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Gentlemen:

I am writing to you because you are on the Supreme Court Advisory Committee (SCAC). I am a member of the Family Law Section, the ADR Section, and the General Practice, Solo and Small Firm Section of the State Bar, and I am on the Council of the GP Solo Section. I want to be clear that I am writing as an individual.

I traveled from College Station to attend the April 13 and April 14 meetings of the SCAC. I signed in both days. On Friday Mr. Babcock announced the public would be able to speak about 4 p.m. on Friday or possibly Saturday morning. I could not wait until 4 p.m. and left early Friday to get some work done in my office. I came back Saturday with hopes of being able to speak but was told the public had spoken Friday afternoon and there would be no opportunity to speak Saturday. Counting driving time, I had nearly the time in your meeting your committee did those two days. Here is what I had to say:

The impetus that put me up to speaking was a situation presented to me. I have done legal services for three generations of a family. One family member came to me. He had gotten a divorce. No kids, but property. A self-done divorce. Both spouses college graduates. The decree was a real mess on property. Totally inadequate. They had forms and instructions for those forms.

I have two licenses. Lawyer and Professional Engineer. I do not think the engineers would ever give somebody some forms and instructions and tell them to go do their own engineering. It disappoints me that the Supremes are encouraging this in the legal arena.

APR 23 2012
JACKSON WALKER L.L.P.

The Arizona Supremes did this years ago. Their system was quite sophisticated. Apparently one can go to a kiosk in any major mall, answer some questions on a touch screen, and out comes all the papers for a divorce. I have talked to a former chair of the Arizona General Practice Section. He wrote a letter to every licensed attorney in Arizona asking their experience with the system. He was not prepared for the volume of responses, truckloads of mail – 80 to 90 percent negative with lots of tales about injustices to the citizens. According to him, the judges love the system – standardized forms they do not have to read and, therefore, mistakes or incomplete documents did not matter; the judge was just a rubber stamp in the system. Not what I would hope Texas would become. Why have a judge? Why not let the computer grant the decree?

Some questions I have about your project which may be beyond the scope of your directions from the court:

1. The access to justice persons I have talked to say the system under discussion is for 'no children and no property.' No children may be the easy part of the test but I would observe the law according to my belief that if a party has a shirt on their back they have property. When I asked the access to justice folks about this, they did not have the definition of "no property." So, who does qualify to use the forms?
2. Who checks those qualifications?
3. What rules apply to those who represent themselves? Surely none of them will know the Family Code or any Rules of Civil Procedure or evidence. Do different rules apply if one party gets smart and gets an attorney?
4. If there are mistakes in the documents, who corrects those mistakes? How does the judiciary stay impartial if they or their office helps complete or correct the forms? Is the judiciary practicing law? I think we can be assured that John Citizen will not be able to understand or complete the forms fully, even with instructions.
5. What penalties apply if disqualified persons use the forms? Almost assuredly this will happen.
6. Who is responsible for and keeps the forms and instructions current? Who pays for those costs? Surely the law and rules might change over time. They generally do.
7. How many more questions will others be able to think about?

I am afraid lawyers are building themselves more negative impressions and lawyer jokes. In the future there is no doubt that problems will be blamed on our profession because we dreamed up the forms and no doubt did not see all the things that can be involved in peoples lives at the time they need a divorce, and we cannot educate the uneducated. When I started this I said the impetus for me going to your meeting was some educated people making a mess of their divorce.

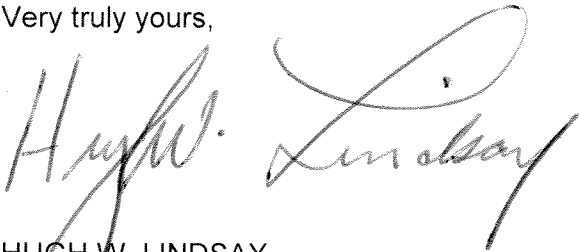
My observations of discussions by the SCAC members are that some or many:

1. Do not believe the proposed forms and/or instructions meet the law;
2. Do not believe the proposed forms and/or instructions meet the rules;
3. The proposed forms will likely be misused; and/or
4. The citizenry does not have the necessary knowledge to properly utilize the forms, no matter what the instructions might say.

I recognize there are thousands of citizens who cannot afford a divorce. What we as attorneys need to realize is that this is a societal problem to be resolved by the elected representatives of those people (the Legislature) and not the judiciary on the backs of the lawyers of this state.

If I were on the SCAC, I would be inclined to tell the Supremes this idea is ill-conceived and the SCAC is going home.

Very truly yours,

A handwritten signature in cursive script, reading "Hugh W. Lindsay". The signature is written in dark ink and is positioned above the typed name.

HUGH W. LINDSAY
Attorney