



April 5, 2012

Charles L. Babcock
Chair, Texas Supreme Court Advisory Committee
Jackson Walker, LLP
1401 McKinney Street, Suite 1900
Houston, TX 77010

Re: Supreme Court Uniform Forms

Dear Mr. Babcock:

We are writing to extend our most enthusiastic support for the creation and approval of standardized, Texas Supreme Court-approved forms for use in simple, uncontested family law cases. We are an organization of Hispanic lawyers who volunteer our time and energy towards improving the lives of those in the Hispanic community in central Texas. Our membership includes attorneys, judges, legislators, lobbyists, government officials, law professors, and law students, and our attorney members practice in all areas of the law, including family law. Further, many of our members who are not family law practitioners by trade have experience in this area, including through taking pro bono divorce cases from sources such as Volunteer Legal Services of Central Texas.

Our membership, particularly our members who are family law practitioners and judges, witnesses first-hand and on an almost daily basis the difficulties that arise every day at the courthouse when someone cannot afford to hire an attorney. We have seen low-income pro se litigants file forms that they found on the internet and are not based on Texas law. We have seen individuals having to make extensive use of precious judicial resources (court clerks and others) because they do not have a simple, straightforward place from which to even start seeking relief within our court system. We have heard the horror stories of low-income pro se litigants—those most in need of our assistance—being turned away by court personnel or judges because they lack the ability to navigate our professionalized court system without some kind of guidance. This is a denial of access to our judicial system; it is nothing more than denial of justice itself.

Perhaps worst of all, we have seen and heard what happens when people do nothing. Without a place from which to start, many will put the matter to the side. Then, years later, we see them when they have far more serious legal problems simply because they were unable to take care of their legal situation at the very beginning, when it could have been handled simply, directly, and without the use of significant legal aid and judicial resources. What began as an uncontested, simple matter that could have been dealt with by the use of simple forms such as those proposed ends up becoming a much more complex situation with the passage of time. We firmly believe that the forms that are being proposed can solve some of these problems.

This is an issue that disproportionately affects the Hispanic community as it continues its explosive growth throughout Texas, and for that reason we feel compelled to support the creation and approval of standardized forms to help those that cannot afford to hire an attorney. We

would be living in an ideal world if we could provide a lawyer to every poor person who needs one. Unfortunately, and despite the efforts of organizations like ours around the state, that is unrealistic. Standardized forms would be a wonderful first step to fill this need in the basic types of family law cases that the forms seek to address, because you simply cannot file for a divorce or for any other basic form of family law-related legal relief.

We owe our citizens the opportunity to access and use our judicial system to solve their problems. We owe our citizens the opportunity to seek justice. And that is what we believe these forms will begin to provide to those most in need.

We also would like to add our voice to those making some of the points that you no doubt have heard numerous times as this issue has been debated, and to those rebutting some of the arguments that have been made against the promulgation and approval of these forms:

There is a tremendous need for standardized forms. The Texas Access to Justice Commission has estimated that legal aid and pro bono programs can serve only about 20% of those seeking legal assistance and who would qualify for assistance based on their income. The Texas Access to Justice Commission also has learned that over 20% of family law cases were filed pro se, and has estimated that approximately 40% of all filed divorce cases are filed pro se. We will never be able to provide assistance to all of those in need. But standardized forms can help us to leverage our limited resources to extend our help to more of those who need it most.

Concerns regarding the impact of standardized on the family bar have not materialized. There are only two states that do not make some kind of standardized family law forms available. Thirty-seven states have standardized and approved forms for divorce, and each of those states requires their courts to accept those forms when a litigant chooses to use them. We are not aware of any evidence from any of these states indicating that the family bar suffered after such forms were introduced. We believe that those who would use preapproved forms would never have sought the assistance of an attorney at all—again, in Texas as much as 40% of all divorce filings may be pro se. We also believe that if such forms are introduced, legal aid organizations will be able to better focus their resources on complex cases, where their expertise can best be put to use.

Concerns regarding the misuse of forms are unfounded. To put it simply, if someone wants to attempt to misuse the judicial system to harass or harm someone, they will try to figure out how to do so regardless of whether there is a form available for them to use. Arguments regarding the potential misuse of forms also seem to assume that our judges take no part whatsoever in the divorce process, and simply will approve anything that crosses their desk without ever making any kind of inquiry whatsoever. Further, and to repeat, these forms are for cases that are not complex, and are for cases that are uncontested. That alone should address any concerns that the forms might be misused.

Standardized forms would improve the legal system. When pro se litigants use forms that they find in random corners of the internet that end up being entirely insufficient for use, one of two things happens. Either they are sent home, meaning that we have denied someone access to our judicial system, or the court and its staff must try to figure out some way to help. This leads to an incredible strain on our already limited judicial resources, as staff has to correct basic

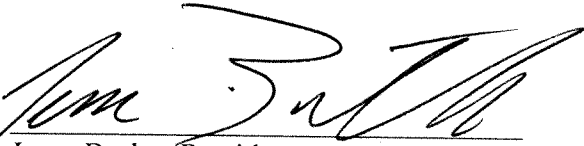
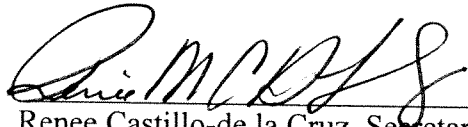

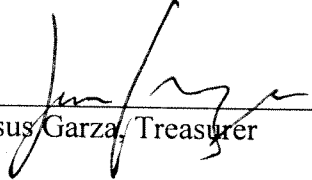
errors and walk pro se litigants through parts of the process—both of which would be entirely unnecessary if pro se litigants had a standardized form from which to start.

Standardized forms could increase pro bono participation. When attorneys are asked to do pro bono divorces, something that we often hear is “But I am not a family law attorney. I do not even know how to get started.” Organizations like Volunteer Legal Services of Central Texas have attempted to address this kind of concern by developing comprehensive sets of forms and guides for pro bono attorneys to use. We believe that having a set of standardized and approved forms will further address these concerns. The Texas Access to Justice Commission already has found that pro bono lawyers use court-approved forms in other states. We believe that the same thing would happen here. If there is an approved set of forms to use, we think that an attorney would be slightly more likely to take on that first pro se divorce case than they would without them. We welcome any tools that make it easier for pro bono attorneys to provide assistance—and more importantly, to get started. Once an attorney starts doing pro bono work, we believe they are much more likely to continue doing it throughout the rest of their careers.

The Hispanic Bar Association of Austin urges the Texas Supreme Court Advisory Committee and the Texas Supreme Court to adopt the Divorce Kit proposed by the Supreme Court Uniform Forms Task Force. We believe that initiatives like the Divorce Kit are critical to improving access to the legal system to our most vulnerable citizens, and will form the cornerstone in all of our efforts to ensure that there truly can be justice for all.

Sincerely,

The Hispanic Bar Association of Austin


Jesse Butler, President
Renee Castillo-de la Cruz, Secretary
Manuel Escobar, President-Elect
Jesus Garza, Treasurer

cc: The Honorable Wallace Jefferson, Chief Justice, Supreme Court of Texas

Supreme Court Advisory Committee

Harry Reasoner, Chair, Texas Access to Justice Commission

Trish McAllister, Executive Director, Texas Access to Justice Commission