PRESSURE POINTS IN THE ADMINISTRATION OF JUSTICE

Self-Represented Litigants

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I. Introduction: Framing the Problem—
   1. Not simply easing the problems facing judges, other court personnel and opposing lawyers
   2. Stemming the forfeiture of important rights due to the absence of counsel

II. Overall Approach Requires an Coordinated Access to Justice Strategy, including—
   A. Revised Roles of key players in the court system, so they provide the key assistance to litigants they are permitted to provide
   B. Increased use of, and experimentation with, forms of assistance programs short of full representation, paired with evaluation to measure which impact case outcomes
   C. Where less steps are insufficient, and interests at stake involve basic needs, provision of counsel in keeping with 2006 ABA Resolution

III. Key Focus Here Involves Revised Roles (IIA above), Guided by Core Principles
   A. Goal of Adversarial System is to Provide Fairness & Justice
      --roles of players must further, not frustrate, the goal
   B. Revised understanding of Impartiality—
      1. Impartiality does not equal passivity
      2. Active role is permissible and necessary
   C. Enlightened understanding of the role of “voluntariness” in our assumptions:
      1. Due to shortage of available counsel and unmet legal needs, appearances without counsel must be generally be presumed to be compelled, not voluntary
      2. Standard of informed consent must be used to measure voluntariness of decisions made by unrepresented litigants
   D. Context Matters
      1. Roles in one setting may be different from in another, based on features of the court and needs of the litigants
      2. Roles of an individual actor depend on other resources in the court

IV. Conclusion
   A. Trends from past decade support more active role
   B. Resistance to revised roles impacts resource decisions, since resources must be dedicated to programs and positions that will help solve the key problem