

Self-Represented Litigants and Civil Case Dispositions in Missouri: An Impact Analysis

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Access to justice is an important issue for the Missouri judiciary as it is for many other states. The issue fostered several recent national initiatives,¹ including a 2010 Department of Justice Access to Justice Initiative.² Part of the agenda for that initiative involves identifying ways to ensure fair and just outcomes for all parties to a case. Some observers of the judicial system have expressed concern that self-represented litigants may not experience fair and just outcomes. As part of Missouri's own access-to-justice initiatives, this study was undertaken to understand how self-representation impacts outcomes in civil cases.

About half the cases filed in any given year in circuit (general jurisdiction) courts involve civil matters. To access the courts for resolution of problems with a legal nature, citizens generally need adequate financial resources to pay for legal representation and court costs. The financial crisis of 2007 to 2008 and the ensuing economic downturn created new groups of individuals facing difficult circumstances and reinforced the vulnerabilities of some groups who historically lived in impoverished conditions.³ The challenge for the courts in these times has been to provide access to justice when citizens have inadequate financial resources or, for other reasons, a lack of the legal resources needed to resolve their problems in court.

One result of the economic downturn is that more people with legal problems are not able to afford an attorney. While some learn to live with their problems, others try to access scarce legal-aid services, and still others are representing themselves in court. Although courts may be making some accommodations for self-represented litigants (SRLs), such as helping them fill out forms or taking time in court to explain procedures, observers have noted that they seem to be at a disadvantage in court proceedings and are more likely to experience unfavorable outcomes on their cases⁴ both because courts are not adequately prepared to accommodate their needs and because SRLs often lack the skills and knowledge to effectively seek desirable outcomes in their cases. Concerns have also

been raised about SRLs' potentially unrealistic expectations about the court's role in solving individual problems since they have no legal counsel to temper their expectations. The potential result is that more matters could reach the court that could have been resolved without judicial intervention.⁵

The purpose of this study is to expand our understanding of the impacts of self-representation on outcomes. A recent legal-services report on the justice gap⁶ raised some important questions for further research regarding equal access to justice and self-representation. While evidence is mounting that SRLs may experience less favorable outcomes,⁷ little is known about the types of cases SRLs bring to the court or the outcomes of those various types of cases.

Missouri courts permit self-representation. To assist individuals considering self-representation in family-law matters, the Committee on Access to Family Courts developed a website⁸ with helpful resources, including educational programming for those considering self-representation, legal forms, guidelines on the kinds of court-staff assistance available, and resources for stopping abuse and stalking. Although assistance is available for family-law matters, the same level of help is not available for other civil matters. This lack of support may impact the ability of the self-represented to pursue access to justice and receive favorable dispositions in their cases. Analysis later in this study sheds more light on this matter.

This study analyzes various civil case types involving what in Missouri are referred to as pro se parties and compares the outcomes for pro se parties to parties with legal representation at case disposition during 2011 in the Missouri state court system. The study also compares outcomes for petitioners and respondents who are pro se parties.

SELF-REPRESENTATION IN CIVIL MATTERS

In 2012, the American Bar Association Coalition for Justice conducted a nationwide survey of judges to gauge the impact of the economic downturn on representation in the courts.

Footnotes

1. Catherine R. Albiston & Rebecca L. Sandefur, *Expanding the Empirical Study of Access to Justice*, WIS. L. REV. 101 (2013).
2. U.S. Department of Justice, *Access to Justice*, www.justice.gov/atj/.
3. Anne Dannerbeck Janku, *Poverty and Legal Problems: Examining Equal Access to Justice in Missouri*, in TRENDS IN STATE COURTS 8 (2013).
4. LEGAL SERVICES CORPORATION, DOCUMENTING THE JUSTICE GAP IN AMERICA (2009), www.lsc.gov/JusticeGap.pdf; P. Hannaford & N. Mott, *A Picture of Pro Se Litigants: Who and Why?* Paper presented to the joint Law and Society Meeting on Sociology of Law, International Sociological Assoc., Budapest, Hungary (2001).

5. Chris Bevan, *Self-Represented Litigants: The Overlooked and Unintended Consequence of Legal Aid Reform*, 35 J. SOC. WELFARE & FAM. L. 43 (2013).
6. *Id.*
7. Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel Is Most Needed*, 37 FORDHAM URB. L.J. 37 (2010); see also Mavis MacLean & John Eekelaar, *Legal Representation in Family Matters and the Reform of Legal Aid: A Research Note on Current Practice*, 24 CHILD & FAM. L. Q. 223 (2012).
8. <http://www.selfrepresent.mo.gov/page.jsp?id=5240>.

The majority of judges responded that they had experienced an increase in unrepresented litigants and that this increase negatively impacted the effectiveness and efficiencies of the court. Errors by unrepresented litigants included procedural errors, failure to present necessary evidence, ineffective witness examination, failure to properly object to evidence, non-preservation of evidence, and ineffective arguments. As a result, court procedures are slowed, case backlogs occur, and judges struggle to maintain impartiality while preventing injustice.⁹ These negative impacts on effectiveness and efficiencies of court processes may have a negative impact on outcomes for SRLs.

These observations from judges compound a perception that SRLs are vulnerable because they are believed to be poor, have a low education level, and are otherwise socially disadvantaged.¹⁰ Because they are perceived to be vulnerable, they are also believed to be most in need of help. Further reinforcing this image of vulnerability among most SRLs is an association of SRLs with cases in “poor people courts” (traffic, tenant, child support, and other domestic relations).¹¹ The association of poverty and other indicators of vulnerability leads to a perception that SRLs place big burdens on the courts¹² because SRLs must be incompetent. In reality, individuals do not have legal representation on their cases for a variety of reasons. While an inability to pay attorney fees is certainly a key factor in self representing,¹³ some individuals choose not to pay an attorney, some prefer to be independent of legal counsel, and in some situations, potential litigants cannot find an attorney who perceives that their case is winnable or lucrative or fits in their portfolio.¹⁴

The actual burden of SRLs on courts has not been well established. When “burden” is associated with time to process a case, results are inconclusive. Some analyses actually show that cases with SRLs take less time and fewer court actions. Rosenbloom found that represented-party cases actually took the most time and had the most docket entries.¹⁵ A time-use study in California found that cases with SRLs proceed faster in family cases as well as in small civil and criminal matters.¹⁶ While one could interpret the observation that cases with SRLs

take less time and involve fewer court actions to mean that SRLs are actually more efficient (or that attorneys slow down court processes), an alternative explanation is that SRLs do not know how to use court procedures to their benefit and do not know what information to present on a case to reach a desired outcome.¹⁷ For instance, anecdotal evidence, such as that reported by Gillis, suggests that the SRL spends more time in court and wins lesser awards.¹⁸ Potential litigants need more information on the impacts of self-representation to make informed decisions about whether to proceed without legal representation.

DETERMINING SELF-REPRESENTATION STATUS

To study outcomes for SRLs, one must first develop an operational definition for what constitutes a self-represented litigant on a case. In its purest form, an SRL is a party on a case with no legal resources of any kind. In Missouri, a person who represents himself in court without the help of a lawyer is said to appear pro se, or “on one’s own behalf.”¹⁹ Some scholars do not consider this to be anything other than pure self-representation throughout the course of the case.²⁰ However, the real world rarely conforms to a simple definition. Pro se parties can be entirely unsupported or receive legal advice ranging from help accessing legal forms to information shared at a legal-aid clinic to some counsel.²¹ The level of legal advice associated with a case could impact outcomes. A court database rarely contains useable information on legal resources the SRL may have accessed over the course of the case, but the court records generally contain party status, which may change over the life of a case. For the purposes of this study, a party will be considered self-representing when he or she is a party on a case at disposition, the most critical point in a case.

INTERPRETING OUTCOMES

Self-represented status may impact the outcome of a case. One study found that cases with an SRL were more likely to be disposed with a withdrawal or abandonment and much less likely to result in compromise and settlement.²² One implication of this finding is that problems of a legal nature are not

9. CONFERENCE OF CHIEF JUSTICES, THE IMPORTANCE OF FUNDING FOR THE LEGAL SERVICES CORPORATION FROM THE PERSPECTIVE OF THE CONFERENCE OF CHIEF JUSTICES AND THE CONFERENCE OF STATE COURT ADMINISTRATORS (2012), http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Government%20Relations/LSC_WHTPR.ashx.

10. RICHARD MOORHEAD & MARK SEFTON, LITIGANTS IN PERSON: UNREPRESENTED LITIGANTS IN FIRST INSTANCE PROCEEDINGS (2005).

11. Drew A. Swank, *The Pro Se Phenomenon*, 19 BYU J. PUB. L. 373 (2005).

12. Engler, *supra* note 7.

13. MASSACHUSETTS SUPREME JUDICIAL COURT STEERING COMMITTEE ON SELF-REPRESENTED LITIGANTS: ADDRESSING THE NEEDS OF SELF-REPRESENTED LITIGANTS IN OUR COURTS (2008), <http://www.mass.gov/courts/sjc/docs/self-rep-final-report.pdf> [hereinafter MASSACHUSETTS SUPREME JUDICIAL COURT].

14. Engler, *supra* note 7; Swank, *supra* note 11; Scott Barclay, *The Decision to Self-Represent*, 77 SOC. SCI. Q. 912 (1996); Rebecca L. Sandefur, *The Impact of Counsel: An Analysis of Empirical Evidence*,

9 SEATTLE J. SOC. JUST. 51 (2010).

15. Jonathan Rosenbloom, *Exploring Methods to Improve Management and Fairness in Pro Se Cases: A Study of the Pro Se Docket in the Southern District of New York*, 30 FORDHAM URB. L.J. 305, 358-59 (2002).

16. Reported in JOHN GREACEN, ADMINISTRATIVE OFFICE OF THE COURTS, CALIFORNIA, THE BENEFITS AND COSTS OF PROGRAMS TO ASSIST SELF-REPRESENTED LITIGANTS (2009), http://courts.ca.gov/partners/documents/Greacen_benefit_cost_final_report.pdf.

17. *Id.*

18. Charlie Gillis, *Courting a Crisis*, MACLEAN’S, Feb. 11, 2013, at 1.

19. ‘Lectric Law Lexicon, <http://www.lectlaw.com>.

20. Randall T. Shepard, *The Self-Represented Litigant: Implications for the Bench and Bar*, 48 FAM. CT. REV. 607 (2010).

21. Bevan, *supra* note 5.

22. ROSEMARY HUNTER, ET AL., LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES, THE CHANGING FACE OF LITIGATION: UNREPRESENTED LITIGANTS IN THE FAMILY COURT OF AUSTRALIA (2002).

being resolved through the court system when SRLs are involved. Another study reports that litigants are between 17% and 1,380% more likely to receive a favorable outcome in adjudication when they are represented by counsel.²³

A big question for research on the impact of self-representation on outcomes is how one defines what constitutes a “favorable” outcome. A favorable outcome could be gaining access to property, rights, or other resources. Individual satisfaction with the case outcome or with the court experience is another indicator of a favorable outcome, although not one that is typically measured.²⁴ Favorable outcomes are also determined by the type of case and whose perspective is considered. Using housing cases as an example, for a tenant, the lack of an adverse action such as eviction or a positive action such as repairs made could be a favorable outcome. For the landlord, not having to pay for repairs could be a favorable outcome, as could eviction of a troublesome tenant. In administrative-agency cases, receiving benefits could be a favorable outcome for a client. Family-law cases are the most complex in ascertaining favorable outcomes. Some analysts exclude family-law cases from studies because there are no clear winners or losers. In legal- and physical-custody cases, who wins in the custody decisions? When one parent is awarded more time with children, the other parent may experience a reduction in time with the children. And for the children themselves, the favorability of outcomes is even less clear. In domestic-violence cases, receipt of an order of protection is considered a favorable outcome. In consumer-finance cases, a favorable judgment and the size of the settlement are considered favorable outcomes.²⁵

In Missouri’s electronic case-management system, the judgment in a civil claim is entered as “against” either the petitioner or respondent. Other than the amount awarded, no standardized, summary data fields are provided in the case-management system to identify the nature of the judgment. For instance, information on which judgments are full and which are partial would help in determining how “favorable” a case outcome might be; however, the database does not capture the amount sought by the petitioner (unless entered through a non-standardized text field), nor does it contain partial-judgment for/against fields. When deciding a case, the judge or jury can award whatever amount they see fit.

SELF-REPRESENTATION IN MISSOURI

Data on SRLs is available in the Missouri court electronic case-management system, the Judicial Information System. For this study, case types were grouped as closely as possible to the same categories as Missouri Legal Services uses, *e.g.*, consumer finance, employment, family, juvenile, housing, income maintenance, individual rights, and miscellaneous. Family cases are included in this study because they constitute the majority of civil cases with an SRL and because an outcome of “judgment

against” has been included with the cases. In fiscal year 2011, an estimated 76,973 litigants were pro se parties at some point during case proceedings. In contrast, at the time of disposition during the same year, 74,730 separate pro se parties (*i.e.*, self-represented litigants) were associated with civil cases in Missouri circuit courts.²⁶ This count includes only those litigants who were recorded as pro se at the time of disposition, excluding those who file as pro se but later retain an attorney. Of the 379,991 civil cases disposed in Missouri in fiscal year 2011, 14% included at least one pro se party.

ANALYSIS AND RESULTS

Some judicial observers believe people who represent themselves are more likely to lose their cases because they do not have the expertise to effectively navigate the legal system.²⁷ Researchers analyzed this issue for Missouri pro se civil case filers from two perspectives. First, the analysis compared the manner of disposition for pro se versus non-pro se parties and then focused specifically on judgments against pro se parties. Next, the analysis compared judgments against associated with pro se respondents compared to those associated with petitioners.

The distribution of party type at disposition by case category was compared for pro se parties to those that were not pro se. In fiscal year 2011, compared to over 800,000 non-pro se parties at disposition, almost 75,000 parties to a civil case (including domestic relations) had a pro se party type code at case disposition.²⁸ Almost two-thirds of all pro se parties were associated with family-law cases (generally domestic relations). Family case types with a large number of pro se parties included adult- and child-protection orders, dissolutions, modifications and access, and paternity. This finding is consistent with most other studies that have found self-representation most common in domestic-relations cases.²⁹

The consumer-finance category (small claims, suit on account, breach of contract, etc.) and the housing category (rent and possession, landlord complaints, unlawful detainer, etc.) also had a number of pro se parties. A notable percentage of party types at disposition were pro se in cases on consumer finance (especially suit on account and breach of contract) and individual rights (especially expungement, post-conviction relief, and habeas corpus). In comparison to the distribution of non-pro se party types across case categories, pro se had a markedly higher proportion of family cases and lower proportion of consumer-finance and miscellaneous cases.³⁰

Next, the analysis compared the manner of disposition for non-pro se parties to pro se parties. In comparison to non-pro se party types at disposition, pro se party types had markedly different overall proportions (*i.e.*, greater than 1% difference) for some outcomes. The “dismissed by court without prejudice,” “tried by court—civil,” and “uncontested” outcomes were *higher* among pro se parties primarily in family cases

23. Engler, *supra* note 7.

24. GREACEN, *supra* note 16.

25. Engler, *supra* note 7.

26. Pro se party estimates reflect a count of active and distinct party IDs with a pro se party type code on cases filed during the fiscal year.

27. Dave Collins, *Courts Flooded with Poorer Americans Representing*

Themselves, NBC NEWS, August 20, 2012, http://bottomline.nbc-news.com/_news/2012/08/20/13375779-courts-flooded-with-poorer-americans-representing-themselves?lite.

28. *See supra* Table 1.

29. GREACEN, *supra* note 16.

30. Comparison does not include criminal case categories/types.

TABLE 1: FY11 DISPOSITIONS, BY ACTIVE PARTY TYPE AT DISPOSITION AND CASE CATEGORY

	NON-PRO SE PARTIES		PRO SE PARTIES	
	COUNT	PERCENT DISTRIBUTION	COUNT	PERCENT DISTRIBUTION
CONSUMER FINANCE	377,070	46.7%	13,535	18.1%
EMPLOYMENT	9,898	1.2%	75	0.1%
FAMILY	168,347	20.9%	48,307	64.6%
JUVENILE	1,683	0.2%	17	0.0%
HOUSING	123,144	15.3%	10,278	13.8%
INCOME MAINTENANCE	254	0.0%	1	0.0%
INDIVIDUAL RIGHTS	23,611	2.9%	829	1.1%
MISCELLANEOUS	103,187	12.8%	1,688	2.3%
	807,194	100.0%	74,730	100.0%

Source: Missouri Judicial Information System

TABLE 2: FY11 MANNER OF DISPOSITION, BY CASE CATEGORY AND ACTIVE PARTY TYPE AT DISPOSITION, FOR MANNERS OF DISPOSITION WITH HIGHEST PERCENTAGE-POINT DIFFERENCES BETWEEN PRO SE AND NON-PRO SE PARTIES

	MANNER OF DISPOSITION	NON-PRO SE PARTIES		PRO SE PARTIES	
		COUNT	PERCENT DISTRIBUTION	COUNT	PERCENT DISTRIBUTION
CONSUMER FINANCE	Tried by Court—Civil	15,837	4.2%	2,652	19.6%
	Dismissed w/o Prejudice	37,330	9.9%	2,286	16.9%
	Dismissed by Parties	100,301	26.6%	2,756	20.4%
	Consent Judgment	56,938	15.1%	1,042	7.7%
	Default Judgment	145,926	38.7%	4,064	30.0%
EMPLOYMENT	Other Final Disposition	267	2.7%	21	28.0%
	Remove to Federal Court	267	2.7%	13	17.3%
	Dismissed w/o Prejudice	1,406	14.2%	7	9.3%
	Default Judgment	2,376	24.0%	8	10.7%
	Dismissed by Parties	3,445	34.8%	15	20.0%
FAMILY	Dismissed w/o Prejudice	41,750	24.8%	18,874	39.1%
	Uncontested	29,461	17.5%	4,552	9.4%
HOUSING	Dismissed w/o Prejudice	7,758	6.3%	1,399	13.6%
	Tried by Court—Civil	9,852	8.0%	1,547	15.1%
	Dismissed by Parties	29,924	24.3%	1,417	13.8%
INDIVIDUAL RIGHTS	Tried by Court—Civil	10,082	42.7%	457	55.1%
	Dismissed w/o Prejudice	2,644	11.2%	143	17.2%
	Dismissed by Parties	3,896	16.5%	84	10.1%
MISCELLANEOUS	Tried by Court—Civil	8,255	8.0%	386	22.9%
	Probate Order	5,263	5.1%	260	15.4%
	Dismissed w/o Prejudice	12,279	11.9%	290	17.2%
	Dismissed by Parties	40,346	39.1%	275	16.3%

Source: Missouri Judicial Information System

(especially protection orders and—for uncontested outcomes—dissolutions without children). The “default judgment,” “dismissed by parties,” “consent judgment,” and “change of venue” outcomes were *lower* among pro se parties primarily in consumer-finance cases (especially associate civil

(bulk) contract).

Pro se party types had markedly different proportions (*i.e.*, greater than or equal to a 5% difference) for some outcomes within some case categories. Overall, these differences may suggest pro se litigants are more likely to use the full resources

of the court, as indicated by disproportionately more “tried by court—civil” outcomes and fewer “dismissed by parties” and “consent/default judgment” outcomes. The results also suggest that pro se litigants are more likely to have their cases dismissed without resolution, as indicated by a disproportionate

19% for pro se petitioners. Among petitioners, approximately 12% (2,544 ÷ 21,905) were against pro se parties.

Because the results suggest some less favorable case outcomes for pro se petitioners (see Table 3), the analysis next examined whether certain case categories were less advanta-

TABLE 3: FY11 DISTRIBUTION OF DOCUMENTED JUDGMENT AGAINST, BY PRO SE STATUS AND PARTY TYPE

MEASURE	PRO SE STATUS	NUMBER AGAINST PETITIONERS	NUMBER AGAINST RESPONDENTS	TOTAL
COUNT	Pro se	2,544	10,972	13,516
	Non-Pro se	19,361	199,874	219,235
	Total	21,905	210,846	232,751
PERCENT	Pro se	1.1%	4.7%	5.8%
	Non-Pro se	8.3%	85.9%	94.2%
	Total	9.4%	90.6%	100.0%

Source: Missouri Judicial Information System

amount of “dismissed by court without prejudice” outcomes.

During fiscal year 2011, there were approximately 13,500 judgments against either petitioners or respondents who were pro se at the time of case disposition.³¹ This count represents 5.8% of the 232,751 judgments on civil cases (including domestic relations and probate) documented in the judiciary

geous to pro se petitioners. Over three-quarters of judgments against pro se petitioners were in family cases.³² In comparison to non-pro se petitioners, pro se petitioners had a slightly higher proportion of judgments against in the family, housing, and consumer-finance case categories. In cases of individual rights, pro se petitioners actually had a lower proportion of

TABLE 4: FY11 DOCUMENTED JUDGMENTS AGAINST PETITIONERS, BY PRO SE STATUS AND CASE CATEGORY

CASE CATEGORY	NUMBER AGAINST PRO SE PETITIONERS	% JUDGMENTS AGAINST FOR PRO SE PETITIONERS	NUMBER AGAINST NON-PRO SE PETITIONERS	% JUDGMENTS AGAINST FOR NON-PRO SE PETITIONERS
CONSUMER FINANCE	335	13.2%	2,207	11.4%
EMPLOYMENT	1	0.0%	58	0.3%
FAMILY	1,949	76.6%	13,882	71.7%
JUVENILE		0.0%	19	0.1%
HOUSING	133	5.2%	271	1.4%
INCOME MAINTENANCE		0.0%	19	0.1%
INDIVIDUAL RIGHTS	68	2.7%	1,258	6.5%
MISCELLANEOUS	58	2.3%	1,626	8.4%
TOTAL	2,544	100.0%	19,342	100.0%

Source: Missouri Judicial Information System

database. However, the proportion of judgments that are against pro se parties (5.8%) was less than the proportion of documented petitioner and respondent parties who were pro se at disposition (8.5%). These relative proportions may suggest that, in general, pro se parties are not at a greater risk of “losing their case” (defined by the judgment) than parties represented by an attorney. Almost one-tenth of judgments were against the petitioner (see Table 3). Among non-pro se parties, the judgment was against the petitioner 9% of the time, compared to

judgments against them. The analysis seems to indicate that as a pro se petitioner, one has a slight disadvantage in consumer-finance, family, and individual-rights cases.

The analysis next compared judgments against respondents. Over nine-tenths of judgments (or 90.6%) were against the respondent. Among respondents, approximately 5% were against pro se parties. Almost one-half of judgments against pro se respondents were in family cases and two-fifths in consumer-finance cases.³³ In comparison to non-pro se respon-

31. See *supra* Table 3. Only applicant/petitioner/plaintiff/etc. and defendant/respondent/defendant/etc. with “display sort seq” codes of 3 or 4 were included in the analysis.

32. See *supra* Table 4.

33. See *infra* Table 5.

TABLE 5: FY11 DOCUMENTED JUDGMENTS AGAINST RESPONDENT, BY PRO SE STATUS AND CASE CATEGORY

CASE CATEGORY	NUMBER AGAINST PRO SE RESPONDENTS	% JUDGMENTS AGAINST FOR PRO SE RESPONDENTS	NUMBER AGAINST NON-PRO SE RESPONDENTS	% JUDGMENTS AGAINST FOR NON-PRO SE RESPONDENTS
CONSUMER FINANCE	4,218	38.4%	111,929	56.0%
EMPLOYMENT	14	0.1%	1,799	0.9%
FAMILY	5,217	47.5%	26,983	13.5%
JUVENILE		0.0%	0	0.0%
HOUSING	1,363	12.4%	48,170	24.1%
INCOME MAINTENANCE		0.0%	0	0.0%
INDIVIDUAL RIGHTS	1	0.0%	1,799	0.9%
MISCELLANEOUS	159	1.4%	9,194	4.6%
TOTAL	10,972	100.0%	199,874	100.0%

Source: Missouri Judicial Information System

dents, pro se respondents had a much higher proportion of judgments against in the family case category.

So far the analysis has examined all cases with no distinction between those with pro se parties on both the respondent and petitioner sides and those with a pro se party on just one side. To really understand any potential disadvantage in case outcomes for pro se parties, the analysis was narrowed to those cases with a pro se party on just one side. Against non-pro se respondents, pro se petitioners were consistently more likely

support the proposition that pro se litigants have worse outcomes than attorney-represented litigants.

CONCLUSIONS

These results provide some evidence to support the contention that people who represent themselves are more likely to lose their cases, at least for certain case types. To fully test this hypothesis, the analyst would need more information about the nature of the cases used in the comparison to control

TABLE 6: FY11 DOCUMENTED JUDGMENTS AGAINST, BY PRO SE STATUS AND CASE CATEGORY

	NON-PRO SE RESPONDENT		NON-PRO SE PETITIONER	
	JUDGMENT AGAINST PRO SE PETITIONER	JUDGMENT AGAINST NON-PRO SE PETITIONER	JUDGMENT AGAINST PRO SE RESPONDENT	JUDGMENT AGAINST NON-PRO SE RESPONDENT
CONSUMER FINANCE	22.1%	5.8%	99.8%	96.4%
EMPLOYMENT	50%	8.1%	0%	95%
FAMILY	53.7%	49.8%	71.3%	68%
JUVENILE	0%	93.3%	0%	0%
HOUSING	6.3%	5%	0%	98%
INCOME MAINTENANCE	0%	59.4%	0%	47.8%
INDIVIDUAL RIGHTS	79%	57.3%	79%	72.2%
MISCELLANEOUS	63.1%	26.1%	95.8%	84.4%
TOTAL	23.8%	20.6%	93%	87.3%

to receive a judgment against than were non-pro se petitioners—especially in individual-rights and miscellaneous civil cases.³⁴ In addition, against non-pro se petitioners, pro se respondents were generally more likely to have a judgment against them than were non-pro se respondents. Both instances

for other factors that could impact case outcomes besides pro se status.

Those factors include the quality of representation, merits of the case, substantive law, complexity of procedures, judge, and overall operation of the court.³⁵ In addition, because the

34. See *supra* Table 6.

35. Engler, *supra* note 7.

analysis focuses on outcomes, more information is needed about the nature of outcomes. Someone, most likely the judicial officer, is making a determination about who receives a judgment against, but the nature and extent of the “unfavorable” outcome is indeterminate with the available information.

Many people assume that the primary factor provoking individuals to self-represent is lack of financial resources to hire an attorney.³⁶ Individuals may have other reasons to represent themselves, including desire to maintain control over their lives,³⁷ views about attorneys,³⁸ ease of access to relevant information in electronic formats, and a perception that matters are simple enough to handle without an attorney, especially among well-educated individuals.³⁹ In considering how to facilitate access to justice, all of these reasons should inform any strategies to enhance accessibility of court procedures.

This analysis provides evidence that pro se parties may be at a disadvantage in court proceedings. More importantly, the analysis shows that a substantial number of pro se parties are associated with consumer-finance and housing cases. Currently, helpful resources are available in Missouri only for pro se parties on family cases. To promote equal access to justice, the judiciary should find ways to expand supportive resources for pro se litigants with consumer-finance and housing cases, two areas that have experienced increased activity associated with the economic downturn.



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36. MASSACHUSETTS SUPREME JUDICIAL COURT, *supra* note 13.

37. Barclay, *supra* note 14.

38. Swank, *supra* note 11.

39. NEW YORK OFFICE OF THE DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES, FINAL REPORT (2005).