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"Moving Beyond Checkmate: A Case Study of California’s and Utah’s Innovative Responses to Increasing Numbers of Self-Represented Parties"

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I. Introduction

Nationwide, state courts have been hard hit by the increasing number of lawsuits having one or both parties unrepresented by counsel. Although some self-represented parties willingly choose to forego counsel, many simply cannot afford representation. One 2006 report suggests some immediate consequences: “Self-represented parties require more time than represented par-

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ties, they expect court staff to provide advice they are not allowed to give, lack reasonable expectations about case outcomes, and fail to bring necessary witnesses and evidence to court and to understand procedural and evidentiary rules.”4 Because they constitute a large proportion of cases with self-represented parties,5 this article focuses on divorce cases. For example, by one estimate, California reported 200,000 divorce cases were filed annually, and nearly 70 percent of these cases proceeded where only one side was represented.6 That figure suggests at least 380 new divorce cases with at least one unrepresented party are brought to California courts daily.7 Other states report similarly high percentages of cases ranging from 50 to 75 percent with at least one self-represented party.8

To address the problem, some legal community stakeholders call for a greater investment of resources, suggesting current funding


5 Id. at 6. In Utah, out of a selected sample of 105,095 cases with a percentages of self-represented parties during fiscal year 2015, divorce/annulment cases made up the second highest category at 13,277 (12.5%) next to the highest category of debt collection cases 67,510 (64%). The next highest categories include eviction (7%) and protective orders (4.5%). See also Chase, supra note 1, at 404-5.

6 Hough, supra note 2, at 15-6.

7 The 380 cases per day figure was calculated by dividing 140,000 cases by 365 days. Although courts may not be open weekends and holidays, online filing programs allow users 24-hour access, meaning courts can receive filings at any time—and thus face possibly increased workloads—despite maintaining the same business hours.

8 See Chase, supra note 1, at 404-5 for Arizona statistics; See James D. Gilson, Helping Provide Access to Justice for All, 28:2 Utah B. J. 14 (Mar.-Apr. 2015) (reporting “75% of all divorce cases have at least one side that is proceeding pro se. And in 50% of divorce cases, both sides are unrepresented.”)
is insufficient for current needs. For example, consider that some self-represented parties lack legal or financial literacy. Furthermore, self-represented parties lack a voice in but interact with the judicial system somewhat invisibly because they do not have counsel. Thus, many parties may struggle through the courts without the ability to settle their own cases satisfactorily, with even less power to effect change for self-represented parties as a whole. Although legal community stake holders may already be offering an array of services to bear this burden, they can and should provide more access and support.

In presenting our argument, we first contextualize the self-represented party’s experience from the perspective of financial disclosure, one of the most arduous and consequential phases of a divorce. We use two hypotheticals to illustrate problems self-represented parties may face navigating the legal system, while also considering the overall effect on courts. Second, we consider as case studies two innovative, long-term solutions: California’s Family Law Facilitator judicial position (hereafter “FLF”) and Utah’s online self-help Center (hereafter “Center”). According to judiciary reports, Utah’s and California’s efforts to supply resources for self-represented parties, while imperfect, have experienced enough success to warrant attention. The largest hurdle our argument must overcome is fiscal: still

9 See Christie Loveless, Nat’l Ctr. St. Cts., Institute for Court Management, “Evaluating Pro Se Litigation at the Tarrant County Family Law Center,” 8, 51-6 (May 2012) http://www.ncsc.org (stating that one Texas County has created a “Family Law Center,” a court distinct from a regular trial court); Llop, supra note 1, at 23-42; Dale, supra note 1, at 29-30.

10 Because of the high number of parties who are self-represented in divorce cases at the district level—see infra note 42—the appellate courts, the only cases published in Utah, may only be a resort for parties with the resources to hire counsel. Two recent cases suggest high-income, high-asset divorces reach the appellate level. See Ouk v. Ouk, 348 P.3d 751 (Utah Ct. App. 2015); Dahl v. Dahl, 345 P.3d 566 (Utah 2015). See infra notes 18.

11 See Llop, supra note 1, at 8 (pointing to Alabama’s four volunteer lawyer programs); see Special Committee on Access to Legal Services, VIRGINIA ST. B., http://www.vsb.org/site/about/access-1011 (last updated Aug. 31, 2011) (noting that Virginia has coordinated law school and “other not-for-profit and volunteer programs.”).
economically recovering, many states want to cut programs, not add to them. Nevertheless, we argue that because both the California and the Utah models require them, states should at least initiate or further invest in self-help attorneys. This investment can mitigate the challenges self-represented parties face and maximize judicial resources. We conclude by offering states three strategies to customize the models to their own needs.

II. BACKGROUND: PROPERTY DIVISION THROUGH FINANCIAL DISCLOSURES

Our claim is best understood by considering the goal of divorce cases: just or equitable property division and marriage dissolution. The legal presumptions and theories of property division vary from state to state and from issue to issue. For the sake of argument, we assume Utah and California espouse the same presumption and theory because we rely on a procedural, not a doctrinal, illustration to advance our claim.

In Utah, court rules require parties to submit completed Financial Declarations (hereafter “FDs”) to create order and predictability. The FD is a ten-page form with brief and specific instructions. With over


14 Wardle, supra note 12, at 395.

348 possible empty data fields, the form is onerous but essential.\textsuperscript{16} Self-represented parties may not, however, always intuit the form’s purpose or its consequences. With few accounts of self-represented parties on the record (perhaps because of the “invisibility factor”), we offer two hypotheticals to illustrate the problem.\textsuperscript{17}

In urban West Valley City, Utah, Mary files for divorce through the state’s self-help online system.\textsuperscript{18} Working part-time as both a teller for a credit union and a cashier for a grocery store, she earns roughly $1,300.00 per month. Apart from rent, food, and other living expenses, the cost of caring for her two children is roughly a third of her income. Though she moves out of the marital home, her husband, a marketer for a regional hospital, states he will not provide any financial support. Before she can see a judge about child or spousal support, she must fill out a court-required FD.

In rural Price, Utah, John, a science school teacher, earns $3,500.00 per month. He moves out of the marital home, agreeing that his wife retain primary custody of their three young children. Though she was amicable when he first filed for divorce, John discovered that his wife is addicted to pain killers. She reacted harshly to his discovery, and demands the court order he pay for the car loans, mortgage, and child and spousal support. John retained counsel for the first hearing six months ago, but now owes legal fees, so his attorney withdraws representation. Anxious to protect his interests at the upcoming hearing, John must file an updated FD.

\textsuperscript{16} Utah St. Cts., \textit{Financial Declaration}, http://www.utcourts.gov/howto/family/financial_declaration/ (last updated Apr. 8, 2105). The form requests data on employment status, gross monthly income and tax deductions, real and personal property, business interests, financial assets, debts, expenses, estimated amounts, and an explanation for why supporting documentation is not provided, if applicable. Supporting documentation include federal and state tax returns for the two years before filing; paystubs and evidence of all sources of income; loan applications for the twelve months prior to filing; and three-months of financial account statements—checking, savings, retirement, etc.

\textsuperscript{17} Both hypotheticals are informed by one author’s two-year stint as a divorce law paralegal in Salt Lake City, Utah.

Problems for Self-Represented Parties

Without attorney assistance, Mary and John review their respective FDs, which ask many questions about their finances. Simply reading the form, however, is daunting. Mary may ask herself questions like: Can I receive a payout from my husband’s retirement? Should I report temporary assistance that covers a part of child care? Am I responsible for paying my car if it’s in my husband’s name? John may ask himself related questions: Should I report the $1,600.00 I received for teaching a one-time online course? Should my wife help retire the mortgage? How should I account for the hundreds of dollars she siphoned from our savings? Completing the form can raise additional, difficult questions. With power struggles common between spouses, self-represented parties may feel like issues of dividing assets and debts force them into a real-life chess match, even more so since hearings reliant on FDs may have serious consequences. Courts often enter orders based upon such financial data—or the absence thereof.\(^\text{19}\)

Although court forms like the FD were created with good intentions (indeed, accurate FDs are invaluable), these forms may not be as user-friendly as they appear.\(^\text{20}\) To illustrate, one Utah Domestic Court Commissioner, an intermediate judge who works with many self-represented parties, says FDs need to be “complete and accurate, and [parties should] be sure to total expenses accurately. It is not helpful to submit [an FD] and then proceed to make extensive

\(^{19}\) See Ouk v. Ouk, 348 P.3d 751, 757 (Utah Ct. App. 2015) (awarding wife petitioner roughly $220,000.00 in judgements, child support arrearages, and attorney fees because, in part, “Husband was unable to provide reliable and credible evidence to support his claims”); See Dahl v. Dahl, 345 P.3d 566, 594 (Utah 2015) (denying wife temporary alimony because she failed on multiple occasions to file an accurate, timely financial declaration.) Although two examples of represented parties, self-represented parties may face the same kinds of consequences, though to a different degree.

corrections to the numbers during oral argument.”21 Practically speaking, the more informed the court is, the more equitable its judgments will be. We suggest this Commissioner’s “extensive corrections” statement, however, is only a symptom of the challenge some self-represented parties face filling out FDs.

The analogy of a tax return may be useful to understanding the FD. Both require sound judgment to decide relevant documentation, both serve as income appraisals, and both may elicit anxiety because filling out data fields creates liability. But in some ways, completing the FD is more difficult: it requires parties to consider objectively their needs and income at a time when emotions run high. Requiring that parties budget for future expenses is meant to help courts enter orders like child support or alimony, yet unlike the immediate payback of a tax refund, filling out FDs may not appear to have immediate benefits.22

Problems for Courts

Because of heavy caseloads, judges exercise wide discretion regarding the enforcement of court rules. But they cannot always predict outcomes. A judge may initially determine it is unnecessary to enforce financial disclosure rules strictly, but later complexities may require accurate FDs from both parties. Thus holding self-represented parties to complicated court rules is easier said than done.23 So while financial disclosures are meant to order and maximize judicial resources, droves of new self-represented parties seeking court assistance tax those finite resources. Self-represented parties struggling


22 Indeed, projecting future needs may offer parties’ incentives to under估 estimate income and overestimate need.

23 Lundahl v. Quinn, 67 P.3d 1000, 1002 (Utah 2003) (reasoning that if parties opt out of representation, and then avail themselves of the “judicial machinery as a matter of routine,” courts must hold them accountable to the same rules counsel abide by lest they become burdensome to courts).
with financial disclosures may only be symptomatic of the deeper issue of access to the courts. Backlog adds up and bogs down courts.

III. CALIFORNIA’S FAMILY LAW FACILITATOR POSITION

As support for our claim that states should increase funding for self-help attorneys, we will now examine how the California FLF position operates to mitigate self-represented parties’ challenges and maximize judicial resources.

Created in 1997, the FLF job is a type of self-represented party support office. According to its website: “The office of the Family Law Facilitator located in every county provides self-represented parties with information, forms, and procedures related to child support, spousal support, and health insurance issues.” To lead the offices, “each court appoints a California licensed attorney with mediation or litigation experience in family law.” FLFs can offer assistance to both parties to a divorce. However, FLFs do not represent the individual parties. Each office provides service on a first-come, first-serve basis. To qualify, interested parties must bring relevant financial and court documents. Depending on the circumstances, some parties are required to utilize other court and community resources before receiving one-on-one help.

The large numbers of self-represented parties make FLFs some of the busiest officers of the court. A self-represented party will personally meet with a FLF and receive customized help to fill out court documents such as California’s equivalent of FDs.

25 Id.
FLF states that not only does an FLF assist self-represented parties “who might otherwise pursue risky or futile requests for modification of support awards,” but the court also benefits because it would have otherwise had to “deal with poorly framed or ill-considered modification requests.” These services help prevent some self-represented parties from draining time and resources from courts when they arrive to court empty-handed or with inadequate documentation.

Finally, divorce is often not only a tedious and complicated process, but also psychologically draining. Many parties and their children experience emotional anxiety, and some states have even mandated divorce education classes. For parents or spouses who are already overwhelmed, “a [FLF] helps demystify courtroom procedures and humanize the court system.” This “humanizing factor” is important. While FLFs do not replace psychological counseling or formal legal representation, they enhance the self-represented party’s experience and promote access, fairness, and efficiency with public funds.

**Funding: How It Works**

According to a recent estimate, 100 distinct self-help centers are spread throughout California’s counties, with 116 facilitators and support staff. FLF funding for the current fiscal year is roughly $150,400.00 per office, though funding may be supplemented in the future. 

28 See Schmidt, supra note 19, at 300.
31 See Quick Reference, supra note 23.
33 Id.
other ways as well. FLFs originated in response to demand from cities like Los Angeles, which maintains eleven offices. By one tally, FLF offices are visited over 324,000 times each year.

A 2009 study of the FLF program in six trial courts shows these self-help offices to be a sound financial investment, reducing long-term social and financial costs. This study found that self-help center workshops, a service which some FLF offices provide, return $1.00 for every $0.23 spent. The study also suggests that one-on-one help returns $1.00 for every $0.36 to $0.55 spent. Additionally, “if the self-help center also provides assistance to self-represented litigants to bring their cases to disposition at the first court appearance, the court saves $1.00 for every $.45 spent.” This evidence from three categories—workshops, one-on-one assistance, and limited court appearances—suggests that FLFs progress cases towards disposition. For example, judges and their staff may spend less time explaining court procedures. As a result, self-represented parties may resolve their cases more quickly, thus allowing courts to improve efficiency. Even though this study’s findings are limited in scope and apply broadly to the spectrum of self-help services in California—not just divorce cases—the takeaway is that FLFs provide relief both to parties and to the courts.

34 Id. (stating that “Some courts supplement…facilitator funding in order to furnish additional facilitator services. The program staff of the Judicial Council Center for Families, Children & the Courts (CFCC) reevaluates local court staffing, as well as financial and other needs, to support adequate allocation of resources to achieve program goals”).
35 Id.
37 Id.
38 Id.
39 Id.
After several years of performance, the California Task Force on Self-Represented Litigants concluded: “Court-based staffed self-help centers, supervised by attorneys, are the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants, to increase access to the courts and improve delivery of justice to the public.”\(^{40}\) According to one program patron whose response was included in a 2004 assessment, “The Family Law Center has helped me every step of the way. I don’t know where I’d be without it. The people are very helpful. I’m a single mom [with] low income and without this Center I would not [have] been able to accomplish everything.”\(^{41}\) In the same assessment, a court staffer stated that “I often cannot even figure out what a case is about when the paperwork is prepared by a [self-represented party] without the help of the Family Law Information Center.”\(^{42}\) These evaluations underscore that for some states an FLF-model can be a valuable investment.

\textit{Utah’s Online Self-Help Center}

We now turn to Utah’s model to weigh how online self-help attorney assistance also improves the self-represented party experience and maximizes judicial resources. While California’s courts may serve about 380 new cases a day with at least one self-represented party, Utah’s court serve roughly 29 of the same self-represented

\(^{40}\) See Hough, \textit{supra} note 2, at 19.

\(^{41}\) \textit{Id.} at 21.

\(^{42}\) \textit{Id.}
cases a day. California FLF offices are physical locations where self-represented parties may come for one-on-one assistance, while the Utah self-help Center, launched in 2012, "is a virtual center that provides services through a toll-free telephone helpline, email, text and the court’s website." The model operates like an online kiosk where parties may receive help from Center staff attorneys regarding court forms, processes, rules, mediation, pro bono or low cost legal services, community resources, as well as educational presentations. Though self-represented parties cannot physically sit down with attorneys, the hotline, email, and text message services are available Monday through Thursday, from 11:00 a.m. to 5:00 p.m., 24 total hours a week. In two recent State of the Judiciary Addresses, Chief Justice Matthew B. Durrant praised the Center’s efforts, stating in 2014 that the Center helped 16,000 people.

Since 2005, the standing Committee on Resources for Self-Represented Parties has spearheaded funding concerns for self-

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43 See Strategic Plan, supra note 3, at 6. This table states that 13,227 divorce/annulment cases were filed or pending in Utah during fiscal year 2015. Of these cases, 2,552 (19%) were ones for which both parties were represented. 4,100 cases (31%) were ones for which only one side had an attorney. 6,613 cases (50 percent) were ones were both sides were unrepresented. The 29 new cases with at least one self-represented party figure was calculated by dividing 10,713 cases with at least one self-represented party by 365 days because online filing services are available 24-hours a day. See also Janice Houston, Office of Vital Records and Statistics, Utah Dep’t of Health Center for Health Data, Pub. No. 265, Utah’s Vital Statistics: Marriages and Divorces, 2009 and 2010 (Mar. 2012) (reporting that roughly 10,000 divorce cases were finalized during each of the years 2008, 2009, and 2010).


46 Id.

represented party programs. As a result, the Center currently has three part-time, benefitted staff attorneys who work approximately 30 hours a week. Some of their duties include operating the toll-free hotline and responding to emails and text messages. While it is unclear exactly which revenue streams support the Center, one report states the entire judicial budget was $145.54 million for 2015, and the Center is only a fractional expenditure. One request from the most recent Committee report recommended additional funding for the Center. Jessica Van Buren, director of the Center and the State Law Library, reports that the online model maximizes fiscal funds because it is fair statewide: it is equally accessible in rural and urban areas. This cost-effectiveness fits squarely with the Center’s aim to “supplement and not […] supplant legal representation.”

See Strategic Plan, supra note 3. The Committee has created a web portal accessible via the main court website; streamlined forms; educated key personnel and patrons; and launched the Center itself, among other efforts. The Committee is made up of twenty representatives from all relevant legal community stakeholders.


See Strategic Plan, supra note 3, at 7. The plan explicitly attempts to learn how other states have successfully approached problems associated with increased self-represented parties: “Building on successful models from other states, the Utah State Courts could design a program whereby AmeriCorps/JusticeCorps members, court clerks, or others could provide procedural, navigational, or other assistance to self-represented court patrons. The committee recommends investigating how other states have developed these programs, and if feasible, supports implementation.” This position strongly endorses the interstate “cross-pollination” we espouse in this article.

See Telephone Interview, supra note 48; see Strategic Plan, supra note 3, at 4.
Limitations of the California and Utah Models

Perhaps the greatest critique of the FLF model is its expense. As noted above, each of the 100 FLF offices is allotted approximately $150,400.00 annually, totaling over $15 million. Additionally, almost half of the 116 FLF positions are part-time, suggesting that some areas of the state either do not require full-time staff, or do not have adequate funding. Of course, few states will require as much capital investment as California, the nation’s most populous state. Smaller states may simply not have the same need nor resources to invest in the FLF model. Van Buren’s view is that under financial stress the FLF model is unsustainable, hinting that some states may adopt a model like Utah’s instead.\textsuperscript{53} However, her view does not diminish the fact that large states may benefit from implementing the FLF model, as their diverse and large populations require commitments that smaller states’ populations may not require.

As for Utah’s online model, perhaps its greatest critique is its information-only service. For example, the Center’s webpage states its limitations: it cautions users that the “help line is very busy,” the Center cannot “give you legal advice or represent you in court,” and the Center’s attorneys “are not your lawyer.”\textsuperscript{54} FLFs may personally meet with and even attend hearings with self-represented parties which can lead to savings of at least twice their investment. Utah’s Center’s attorneys, on the other hand, cannot. What’s more, one publication reported that the Center responded to 16,000 self-represented party inquiries without differentiating between justice, juvenile, district, and appellate court inquires. But are the 16,000 responses to \textit{inquiries} the same as the 16,000 \textit{people} Chief Justice

\textsuperscript{53} See Telephone Interview, supra note 48.

Durrant suggested the Center assisted? Even if the total number of both inquiries and people is the same, this one data point is a limited measure of the relatively new Center’s effectiveness. It raises more questions than it answers.

For instance, based on Utah’s 2015 tally of 10,710 cases with at least one self-represented party, how many parties know about the service, and how many have used it? Are the Center’s day-time hours (24 a week) sufficient for the needs of self-represented parties who may only be available to handle court matters, such as filling out a FD, after regular business hours? And though email, phone call, and text message services are useful, are they the best service the Center can offer? With such high numbers of self-represented parties, and with too few data points to measure the Center’s reach, these resources may not be enough—too many self-represented parties may still be underserved. Of course, Van Buren suggests that the legal community should also act, highlighting that it is not the court’s sole responsibility to provide a cure-all. In line with this position, she states that the Utah Judicial Council has no plans of expanding the number of self-help attorneys to fit models such as California’s FLFs. Despite constraints, the model’s scope and practicality may be highly attractive to other states.

55 See 2015 Annual Report, supra note 44, at 26. 16,000 responses divided by 365 days equals about 43 responses per day. This figure does not reflect the court’s regular business days, but rather maintains the same 365-days timeline that parties are afforded because of online filing; see Chief Justice Durrant, Utah Sup. Ct., 2014 State of the Judiciary Address 4-5 (Jan. 27, 2014).

56 Perhaps since the FLF model is seventeen years running and its large budget requires greater accountability, there are better metrics of the FLF model than of Utah’s Center, which has been operating three years.

57 See supra text accompanying note 42.

58 Also, at what point during the case lifespan where inquiries made—at filing, near hearings, or post-judgment?

59 See Telephone Interview, supra note 48.

60 Id.
Investing in Self-Help Attorneys

To some, funding self-help attorneys in the short run may appear secondary to other more pressing priorities. We maintain instead that funding self-help attorneys is a rewarding investment. California’s model suggests its courts are better off in the long-term because self-represented parties are better educated about forms and procedures, saving judges and court clerks valuable time. And FLFs provide invaluable personal service to self-represented parties, easing their experience with the courts. By contrast, the Utah model offers remote access to its impressive suite of services. During the Center’s office hours, self-help attorneys can answer self-represented parties’ questions regardless if they live in urban West Valley City or in rural Price. The built-in fairness, reach, and cost-effectiveness of this model is appealing. Thus, because self-help attorneys are critical to both models, we argue that states should either initiate self-help centers or more fully fund their existing infrastructure. It may be more costly for states to continue without or with fewer-than-needed self-help attorneys because the increasing number of self-represented parties may spell additional backlog.

IV. STRATEGIES FOR IMPLEMENTATION

We understand that the needs of other states vary, but examining California’s and Utah’s programs as case studies allowed us to consider the range of constraints and opportunities large and small states face. We do not argue that each state should exactly follow either model. Rather, each state should revisit its resources and allocate more funding to self-help centers attorneys. We offer three suggestions.

First, create standing committees from a diverse cross-section of the legal community and general public to address self-represented party issues. Both California and Utah models are the fruit of their

61 See Chief Justice Durrant, supra note 11, at 7, 10, 11 (outlining the judiciary’s three new funding priorities; absent from Chief Justice Durrant’s 2015 address are remarks about or requests for the Center, which received attention during the previous two years’ addresses).
states’ respective standing committees. A standing committee can streamline current resources and tackle new, unforeseen problems with vetted solutions. Because the legal academy, the bar, the bench, and the public can all bring their own unique resources to the table, these standing committees can work together toward addressing unmet needs.

Second, hire self-help attorneys who are well-versed in family law. It may be tempting, however, to stopgap the problem with either new or non-family law attorneys who might accept lower pay because they are inexperienced. Applicants for the FLF position must have mediation or litigation experience in family law. States must also offer competitive salaries and benefits so that qualified applicants will be attracted to the prospect of long-term commitments to the centers. Expertise demands competitive compensation. Hence our emphasis on authorizing more funding for existing self-help centers, especially since in California at least half of the FLFs are not full-time positions, and there are only three part-time self-help attorneys in Utah. This requirement should prevent attorneys from leading self-help centers who have insufficient family law experience. The requirement would not prevent inexperienced attorneys from serving under qualified supervisors. For instance, in Utah efforts are underway to allow law students to volunteer for credit as they partner with community legal aid offices to provide such services.62

And third, pilot a hybrid program. One way to approach this hybrid in Utah, for example, would be to accommodate parties who may work during regular day-time hours by expanding the Center’s hours from the part-time slot of 11:00 a.m. to 5:00 p.m. to a full-time slot of 11:00 a.m. to 8:00 p.m. By hiring additional full-time staff, the Center could expand its services by offering limited one-on-one sessions on a high-traffic weekday. The day before a court’s motion calendar, for example, may work best. Another best practice may be to pilot the program simultaneously in urban and rural areas to ease the state into a hybrid model. Tracking pilot program and other

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62 See Strategic Plan, supra note 3, at 7 (recommending that restrictions barring law students participating in greater measure with legal services be amended).
self-help attorney metrics should also be a priority, as they will be invaluable to assess performance. The metrics may also justify and safeguard centers against budgetary cuts. Lastly, in whichever way other states may take up these suggestions, they should counterbalance one-on-one self-help center attorney guidance and online information services.

V. CONCLUSION: MOVING BEYOND CHECKMATE

Divorce law likely will often contain aspects that parties, counsel, and courts find emotionally-taxing and resource-draining. No program or amount of funding can (or perhaps should) factor out the antagonism of our adversarial system which attempts to manage, not eliminate antagonism.¹ But we conclude by reiterating that estranged spouses require assistance throughout the divorce process—whether provided by retained counsel or by self-help attorneys. Without either option, self-represented parties may feel less like empowered agents and more like pawns. Courts will ultimately bear the subsequent costs. We have offered evidence indicating that more hands-on, personalized help for self-represented parties is beneficial. If we provide self-represented parties with greater resources and access, then courts should be able to settle cases quickly and efficiently. Then parties—like Mary and John and many thousands of others like them nationwide—should be able both to move beyond checkmate and to carry on with their post-divorce lives.

¹ Robbins-Tiscione, Kristen Konrad. RHETORIC FOR LEGAL WRITERS: THE THEORY AND PRACTICE OF ANALYSIS AND PERSUASION. 69 (2009) (arguing that the adversarial system incentivizes parties to offer only facts most agreeable to their requests but also allows parties to “fill in the gaps” the other omitted; despite the system’s flaws, whenever parties self-regulate the record they enhance the system’s fact-finding ability.)