



Representing Yourself Pro Se

What You Need To Know

This brochure summarizes the general legal advantages and disadvantages of representing oneself pro se in a divorce or family law case in Texas. This brochure does not in any way create an attorney-client relationship between you (the reader) and The Lorenzana Law Firm, P.C. or its attorneys. It is always advisable that the readers seek legal help or representation and consult with a Texas family law attorney before entering into such prenuptial or marital agreements.

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What is Pro Se Representation?

You've probably heard it before, the question one asks when dealing with the costs of a divorce or family law case, should I represent myself pro se? Pro se representation is the process by which an individual represents himself or herself in court without a lawyer.

There are pros and cons in representing oneself pro se in a divorce case or family law proceeding. This short article provides some guidance in making this decision.

Although as simple as it may seem, the disadvantages may outweigh its advantages. For example, although the process may seem simple, legal procedure is fraught with complex meaning and ramifications. Frequently, the question arises, "do I really need a lawyer...?"

On most cases, the answer is generally yes. Courts are also not easily inclined to have sympathy on pro se litigants. As one court put it, "While we have compassion for the plight of the pro se litigant attempting to follow the rules of legal procedure and substantive laws, and therefore construe pro se pleadings and briefs liberally, we must still hold appellant to the same standard as a licensed attorney, requiring that he follow those same rules and laws." *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184-85 (Tex. 1978); *Cooper v. Circle Ten Council Boy Scouts of Am.*, 254 S.W.3d 689, 693 (Tex. App. - Dallas 2008, no pet.). To do otherwise would give a pro se litigant an unfair advantage over a litigant represented by counsel. *Mansfield State Bank*, 573 S.W.2d at 185; *Cooper*, 254 S.W.3d at 693.

In Texas pro se representation is allowed by a court as a means of addressing the free access to the courts. The U.S. Judiciary Act, the Code of Conduct for United States Judges, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, and the Texas Rules of Civil Procedure address the rights of the self-represented litigants.

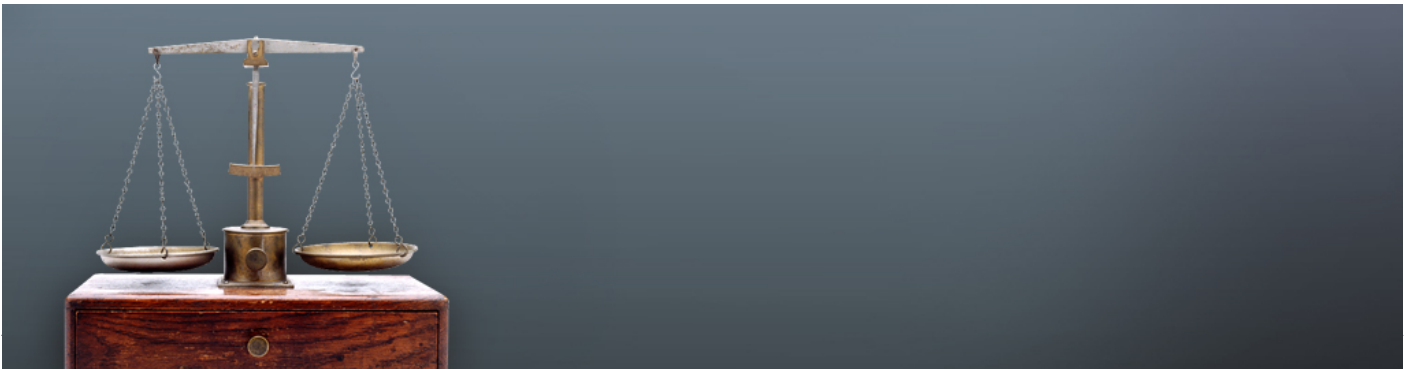
For example, Section 1654 of title 28 of the United States Code provides: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein."

Advantages of Pro Se Representation:

- (1) Alleviates the costs of lawyer's fees;
- (2) Provides direct interaction between the pro se litigant and the opposing side;
- (3) Provides for a less adversarial process between parties (depends on the personality of the pro se litigant);
- (4) Provides for a quicker avenue for settlement;
- (5) Allows for direct communication between the case party and pro se litigant;
- (6) Gives the pro se litigant an opportunity to direct the legal strategy or case direction.

Disadvantages of Representing Oneself Pro Se:

- (1) Generates more legal research time for the pro se litigant;
- (2) Makes pro se litigant more vulnerable to the legal pitfalls of civil procedure and evidentiary practice;
- (3) Increases the risk of the pro se litigant losing his or her case in court;
- (4) Incurs more case preparation for the pro se litigant;
- (5) Allows for the other party with legal counsel to gain an advantage in legal knowledge of legal procedure;
- (6) Increases the risks for the pro se litigant to make mistakes in his or her case development and presentation;
- (7) Provides no legal counseling to the pro se litigant.



History of Pro Se Representation

The right of self representation has a long history in the United States legal jurisprudence. Self representation actually pre-existed the ratification of the U.S. Constitution in that people were concerned with the inalienable right to self representation. Today, pro se representation is fairly practiced in all avenues of the court system.



In summary, there are both advantages and disadvantages in representing oneself pro se. Many historical pro se individuals have won major landmark cases in legal jurisprudence. However, for the average litigant, one should tread the legal judicial system with caution, as there are many legal procedural guidelines, rules of procedure, rules of evidence, and case common and statutory law, which takes years of schooling to just get the basis understanding of our judicial legal framework. Ultimately, the decision is up to the individual.

Self Help Resources for Pro Se Litigants :

If you are contemplating on self representation, there are a myriad of available resources both on the web and with the local law library at your town or city's courthouse.

Texas Family Code provides the basic statutory framework for understanding legal rights of parties in a divorce, custody, child support, parental rights or any other family law case in Texas.

Form books are available at the law library for free. The legal form books provide for standard forms such as basic forms for a "divorce petition" or "waiver" by a Respondent, or a standard form of "General Denial."

Other resources include online access to case law and legal research through Westlaw or Lexis, both available on the World Wide Web for a fee.

Then there are the courthouse forms that are available at the front desk of each District or County Clerk's office. Although these forms are not comprehensive, they do provide for the very basic necessity to file a claim or an "Answer" in a lawsuit.

The caveat is that, just as with buying a used car, the old adage is "buyer beware". Without legal consultation from a schooled divorce attorney or family lawyer, the pro se litigant faces a greater risk making mistakes.