several years ago, when questions surfaced about what "located in Nevada" means, I was told "it has been determined to mean a branch". I have proceeded on that basis during my tenure.

We receive many inquiries from financial institutions to be approved by the State Bar of Nevada to become an approved Nevada financial institution for IOLTA. Most are not approved due to the "branch" designation. For example, online-only banks are not allowed. However, sometimes there are those who push on what may count and there are others that seem to make sense. For example:

Examples of what I have <u>not approved</u>:

- Deposit facility – an office with employees but no customer-facing functions.
- Back-office operations – a facility with employees but no customer-facing services.
- ATMs.

Examples of financial institutions I have <u>approved</u> (including criteria developed for approval):

- Branch.
- When further inquiries are made, I share branches have been further defined to mean:
  - Customer-facing Nevada physical facility with street and building signage.
  - Minimum open hours of ~ 9am - 5pm Monday - Friday with full customer services available 100% of that time.
  - Convenient location for an attorney to apply for an IOLTA account in-person anytime and address any IOLTA issues in-person during business hours.

Rationale for developing clarifying criteria:

- Clarity for what types of "locations" qualify, and which do not.
- Changing bank landscape with a more modern approach.
- Financial institutions new approach to target markets.
- Emergence of online hybrid banks – online but also with limited physical locations.
- Increasing use of virtual banking services including remote deposit capture.
- Desire to expand options in the Nevada IOLTA program as deposits exceed $1 billion.
- Recognition of current program's limited FDIC/NCUA coverage.
- In one case, a major Nevada banking team shifted from one program bank to a new bank.

See recently approved financial institutions below from the last 24 months who do not always have tellers and I have not made that a requirement. Even long-existing banks have moved from a teller-centric lobby to more of a lounge/office-like lobby. An example of that is Meadows Bank.

Recently approved banks include:

- Axos Bank – customer-facing office in Las Vegas (and San Diego) Location
- Clark County Credit Union – seven branches in Las Vegas Location
- GenuBank – two branches in Las Vegas Location
- Farm Bureau Bank – customer-facing office in Reno Location
- MidFirst Bank – customer-facing office in Las Vegas (many in Phoenix) Location

Sample photos of new physical facilities and customer-facing lobbies are below.

Our general default position is to say "yes" if the facility could reasonably be construed as customer-facing and customer focused with easy access customer support during business hours.

I have had general concurrence from State Bar of Nevada leadership that these clarifying parameters seem reasonable. However, it's been discussed that we should share this information more widely with the Access to Justice Commission's IOLTA Rate Review Committee to generate concurrence or refinement.

A vote is sought from this Committee to retain or revise the clarifying parameters of "located in Nevada".

Thank you for your consideration, input, and vote.

See photos below.

NEVADA SUPREME COURT

ACCESS TO JUSTICE COMMISSION

NEVADA SUPREME COURT

ACCESS TO JUSTICE COMMISSION


FARM BUREAU BANK
0

NEVADA SUPREME COURT

ACCESS TO JUSTICE COMMISSION

**Section Pro Bono Challenge Annual Statistics**

| Year | 2023 | 2024 | 2025 | Notes |
|---|---|---|---|---|
| **Points** | 1457 | 1137 | 1336 | |
| **Attorneys** | 198 | 184 | 226 | |
| **Cases** | 111 | 154 | 210 | |
| **"Asks"** | 556 | 334 | 353 | |
| **Donations** | $6,335 | $4,200 | $3,850 | |
| **Hours** | 3115 | 2888 | 4906 | Cases# x 20 = x + AAL # x 2 = |
| **People served** | 2000+ | 1300+ | 1400+ | Cases # x 1 = x + AAL # x 3.5 = |
| **Sections formally participating** | 13 | 12 | 13 | Little relevancy as of 2024 due to allowing all section members to particpate |
| **Section win** | LGBT | LGBTQ+ | LGBTQ+ | |

**Recent Dues Check Off Statistics** –

- 2023 - $74,090
- 2024 - $71,445
- 2025 - $80,740

LEGAL AID CENTER of Southern Nevada
Since 1958

# Access to Justice Highlights
# 4th Quarter 2024

## Overall Stats

| Total Cases/Clients Helped | | | | |
|---|---|---|---|---|
| | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr |
| Consumer Rights Project | 3,274 | | | |
| Guardianship Advocacy Project | 3,014 | | | |
| Family Justice Project | 870 | | | |
| Immigration Advocacy Project | 1,420 | | | |
| Children's Attorneys Project | 4,464 | | | |
| Legal Service Fund Program | 578 | | | |
| Education Advocacy Program | 240 | | | |
| Volunteer Education Advocacy Program | 125 | | | |
| Civil Law Self-Help Center | 12,457 | | | |
| Family Law Self-Help Center | 23,600 | | | |
| Resiliency & Justice Center (Legal files 69, Healing & Supportive Services 553, Victim Services 760) | 1,382 | | | |
| Community Legal Education Classes | 681 | | | |
| Pro Bono Regular Cases Placed | 77 | | | |
| Pro Bono CAP Cases Placed | 41 | | | |
| AAL Clients Served | 1,540 | | | |
| **TOTAL SERVED** | **53,763** | | | |

## Advocacy & Justice Complex

Legal Aid Center's work to right wrongs and change lives is critical and, to continue this work, additional space is vital. We have quadrupled the number of clients we have served, and the staff to serve them over the past ten years. Our effort is close to being a reality. A few updates:

- A meaningful and wonderful groundbreaking ceremony was held on 4/10. It was a overflow crowd, with a thoughtful program, great speakers, meaningful moments with some of our victim/clients attending, adorned by children's art.
- Construction should begin shortly!

## Overall Highlights

### Community Outreach Events

In the first quarter of 2025, we participated in 46 outreach events, connecting with over 1,000 people in our local community.

In January, partnering with Southern Nevada Senior Law Program and Nevada Legal Services, we conducted our third annual Guardianship Community Law Day. Boyd students helped us assist nearly 50 people who learned about alternatives to guardianship and options for their children with disabilities.

On February 28, we conducted another record sealing event at the North Las Vegas Justice Court and sealed records of 155 people.

Because Tyler Winkler has special crisis response training he received through his work at the Resiliency & Justice Center, NOVA (National Organization for Victim Assistance) and Los Angeles Mayor Karen Bass requested his support for their Disaster Recovery Center (DRC). From January 19th to 26th, Tyler served as a navigator at the "westside" DRC, helping survivors understand their needs and guiding them to the appropriate services. The DRC was a lot like what was set up for Oct. 1 2017, and the UNLV shooting functioning as a crucial "one-stop shop" for recovery efforts.

Tyler's responsibilities included conducting initial assessments, connecting survivors with resources, and ensuring they received the necessary aid, covering everything from FEMA assistance to housing support and mental health services. He successfully pushed for better scheduling—initially, they were expected to work 12-hour days, 7 days a week (not exactly trauma-informed). By Tuesday, they implemented Tyler's suggestion to stagger shifts so teams could rotate, preventing burnout.

We are so proud of Tyler! In reporting about the experience, he said, "I am incredibly grateful for the opportunity to have contributed to this effort and for the support that allowed me to go. It was a humbling and rewarding experience."

### New Initiatives

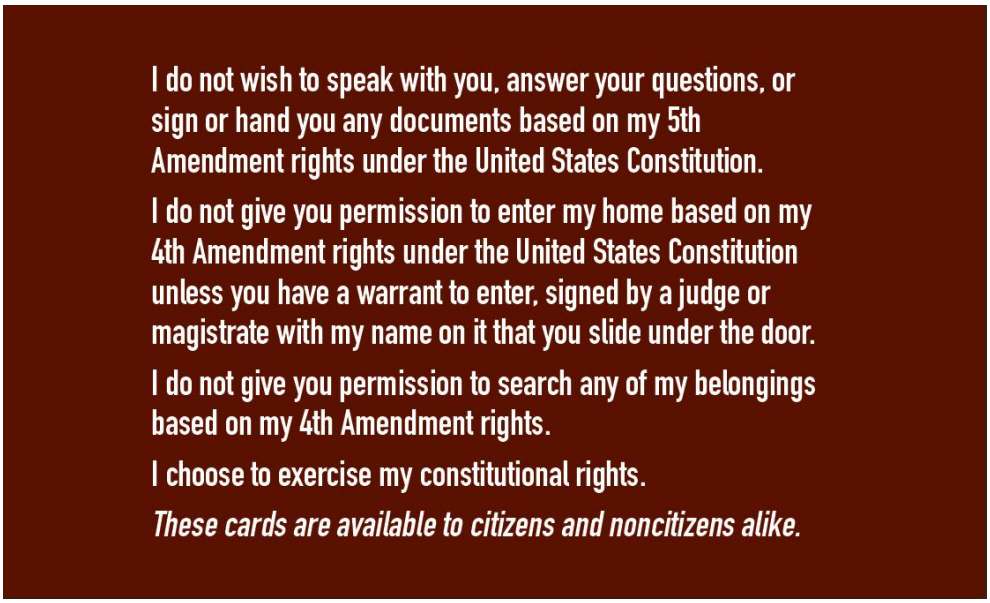
After months of hard work, the Pro Bono Project launched its **new website**. The new site is beautiful – take a look!

Since the start of the new year, our Immigration Advocacy Project team has been working tirelessly educating the community about their rights during these challenging times. The team has participated in 21 events in English and Spanish including, Clark County Commission Town Halls, webinars with the Consulates of Mexico and El Salvador, and ask-a-lawyer programs with local schools to assist families in need. What is most impressive is nearly 1,100 people have attended these programs.

We have also revised our immigration resource webpages. Check it out - Legal Aid Center of Southern Nevada - Current Immigration Information.

On March 21, our Immigration team conducted a Military Parole in Place program with the U.S. Army National Guard. They provided a group orientation for 100 people to explain the program, how we can help, and who is eligible to apply. This orientation was geared specifically towards the family members who will be the beneficiaries of the program. Our staff provided the attendees with intake forms, reviewed their supporting documents to ensure the documents were complete, and flagged possible issues for the applicants. The Pro Bono Project will hold a CLE program this summer to train pro bono attorneys to assist members of the military with their parole in place cases.

We are distributing Know Your Rights cards throughout the community and at our outreach events.




**Publications**

- **Bo Anderson -** https://clarkcountybar.org/five-things-to-know-about-the-recent-amendments-to-the-justice-court-rules-of-civil-procedure/
- **Michael Wendlberger** – https://clarkcountybar.org/pro-bono-fact-or-fiction/
- **Pro Bono Project -** https://clarkcountybar.org/wp-content/uploads/2025/02/2025-2-Communique-Feb-web.pdf **(page 26)**
- **Stephanie McDonald - forms for the Administrative Office of the Courts access through technology program** – **https://nvbar.org/wp-content/uploads/NevadaLawyer_January2025_LegalDeserts.pdf**
- https://www.fullframeinitiative.org/resources/justice-determinants-of-wellbeing-2/ **(page 12)**

**Awards**

- **Jonathan Norman** – Children's Champion Award for Leadership in Child Welfare from The Children's Advocacy Alliance (January 8)
- **Legal Aid Center of Southern Nevada** – State Bar of Nevada Partner in Diversity (January 22)
- **Michael Wendlberger** – Dennis Prince Ally Award from the Southern Nevada Association of Women Attorneys (January 30)

**Pro Bono Project** – Silver Embrace Award from Boyd's Public Interest Law Association (February 27)


**Ellie Roohani** – Silver Service Award from Boyd's Public Interest Law Association (February 27)

- **Michael Wendlberger** - Military Pro Bono Project Outstanding Service Award from the American Bar Association (March 27)

**Presentations**

- **Stephanie McDonald** – moderated/hosted an informal Short Trial Panel with family court judges (Gordon, Parlade, and Duckworth)
- **Ellie Roohani** – "Human Trafficking Townhall" with Caesars Entertainment (January 23)
- **Guardianship Advocacy Project** – "Community Law Day for Young Adults with Disabilities & Seniors" (January 25)
- **Giovanni Alonso** – "Know Your Rights" with Clark County and the ACLU of Nevada (January 28)

- **Barbara Buckley** – "Tackling Human Trafficking at Large Sporting Events" with the U.S. Chamber of Commerce and Caesars Entertainment (February 4)
- **Giovanni Alonso** on KNPR State of Nevada - **https://knpr.org/show/knprs-state-of-nevada/2025-02-06/how-trumps-mass-deportation-plan-is-affecting-latino-communities-in-las-vegas**
- **CAP's High Needs Initiatives Team** – "CLE Course: Robust Transition Planning for High-Needs Foster Youth" (February 13)
- **Children's Attorneys Project** – "CLE Course: Introduction to Representing Children in Abuse & Neglect Cases" (February 20)
- **Tyler Winkler** – "Trauma-Informed Lawyering" with Boyd's Organization of Psychology and Law (February 20)
- **Giovanni Alonso** – "Know Your Rights" with African Diaspora of Las Vegas (February 27)
- **Giovanni Alonso** – "Know Your Rights" for Three-Squares' community partners (March 13)
- **Giovanni Alonso** – "Know Your Rights" for Communities in Schools coordinators (March 18)
- **Giovanni Alonso** - "Know Your Rights" with County Commissioners, ACLU, and Mexican Consulate (March 27)

**Noteworthy Excerpts from Articles and Videos**

1. https://news3lv.com/news/local/resiliency-justice-center-offers-support-in-light-of-trauma-from-cybertruck-explosion
2. https://www.reviewjournal.com/local/local-nevada/raiders-continue-philanthropic-sustainability-and-alumni-work-in-las-vegas-3264052/
3. https://www.ktnv.com/news/locals-prepare-for-new-immigration-policy
4. https://lasvegassun.com/news/2025/jan/26/questions-answers-for-how-migrants-can-protect-the/
5. https://www.8newsnow.com/news/local-news/clark-county-aclu-town-hall-aims-to-inform-immigrants-on-rights-resources/
6. https://www.ktnv.com/news/clark-county-holding-a-know-your-rights-immigration-resource-fair-wednesday
7. https://nevadacurrent.com/2025/01/31/immigration-attorneys-prep-community-on-their-rights-as-enforcement-ramps-up-nationwide/
8. https://www.rgj.com/story/news/2025/01/31/immigration-attorneys-prep-community-on-their-rights-as-enforcement-ramps-up-nationwide/78090392007/
9. https://news3lv.com/news/local/commissioner-mccurdy-ii-leads-know-your-rights-event-for-immigrant-support-and-resources
10. https://www.8newsnow.com/investigators/its-all-about-the-money-las-vegas-family-fights-ohio-guardianship/
11. https://nevadacurrent.com/2025/02/20/with-musk-trump-targeting-cfpb-medical-debt-consumer-protections-fall-to-state-legislators-say/
12. https://thenevadaindependent.com/article/lawsuit-challenges-legislatures-ban-on-dual-lobbyist-press-accreditation

13. https://www.fox5vegas.com/2025/02/28/las-vegas-valley-evictions-climb-above-pre-pandemic-levels-push-families-into-homelessness/
14. https://www.8newsnow.com/investigators/las-vegas-housing-nightmare-no-working-toilet-no-hot-water/
15. https://www.8newsnow.com/news/local-news/10k-bill-5-kids-no-water-service-las-vegas-family-fights-eviction/
16. https://www.ktnv.com/13-investigates/whats-the-deal/scammers-steal-nearly-everything-from-las-vegas-senior
17. https://www.8newsnow.com/news/local-news/nevada-tenants-have-limited-options-for-problem-landlords/
18. https://www.8newsnow.com/investigators/this-is-anarchy-lawyer-says-problem-landlord-gets-slap-on-the-wrist/
19. https://www.8newsnow.com/investigators/what-the-landlord-wants-the-landlord-gets-effort-to-change-nevada-state-law-for-tenants/
20. https://www.ktnv.com/news/squatters-spark-safety-concerns-near-lake-mead-neighborhood
21. https://www.ktnv.com/13-investigates/have-detr-backlog-issues-gotten-better-since-the-covid-19-pandemic-began
22. https://knpr.org/show/knprs-state-of-nevada/2025-02-21/will-the-las-vegas-shooting-memorial-honor-those-who-died-in-the-years-after
23. https://muckrack.com/broadcast/savedclips/view/9xHreWN0Bd

**Noteworthy Excerpts from Articles and Videos (above)**

1. “Trauma recovery is not linear what we urge people is to give themselves grace, give themselves time. We are here, we love to connect people immediately and get their information and help connect them to mental health services, but they can tell us they are not ready today and call us back at any time,” Buckley said.

3. Velazquez said the debate would change if more people got to know immigrants, including ones here illegally.

“I think the best thing I could give as advice is meet people. Talk to them, learn about their life, you know? Talk about their struggles,” he said. “And you will see that we are just like every other American, right? And if we were given the opportunity, we would do a lot for this country.”

12. After her wages were seized by collectors, a 59-year old client of the Legal Aid Center of Southern Nevada was evicted from her home and died shortly after a stage-four cancer diagnosis.

This case wasn’t singular, representatives from the Legal Aid Center told the Senate Judiciary Committee on Wednesday during testimony in favor of a new bill (SB142) from Sen. Fabian Doñate (D-Las Vegas) that would raise the amount of wages protected from garnishment from about $400 to $850.

13**.** Legal Aid Center of Southern Nevada hosts Tenants' Rights and Eviction Sealing classes a couple of times a month to educate renters on what to do before and after receiving an eviction notice. Haley taught a couple of those classes this week.

“If we cannot prevent the eviction, we at least try to help them find a soft landing where they end up somewhere besides the streets because that’s a very difficult life.”

The organization also holds free 15-minute “Ask-A-Lawyer” consultation calls. The one geared for landlord/tenant issues are held weekly.

18. “There were very, very severe consequences for the people who lived there, and they had no redress anywhere,” Haley told the 8 News Now Investigators. “The court was not interested. The landlord was not interested, and the county, to their credit, filed a lawsuit, but even that ended with a slap on the wrist as far as we’re concerned.”

19. “What you often see is how habitability presents itself as a tenant is there on the eviction,” Jonathan Norman of Legal Aid Center of Southern Nevada told legislators. “They have their phone and they say, ‘Judge, I have pictures,’ and it can be, you know, sewage backing up in their bathtub. It can be, you know, really horrific stuff, and the judge looks at them and then asks if they escrowed the rent, and the answer is almost always no because people don’t understand how they’re supposed to do that, how they can take advantage of that and then the judicial officer orders the eviction.”

**Social Media Impact**

Thanks to Jared Golub, our Digital Media & Design Coordinator, our Legal Aid Center Bluesky account has grown by 80% since last quarter and officially surpassed our followers on Threads, the Meta-based Twitter rival that automatically had Instagram users follow us. The Bluesky account is currently at 588 followers, which allowed us to dethrone Community Legal Services of Philadelphia and take the spot of the second most popular legal aid organization on the platform (the NYC-based Legal Aid Society leads the way at 1,591).

## Consumer Rights Project Case Highlights

**Crystal***, age 18 and a former CAP client, spent half of her life in the child welfare system.

Upon exiting the system, Crystal participated in the Eighth Judicial District Court’s Voluntary Jurisdiction Program through AB350 (the “Step Up” program). She was assigned a “Step Up” caseworker who connected her with a local youth housing program. Her rent would be only 30% of her income, and the program would pay the difference.

She moved into an apartment in October 2024. After eight years of moving between temporary placements, she finally had a permanent home.

Unfortunately, one of her former acquaintances from the child welfare system paid her an unexpected visit in early November and took his own life in her apartment. Traumatized, Crystal fled. The police did not clean up the scene of the incident. She also learned that the apartment was boarded up so she couldn't have returned even if she wanted to.

She left the apartment the same day as the incident. Her father, whom she had never met before, helped her move into his residence, where she stayed for only two weeks before they got into an altercation, and he kicked her out. Since then, she has bounced around between friends and relatives' homes.

She notified both the property manager and her housing caseworker of the incident. The caseworker told that she was no longer eligible for housing assistance and was kicked out of the program over an event far beyond her control.

Despite moving out in November, the landlord served her with a 7-Day Notice to Pay Rent or Quit in December for the unpaid balance from December 1 to 31, 2024. A summary eviction order was entered in January, two months after she had already moved.

With the current state of Clark County's rental market, Crystal has been unable to find housing with an eviction on her record. She is back in the same circumstances as when she first entered the child welfare system: homeless. The purpose of the independent living program is to help transition foster youth who have aged out of the system. Nevada legislative history is clear about the intention to implement AB350 in 2011: to assist former foster youth in breaking down major barriers that impede their success as young adults.

Crystal's Legal Aid Center attorney filed a motion to seal the eviction case and argued to the Court that, under Nevada's eviction sealing law and the interests of justice, the Court should seal the eviction. Crystal's therapist testified at the hearing that she moved out prior to the eviction in December, as he was working with her at the time to reschedule appointments that she had missed due to the unexpected move-out.

The Court agreed that Crystal had moved prior to the eviction and granted the motion to seal.

Crystal was extremely grateful to her attorney and looks forward to getting a fresh start in the housing market now that her eviction has been sealed.

**Name changed to protect client's confidentiality*.

## Guardianship Advocacy Project Case Highlights

**Leslie*** is a 63-year-old woman who is not disabled. She has lived independently her entire adult life, working odd jobs here and there, but always managing her affairs on her own.

She began experiencing some pain and disorientation during the hot summer months in Las Vegas. Leslie admitted herself to the hospital for help.

At the hospital, Leslie's doctor, after only one-week of caring for her, filled out a legal document stating she likely had vascular dementia and as a result was unable to manage her affairs (likely being the operative word here). This legal document would be the key to a complete petition for guardianship.

Leslie's sisters were contacted by the hospital and told they should file for guardianship. Believing Leslie needed help, the sisters followed the hospital's direction and petitioned for guardianship, complete with the legal document filled out by Leslie's doctor.

Leslie was eventually transferred to an assisted-living facility. A Legal Aid Center of Southern Nevada attorney from our Guardianship Advocacy Project was appointed to represent Leslie. Our office requested Leslie's medical records immediately, and the attorney met with her at the facility.

At the meeting, Leslie was alert, able to understand every word the attorney said, and asked all the right questions. Leslie vehemently objected to needing a guardian. She admitted over the summer she was disoriented but, with the care from the hospital and facility, she was feeling back to her old self.

With permission from Leslie, our attorney spoke to the facility's social services director and Leslie's care team. They informed the attorney that Leslie displayed no signs of dementia. In fact, they believed she suffered from a UTI over the summer. In older adults, inflammation caused by a UTI can result in confusion and disorientation, which can present like dementia. But unlike dementia, once a UTI is treated, the individual may gain back full capacity.

The attorney requested a new psych evaluation for Leslie. The facility agreed. Our office later received Leslie's medical records which the attorney reviewed. No diagnosis of dementia could be found.

One hour before the hearing to appoint Leslie's sisters as her guardians, our office received the evaluation results. The evaluation stated Leslie did not have dementia, in fact, she had full capacity to understand and sign estate planning documents. There was no need for guardianship.

Our office raced against the clock to confidentially file the evaluation results before the hearing. At the hearing, the attorney advocated for Leslie by reviewing the results and explaining that the legal document completed by her hospital physician was likely based on a misdiagnosis. Leslie's sisters were present and were floored to hear Leslie had full capacity, as that was not the information they received from the hospital. The Judge denied the guardianship that day, and Leslie was encouraged to execute estate planning documents to avoid a guardianship in the future.

**Names have been changed to protect confidentiality.*

## Family Justice Project Case Highlights

**Joann*** is a young mother with a severely autistic son who is now six years old. When she was pregnant, her husband abandoned her in Las Vegas while they were vacationing and visiting her sister. After leaving her, he returned to Venezuela and divorced her several months later. He neglected to tell the Venezuelan Court that there was a minor child of the relationship. Over the years he took no interest in the minor child except to occasionally ask about him or to send a small amount of money. Then in 2023, in what appears to be an attempt to bolster his ability to return to the United States on a visa due to tensions between Venezuela and the U.S., he filed a custody action in Nevada. He conceded custody to Joann but wanted liberal visitation with the child and the ability to take him to Venezuela. His requests were not realistic due to the child's autism; his inability to speak English; the child's inability to speak Spanish; and the fact that he had never met the child in person. Nevertheless, both he and his attorney insisted that he should have the visitation that he sought, and Joann was overstating the child's diagnosis despite medical records having been provided to them. They refused to settle the case or even discuss a settlement. The case proceeded to trial. We proceeded to point out again to both his attorney and judge that he was less than honest with the court and suggested that his motivation was not to become involved in his son's life but for some image or immigration purpose. The opposing party was an attorney and professor in Venezuela who was looking to relocate to Spain and work for an international court. When this was pointed out to his attorney prior to trial, he finally admitted that he was indeed looking to go to Spain. The case finally concluded with opposing party obtaining visitation with the child when he is in Nevada. No international travel until the child is at least 10 years old and then only after the parties attempt mediation. At the conclusion of the trial, opposing party insisted upon taking pictures with the judge and posing in front of the stairs at the courthouse. Those pictures immediately showed up on social media to bolster his image as a well-rounded attorney. Finally, opposing party insisted that the child visit with him for the following three days before he returned home. We readily agreed believing that it would be a disaster. It was and the child was returned within 24 hours to Joann. Without Legal Aid, Joann would have had to face opposing party and his attorneys by herself.

**Names have been changed to protect confidentiality.*

## Immigration Advocacy Project Case Highlights

**Hamza*** came to Legal Aid Center in 2024 seeking assistance with his asylum application along with his four other siblings. They were evacuated as part of Operation Allies Refuge and arrived via a military transport to the U.S. in September of 2021. Hamza was only five years old when he left Afghanistan to the United States with his siblings to stay with an uncle already living here. During the chaotic evacuation at the Kabul Airport, Hamza was separated from his father, mother, and eldest sister. The siblings, who were all minors at the time of the military evacuation, were picked up by their uncle, a resident of Las Vegas, after landing in Washington, DC following weeks of travel with the US military.

Hamza was five years old and had little familiarity with the political climate of Afghanistan back in 2021. He was too young to enroll in school, and he sometimes went to work with his father who was a carpenter and handyman who worked for the US Embassy located in Afghan's capital. When the Taliban toppled the Afghan government in 2021, Hamza's father feared for the family's safety after hearing of other government workers or anyone assisting western forces being targeted by the Taliban. This motivated their efforts to seek evacuation at the Kabul airport.

Our office prepared and filed the affirmative asylum petitions based on their status as unaccompanied minors and prepared for asylum claims based on future persecution that might befall the childrens' parents who were still in hiding in Afghanistan. We received news of Hamza's mother and father arriving in the United States via refugee status in December 2024, right before the start of the new administration. Their father was able to accompany them to their interviews and act as their chaperone during the short trip to attend the interviews.

Each of the children, along with their respective Immigration Advocacy Project Attorney, attended the interviews in Orange County in February 2025, and presented evidence of their father's former employment and fear of return to Afghanistan under the rule of a De Facto Taliban administration. The children's father sat in the interview with Hamza as the young man respectfully asked for a translator so that his father could also understand the interview questions. With Hamza's consent, his own testimony and that of his father during the interview allowed to be used in his siblings' records presented to USCIS for consideration of their asylum petitions.

After strong testimony from Hamza's father concerning his fear of return and the cooperation of the minor applicants, their asylum applications were granted early in April of this year. Hamza will be able to apply for residency after a year in asylee status and will be able to remain in the United States, safe from harm along with his entire family. Hamza is attending elementary school in Las Vegas, which is the first and only education experience of his young life. With assistance from our office, he did not have to be alone in his interview; his attorney and father sat just behind him as he spoke to the officer. Hamza might have done just fine had he been alone as he spoke confidently and very clearly to the asylum officer and asked for the officer to repeat any questions he did not understand.

Hamza will be able to complete his education here in the United States along with his siblings and will eventually be able to apply for citizenship. His family will not have to face the authoritative regime of the Taliban ever again.

**Names have been changed to protect confidentiality.*

## Children's Attorneys Project Case Highlights

**Stephanie*** is a 14-year-old girl who loves the color pink. Unfortunately, there have not been a lot of happy pink things in her life lately. Stephanie has a very long history of trauma, going back to her early years, when she was horrifically abused. Her biological parents lost their

parental rights, and Stephanie was adopted when she was about six. She then spent about seven years going in and out of locked mental health facilities. About two years ago, she was released from a treatment center and absolutely did not want to return to her adoptive parents, due to claimed abuse by one of them. That started a remarkably sad chain of events whereby Stephanie spent a lot of time at Child Haven and then about a year in a group home.

Stephanie was finally placed in a traditional foster home about three months ago and just before Christmas. Unfortunately, Clark County Family Services did not tell the foster parent about Stephanie's diagnoses (FASD, ADHD, family history of mental illness, etc), and Stephanie's behaviors quickly became concerning to the foster parents. Stephanie's CAP attorney and her therapist worked together to insist the agency provide information to the foster parents, or even to sign a release of information so the therapist could share Stephanie's history, but the agency just ignored everything. While all of this was pending, foster parents gave their notice of intent to disrupt the placement, and just a few days later a tragic fire in the home caused Stephanie to have to return to the group home. Three weeks later, with no notice to anyone, the group home told Stephanie to pack her bags and took her to Child Haven. They told her it was her fault she was going back to Child Haven and that they thought she would be happy about it. To say Stephanie was devastated is an understatement. She cried her eyes out for hours after being dumped at a place she never thought she would see again.

The day before Stephanie was dropped off at Child Haven, her CAP attorney visited her at the group home, and all Stephanie could talk about was an upcoming Junior ROTC ball at school. Stephanie's independent living worker had taken her to Peggy's Attic, and Stephanie picked out a beautiful pink ball gown to wear. Stephanie modeled it for her attorney, and she just glowed, dancing around the room. It was obviously way too big for Stephanie, but the attorney just ooohed and aaahed, and made a note to talk to the agency about making sure Stephanie wasn't exposed at the dance, which was only about 3 weeks away.

Two days later, the day after Stephanie's CAP attorney learned that Stephanie had been taken to Child Haven, the attorney went to see her again. Stephanie was a completely different girl, she was very hurt, had big puffy red eyes, and was extremely sullen. The one bright spot in her outlook was that she was going to get to go to the ball, but the deadline to purchase tickets was the very next day, a Friday. Stephanie's CAP attorney left cash for the agency's placement office with a note that the tickets had to be purchased the next day. Stephanie's CAP attorney sent a red-flagged email to the caseworker and supervisor asking one of them to personally go purchase the ticket. The requests were met with crickets. Monday when it became clear that the agency was not going to step up, the CAP attorney personally drove to the high school and purchased a ticket for Stephanie.

The CAP attorney then coordinated with Stephanie's CASA to get alterations done on the dress. It was absolutely gaping in the chest area, and there was no way she could wear it as is. The CAP attorney called on a personal friend who makes and alters wedding gowns, and this friend agreed to alter the dress free of charge. After Stephanie's CASA took her for no fewer than three fittings, the gown fit perfectly and Stephanie literally cried happy tears when she saw it.

During all of this, another youth at Child Haven stole the press-on nails that Stephane had picked out from Peggy's Attic to wear to the event. The Agency had no plans to replace the nails, but Stephanie's CAP attorney worked directly with the manager at Child Haven to get this remedied, and the manager was able to get a team member to take Stephanie to replace the nails that had been stolen.

This brings us to five days before the ball. Despite multiple requests to no fewer than four different people to assure Stephanie would be transported to the ball, no one had stepped up. The Child Haven Manager said they were understaffed and unable to help. The caseworker and supervisor just failed to respond at all. So the Monday before the ball, Stephanie's CAP attorney sent a very kind but firm email to the caseworker, copying two DAs, the clinical team, the placement team, the supervisor, and a host of other people, citing the law regarding Stephanie's right to attend events such as the ball, and insisting that someone step up and assure that transportation arrangements were made. And it worked. After weeks of requests, within about five minutes of sending this final email, the CAP attorney had a response from the caseworker saying she would personally take Stephanie to the ball.

It took an incredible amount of work to make this ball a reality for this sweet girl. When the rest of the team was ready to just let it go, the CAP attorney grabbed hold and would not let go until every single detail was attended to for the big day.

**Names changed to protect clients' confidentiality.*

## Education Advocacy Program Highlights

Joey is an 8th grade student in the foster care system who has an Individualized Education Plan and receives special education services under the category of Multiple Impairments (MI). Joey has been placed at three different schools this school year and faced expulsion on two separate occasions due to his aggressive behaviors. Joey received a total of 11 behavior infractions in the first school, which he attended from August 2024 to November 2024. He attended the second school from December 2024 to January 2025 and received four behavior infractions. Our Education Advocacy Program argued against Joey's expulsion, and we advocated for Joey to have an opportunity for a fresh start at a new school. The Clark County School District agreed to move Joey to a new school and assist with transition planning. Joey's current school, which he has been attending since January 2025, has been working with his team and has provided the services and support he needs. Our team meets with the school staff on a regular basis to discuss progress and update his plan. We are pleased to report that Joey has only received three minor behavior infractions in the past four months, and he is thriving academically.

**Names changed to protect clients' confidentiality.*

## Resiliency & Justice Center Case Highlights

When Violet arrived at the Resiliency Center, she was fighting for justice as a survivor of kidnapping and sexual assault after working with the Attorney General's office to secure a conviction. Now her attacker was attempting to withdraw his guilty plea and had appealed to the Supreme Court. Further, the initial ruling had not ordered restitution for her mental health care, as her damages were deemed too abstract—categorized as "pain and suffering" rather than a tangible, quantifiable loss.

Left without financial assistance for therapy, Violet turned to the Resiliency Center in search of help. Understanding the critical need for continued mental health support, the Center quickly mobilized resources to explore alternative funding options and connected her with a pro-bono civil attorney willing to pursue damages on her behalf.

During intake, Violet shared another devastating loss—her beloved service dog had gone missing during her ordeal. Winston had been her source of emotional support and safety, compounding an already traumatic chapter of her life. Despite everything she had been through, Violet never gave up on Winston. She posted flyers, submitted lost pet reports, scoured social media, and searched daily. Months later, a veterinarian's office emailed her that Winston had been brought in and scanned, and his microchip showed her as the owner. However, the individuals who had taken him refused to return him to Violet.

Violet went to the dog-nappers home with the police, but when they refused to give Winston back the police told Violet that it was a "civil matter", and they could not assist further. This all took place in December of 2023. Over the past year or so, Violet tried unsuccessfully to have Winston returned to her. On top of everything Violet was going through in the criminal justice process, these people who took her dog told her she was "unfit" to care for Winston, and that she was "lying" about his service animal status.

Everyone she met or worked with said it was a longshot she would ever get Winston back. But then she connected with the Resiliency Center. Our staff attorney collected all the relevant info and sent a demand letter, demanding the dog be returned. When the dog-nappers received the letter, they reached out and agreed to allow the attorney to pick up the dog and return him to his rightful owner, Violet.

This result is awesome. But it also underscores something unique and powerful about the Resiliency Center: that when people have real, dedicated advocacy, they can reclaim what others have written off as lost.

**Names changed to protect client's confidentiality.*

NEVADA LEGAL SERVICES

# Access to Justice Commission
# Summary Report for June 25, 2025, Meeting

| Case Statistics | | |
|---|---|---|
| **Assigned Program** | **Cases Opened YTD 2025[1]** | **Cases Closed YTD 2025[2]** |
| Clean Slate Project | 64 | 70 |
| Consumer Law Project | 148 | 120 |
| Core Services | 622 | 546 |
| Worker's Rights | 10 | 8 |
| General | 25 | 11 |
| HIV Impact/LGBT+ Initiative | 50 | 48 |
| Indian Law | 37 | 11 |
| Pro Bono | 187 | 201 |
| Senior Law Project | 177 | 131 |
| Tenant's Rights Center | 1,032 | 1,021 |
| Veterans Law Project | 74 | 65 |
| Lawyer in the School | 34 | 2 |
| **TOTAL** | **2,460** | **2,234** |

Case Trends

- As of June 13, 2025, NLS has 1,200 cases in open status with an additional 303 pending case acceptance review.
- We have seen a slight increase in unemployment benefits matters opened so far this year, which is consistent with increased unemployment rates reported for Nevada
- Housing matters continue to account for a majority of our caseload. Federally subsidized housing matters account for 20% of housing cases opened, and 12.8% of cases organization-wide; however, 50% of case time spent on housing matters and 27% of case time organization-wide concerns federally subsidized housing matters.

[1] Figures as of June 13, 2025
[2] Figures as of June 13, 2025

Highlights

- Please save the date for our annual Champions of Justice awards luncheons: Friday, October 3 in Las Vegas and Friday, October 24 in Reno!
- NLS was one of four organization's honored by the San Manuel Band of Mission Indians at the Second Annual Forging Hope Yawa' Awards in April. The Yawa' Award is rooted in the Serrano cultural tradition of "acting on one's beliefs," and recognizes community organizations for their outstanding service, resilience, and lasting contributions to Nevada.
- Executive Director Alex Cherup's 17 in '25 initiative is ongoing. Since the last Commission meeting, we have completed visits to Carson City, Nye, Humboldt, and Lyon Counties.
- Our Lawyer in the School Program continues to expand with ongoing outreach to families at Title I schools and the CCSD Family Support Center. Additionally, the Program recently accepted its first case from outside of Clark County.
- NLS began a new partnership in April with The Just One Project in Las Vegas, holding monthly walk-in hours at The Just One Project's community market food pantry.
- We continue to conduct in-person outreach events at outlying senior centers across the state, including Fernley, Hawthorne, Fallon, Elko, Dayton, Lockwood, Carlin, Silver Springs, and Winnemucca.
- In response to demonstrated need in the community, we have created a guardianship unit with a senior attorney and a new staff attorney. We currently receive appointments as counsel for protected persons in Humboldt and Elko County guardianship matters. Additionally, we continue to provide pro bono assistance as appropriate to low-income guardians statewide, particularly in Clark and Washoe counties where conflicts of interest prevent assistance through other legal aid providers. NLS also provides community education on guardianship and alternatives to guardianship, including recent presentations in Winnemucca and Reno targeted to individuals with disabilities and those who support them.
- Legal Kiosks are now available in 28 libraries statewide. To view locations, please visit: https://www.legalkiosks.com/projects/nevada
- To bolster services in rural areas, NLS has developed a plan to recruit volunteers in geographically isolated communities to serve as justice ambassadors to help connect area residents with pro bono legal assistance.
- NLS is in regular contact with our primary grant funder, the Legal Services Corporation (LSC), regarding the status of the federal budget. As the legislative process is ongoing, we are standing by for additional information as it becomes available. Funding LSC has been a bi-partisan priority for more than four decades, and we hope to see that trend continue.

**Yerington - Lyon County**
**April**


**Pahrump - Nye County**
**May**

# Nils the NLS Gnome is on the Go
# 17 Counties in 2025!


**Carson City**
**May**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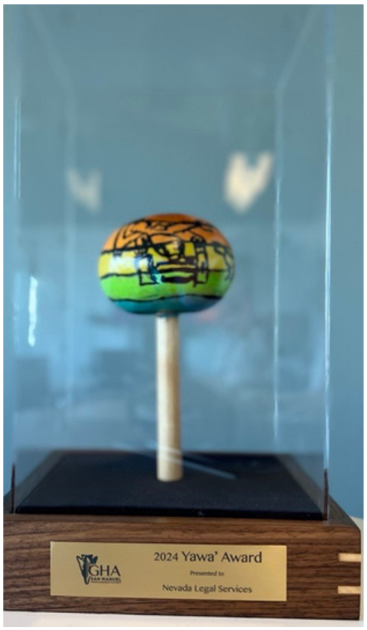
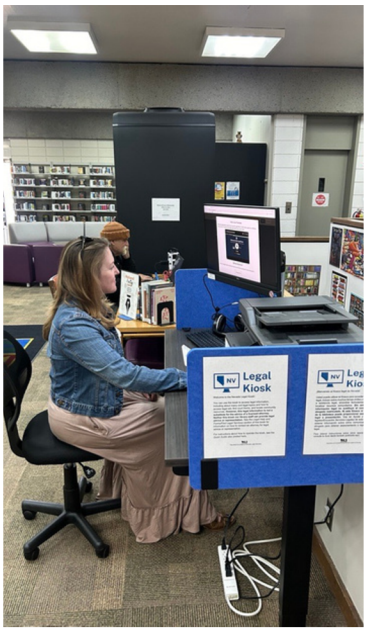
~~Carson City~~, ~~Churchill~~, Clark, Douglas, Elko, Esmeralda, Eureka, ~~Humboldt~~, Lander, ~~Lincoln~~, ~~Lyon~~, Mineral, ~~Nye~~, Pershing, Storey, Washoe, & White Pine









NLS
NEVADA LEGAL SERVICES






# Washington D.C.

Date: June 9, 2025

To: Access to Justice Commission

From: Diane Fearon, Executive Director, Southern Nevada Senior Law Program

Re: March 2025 – May 2025 data

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**Highlights of calendar 2025 YTD**

Accomplishments

- Initiated a partnership with Nevada HAND (low-income senior housing) to bring our POA Health Care Mobile Workshop to their residents in 18 different communities, powered by pro bono attorneys.
- Participated in outreach activities in Pahrump and Mesquite, along with numerous events in the greater Las Vegas area.
- Launched an SLP Ask a Lawyer in the senior center program in five geographically disbursed locations (Clark County, Las Vegas, Henderson, and North Las Vegas). Once a month a staff attorney from SLP is on-site at these centers for 4 hours, with the center scheduling up to 8 consultations for our attorney to assess legal problems and answer legal questions. For seniors needing an appointment with SLP, the attorney will facilitate scheduling for them based on the priority need they are facing. The program has been very well received, with all consultation appointment slots filled and 50% of the seniors being scheduled for subsequent appointments at SLP. The areas of law we have been able to assist with include estate planning, elder abuse/exploitation, scams/identify theft, housing issues, and consumer matters.
- Participated in the State Bar Sections Pro Bono Challenge campaign and were pleased to report 133 unique pro bono commitments made between February and May for commitments through the end of the year.
- Attended Senior Day at the legislature on April 17 and brought attention to the numerous challenges faced by older adults, who desperately need legal aid assistance to be available to protect their rights and their dignity.
- Continued to enhance our collaboration with Adult Protective Services and we have received 36 referrals from them since January 1 for matters related to elder abuse/exploitation.
- Continued to enhance our collaboration with OMLA, and we have received 25 referrals from them since January 1 to assist veterans with estate planning and consumer matters.

- SLP has been accepted into a no-cost capacity building project with a cohort of 100 Southern Nevada nonprofits which is being administered by Nevada Grant Lab. The Core Capacity Assessment Tool/CCAT has been completed by more than 9000 nonprofits and evaluates effectiveness across four core capacities – leadership, adaptiveness, management, and technical skills, while also assessing organizational culture. Information is gathered between May-August, with a report being released in October with conclusions and recommendations.
- Achieved and are maintaining a wait time of 90 days or less for new appointments for non-urgent matters, while scheduling urgent matters (evictions, elder abuse/exploitation, emergency estate planning) in 3 days or less.

Challenges

- Stabilizing our support staffing continues to be elusive, for a variety of reasons. We are currently recruiting for an Intake Specialist/Legal Assistant and with a preference for Spanish speaking.
- The tumultuous federal funding landscape has motivated SLP to start using a three-year budget and cash flow projection model as well as identity contingency plans, to be prepared for the unexpected.

**SLP Numbers March 2025 through May 2025:**

| | |
|---|---|
| ✓ Clients Served (Opened Files)*-(Non-Outreach) | 855 |
| ✓ Outreach Numbers | 1,660 |
| ✓ Assisted Without Litigation | 682 |
| ✓ Represented in Litigation | 29 |
| ✓ Participants in Clinics | 89 |
| ✓ Clinics with Pro Bono Attorneys | 13 |

Types of Client Matters (Closed Files)* Total: 711

| | |
|---|---|
| ✓ Abuse/Elder Exploitation | 36 |
| ✓ (DGDN) Estate Planning/Guardianship | 419 |
| ✓ Housing/Foreclosure | 109 |
| ✓ (Other) Consumer/Utilities | 107 |
| ✓ Income/Public Benefits/LTHC | 28 |
| ✓ Healthcare | 12 |
| ✓ Civil Litigation | 11 |
| ✓ Family Law | 0 |

**Outreach Activities: March 2025 through May 2025**

March - 2025

| | |
|---|---|
| 1. General Presentation at the National Federation of Filipino American Associations – **89146** | 45 Attendees |

2. Scam, Fraud, & ID Theft Presentation at Minuet Senior Apts. – **89108** 8 Attendees
3. HCPOA Workshop for Nevada HAND Caseworkers – **89107** 20 Attendees
4. Tabling Event at U.S. Vet Stand Down – **89106** 51 Attendees
5. General Presentation at UNLV's Osher Lifelong Learning Institute – **89119** 40 Attendees
6. Scam, Fraud, & ID Theft Presentation at Acapella Duet Senior Apts. – **89104** 10 Attendees
7. Scam, Fraud, & ID Theft Presentation at Madison Palms Senior Apts. – **89031** 20 Attendees
8. Tabling Event at Latin Chamber of Commerce Luncheon – **89145** 250 Attendees
9. HCPOA Workshop at Heritage Park Senior Facility – **89015** 19 Attendees
10. Scam, Fraud, & ID Theft Presentation at McKnight Senior Apts. – **89101** 20 Attendees
11. Tabling Event at Nye County Social Services Fair – **89048** 250 Attendees

April – 2024

1. General Presentation at First Tuesday - Summerlin Area Command – **89134** 70 Attendees
2. Ask-A-Lawyer at Martin Luther King Jr. Senior Center – **89302** 11 Attendees
3. HCPOA Seminar at Acapella Senior Apartments – **89104** 25 Attendees
4. Ask-A-Lawyer at West Flamingo Senior Center – **89103** 7 Attendees
5. Scam, Fraud, & ID Theft Presentation w/ Congresswoman Susie Lee – **89103** 27 Attendees
6. Estate Planning Essentials at World of Life Christian Center – **89129** 27 Attendees
7. Tabling Event at National Health Care Decision Day Event – **89103** 30 Attendees
8. Ask-A-Lawyer at Henderson Downtown Senior Center – **89105** 6 Attendees
9. Ask-A-Lawyer at Doolittle Active Adult Center – **89106** 8 Attendees
10. Tabling Event at Victory's Keenagers 14th Annual Senior Health Fair – **89106** 100 Attendees
11. Ask-A-Lawyer Cora Coleman Senior Center – **89156** 10 Attendees
12. HCPOA Seminar at Decatur Commons Senior Apartments – **89107** 25 Attendees
13. General Presentation at the US Filipino Veterans Inc. Meeting – **89108** 35 Attendees
14. HCPOA Seminar at Henderson Gibson Library – **89015** 15 Attendees
15. Tabling Event at West Flamingo Senior Center's Health & Wellness Fair – **89103** 45 Attendees

May – 2025

1. Tabling Event at Creech Air Force Base for Law Day – **89018** 70 Attendees
2. Ask-A-Lawyer at Martin Luther King Jr. Senior Center – **89302** 10 Attendees
3. Ask-A-Lawyer at Parkdale Recreation Center for Ask-A-Lawyer Day – **89121** 177 Attendees
4. HCPOA Workshop at Rose Gardens Senior Apts. – **89030** 15 Attendees
5. Scam, Fraud, & ID Theft Presentation at Mesquite Senior Center – **89027** 20 Attendees
6. Ask-A-Lawyer at West Flamingo Senior Center – **89103** 10 Attendees
7. Ask-A-Lawyer at Henderson Downtown Senior Center – **89105** 7 Attendees
8. Scam, Fraud, & ID Theft Presentation at Doolittle Active Adult Center – **89106** 22 Attendees
9. Ask-A-Lawyer Cora Coleman Senior Center – **89156** 8 Attendees
10. End of Life Planning Presentation & Tabling at Atomic Museum – **89119** 75 Attendees
11. HCPOA Seminar at Paseo Verde Library – **89012** 21 Attendees

Total Number of Outreaches: 34 Total Number of Attendees: 1660

## Success Stories

### *Housing – Evictions*

Charles* is a 68-year-old disabled veteran and Las Vegas street performer who depends on his retirement income and musical performances to meet his basic needs. Despite his limited financial resources, Charles demonstrates remarkable generosity by regularly donating his surplus earnings to assist unhoused individuals and fellow veterans in the community.

Tragically, Charles' story reflects a growing crisis in our community. Each day, more vulnerable elders face predatory evictions and calculated harassment from landlords who see their age and hardships as opportunities for exploitation. This systemic problem became painfully real for Charles when, while hospitalized for a medical emergency that resulted in a double amputation, he was served with two simultaneous eviction notices. The first was a 30-day "no-cause" notice, which was improperly issued as Charles maintained an active lease agreement. The second was a 7-day "pay or quit" notice stemming from unpaid rent accumulated during his hospitalization and recovery period.

Southern Nevada Senior Law Program provided comprehensive legal assistance in this matter. Our team successfully challenged the 30-day notice by demonstrating the validity of Charles' existing lease, resulting in its dismissal. We simultaneously helped Charles apply for rental assistance through Clark County Social Services to address the financial aspects of his case. For the court proceedings, we prepared a thorough Tenant Answer and provided Charles with pre-hearing guidance to ensure he could effectively present his circumstances.

Both eviction actions were dismissed in their entirety, allowing Charles to retain his housing without an eviction record. This successful resolution has enabled him to continue his musical performances and charitable activities without the looming threat of homelessness.

### *Public Entitlements – Social Security Issue*

Mabel* never expected to inherit a problem from 1992. The 73-year-old widow came to Senior Law Program when Social Security demanded she repay an $8,000 overpayment from three decades ago, a debt that originally belonged to her late brother.

Though her brother had made small payments towards the assessed $20,000 Social Security overpayment until his death in 2023, the system now sought to hold Mabel responsible for the remaining $8,000. Social Security argued that because she had served as her brother's "Representative Payee" when he was unable to manage his own payments in his final years, she was still liable to pay the remaining amount.

Our attorneys at Senior Law Program immediately filed an appeal, methodically dismantling Social Security's case. We demonstrated how holding Mabel liable would be both legally unsound and profoundly unfair. The Senior Law Program team was even prepared to represent Mabel at a hearing on this matter. Fortunately, before the scheduled hearing, our arguments prevailed: the $8,000 debt was fully waived, sparing Mabel from being saddled by this financial burden.

This victory did more than resolve a bureaucratic error; the resolution lifted an enormous burden from Mabel's shoulders, allowing her to continue living independently without the constant worry of this unjust debt. She has since returned to our office for estate planning services, a testament to the trust Senior Law Program built with her throughout this process.

***Consumer Issues***

Eleanor*, 89, had every reason to believe her security contract ended when she sold and left her old address. She canceled her security service, paid the $159 cancellation fee, and provided documentation proving she no longer owned the property, yet the bills kept coming. In fact, the security company is attempting to collect $1, 905.38 in monitoring fees from Eleanor for a security system in home that was no longer hers. Each demand letter threatened to unravel the careful budgeting that kept her financially secure on a fixed income.

Southern Nevada Senior Law Program stepped in when polite requests to the security company from Eleanor failed. Our team's decisive action forced the company to cancel the fraudulent charges, stop all collection attempts, and correct her credit report. For Eleanor, the weight that lifted was not just financial, it was the assurance that her phone would not ring with another demand, and that her mailbox would only bring only what she expected.

***Basic Estate Planning***

Sofia*, an 84-year-old widow, came to SLP to obtain Powers of Attorney for both Health and Finances to enable her daughter, with whom she lives, to assist with her needs. The appointment was conducted with the assistance of a Spanish interpreter. Lucia is wheelchair-bound and is not in strong health as she is severely disabled, having lost one leg and in danger of losing her remaining leg due to a chronic illness. She is also suffering from crippling arthritis in her hands, which has affected her ability to write and sign her name. Due to her fragile health, we expedited the documents, and the caring SLP staff attorney allotted additional time to assist her with the necessary initialing of documents and signatures, as well as the translation of explanations as she was guided through these complex documents. Client's daughter indicated privately that her mother's health is failing rapidly, and she was extremely grateful for the care and attention we provided to her at SLP.

**SECOND JUDICIAL DISTRICT COURT**
WASHOE COUNTY LAW LIBRARY

# ATJC REPORT

## June 2025

**Law Day with Northern Nevada Women Lawyers Association**

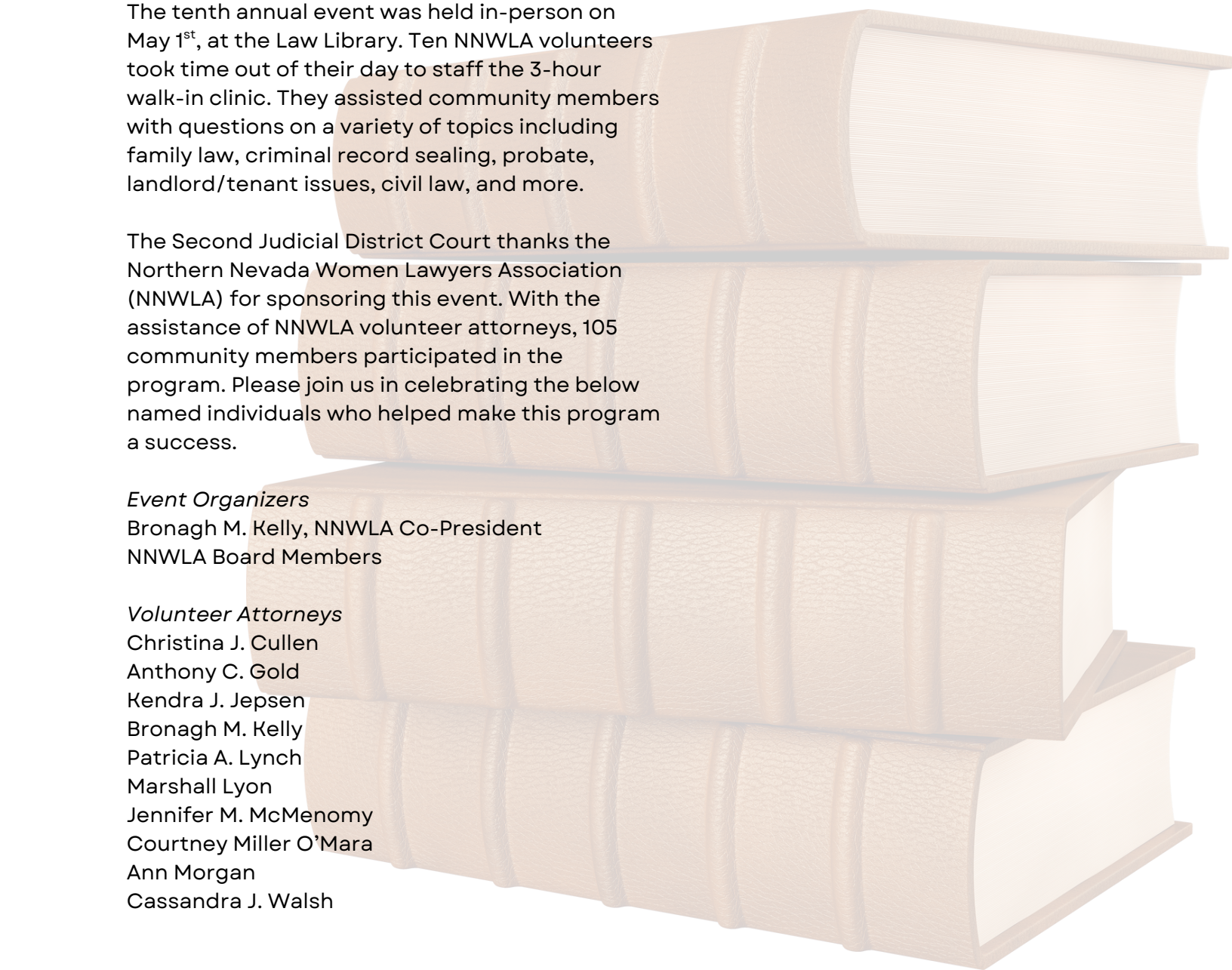
The Washoe County Law Library is proud to have partnered once again with the Northern Nevada Women Lawyers Association (NNWLA) to hold a special Lawyer in the Library event for Law Day. This year's theme was “The Constitution's Promise: Out of Many, One.”

The tenth annual event was held in-person on May 1st, at the Law Library. Ten NNWLA volunteers took time out of their day to staff the 3-hour walk-in clinic. They assisted community members with questions on a variety of topics including family law, criminal record sealing, probate, landlord/tenant issues, civil law, and more.

The Second Judicial District Court thanks the Northern Nevada Women Lawyers Association (NNWLA) for sponsoring this event. With the assistance of NNWLA volunteer attorneys, 105 community members participated in the program. Please join us in celebrating the below named individuals who helped make this program a success.

*Event Organizers*
Bronagh M. Kelly, NNWLA Co-President
NNWLA Board Members

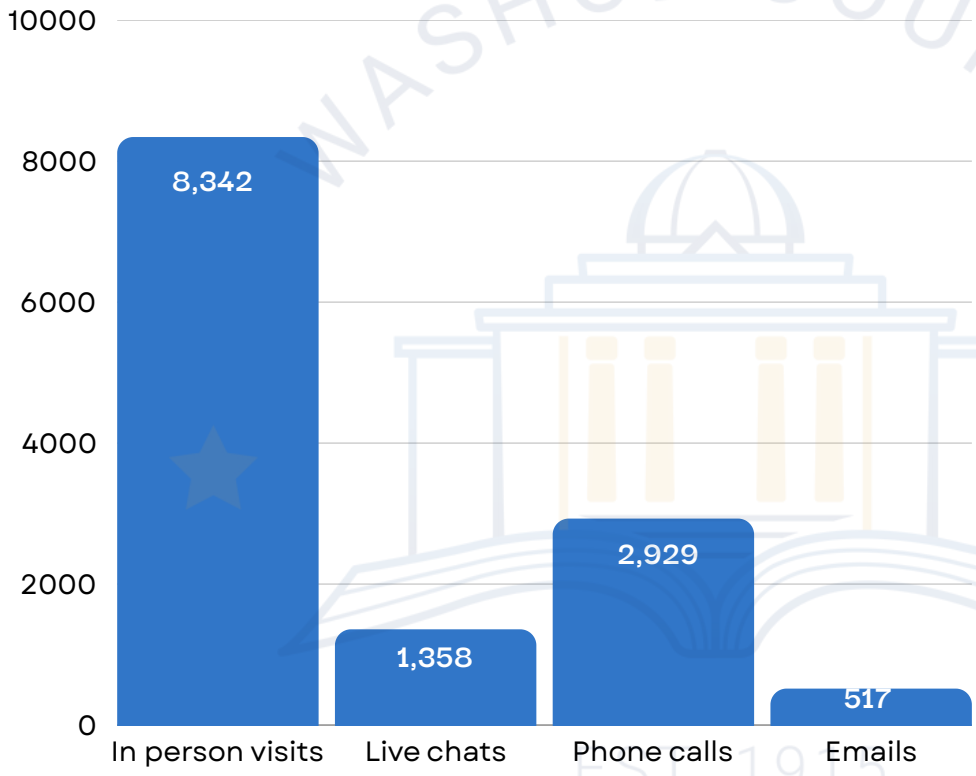
*Volunteer Attorneys*
Christina J. Cullen
Anthony C. Gold
Kendra J. Jepsen
Bronagh M. Kelly
Patricia A. Lynch
Marshall Lyon
Jennifer M. McMenomy
Courtney Miller O’Mara
Ann Morgan
Cassandra J. Walsh



# Statistics

JANUARY - MAY 2025

## HOW MANY PEOPLE USED THE LIBRARY?




**6,325**

Total questions answered

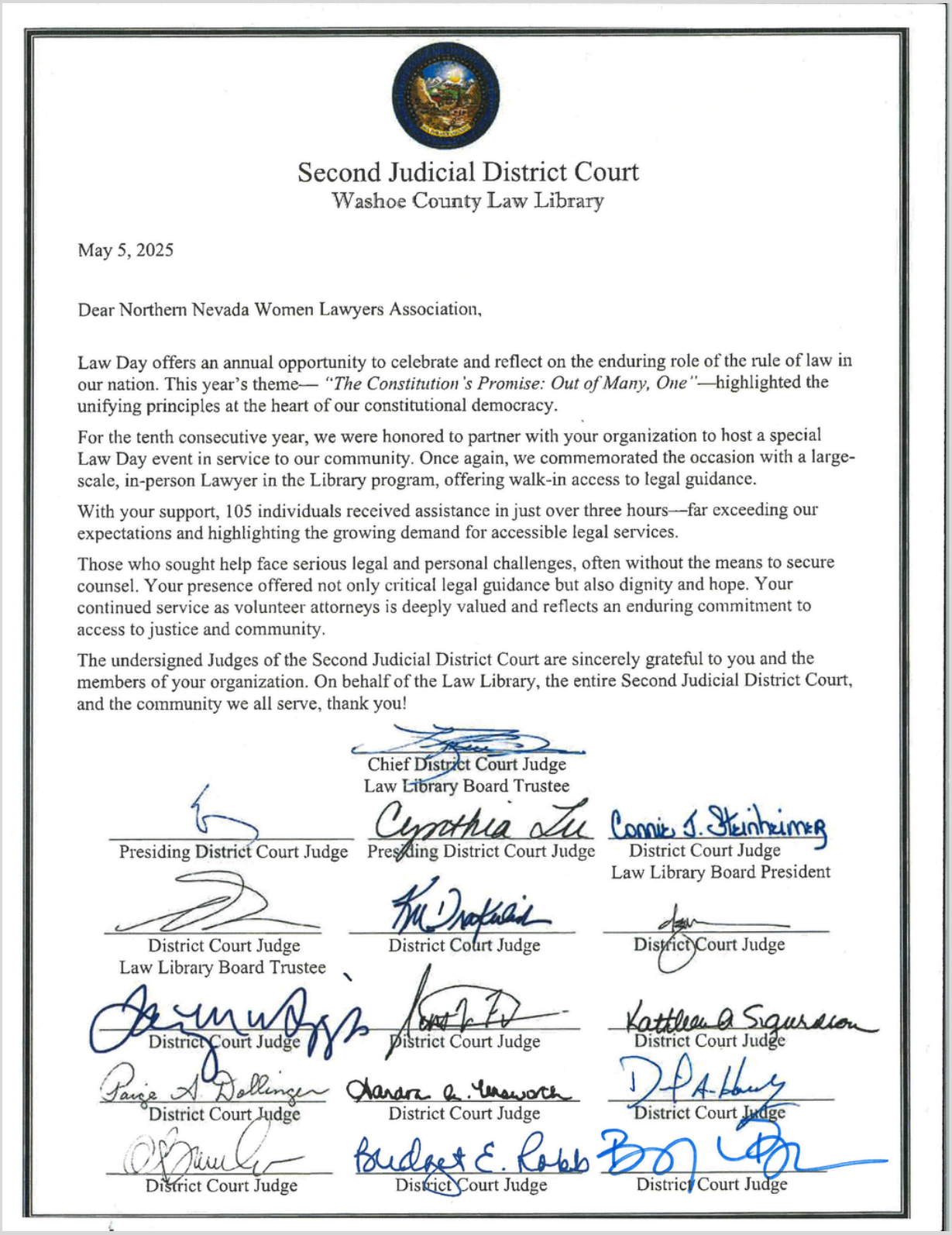
**815**

Lawyer in the Library participants

**111**

Lawyer in the Library volunteers

# Thank you letter to Northern Nevada Women Lawyers Association from SJDC Judges



Second Judicial District Court
Washoe County Law Library

May 5, 2025

Dear Northern Nevada Women Lawyers Association,

Law Day offers an annual opportunity to celebrate and reflect on the enduring role of the rule of law in our nation. This year's theme— *"The Constitution's Promise: Out of Many, One"*—highlighted the unifying principles at the heart of our constitutional democracy.

For the tenth consecutive year, we were honored to partner with your organization to host a special Law Day event in service to our community. Once again, we commemorated the occasion with a large-scale, in-person Lawyer in the Library program, offering walk-in access to legal guidance.

With your support, 105 individuals received assistance in just over three hours—far exceeding our expectations and highlighting the growing demand for accessible legal services.

Those who sought help face serious legal and personal challenges, often without the means to secure counsel. Your presence offered not only critical legal guidance but also dignity and hope. Your continued service as volunteer attorneys is deeply valued and reflects an enduring commitment to access to justice and community.

The undersigned Judges of the Second Judicial District Court are sincerely grateful to you and the members of your organization. On behalf of the Law Library, the entire Second Judicial District Court, and the community we all serve, thank you!

Chief District Court Judge
Law Library Board Trustee

Presiding District Court Judge

Cynthia Lu
Presiding District Court Judge

Connie J. Steinheimer
District Court Judge
Law Library Board President

District Court Judge
Law Library Board Trustee

District Court Judge

District Court Judge

District Court Judge

District Court Judge

District Court Judge

Kathleen A. Sigurdson
District Court Judge

Paige A. Dollinger
District Court Judge

Barbara A. Tennyson
District Court Judge

District Court Judge

District Court Judge

Brodie E. Robb
District Court Judge

District Court Judge

# ATJC REPORT

SECOND JUDICIAL DISTRICT COURT

RESOURCE CENTER

## January - May 2025

**14,660**
In person visits

**9,004**
Phone calls

**3,002**
Emails

**The Second Judicial District Court's Resource Center serves the double function of both a Self-Help Center and a front-facing Filing Office. Our team of deputy clerks serves self-represented litigants by providing court-approved forms and packets, certifying copies of court documents, administering oaths and issuing letters in guardianship and probate matters, helping litigants electronically file their documents, processing payments for fines and fees, lodging wills, answering questions about court processes, and more.**

**The Resource Center experienced a 29% increase in the number of patrons seeking in-person assistance between 2022 and 2024. From January to May 2025, the Resource Center saw an 8.6% increase of in-person patrons compared with 2024. Based on our statistics, it appears that SRL's continue to prefer in-person assistance over phone or email help.**

NEVADA SUPREME COURT
ACCESS TO JUSTICE COMMISSION
LEGAL ASSISTANCE FOR NEVADA

**ACCESS TO JUSTICE COMMISSION**

Triannual Nevada Legal Aid Provider/Pre-ATJC Meeting Recap (Includes E-Filing Discussion)
Wednesday, May 21, 2025

**Attendees Present**
Barbara Buckley
Alex Cherup
Diane Fearon
Victoria Mendoza
David Spitzer

**ATJC Staff Present**
Brad Lewis

This was a regularly scheduled triannual provider call.

**Legislative and MLP Update**
Barbara shared that Jonathan could not join today as it's very busy in Carson City as we near the end of the session. However, Jonathan will continue to share updates and provide a post session recap. She briefly noted various issue pop-ups and support for advancing legislation. Brad noted that in past call discussions Medicaid funding was mentioned as potential for any interest in Medical Legal Partnerships (MLPS) but thought perhaps this is not an opportune time as relates to potential cuts and provider interest. Dave shared that the Northern Nevada HOPES partnership is no longer functioning due to office space and attorney staffing. It seemed as if the MLP initiative would remain on the back burner for now.

**Voices for Justice Luncheon**
Brad congratulated Dave on a great lunch which had record attendance and shared an inspiring message. Dave shared that the event had about 250 in attendance, double last year, and he believed did a good job of showing NNLA sections such as CAP, guardianship, etc. Many felt the highlight was NNLA's support of a blind veteran facing eviction which was moving. The fundraising doubled and the community exposure was solid. Barbara reacted to Dave's fundraising phone calls saying while not always at the top of the list, it's a discipline that must be consistent. Diane echoed the payback will be there. Alex shared his view that Dave and his team really engaged the audience.

This October, NNLA is planning a 60-year anniversary event on October 18 which will feature past NNLA alums who continue to be community leaders.

**E-Filing**[1, 2, 3] (reference materials begin on p. 4)
Brad shared that while electronic filing was not on the original agenda, Chief Justice Herndon asked Kim Farmer about it at the NNLA lunch, particularly for the rurals, and she shared we'd check into it. Interestingly, during

Brad's discussion with NLS in Reno earlier that day, Krissta Kirschenheiter brought up issues with e-filing and forms in the rurals, primarily focused on the inability to file electronically, and the aversion in some instances of using Clark County forms. Other factors discussed on this call included:

- Frustrations:
  - Lack of uniformity/high variability[1] - different courts handle both forms and electronic filing differently. Nevada does not have a unified court system.
    - The e-filing infrastructure and accepted practices are highly variable
      - For example:
        - Douglas County will accept electronic filing by email.
        - Case management systems vary
        - XXX county requires a wet signature
  - Supreme court guidance should be leveraged statewide[2] to avoid local custom ensnarling acceptable forms
  - Trust issues:
    - Residents may not trust electronic filing.
    - Court clerks may not like using forms that should be acceptable, but are not customary locally[1]
- High points:
  - Rural courts have become much more open to Zoom hearings since COVID.
  - Clark County has forms with helpful instructions.

Barbara's thought was that perhaps Brad can work with Katherine Stocks and Stephanie McDonald on a "State of E-Filing" document that could outline high points, frustrations, and hurdles. Dave shared that further improvements to uniform forms and electronic filing would greatly enhance the efforts of legal aid.

**Annual Report Chart**

Brad thanked Barbara and Debbie Jacoby at Legal Aid Center for assisting with a chart of key information they track. The next call to discuss is set for Tuesday, June 3 at 2:00 p.m.

**Peremptory Challenges**

Brad reminded everyone that the public hearing is set for Wednesday, June 4 at 2:30 p.m. Barbara had requested that each executive director or their designee voice support at the hearing. Brad added that whenever the Commission is moving an ADKT, that it would be great if people can show up to be heard or at least send a letter in support.

**Ethical Law Clerk Pro Bono**

Brad shared that Bailey had raised her hand and he reached out to Justin Iverson at UNLV for research support. This group has met and the plan is to present preliminary information regarding ethical law clerk pro bono in Nevada for discussion at June's Commission meeting.

**Sealed Cases Permission Form**

Brad said he spoke with Michael Wendlberger to check in on progress of the form outlined in EJDR 5.213. Michael is working on it with Andres Moses but Mr. Moses is currently in Carson City. This is the final piece of the workarounds agreed to for sealed cases. The next step, if deemed appropriate, is to find a case for litigation.

**Language Access**

Brad related that he has served on the Judicial Council of the State of Nevada's Language Access Committee for several years. However, that committee is disbanding as no rule explicitly calls for its existence. Therefore, he just wanted people to know and said that if anyone has any concerns or opportunities related to language access to let him know. Barbara shared that Ms. McDonald may have comments and Brad can reach out. One thing Barbara stressed is that interpreters are required by law but many courts have issues with finding or paying for court interpreters so it is not universal but that should be the goal. Alex noted that language access for those with disabilities, such as hard of hearing, are sometimes an issue, as ASL interpreters may not always be available to make an accommodation.

**Executive Director Discussion: Court SRL Guidelines**

Barbara shared the recent Massachusetts Supreme Judicial Court Judicial Guidelines for Civil Cases with Self-Represented Litigants 2025 Edition for discussion. She shared that Justice Lee had forwarded it and asked if Nevada had something similar. The answer to that is no. The discussion centered around if this is something worth doing. In pre-research, Brad found that other jurisdictions, including California, have similar documents. It was agreed we should discuss and one option is a bench card based on other study guidance. It was believed that the idea of the first call could be to review and discuss options and value. Barbara suggested that perhaps Justice Lee would consider serving on the committee should the Commission decide to proceed with discussions. She also thought perhaps Maria Gall and Jennifer Richards would be good. Brad note: Consider whether AOC should be involved. Other guidelines seem to come from AOC, judicial councils, or the state Supreme Court.

**Pro Bono Section Challenge and Donations**

Brad reminded the group that May is the final challenge month and encouraged continued promotion. A final push to section leaders for section donations has been made, of which 100% is forwarded to providers. Also, the dues check off campaign has ended with marginally higher revenue than from 2024 or 2023 renewals. SBN Finance now has the donations in queue.

***Nevada Lawyer* Pro Bono Profiles**

Brad asked if the providers agreed these were good and should continue. The consensus was yes and that the pro bono profiles should continue in 2026.

**Cy Pres Awards**

Diane told the group that this item was discussed at the Equal Justice Conference and she was not aware of this source of funds. Barbara shared that she is not proactive with these potential funds, but gets an inquiry every three years or so or sometimes a donation simply arrives at Legal Aid Center. When a court or attorney wants to, or is required, to tie a lawsuit settlement to a result, legal aid organizations may be a beneficiary. Diane summed up the discussion to suggest other providers may wish to add Cy Pres as content on their websites so that each organization may be found in online search.

NEVADA SUPREME COURT
ACCESS TO JUSTICE COMMISSION
LEGAL ASSISTANCE FOR NEVADA

**Future Meetings**

We'll continue the format of this meeting focusing on assuring the advancement of previously identified issues as well as new challenges and opportunities. Part of the call will be led by a legal service provider executive director on a rotating basis. Beginning with the next meeting the order will be Dave, Diane, Victoria, Alex and Barbara.

If you have ideas for issues/solutions/opportunities/trends to discuss on a future agenda, please share.

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Below is research information related to the forms and electronic filing discussion.

[1]Variability examples:

- Carson City - all original signatures must be in blue ink or the clerk may not file your documents.
- Douglas County - same (Judge Young says Douglas County is going electronic in June 2025.)
- Humboldt County (Winnemucca) - the clerk will usually take an email if the signatures are in blue ink from a color copier and then the originals are sent by USPS or Fed Ex to the clerk's office.
- White Pine and the 7th JD (Ely) - the clerk may accept email documents followed by the originals sent by USPS or Fed Ex.
- Other rural counties have some form of electronic filing, but not all are administered the same.
- This info applies to the district courts and not the justice courts.
- Even if the District Court has electronic filing that does not mean that the Justice Court will have electronic filing or the same electronic filing system as the district court.

[2]Nevada Supreme Court Direction on Rejecting Court Documents (believed to apply to all NV courts)

The Nevada Supreme Court has unambiguously directed courts to refrain from rejecting pleadings and other filings: "the action of the clerk of the district court in returning petitioner's application and civil complaint to him unfiled is in direct violation of this court's instructions to the clerk of the district court in *Whitman v. Whitman*, 108 Nev. 949, 840 P.2d 1232 (1992). This court has several times confirmed the ***absolute obligation of the district courts to file documents submitted to them*** and to preserve the right of citizens to access to the courts, whether indigent or not." Sullivan v. 8th Judicial Dist. Ct., attached (emphasis added).

Rule 2 of the Supreme Court's *Policy for Handling Filed, Lodged, and Presumptively Confidential Documents* which applies to all municipal, district and justice courts:

> Rule 2. Procedures for the clerk's office.
>
> 1. **Filed documents.**
>
> **(a) Unless otherwise specifically authorized by statute, court rule, or this policy, the duty of the clerk of the court to file documents presented to the clerk is purely ministerial, and the clerk may not refuse to perform such a duty.**
>
> (1) The clerk of the court shall file documents pursuant to the Nevada Rules of Civil Procedure (NRCP), Justice Court Rules of Civil Procedure (JCRCP), Nevada Rules of Appellate Procedure (NRAP), statute, other court rule, or court policy.

In prior Commission work there were issues and opportunities raised, including:

- Issues:
  - Efiling has high up-front costs
  - Form changes, particularly those which also include filing, are difficult for limited-resource IT departments to keep up with. It was suggested to keep form changes to a minimum and only when absolutely necessary.
  - A variety of Case Management Systems (CMS) may make generalized Application Programming Interfaces (API) tricky.
- Opportunities:
  - Pursuing relaxed filing requirements such as:
    - Wet signatures
    - Ability to file by email
  - Using Google docs, Hot Docs or some other type of form-building product, with or without Efile ability could be pursued.
  - Guide without file, however, falls short. The goal is both guide and file – though the "file" part requires a significant hard dollar investment.
  - Gain information on potential funding.