“Providing Information Without Giving Legal Advice and Serving the Self-Represented”
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Before We Begin...
• Use a marker to write your first name on the yellow MJI “name tent”

Program Goals
• Examine the role of the court in our society and what makes courts different from any other organization.
• Obtain a practical understanding of the types of information court support staff can provide.
• Provide tools for court support staff to help them recognize what legal advice is – and what it isn’t.
• Explore resources for assisting self-represented litigants
Other Expectations?

Getting to Know Who You Are

• Less than 6 months
• 7 to 3 years
• 4 to 10 years
• 11 to 20 years
• 21 to 30 years
• Over 30 years
Large Group Exercise - “Establishing the Context”

- What is the role courts play in our society? Why do the courts exist? (Think “Big Picture” concepts)

Role of the Court

- Peaceful resolution of disputes
- Protect rights of individuals
- Do justice in individual cases
- Issue orders
- Enforce laws
- Interpret laws
- Maintain records
- Due process – access to justice
- Punish the guilty
- Protect the innocent
Is That What Your Customers Think?

Role of the Court from Your Customers’ Perspective

• Peaceful resolution of disputes
• Protect rights of individuals
• Do justice in individual cases
• Issue orders
• Enforce laws
• Interpret laws
• Maintain records
• Due process – access to justice
• Punish the guilty
• Protect the innocent
The Challenge: How do we provide access to justice, excellent customer service, and information without being an advocate for a specific course of action?

Defining “Legal Advice”

• “Legal Advice” - Providing a “suggestion or recommendation” regarding a legal decision or a legal course of action.
The Nine Categories

Any question that will be asked of a court employee will fall into one of nine categories.

They are...

1. Legal definitions
2. Procedural definitions and explanations
3. Citations for statutes, court rules, and ordinances
4. Information that is a matter of public record
5. General information about court operations
6. Options available to a litigant
7. Facilitate access to the court system
8. General referrals
9. Forms and instructions on how to complete them
Legal Definitions

• You *can*:  
  – define legal terms  
  – define court procedures, in plain English  
  – use resources (brochures, MJJ & SCAO websites)  
• You *cannot* give a legal interpretation or a legal or personal opinion.  
• Examples?

Procedures

• You *can*:  
  – describe court procedures  
  – explain what happens at a specific type of hearing  
• You *cannot* provide procedural advice.
Statutes, Ordinances, and Court Rules

• You can
  – cite legal authority
  – show or provide copies of court rules, statutes, and ordinances

• You cannot
  – conduct a “search” for statute or court rule or to perform “legal research.”

• Examples?

Public v Confidential Information

• You can and you must
  – Provide access to public case file information to anyone

• You cannot
  – Provide nonpublic or confidential case information unless authorized to do so by statute or court rule

• Every court is required to have a local administrative order on public access to court records.

• For a comprehensive update please refer to SCAO website “Chart of Non-Public Records”.

• Examples?
General Information on Court Operations

• What about general operations – can you provide information about scheduling, jury assembly, and other “generic” issues?
  Absolutely!
• Can’t discuss confidential internal matters or what a party in a case said to you.

Procedural Options and Personal Opinions

• OK to explain options - all of them, if there are several, and the differences between each
• Options as access to justice
• Cannot express a personal opinion or encourage or discourage a particular course of action
• Examples?
Facilitate Access to the Court System

- Most people are unfamiliar with the court system.
- Okay to determine what an individual wants to do by asking questions.
- Don’t make inappropriate referrals because you misunderstood what the person was asking.
- Examples?

General and Specific Referrals

- Know what’s available before offering information on agency services
- OK to refer to a specific agency if it’s the only one providing the service
- Neutrality and impartiality - guideposts for referrals
Assistance with Court Forms

• You can:
  – provide forms,
  – select an appropriate form, and
  – give instructions to complete forms.

• Can court employees fill out a form for a customer?

Exception

If a person is illiterate or has a disability that prevents them from completing a form, court staff may assist in completing the form if procedural safeguards are followed to ensure the court remains accessible and the court’s staff are neutral and impartial.
Review of The Nine Categories

1. Legal definitions
2. Procedural definitions and explanations
3. Citations for statutes, court rules, and ordinances
4. Information that is a matter of public record
5. General information about court operations
6. Options available to a litigant
7. Facilitate access to the court system
8. General referrals
9. Forms and instructions on how to complete them

In Summary, Why Can’t Court Employees Give Legal Advice?

- Must remain impartial at all times
- Must remain neutral - cannot recommend a course of action
- Giving legal advice is the unauthorized practice of law
Small Group Exercise

• Review the scenarios at your table.
• As a group, develop a strategy to address the issue selected.
• Select a spokesperson to report out.

Knowing Your Responsibilities

• Considering what we have reviewed, what then are the responsibilities of court employees?
  – Providing service and accurate information is providing access to justice.
  – Know and impartially communicate all the options so parties can make an informed decision.
Strategies for Better Service

- Listen closely and ask questions
- Be patient
- Don’t hide behind “the phrase” as an excuse to not provide service
- “Not what you say, but how you say it.”
- Use plain English to describe procedures or explain policies
- Provide resources to help parties better understand the court process and procedures.

Applying the Principles, Individually

- Where does my question fit within the nine categories?

- Am I providing access to the system or am I hiding behind “the phrase?”
Applying the Principles, Court wide

• Do we have a policy that clearly defines our role in providing assistance to parties?
• If “yes,” is it consistent with the principles we reviewed today?
• If not, where can I find a one page, “go to” fact sheet that will help guide our efforts to provide service without it being considered “legal advice?”

Guidelines for Procedural Information

**DO:**
- Provide legal and procedural definitions
- Cite statutes, court rules and ordinances
- Provide public case information
- Provide general information on court operations
- Provide options
- Provide general referrals
- Provide instructions on how to complete forms

**DO NOT:**
- Provide legal interpretations and procedural advice
- Research statutes, court rules and ordinances
- Provide confidential case information
- Provide confidential, exparte or restricted information on court operations
- Provide opinions
- Provide subjective or biased referrals
- Fill out forms for a party unless the customer is unable to
Individual Exercise

• How does our court’s response to most of the questions we get compare to the guidelines we reviewed today?

• What I think are the barriers to closing the gap between what we currently do and the principles discussed today.

• Steps I can take to help our court overcome each barrier.

Serving Self-Represented Customers

• Recognize and overcome stereotypes about self-represented people.

• Identify tools for better serving self-represented persons.

• Refine the ability to explain the policies and procedures of the court without practicing law.
Who are the Self-Represented?

Examples of Self Represented Persons

• Small claims litigants
• Landlord/tenant litigants
• Persons seeking Personal Protection Orders
• Defendants in civil infraction cases
• Parties in domestic relations actions
• Other examples?
True or False

20% of the persons who represent themselves can actually afford a lawyer. True.

Self-represented persons are younger than those represented by a lawyer. True.

Cases with self-represented persons are likely to take less time to complete. True.

Self-represented persons are more satisfied with the judges than those represented by attorneys. True.

Nearly half of self-represented persons think the case is simple and they can do it themselves. True.

Source: ABA Summary of 1991 Maricopa County (Phoenix, AZ) Study of Self-Represented Persons in Divorce Court.

Michiganlegalhelp.org
Conclusion

• Questions and comments?
• Complete your evaluation of today’s program.
Michigan Legal Help: Tools for Self-Represented Litigants in Michigan

Michigan Judicial Institute
Court Support Staff Training
October 21, 2015

Poverty in Michigan in 2013

9.9 million
17.5%
Chief Justice Marilyn Kelly (2010)

"While the economy has greatly increased the number of people who are eligible for civil legal aid, legal aid agencies must turn away many due to limited resources. I created the Solutions on Self-Help Task Force to fill the justice gap I see in our state."
Michigan Legal Help is a state-wide non-profit organization dedicated to empowering people to participate in the justice system.

Currently:

19,900 visits/week

174 sets of forms completed each day by litigants

~2,600 LiveHelp Chats a year
9 Self-Help Centers:
Wayne, Oakland, Oscoda, Muskegon, Marquette, Oakland, Calhoun, Allegan & Macomb counties

Plus, 1st Bilingual SHC Opening Nov. 22, 2015: SW Detroit

www.MichiganLegalHelp.org

- Family: Divorce, Custody, Parenting Time, Child Support, Annulment, Separate Maintenance, Paternity
- Protection from Abuse: Domestic Violence, Stalking, Personal Protection Orders (PPOs)
- Housing:Leases, Landlord/Tenant matters, Mobile Homes, Eviction, Security Deposits, Subsidized Housing
- Consumer:Debts and Debt Collection, Garnishment, Small Claims, Installment Payment Plans
- Expungement:Setting Aside an Adult Criminal Conviction, Setting Aside a Juvenile Adjudication
- Public Benefits: Food Stamps, Cash Assistance, Medicaid, Disability Benefits, Social Security, and others
- Income Tax: Earned Income Tax Credit, Free Tax Preparation, Innocent Spouse Relief, Tax Refund Garnishment
- Individual Rights: Emancipation of a minor, Name Change, and others
- Employment: Unemployment Benefits, Payment for Work, Discrimination and Wrongful Termination
- Estates & Guardianships: Small Estates, Trustees After Death, Probate Law, Guardianships and Conservatorships

Organizations and Courts
- Find A Lawyer: Find a lawyer in your area to help you with your legal matter.
- Self-Help Centers: Find a Self-Help Center near you to get additional help representing yourself in court.
- Community Services: Find a local community service organization for other assistance.
- Court Information: Contact information and what you need to know before you go to court.
Toolkits:
Articles, Common Questions & Checklists

Articles
- Introduction to Divorce with Minor Children
- Custody and Parenting Time
- The "Best Interests of the Child" Factors
- Child Support in a Nutshell
- Friend of the Court Overview
- How to Serve Divorce Papers
- Non-Marital Children Born During a Marriage
- Real Estate and Divorce
- Divorce Basics: Dividing Your Property and Debt
- Mediation and Divorce
- Special Support (Alimony) in a Nutshell

Common Questions
- How long do I have to live in Michigan before I can file for divorce?
- Where do I file for divorce?
- What if my spouse doesn’t live in Michigan?

Show more Common Questions

Checklist – Instructions for Divorce with Minor Children - Consent Judgment (print)

How to Proceed If your Spouse Files an Answer: These are step-by-step instructions to help you with your divorce with minor children when your spouse files an answer to your complaint. These instructions will only work if you and your spouse reach an agreement on all of the issues in your Judgment. If you are not able to agree on all of the issues in your case you may need to talk to a lawyer.

You can print these instructions and take them with you to use as a checklist.

Show Checklist

Forms & Videos

Forms
- Automated Online Divorce Forms
- Automated Online Divorce Forms - Judgment Only
- Automated Online Quitclaim Deed

Automated Online Motion/Complaint to Determine Child Born Out of Wedlock (Revoke Paternity) Forms

LawHelp Interactive
Legal documents made simpler

HOW to SERVE DIVORCE CUSTODY PAPERS
powered by podomio.net
Multiple Forms

• Some interviews complete a full set of forms rather than just one.
• For example, the Divorce interview gives users the following documents:
  Complaint; Summon; Record of Divorce; UCCJEA, IV-D; Default Affidavit and Request; Judgment (with or without addenda); Uniform Child Support Order, Judgment Information Form; Proofs of Mailing (with checkboxes), Notice of Hearing.

On Every Page:
Referrals & LiveHelp
Quality Assurance Protocols

- Legal expert input on content
- Quality assurance protocols for Self-Help Centers
- Automated reminders for quality assurance reviews of online content
- Feedback from users, courts, others
- Collaboration and communication with State Court Administrative Office

Frequently Asked Questions

- Parallel Spanish site at AyudaLegaldeMichigan.org
- Child Support is not calculated
- "But my court has already made its own divorce complaint and judgment forms for pro se litigants…“
- MichiganLegalHelp.org open and available to everyone, 24/7
- It’s a website, not an app – no download
- No log-in or saving of info or data on the Michigan Legal Help website
- Can use mobile device to access MLH or LHI
Why MLH is Important to MI

1. Self-Represented Litigants (SRLs) are everywhere
2. MLH can save courts and litigants time and resources
3. We are always working to make MLH an even better resource for courts and SRLs
4. MLH contains accurate, up to date, accessible information for SRLs
5. Centralized resources are time- and cost-efficient

Results: How Many Self-Represent?

- Cases with self-represented plaintiffs: 48%
- Cases with one or both parties self-representing: 68%
- Cases with no attorneys: 42%
Results: Successful Litigants

Rates of Completion of Divorce Cases

- **Attorney Represented Plaintiffs**: 77% (Judgment), 19% (Dismissal), 4% (Pending)
- **Other Self-Represented Plaintiffs**: 69% (Judgment), 29% (Dismissal), 2% (Pending)
- **Michigan Legal Help Plaintiffs**: 74% (Judgment), 25% (Dismissal), 2% (Pending)

Time to Complete Divorce

Length of Time To Judgment, by Plaintiff Type

- **Attorney Represented Plaintiffs**: 166 days
- **Other Self-Represented Plaintiffs**: 155 days
- **Michigan Legal Help Plaintiffs**: 147 days
Results: MLH Works!

Collaboration

Legal Services of South Central Michigan
How Can You Help MLH?

For more information...

- PR Materials (cards, brochures, flyers, posters) can be requested online or printed: [http://www.michiganlegalhelp.org/PRmaterials](http://www.michiganlegalhelp.org/PRmaterials)
- Use MLH button to link to MLH from other websites:
- User’s Guides available in English or Spanish: [http://www.michiganlegalhelp.org/usersguide](http://www.michiganlegalhelp.org/usersguide)
MichiganLegalHelp.org in 2016

- More legal information content on both MLH & Ayuda Legal de Michigan
- Expanded LiveHelp hours
- Four more Self-Help Centers to open
- Integration with legal services’ pro se divorce clinics
- Ongoing outreach to community service organizations, libraries, and public
- Increased accessibility and usability

Thank you!

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