



Pictures from a Pro Se Clinic

Even those working daily with and around pro se parties, perhaps even more so, are susceptible to a level of detachment from the usually harsh realities of navigating the legal process without a compass or oar (or boat). In my capacity as bankruptcy judge, sitting in the largest pro se district in the country, I have daily reminders of the need for pro se assistance: A debtor who files a Chapter 7 bankruptcy when she should have filed a Chapter 13 and now faces the forced sale of her home by a trustee. A defendant in a lawsuit who did not comply with discovery obligations, not because of any intent to frustrate the process but simply due to lack of education, fear and inertia, and now will be unable to present any witnesses at trial. A debtor losing a homestead exemption because it was claimed incorrectly, or not at all. A debtor who fills out a bankruptcy schedule and petitions incorrectly, resulting in the dismissal of a case, or denial of discharge.

These are some common bankruptcy-specific examples—I'm sure my magistrate and district brethren have more than their fair share. How many times—too many to count—have I listened to the often disjointed, emotional presentation of a pro se litigant and thought, “he just needs to do such and such.” I of course inform them I cannot give legal advice, and in the same breath recommend they seek assistance of counsel and direct them to the pro se clinic. I do my utmost to ensure the fairness of the proceeding, but inevitably the drag of the pro se's inexperience has a material effect, and the pro se party has dug him- or herself a hole, regardless of the merits of the matter.¹ And again, and again, I ensure the process is as fair as possible and urge the litigant to seek assistance of counsel. And each time the exchange becomes more routine, more ... perfunctory.



Mark D. Houle is a bankruptcy judge in Riverside.

And so to rewind any growing detachment that might have taken root, this past summer I connected more than usual with the layperson experience, in part through the eyes of my two summer externs (or perhaps I confuse cause and effect—it could well have been that from sharing their experience came the benefit to me). Credit to them for watching hundreds of matters in court and volunteering their perspectives during our discussions afterwards. Even they, very intelligent law students with excellent pedigrees, sometimes having the benefit of researching the matter beforehand, often struggled with the very basic question of What. The. Heck. Is. Going. On?² To that end, in part for their benefit and in part for mine, I asked if they would shadow the pro se clinic in the courthouse to get a better understanding of the pro se experience, stripped of the debilitating pressure that the very scary courtroom atmosphere can have on an unrepresented party. Here are a few of those moments—some are simple and some more dramatic. All are powerful in their own way. If you are reading this you are undoubtedly committed in one way or another to the plight of the pro se party, and I applaud you for your efforts. I hope these moments reaffirm in some small way the magnificent validity of those efforts.

Salvador³

Salvador was an elderly Latino man who had previously been to the clinic for help. He appeared

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to be in his late 60s and had an imperfect command of English. He had a reverse mortgage and needed an attorney to review his bankruptcy petition and schedules for accuracy and completeness. The volunteer pro se attorney reviewed Salvador's pleadings, provided him with a new schedule D form and helped fill out the form, as debtor had incorrectly listed his creditors.

Salvador had heard about the clinic through the city of Corona's senior center. He expressed that without the clinic, he had no other legal options, as retaining an attorney would be too expensive for him. Salvador was somber and serious, and listened intently to the volunteer's advice.

Lois

Lois was a white woman who appeared to be in her 60s and was with a man who seemed to be her partner, but only she was filing for bankruptcy. They had previously been to the clinic for help and had now come back for the pro se volunteer to review Lois's bankruptcy documents to make sure that her schedules were properly completed. The woman's sole income was from social security.

The couple was dressed simply in t-shirts and jeans. They listened carefully to the volunteer's questions and asked tentative questions at various points. The volunteer was patient with the couple and answered their questions using easy-to-understand language. The man was upbeat and positive. He was cracking jokes and trying to make light of the situation for Lois's benefit. Lois had a quiet, serious demeanor, and it was clear the bankruptcy process weighed on her heavily, but her partner's jokes appeared to soothe her somewhat.

Elaine

Elaine was a middle-aged Asian woman who used a cane. She had won a judgment in an adversary proceeding against a contractor and was inquiring about how to collect her judgment. The contractor did not complete a job Elaine paid for, and the contractor

later filed for bankruptcy. She had to prove the contractor committed fraud and that the debt owed to her was non-dischargeable. She had previously been to the clinic on several occasions.

Elaine informed us that without the pro se clinic, it would not have been cost-effective to hire an attorney as she would have to pay an attorney more than the damages she was seeking to recover. She learned about the clinic when she came to file the adversary proceeding with the clerk's office.

Elaine had worked a graveyard shift the night before coming to the clinic. Although she was tired, she still showed up to receive her judgment and seek help from the clinic. English was not her first language, and she found the legal system difficult to navigate. She shared that when the judge was speaking to her during the adversary proceeding, she barely understood what he was saying.

Despite language barriers, working the previous night, and being physically weak, Elaine was alert and focused when speaking to the pro se clinic attorney. She was resilient and headstrong, and she was not going to allow any obstacles to stop her.

William

William was a black man in his 60s and wore a veteran baseball hat. He came to the clinic to determine whether filing a Chapter 7 or 13 petition would be more appropriate for his situation. He had no equity in his home and had significant credit card debt. He was retired and receiving only social security and pension payments. He had previously filed for bankruptcy 20 years ago.

The pro se volunteer advised William to stop paying his credit card bills (because they would be discharged in his bankruptcy case), to prioritize paying for his mortgage, and to save money for the \$335 bankruptcy filing fee. She also advised him to be honest on his petition and disclose everything. William listened intently to the attorney's instructions and clearly felt comfortable to ask follow-up questions.

William made light of his situation by joking with the attorney and us. He characterized his humor as his way of combating his difficult situation. He seemed like a kind man, earnestly trying to find the best solution given his financial circumstances.

Wanda

Wanda was a black woman in her late 30s-40s. She had filed for bankruptcy protection, and in her bankruptcy case she successfully litigated an adversary proceeding against a creditor. She proudly claimed to be the first pro se individual to beat a creditor in an adversary proceeding in bankruptcy court.⁴

Wanda claimed that when she was in litigation, she had been told by a lawyer that trying to beat a creditor in an adversary proceeding was a “waste of time;” yet, she had managed to do it. During her adversary proceeding against the creditor, she utilized the law library and online search engines to find and understand relevant caselaw and statutory authority. Now she was engaged in state court litigation with the same creditor. Wanda appreciated the guidance she received from the pro se clinic but understood she would be doing most of the work to represent herself in state court. She was very confident in her ability and in her chances.

Claudia

Claudia was a woman in her 40s-50s with a strong accent of indeterminate origin. She was a landlord seeking help from the pro se clinic because her tenant had not paid rent in five months, and the tenant recently filed for bankruptcy. She shared that she had received an unlawful detainer judgment in her favor and wanted to know if there

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NOTE FROM THE CHAIR



Stacie Beckerman is a magistrate judge in Oregon.

Want a Pro Se Help Desk or Clinic in Your Courthouse?

Inspired by the stories in U.S. Bankruptcy Judge Mark Houle’s article? Wonder why your district does not yet have a free help desk or clinic for self-represented litigants? Let us know! The Pro Se Litigation Committee has resources and information available to assist you with determining the best fit for your district. The committee consulted with the District of Oregon last year to launch a pilot program in the Mark O. Hatfield U.S. Courthouse in Portland,



Volunteer attorney Fanny Cherng, right, assists members of the public at the Bankruptcy Self-Help Center and Clinic located at the Southern District of California Bankruptcy Court.

and the success of the pilot led to a permanent help desk in the courthouse administered and funded by the Oregon chapter of the Federal Bar Association. Circuit, district, and bankruptcy courts have tried different models across the country, and we will connect you with those visionaries to help you open the door to your courthouse for self-represented litigants. Send me an email to get started: Stacie_Beckerman@ord.uscourts.gov. ○

were any options for her to get a “sheriff to kick [the tenant] out.” Importantly, the pro se volunteer advised Claudia to be sure not to take actions after the bankruptcy filing without seeking permission from the Bankruptcy Court, so that she would not violate the automatic stay and possibly be subject to damages.

Susan

Susan was a white woman who needed the pro se clinic’s assistance to help fill out her Chapter 7 petition and schedules to file for bankruptcy. She appeared to be in her 30s or 40s, and she had been to the pro se clinic in the past. The pro se volunteer attorney walked Susan through all the pages of the petition and schedules, and Susan became very emotional when discussing certain types of financial questions. Susan stated: “my ex-husband opened up credit card accounts using my social security number, and now I am broke.” She sobbed, at times restrained and at times not, for the rest of her meeting.

Exchanges like these are the norm in the pro se clinic. The author does not want to affect the stark simplicity or emotion of these moments with unnecessary closing commentary, other than to note that “stories help us remember what we never want to forget.”⁵ Again, my thanks to you, gentle reader. Your individual pro se efforts, like those reflected above, change lives. ○

¹ One notable exception: in a lawsuit currently pending before me, a motivated pro se party is more than holding her own against a series of opposing counsel.

² Far too often this confusion was caused by discombobulated attorney presentations. That is the subject of another, far lengthier, article.

³ All names changed to protect the innocent.

⁴ Author’s comment: this is not true, but still very rare.

⁵ Emory R. Frie, Neverland

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Office of the Circuit Executive

Elizabeth A. Smith, Circuit Executive

P.O. Box 193939, San Francisco, CA 94119-3939

Ph: (415) 355-8900, Fax: (415) 355-8901

<http://www.ca9.uscourts.gov>

The Gideon Staff:

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