

More Americans serving as their own lawyers



By MARGERIE A. GIBBS, Associated Press Writer
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OMAHA, Neb. — When Danielle Nitzel found her three-year-old marriage drawing its last breath in 2004, she couldn't afford the minimum of \$1,000 she was told she would need to hire a divorce lawyer.

So she did what more and more Americans are doing: She represented herself in court.

"I looked online and just tried to figure out how to write out the paperwork," said Nitzel, a nursing student who at the time had little money and a pile of education loans. "I think it cost us \$100 to file it ourselves."

The number of people serving as their own lawyers is on the rise across the country, and the cases are no longer limited to uncontested divorces and small claims. Even people embroiled in child custody cases, potentially devastating lawsuits and bankruptcies are representing themselves, legal experts say.

"It's not just that poor people can't afford lawyers. This is really a middle-class phenomenon," said Sue Talia, a judge from Danville, Calif., and author of "Unbundling Your Divorce: How to Find a Lawyer to Help You Help Yourself."

The trend has resulted in court systems clogged with filings from people unfamiliar with legal procedure. Moreover, some of these pro se litigants, as they are known, are making mistakes with expensive and long-lasting consequences — perhaps confirming the old saying that he who represents himself has a fool for a client.

Paul Merritt, a district judge in Lancaster County, Neb., said he knows of cases in which parents lost custody disputes because they were too unfamiliar with such legal standards as burden of proof.

"There is a lot on the line when you have a custody case," Merritt said. "There are a lot of things that judges take into consideration in determining what's in the best interest of the child, and if you're a pro se litigant, the chances that you will know what those things are, and that you will present evidence of all those issues, are really small."

While the fees lawyers charge vary widely, the average hourly rate ranges from around \$180 to \$285 in the Midwest, and from \$260 to more than \$400 on the West Coast, according to legal consultant Altman Weil Inc.

Tim Eckley of the American Judicature Society in Des Moines, Iowa, said no national figures are kept on how many people represent themselves, "but I don't think anybody who's involved in the courts would deny that this is a growing trend in the last 10 to 15 years."

In California, about 80 percent represent themselves in civil family law cases — such as divorce, custody and domestic violence cases — according to the Self-Represented Litigation Network. In San Diego alone, the number of divorce filings involving at least one person not represented by a lawyer rose from 46 percent in 1992 to 77 percent in 2000.

In Nebraska in 2003, 13,295 people represented themselves in civil cases in state district courts. By 2007, the number had risen to 32,016, or 45 percent.

The result?

"Courts are absolutely inundated with people who do not understand the procedures," Talia said. "It is a disaster for high-volume courts, because an inordinate amount of their clerks' time is spent trying to make sure that the procedures are correctly followed."

Talia has traveled to nearly every state to speak to lawyers, judges and court workers about measures to handle the growing number of people representing themselves.

Many states offer self-help Web sites or desks at court offices that offer standard legal forms for such things as simple divorces. In some states, volunteer lawyers are made available to give legal advice to those who cannot afford an attorney.

The legal profession may not like the trend but realizes it is here to stay, and has gotten behind the effort. The American Bar Association is encouraging states to set up self-help desks and adopt standard forms.

Also, a majority of states have amended their attorney ethics rules to promote a growing practice known as "unbundling," in which a lawyer handles just part of a contract, lawsuit, divorce or other litigation for a small fee, rather than taking on the entire case.

The ethics rules have been changed to make it clear that lawyers can do this without being held responsible for the entire case. That can ease their fears of being sued for malpractice.

Nitzel, the nursing student, said court staffers helped point her in the right direction, but she also had a friend who happens to be a lawyer help in drafting her divorce papers.

On the Net:

Nebraska Supreme Court: <http://www.supremecourt.ne.gov>

Self-Represented Litigant Network: <http://www.srln.org>

American Judicature Society: <http://www.ajs.org>

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