

Current Research on Self-Represented Litigants

Self-Represented Litigation Network

Renee Kimball, Moderator

Deputy Court Administrator

43rd Judicial District of Pennsylvania

Stroudsburg, Pennsylvania.

Presenters

- John Greacen, Principal, Greacen Associates, LLC and Project Consultant to the Self-Represented Litigation Network, Regina, New Mexico
- Angela Tripp, Project Director, Michigan Legal Help Program, Ann Arbor, Michigan
- Natalie Knowlton, Director, Honoring Families Initiative, Institute for the Advancement of the American Legal System, Denver, Colorado.

Topics

Completed Studies

1. ABA Study of Self Help Centers
2. National Center for Access to Justice “Justice Index”
3. NCAJ 2013 Study of Brooklyn Child Support Hearings
4. Michigan Evaluation of the Effectiveness of Automated Divorce Documents
5. Idaho and Deschutes County, Oregon Evaluations of Informal Divorce Trials

Studies Underway

1. California Shriver Program Evaluation
2. Self-Represented Litigation Study of Remote Delivery of Services to Self-Represented Litigants
3. IAALS Replication of Canadian Study of Self-Represented Litigants

Topics

4. 2014 NCAJ summer study of the Bronx Family Court Help Center's document assembly process
5. John Jay College and the Debevoise & Plimpton Law Firm preliminary study of the NY navigator program in the Bronx courthouse, looking at its impact in housing and consumer debt cases
6. Research on the programs in New York and Washington to train non-lawyers to provide limited legal services to self-represented litigants to be conducted jointly by the National Center for State Courts and the American Bar Foundation
7. 2014 National Science Foundation grants

Completed studies

The Self-Help Center Census: A National Survey

American Bar Association

Standing Committee on the Delivery of Legal Services

August 2014

Findings

- Nearly 3.7 million people are served by self-help centers annually.
- Most are staffed by five or fewer full-time equivalents and about half of the centers reported relying on a range of volunteers including attorneys, paralegals, students, and community members.
- Self-help centers tend to rely most heavily on court, state and county funding, but also supplement such funding with a number of other sources including bar associations; grants; city, county and federal funding; private donations and self-generated income, for example, from workshops.
- Most self-help centers provide some type of in-person services, document assistance and web-based information. Less commonly provided services include in-person workshops, interactive web-based forms, web or videoconferencing workshops, video or online tutorials, email or online responses, and referrals to pro bono attorneys and attorneys providing unbundled services.

Findings

- Self-help centers tend to focus on services for persons of limited resources.
- Most respondents reported being able to assist most of their customers, but a subset of their customers' legal needs was too complicated and/or their case types were not served by the center.
- Most respondents indicated that they believed their customers would benefit from limited scope representation, though only 38% of the centers provide information about such services and only 15% indicate that their community has a limited scope lawyer referral service panel.
- 58% of respondents reported that 10% or fewer of their users needed full representation.
- 67% of respondents reported that 25% or fewer of their users could pay the going rate for full representation.

Justice Index

National Center for Access to Justice

URLs to Justice Index data visualizations

<http://www.justiceindex.org/findings/>

<http://www.justiceindex.org/findings/self-represented-litigants/>

MICHIGAN LEGAL HELP

Helping Michigan residents solve their legal problems.

Evaluating the Effectiveness of Automated Divorce Documents

Angela Tripp, Project Director, Michigan Legal Help Program

220 E. Huron Street, Ann Arbor, MI 48104

(734) 998-6100 x 152 trippa@lsscm.org

The Main Questions

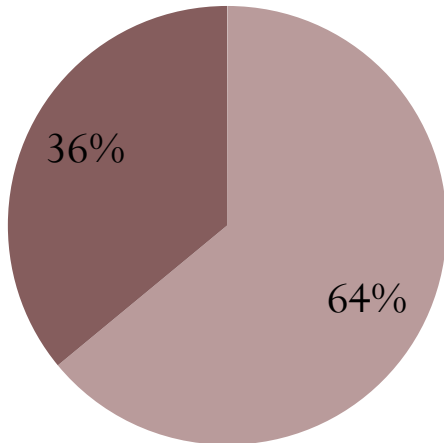
1. How **successful** are litigants who use MLH?
 - Compare to litigants using other pro se forms and represented litigants
2. Where in the process do MLH litigants **struggle**?
3. What **impact** has MLH had from court's perspective?
4. What **proportion** of MI's divorce filings come from MLH?
5. Bonus: general information about **divorce in Michigan** and **self-represented litigants**

Data Collection

- **Collect data from divorce court files**
 - **Survey 100 2012 files in each sampling unit**
 - **Survey 100 2013 files of each format (MLH plaintiff cases, other SRL plaintiff cases, attorney represented plaintiff cases) in each sampling unit**
 - **Review smaller sample of 2013 cases to determine the relative frequency of the three complaint formats for use in development of the weights for the main sample**
- **Conduct interviews with court clerks, judges, judges' staff, self-help center staff**

Why Divorce?

Interviews Completed via Michigan Legal Help in 2013



- Divorce Interview
- Other 36 Interviews on MLH

Approved, SCAO for Michigan Legal Help only		Original - Court 1st copy - Defendant
STATE OF MICHIGAN 56th JUDICIAL CIRCUIT EATON COUNTY	COMPLAINT FOR DIVORCE (NO CHILDREN)	
Court address Eaton County Courthouse, 1045 Independence Blvd. Charlotte, MI 48813		
Plaintiff's name Holly Ann Hobby	<input type="checkbox"/> husband <input checked="" type="checkbox"/> wife	v
Plaintiff's name before marriage Holly Ann Stevens	Defendant Robert H Defendant Robert H	
Form MC 01 SUMMONS AND COMPLAINT must be complete		
I state:		
1. The plaintiff or defendant has resided at least 180 days in Michigan immediately before the filing of this complaint.		
2. The plaintiff or defendant has resided in this county at least 10 days immediately before the filing of this complaint.		
3. The marriage took place on <u>April 15, 1999</u> in <u>Ann Arbor, Washt</u> Date Location		
4. The plaintiff and defendant <input checked="" type="checkbox"/> separated on <u>July 15, 2014</u> . Date		
5. There has been a breakdown of the marriage relationship to the extent that there remains no reasonable likelihood that the marriage can be preserved.		
6. The wife <input type="checkbox"/> is <input checked="" type="checkbox"/> is not pregnant.		

Surveying the Files



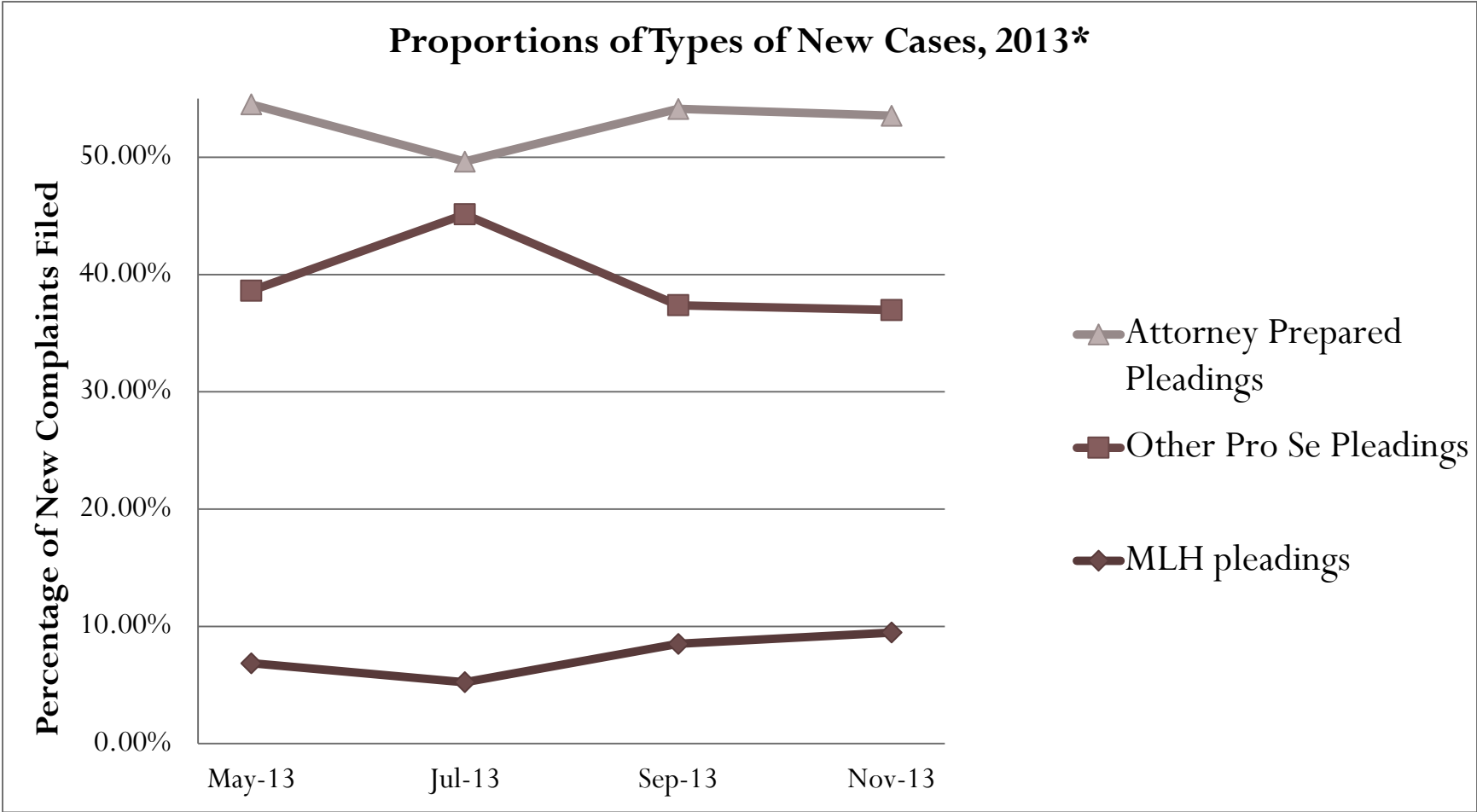
4 data collectors, 9 counties, 42 days, thousands of miles, hundreds of hours = surveys of 2,964 files

Image courtesy of [Valerie Hinojosa](#) via [CCBY](#)

Self-Representation in MI

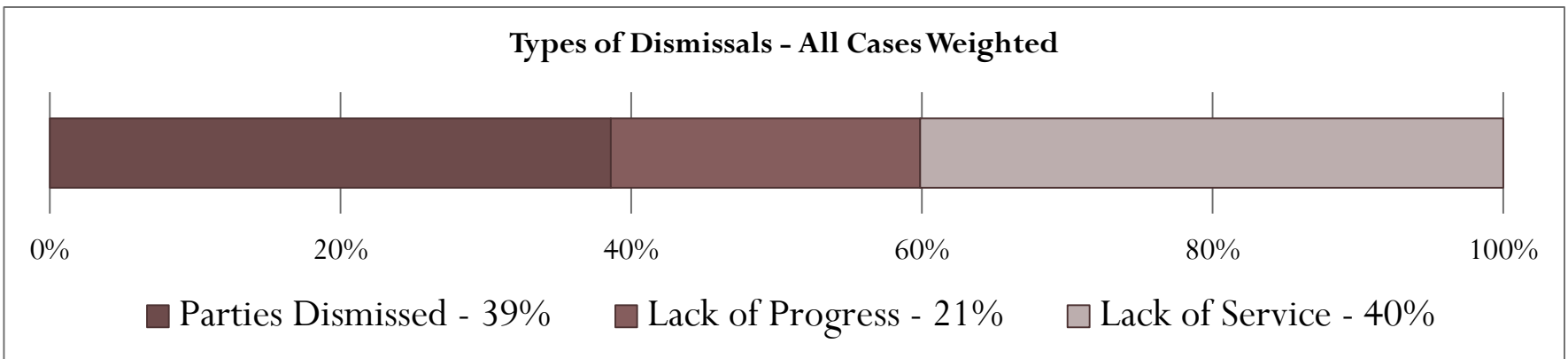
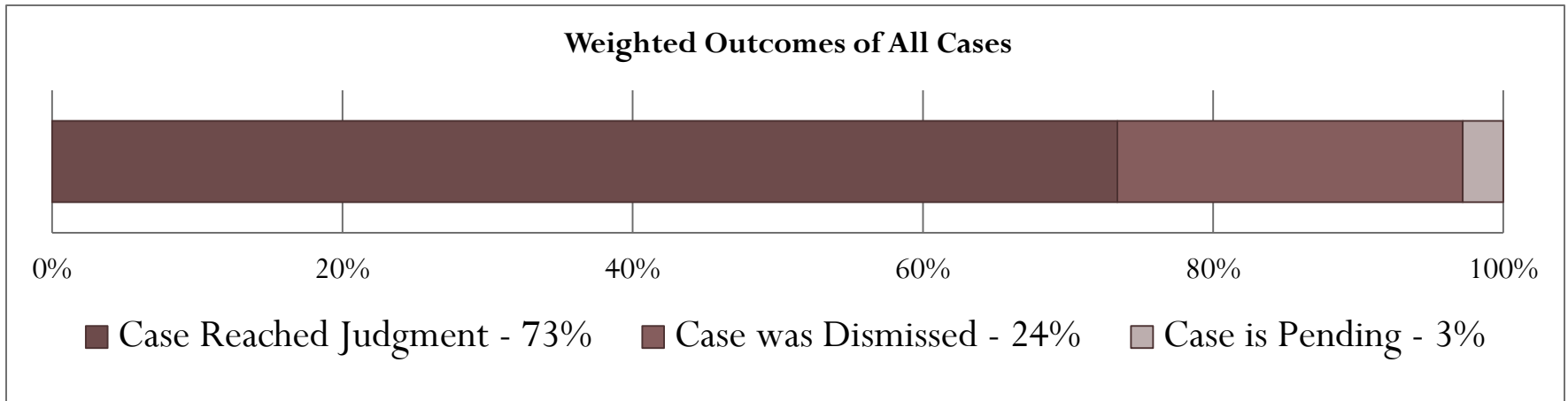
- 48% of cases in sample filed by self-represented plaintiffs
- 89% of defendants responding to cases filed by SRLs represented themselves
- 45% of defendants responding to cases filed by attorneys represented themselves
- 42% of cases in the sample had no attorney involvement
- 68% of all cases had one or more SRLs
- Only 3% of plaintiffs and 1% of defendants litigants changed representation status
- Since MLH launched, only **2% decrease** in proportion of attorney-represented plaintiffs

New Filings by Litigant Type

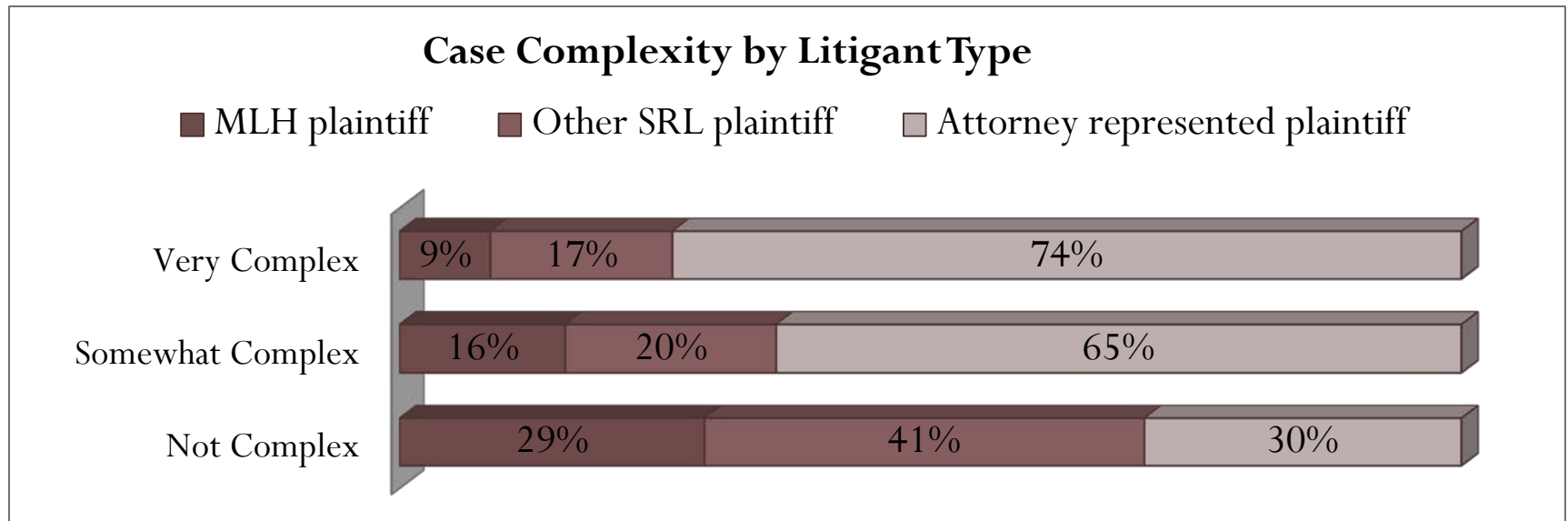
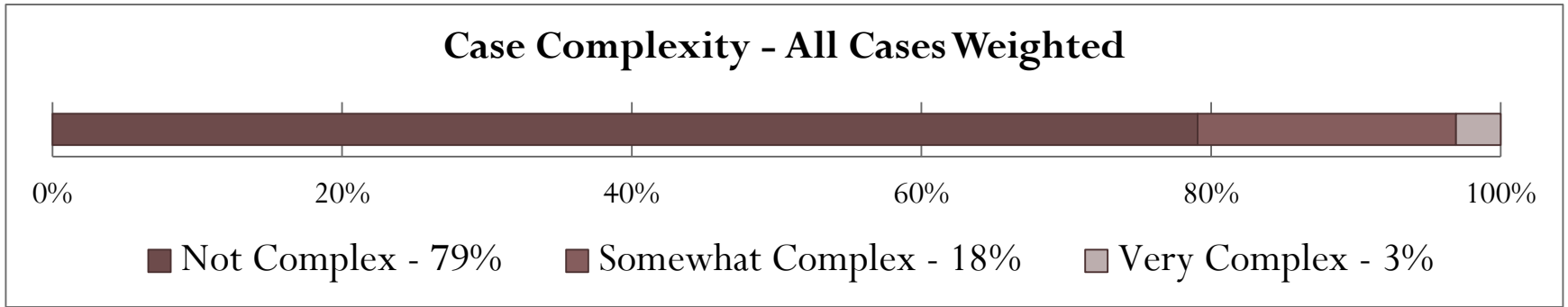


*figures are unweighted

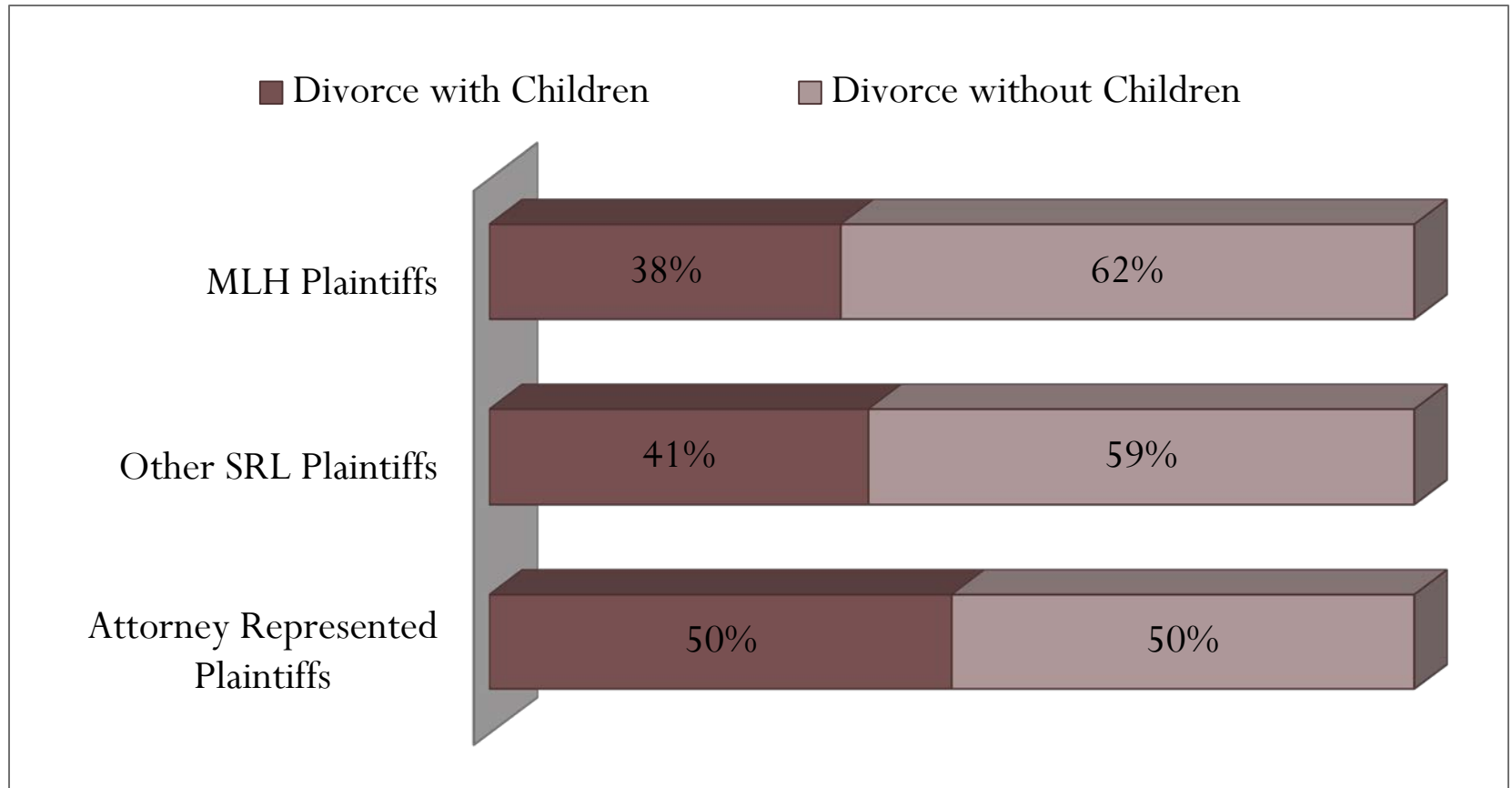
Outcomes - All Cases



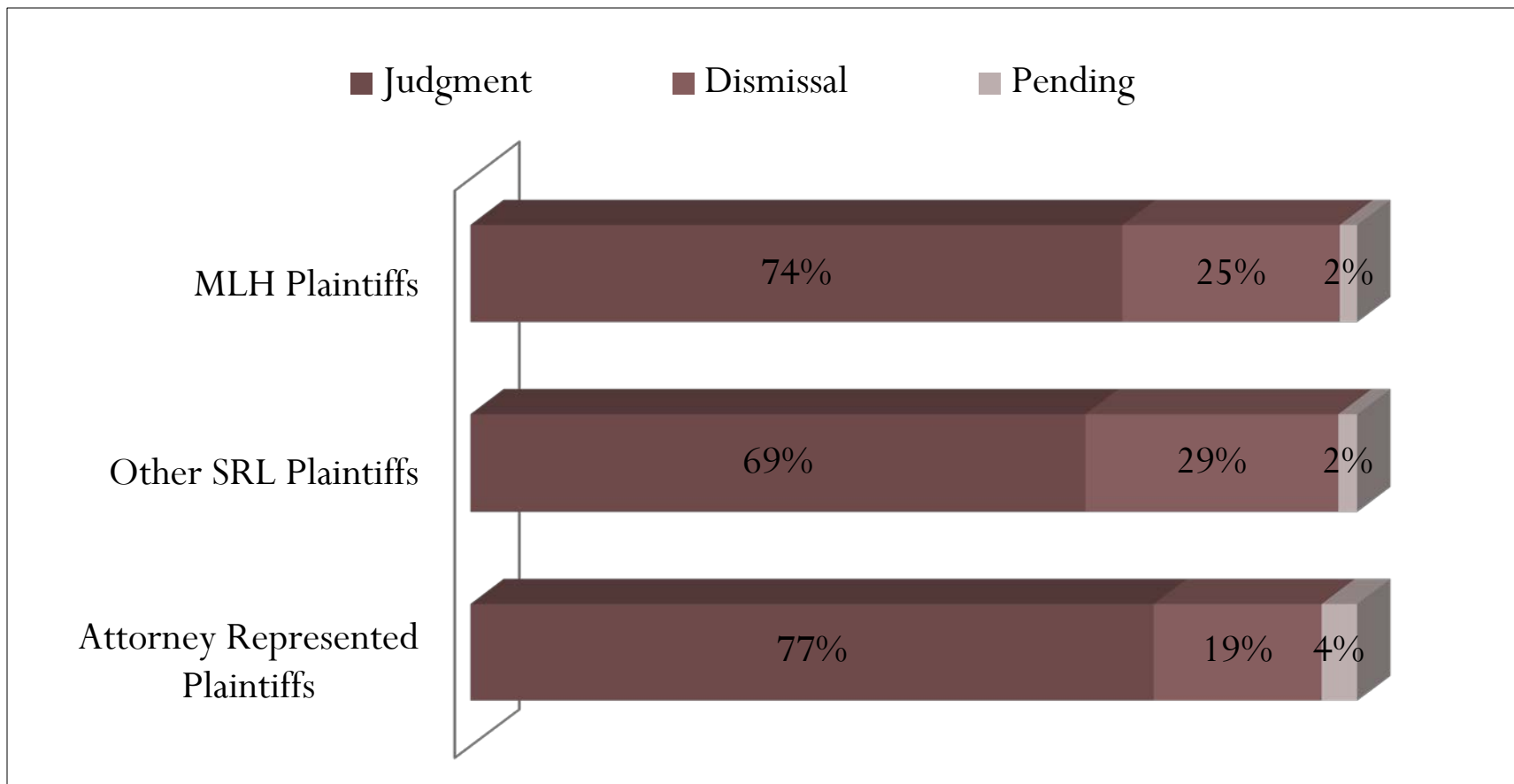
Complexity, Days to Judgment - All Cases



Types of Plaintiffs with and without children

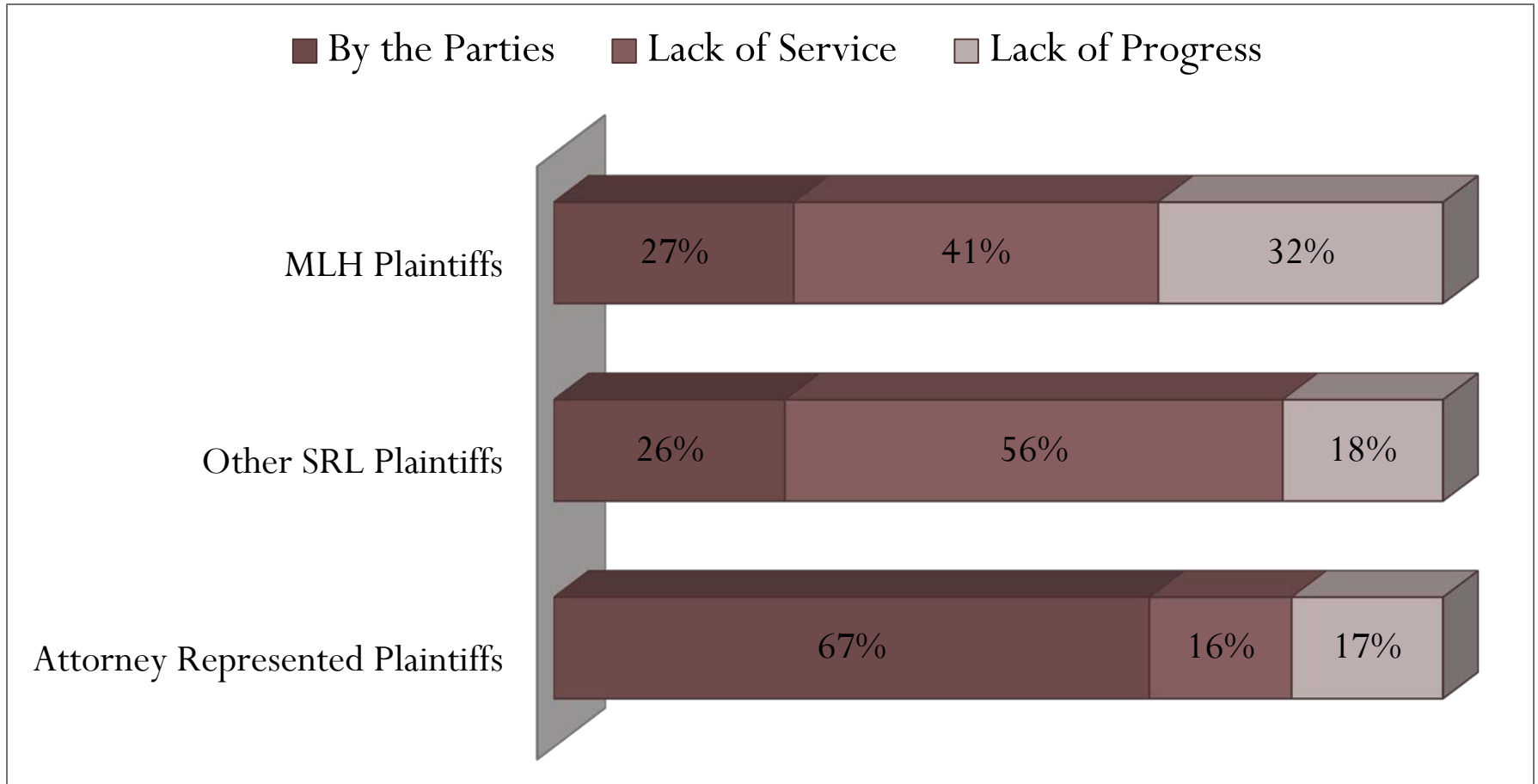


Rates of Completion of Divorce Cases by Plaintiff Type



Finding: no statistically significant difference in rates of completion by type of litigant.
Data is adjusted to control for influence of all other factors.

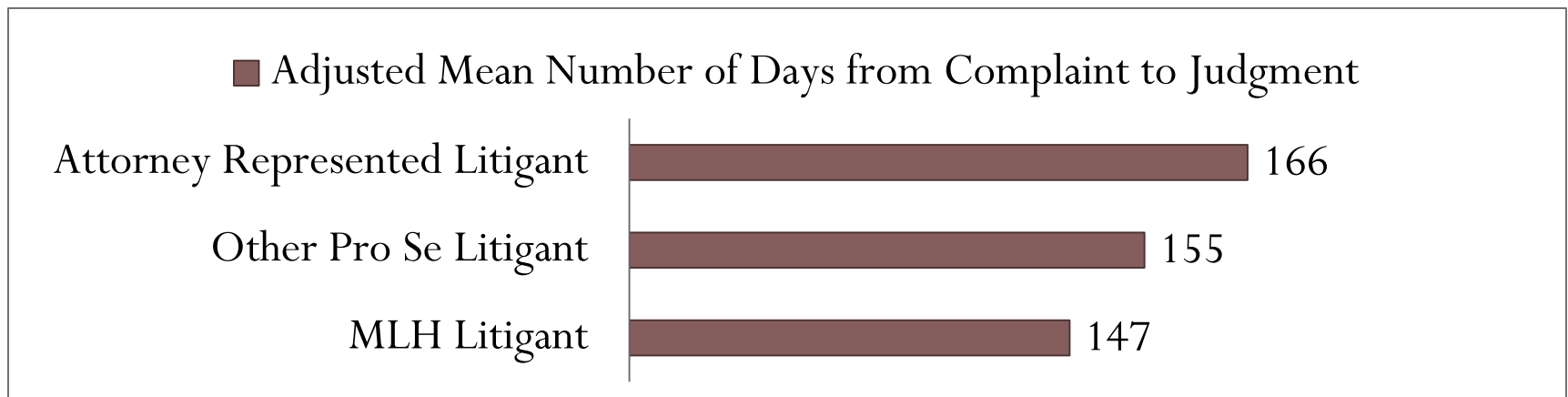
Types of Dismissals by Plaintiff Type



Finding: statistically significant difference in reasons for dismissal by type of litigant. Data is adjusted to control for influence of all other factors.

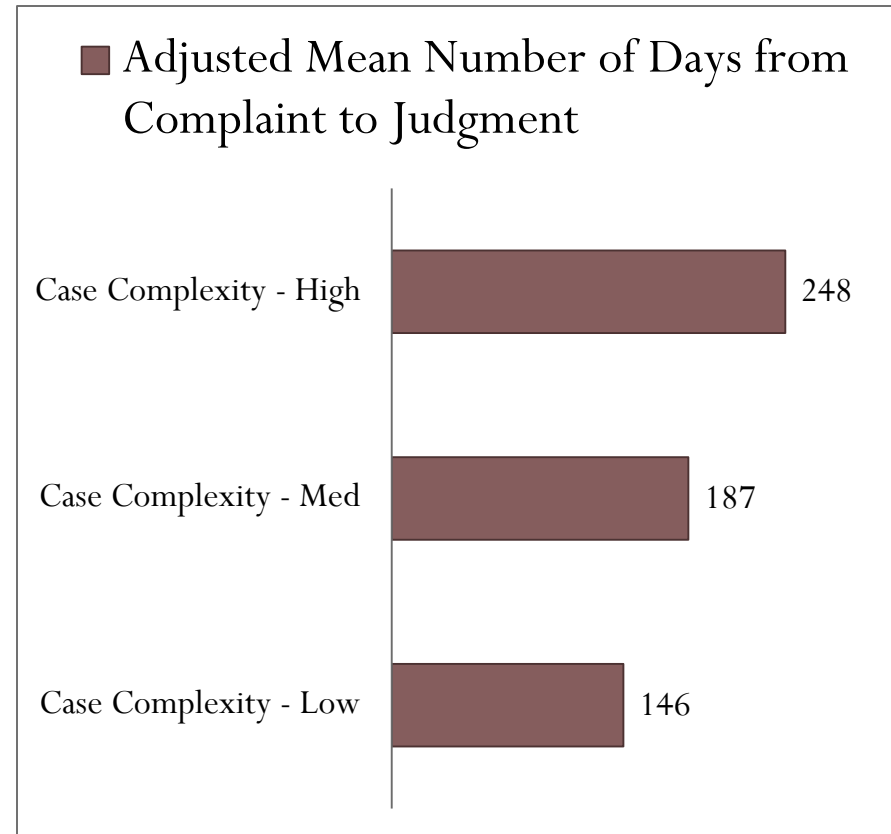
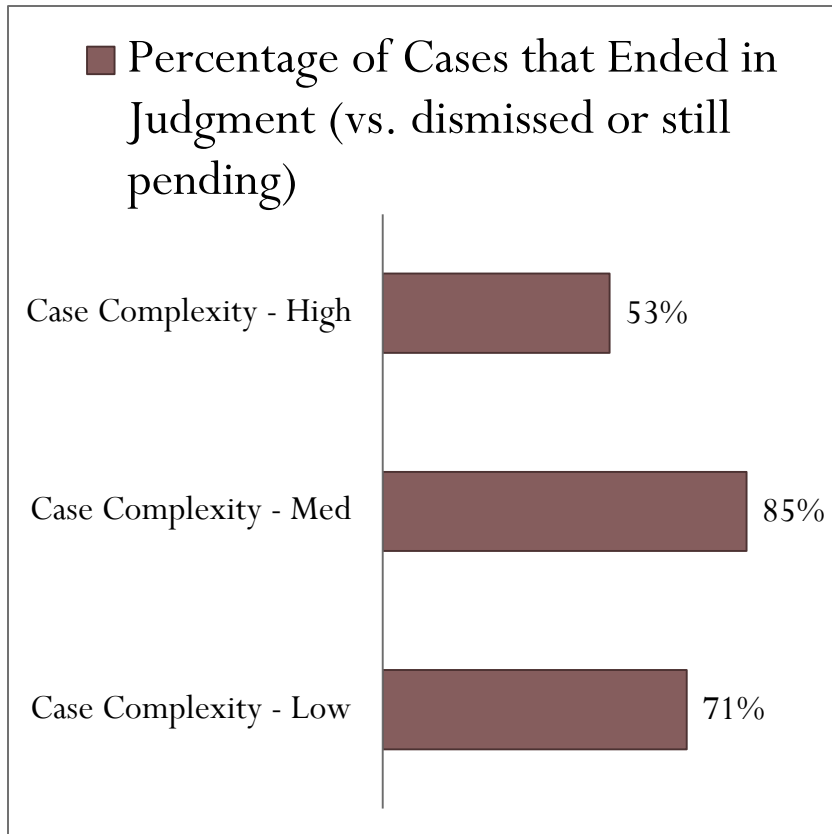
Length of Time to Judgment by Plaintiff Type

Days to judgment – All Cases			
Type of divorce	Minimum	Mean	Maximum
Without children	36	129	484
With children	56	210	456



Finding: statistically significant difference in the length of time it takes to reach judgment, by type of litigant. Data is adjusted to control for influence of all other factors.

Impact of Complexity on Timely Completion of Divorce Cases



Finding: statistically significant difference in the likelihood of reaching judgment timely, based on complexity. Data is adjusted to control for influence of all other factors.

Factors that had NO impact

- Population size
- Median age
- Poverty rate
- Racial makeup
- Judicial workload
- Total number of circuit court filings
- Total number of domestic relations filings

Qualitative Findings

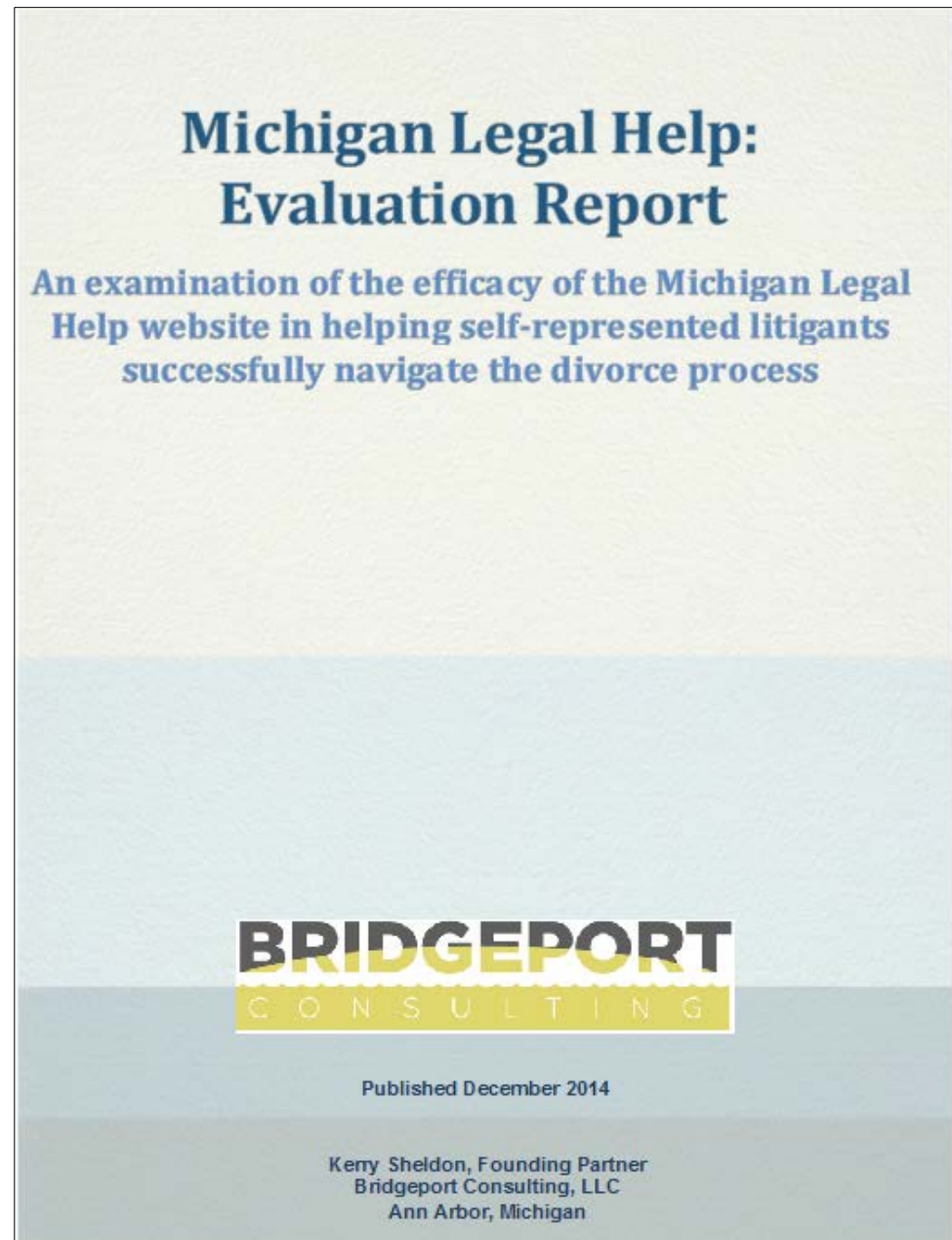
- MLH forms are regarded as equal to or slightly better than other pro se forms in quality and usability from the court's perspective.
- Anecdotally, SRLs often experience problems when they:
 - struggle due to lack of familiarity with legal terms;
 - Are confused by procedural requirements, which lead to a lack of preparation, the need for considerable guidance and support from court or self-help center staff, and associated delays;
 - Fail to serve process appropriately;
 - Do not comprehend the necessity of using the child support formula;
 - Fail to prepare an adequate judgment form; and
 - Miss the opportunity to save time by entering a default judgment when the defendant does not answer the complaint.

Biggest Lessons

- 67% of divorce cases sampled had one or more self-represented litigants
- 46% of divorce cases sampled had no attorney involvement
- 72% of cases filed by SRL plaintiffs make it to judgment successfully...
- ...and in less time than attorney represented cases
- Complexity is biggest single factor that affects likelihood of completion and time to complete

Final Report

- To be released in mid-January
- Will be available on www.mplp.org



Thank you!

Angela Tripp

Co-Managing Attorney, Michigan Poverty Law Program

Project Manager, Michigan Legal Help Program

(734) 998-6100 x 152 trippa@mplp.org

Idaho and Deschutes County, Oregon Evaluations of Informal Divorce Trials

Background

- Idaho Rules of Civil Procedure 16(p) -- Consent and Waiver for Informal Custody Trial
- Suspension of the formal rules of evidence, the rules of discovery, and the normal question and answer format of trial that allows litigants to directly present their case, issues and concerns to the court
- The ICT model excludes cross examination
- The judge directs the proceeding, allowing the parties to speak, and the judge is allowed to ask parties additional questions designed to clarify and keep the testimony focused.
- Parties may be represented by counsel.
- Expectation of one day or less for trial, with the judge ruling from the bench

The evaluation

- 99 informal trials involving 22 different judges
- 42% response rate from 179 litigants
- Interviews with 18 judges

Findings -- % of parents agreeing or strongly agreeing

	w/ neutral	w/o neutral
• Understood ICT	73%	81%
• ICT reduced conflict	35%	52%
• ICT was fair	56%	62%
• Focused on best interest of children	57%	61%
• Decisions made good for children	55%	60%
• Now better able to focus on kid's needs	42%	58%
• Saved me money	51%	67%
• Glad I decided to use ICT	57%	64%

Findings – Perceptions of parties who said decision was or was not favorable

	not favorable	favorable
• ICT was fair	0%	100%
• Focused on best interest of children	23%	100%
• Decisions made good for children	15%	100%
• Glad we decided to use ICT	23%	92%
• Judge listened to me	23%	100%
• Judge treated me with respect	42%	100%
• Better able to focus on children's needs	8%	77%
• ICT reduced conflict	17%	50%

Deschutes County findings

- To be added

Studies Underway

National Center for Access to Justice Brooklyn Magistrates Study

- Study of 239 child support hearings in the summer of 2013 to gauge the extent to which magistrates use nineteen practices and the relationship between the use of those practices and litigant satisfaction, time required to complete a hearing, and time required to resolve a child support case.
- Report is still in the final stages of editing and preparation for release.

Evaluation of California's Sargent Shriver Civil Representation Pilot Projects

Overview of the Pilots

- To address the substantial inequities in timely and effective access to justice
- that often give rise to an undue risk of erroneous decision
- because of the nature and complexity of the law and the proceeding
- or because of disparities between the parties in education, sophistication, language proficiency, legal representation, access to self-help, and alternative dispute resolution services.

Overview of the Pilots

- Increase access to justice
- For low-income Californians
- In civil matters relating to basic human needs
- Through innovative, local collaborations
- Between the courts, legal services nonprofits and others
- That result in increased representation and court innovation.

Overview of the Pilots

- Pilot projects started in fiscal year 2011-2012 – services started 2/1/12
- Initially authorized for a three-year period, subject to renewal.
- New projects may be added by competitive grants in subsequent years if future funds are available.
- All pilots and funding will terminate after 6 years (2017) unless the Legislature extends the statutory authority.
- Report to the Legislature (and serious evaluation) – due 2016

Case Types for Projects

- In the following substantive areas:
 - Housing-related matters
 - Guardianship of the Person or Probate Conservatorship
 - Child Custody when a request for sole custody – often involving domestic violence

Court/Legal Services Partnerships

- Eligible Pilots must be a partnership between:
 - Qualified legal services nonprofit corporation, which must be IOLTA funded,
 - Local court(s), and
 - Other legal services providers in the community.
- Note that one selection criteria is the “availability and effectiveness of other types of court services, including self-help.”

Court Innovation

- Implement innovative project components to assist unrepresented parties in the proposed case types, including:
 - court procedures,
 - court personnel,
 - training,
 - case management and administration methods,
 - and other best practices.

Selection Criteria for Pilots

In terms of cases types:

- MANDATORY criteria of whether persons to receive representation are likely to be opposed by a party that is represented,
- AND.....

Selection Criteria for Pilots

Secondary list of considerations:

- Likelihood that representation in that case type tends to affect whether the party gets a favorable outcome
- in a matter in which they would normally have a judgment entered against them OR
- Suffer the deprivation of the basic human need at issue,
- AND.....

Selection Criteria for Pilots

Secondary list of considerations :

- Nature and severity of potential consequences for the unrepresented party regarding the basic human need at stake if representation is not provided; AND
- Whether the provision of legal services may eliminate or reduce the need for social services to meet that need.

Evaluation: Judicial Council must.....

- Conduct a study
- to demonstrate **the effectiveness**
- and **continued need for the pilot program** established pursuant to this section

And the study must include...

- The percentage of funding by case type
- Impact of counsel on equal access to justice
- Effect on court administration and efficiency,
- The impact on families and children.
- Enhanced coordination between courts and other government service providers and community resources.
- The benefits of providing representation for the clients and the courts,
- Strategies and recommendations for maximizing the benefit of that representation in the future.
- Data on and an assessment of continuing unmet needs

Evaluation: Pilots will have to.....

Use **standardized data collection** tools to track:

- **Referrals** that do & do NOT receive representation
- Reasons for **decisions** re: representation
- **Number** of cases served
- **Level** of service required
- **Outcomes** for clients in each case *
- **Effect of representation** on clients
- Data shall also be collected regarding the **outcomes for the trial courts.**

Case Screening Criteria

- The complexity of the case;
- Whether the other party is represented;
- The availability and effectiveness of other means to resolve issues, such as self-help;
- Language, literacy, and disability access issues;
- The possibility that providing legal services might help reduce social service costs;
- The merits of the case; and
- The nature and severity of potential consequences for the potential client if representation is not provided.

Study of Remote Delivery of Services to Self-Represented Litigants

Funded by the State Justice Institute

Conducted by Self-Represented Litigation Network and National Center for State Courts

Remote Services Study Sites

- Alaska – statewide telephone and Internet
- California (Butte County) – videoconferencing
- California (Orange County) – both in-line and on-line
- Idaho – remote delivery by courts and legal aid (virtual law office)
- Maryland – telephone for limited jurisdiction courts
- Minnesota – statewide telephone w/ in-person local
- Montana – remote delivery by courts and legal aid
- Utah – statewide telephone, text, and email

Development of documented requirements for triaging portal

- Statewide single point of entry online or by phone
- Basic information on person and issue (including urgency) collected
- Algorithm sends person to cheapest service reasonably likely to provide an outcome reflecting the facts and law of the case
- Objective – 100% access

IAALS Replication of Canadian Study of Self-Represented Litigants

Cases Without Counsel: Experiences of Self-Representation in U.S. Family Court

Natalie Anne Knowlton,
Director of the IAALS *Honoring Families Initiative*



INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



UNIVERSITY *of*
DENVER



Cases Without Counsel

- Exploring the issue of self-representation from the litigants' perspective

- Qualitative empirical research:
 - One-on-one interviews with self-represented litigants in family court cases
 - One-on-one interviews with court service providers who interact with self-represented litigants

- Building on Dr. Julie Macfarlane's National Self-Represented Litigants Project (NSRLP) in Canada



Self-Represented Litigant Interviews

➤ Demographic Information:

- Personal income
- Occupation
- Education
- Race
- Ethnicity
- Prior experience with legal counsel



Self-Represented Litigant Interviews

➤ Qualitative Narratives:

- Factors leading to decision to self-represent
- Resources used to help with the legal process
- Expectations of vs. what happened in the legal process
- Parts of the process that worked well and/or that were stressful/difficult
- Impact of self-representation

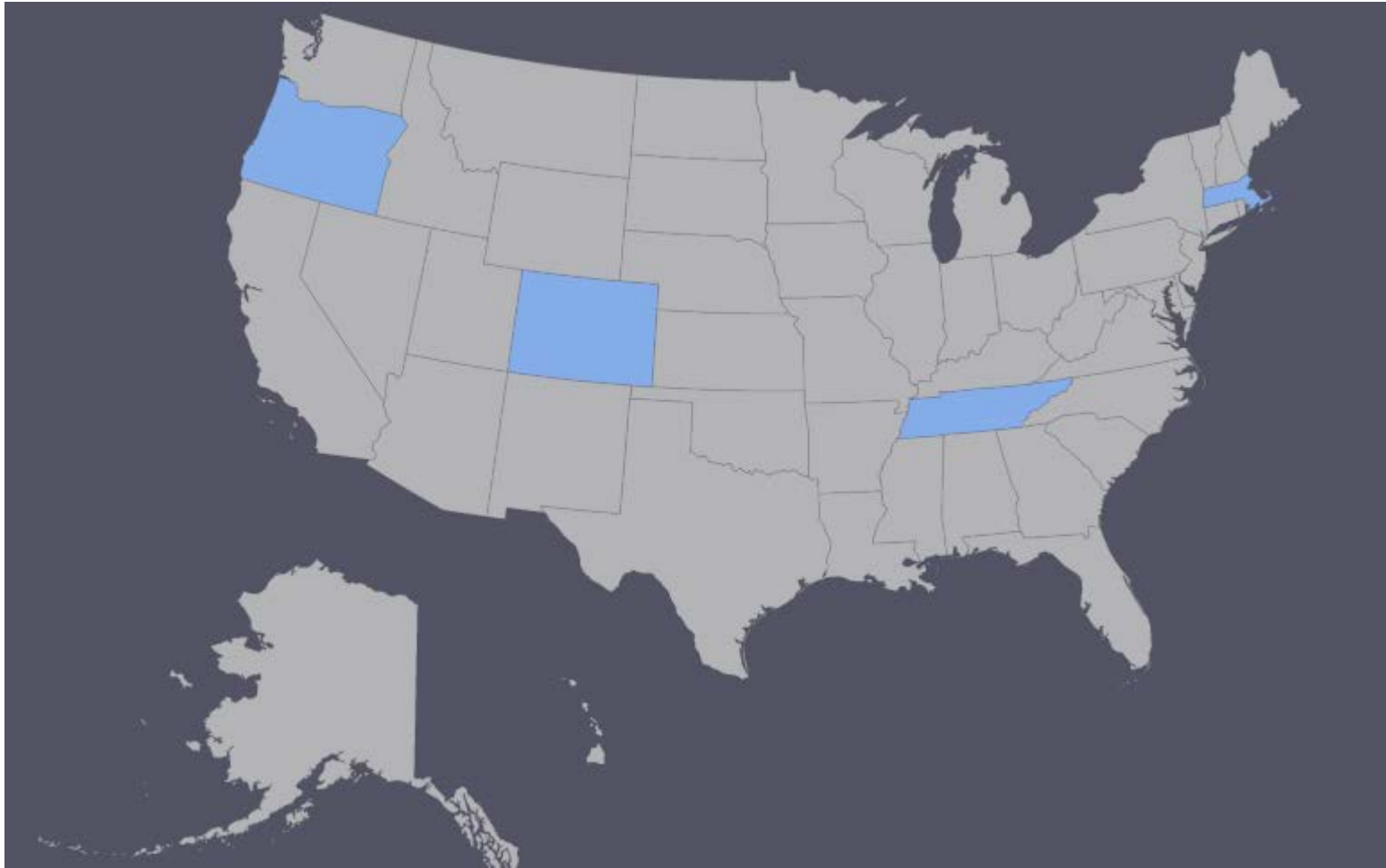


Court Service Provider Interviews

- Qualitative Narratives:
 - Motivations for self-representation
 - Impact of self-representation
 - Common frustrations
 - Changes in the last 3-5 years
 - Application of evidentiary rules



Cases Without Counsel





Cases Without Counsel

Data Collection &
Analysis

IAALS Stakeholder
Meeting

Publish National
Proposals

2014 NCAJ summer study of the Bronx
Family Court Help Center's
document assembly process

- Detail to be added if available

Evaluation of New York and Washington non-lawyer practice rules

John Jay College and the Debevoise & Plimpton Law Firm preliminary study of the NY navigator program in the Bronx courthouse, looking at its impact in housing and consumer debt cases

Full scale evaluation to be conducted jointly by the National Center for State Courts and the American Bar Foundation, funded by the Public Welfare Foundation

2014 National Science Foundation grants

Studies of possible interest to the courts community

- **LSS Postdoctoral Fellowship: Trust and Confidence**
Award Number: 1228559; Principal Investigator: Alan Tomkins; Co-Principal Investigator: Sarah Michaels, Brian Bornstein, Lisa Pytlik Zillig, David Rottman; Organization: University of Nebraska-Lincoln
- **Creating a State-Level Public Opinion Data Base for Law and Courts Scholarship: New Frontiers in Research on the Public's Views of Third Branch Politics**
Award Number: 1228619; Principal Investigator: James Gibson; Organization: Washington University
- **WORKSHOP: Institutional Trust and Confidence: An Interdisciplinary Workshop, University of Nebraska-Lincoln, April 24-25, 2014**
Award Number: 1353980; Principal Investigator: Brian Bornstein; Co-Principal Investigator: Elizabeth Shockley, Tess Neal, Alan Tomkins, Lisa Pytlik Zillig; Organization: University of Nebraska-Lincoln

Studies of possible interest to the courts community

- **Variation in Use of Courts by Legal Status and Jurisdiction**

Award Number: 1353231; Principal Investigator: Kimberly Welch; Organization: West Virginia University Research Corporation

- **Testing a Three-Stage Model of Institutional Confidence across Branches of Government**

Award Number: 1061635; Principal Investigator: Alan Tomkins; Co-Principal Investigator: Mitchel Herian, Brian Bornstein, Lisa Pytlik Zillig; Organization: University of Nebraska-Lincoln

- **Comparative and Longitudinal Study of Experiences with Court Systems**

Award Number: 1421098; Principal Investigator: Tonya Brito; Co-Principal Investigator: David Pate; Organization: University of Wisconsin-Madison

Studies of possible interest to the courts community

- **Collaborative Research: Lay Deployment of Professional Legal Knowledge**

Award Number: 1421501; Principal Investigator: Dalie Jimenez;
Organization: University of Connecticut

- **Collaborative Research: Lay Deployment of Professional Knowledge**

Award Number: 1421410; Principal Investigator: Lois Lupica;
Organization: University of Southern Maine

- **Doctoral Dissertation Research: Accessing assistance and its effect on outcomes in civil cases**

Award Number: 1322368; Principal Investigator: Stephen Morgan;
Co-Principal Investigator: Emily Taylor Poppe; Organization:
Cornell University