IT TAKES A VILLAGE: USING SENIORS TO HELP DIVORCING FAMILIES

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“It takes a village to raise a child . . . children will thrive only if their families thrive and if the whole of society cares enough to provide for them.”

~Hillary Clinton, quoting an Ancient African Proverb

I. INTRODUCTION

As the United States’ sizable Baby Boomer generation ages, market forces have approached the phenomenon of a growing elderly population in various ways.1 Plastic surgeons and cosmetologists have revived the pursuit of youthful exteriors, capitalizing on the possibilities of an era of medical advancement and increased longevity.2 Legal professionals have opened booming Elder Law practices, focusing their efforts on an expanding elderly client

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1 The elderly represent a ready and capable resource to assist divorcing families. “The elderly have accounted for 12% to 13% of the population since 1990; this range is higher than at any time in the nation’s history. With each successive decade, the percentages will increase so that by 2050 the elderly will represent 19% of the population.” Jeffrey S. Passel & D’Vera Cohn, U.S. Population Projections: 2005-2050, Pew Res. Ctr. Soc. Trends (Feb. 11, 2008), http://www.pewsocialtrends.org/files/2010/10/85.pdf; see also Karen L. Fingerman et. al., The Baby Boomers’ Intergenerational Relationships, 52 Gerontologist 199 (2012), http://gerontologist.oxfordjournals.org/content/52/2/199.full.pdf; Marc Freedman, Prime Time: How Baby Boomers Will Revolutionize Retirement and Transform America (1999).

base.\(^3\) Nursing homes and retirement communities have begun to experience overcrowding and resources have dwindled in the face of increased need.\(^4\)

Doctors, lawyers, and policy-makers continue to highlight the “problems” posed by the growth of the United States’ elderly population. However, a growing elderly population offers an invaluable resource to the community at large.

Senior citizens can provide society with elder wisdom. Who among us could not benefit from another parent or grandparent? The elderly have lived through the changing tides of technological advancement and social change. They often have seen the advent of the Internet, cellular telephones, and increased transportation. They have borne witness to the Civil Rights Movement and the changing tides of socio-political discourse. They have experienced war and peace, prosperity and financial decline, and they have developed unique insights and perspectives regarding these various facets of life.

Many senior citizens have experienced what it means to be part of a family and community. They remember being young children, yearning for maternal attention and paternal validation. They often remember being husbands and wives, mothers and fathers, grandparents, and sometimes even great-grandparents. As the elderly population grows, our collective access to this resource of vast experience and perspective grows as well.

Collaborative, multi-generational family decision-making has been a cornerstone of family dynamics for centuries.\(^5\) In contemporary society, these dynamics continue to evolve. Women with children, choosing not to stay at home but remain in the workforce, have started to rely on grandparents as primary caregivers for young grandchildren.\(^6\) As inflation rates and wage stagnation continue to dim the American Dream, seniors have re-directed their savings towards broader family funding, creating trusts for their struggling children and grandchildren and co-signing mortgages.


\(^6\) Coleman & Ganong, *supra* note 5.
and college tuition plans.\textsuperscript{7} While cultural realities dictate some of the nuances surrounding family decision-making, the need for elder assistance remains a constant. Divorcing parents and their children need the assistance and support of seniors who can offer their talent, life experience, and compassion.

Multi-generational family collaboration has also been a communal building block cross-culturally.\textsuperscript{8} American ambivalence towards the opinion and involvement of the elderly is a modern outlier, both globally and historically.\textsuperscript{9} Dating back to prehistoric times, the survival of young children was often credited towards the care of their grandmothers, who were responsible for providing food and passing on survival tips based on their own tested experience.\textsuperscript{10} In ancient and modern Chinese families, the acknowledged superiority of experience has instilled reverence for the opinions of grandparents, who often cohabit with their children and grandchildren.\textsuperscript{11} In African American families, elderly women are responsible for passing down oral histories and cultural tenets, teaching subsequent generations to value human relationships, children, and self-reliance.\textsuperscript{12} In Native American communities, elders are known for teaching younger tribe members about their culture, traditions, social values and beliefs.\textsuperscript{13} While some of the aforementioned communities go so far as to form official elder tribunals that issue advice to the community at large, all of these communities rely on their elderly for input in family decision-making.\textsuperscript{14}

In modern American society, divorcing family decision-making has, too often, been placed in the hands of third-party decision-makers. Rather than relying on their relatives or community elders, most families turn to adversarial positioning in a court system, appearing before a judge who may not understand the nuances of their family dynamics or cultural backgrounds.\textsuperscript{15} While

\textsuperscript{7} Id.
\textsuperscript{9} Id.
\textsuperscript{10} Id.
\textsuperscript{11} Id.
\textsuperscript{12} Id.
\textsuperscript{13} Id.
\textsuperscript{14} Id.
more family-centered options, such as mediation and Collaborative Law, do exist, many families in conflict are unaware of such alternatives.\textsuperscript{16} Instead, more and more disenfranchised families find themselves resolving disputes as pro-se litigants in a deteriorating US court system, facing funding cuts and staff shortages.\textsuperscript{17} As purse strings tighten, improvements to the system stagnate.\textsuperscript{18} However, valuable resources need not be expensive.

The wisdom of an underappreciated elderly population can offer invaluable assistance to underserved pro-se litigants facing family conflict. This Article will uncover the confluent needs of the family court system and the growing elderly population in the United States. Section II of this Article will explain the struggles of the family court system, outline the historic role of the elderly in addressing family conflict, propose the creation of an Elder Volunteer Corps to address these communal needs, and discuss the benefits of creating such a corps. Section III will suggest logistical approaches to forming an Elder Volunteer Corps, focusing on how such a corps can address the needs of forgotten populations, including the pro-se litigant community and the growing Senior Citizen population. Section IV will conclude that the inclusion of the elderly as a volunteer corps could revolutionize American culture, teaching a society that typically “discards” the elderly to value their expertise, defer to them as wise elders, and use their assistance. The impact of such an Elder Volunteer Corps on American society has clear immediate benefits on a local level, and could “update” American culture in a way that would help the United States relate to the rest of the global community.

\textsuperscript{16} See generally Andrew L. Schepard, Children, Courts and Custody: Interdisciplinary Models for Divorcing Families (2004); Lande & Mosten, supra note 15.


\textsuperscript{18} Id.
II. SETTING THE STAGE FOR CREATING AN ELDER VOLUNTEER CORPS

A. The Growth of the Pro Se Litigant Community in US Family Courts

Nearly all individuals whose circumstances force them to navigate the rocky waters of Family Court find themselves emotionally and intellectually drained by complicated procedures and adversarial animosity. A growing number of these individuals are further disadvantaged due to their decisions, whether voluntary or circumstantial, to appear in court without legal representation. Over the course of the past few decades, the number of pro se litigants in the family court system has increased exponentially. The pro se litigant community has grown to include members of every ethnic and socioeconomic class. These litigants’ characteristics may vary, but they all need more assistance than the court system is equipped to offer.

While individuals from indigent communities were traditionally the main source of self-representation, that trend has shifted. Now, educated members of the middle and upper-middle classes are increasingly opting to appear unrepresented in their family court disputes. In many states, nearly eighty percent of those seeking to resolve their disputes in family courts proceed without attorney representation. Today, more litigants facing family

20 See Goldschmidt, supra note 17; Carter, supra note 19.
22 Carter, supra note 19.
23 Id.
conflict across the nation appear without counsel than with counsel.\textsuperscript{25}

While the demographics of pro se litigants are diverse and the limited presence of self-help resources affects everyone, the court process does put a unique strain on the community’s underserved populations.\textsuperscript{26} Court dates are typically planned around lawyers’ schedules and are inflexibly unaccommodating to clients and unrepresented parties.\textsuperscript{27} These court dates often unduly burden those who are least affluent. In order to attend an overabundance of court dates, litigants are often forced to miss work. For those holding tenuous temporary jobs or cobbling together many part-time positions, frequent absences often place their jobs at risk.

Likewise, less affluent litigants often have smaller support networks. They and their children often find themselves without family ties, or are members of communities where everyone is stretched thin with responsibility.\textsuperscript{28} Without strong support networks, these litigants are forced to choose between making unaffordable child care arrangements and bringing their children to court with them.\textsuperscript{29} Transportation expenses also skyrocket, as litigants are forced to travel unusual distances by public transportation or pay exorbitant parking fees while waiting many hours for their five-minute hearings.\textsuperscript{30} Family courts disparately burden indigent pro se litigants in a manner that makes courts inaccessible,
even for unrepresented parties who are able to avoid the cost of attorney fees.31

The dramatic increase in pro se litigation has caused serious problems for court personnel, judges, and attorneys opposing unrepresented litigants.32 Due to pro se litigants’ unfamiliarity with the family court system, their cases invariably encounter delay. While some sophisticated pro se litigants are able to educate themselves about the process, most still need regular assistance with filings and courtroom appearance preparation, and all pro se litigants encounter challenges when faced with strategic and procedural nuances.33 Thus, many pro se litigants enter the courtroom unprepared to exercise their legal rights and meet their financial and personal needs. They opt for an excessive number of continuances and modifications due to their lack of initial understanding.34 Hearings are often protracted, as judges try to impartially explain the process from the bench.35 Courts are unable to clear their dockets, and cases stall in the system. Today, as budgets tighten and courts consolidate staff, the outlook seems bleak.

B. Court Deterioration: From Limited Resources to Inhospitable Design

Courthouse inefficiencies stem from more than the upsurge of pro se litigation alone. Insufficient funding, under-staffing, and the depletion of court resources further exacerbate the problems faced by those with limited understanding of the family court system. Court closures and the reduction of staff and hours have increased significantly across the United States, resulting in the deprivation of access to justice for many litigants.36 These closures and layoffs

33 See Macfarlane, supra note 32; Goldschmidt, supra note 17; Carter, supra note 19.
34 See Macfarlane, supra note 32; Goldschmidt, supra note 17; Carter, supra note 19.
36 Since 2008, California alone has reduced hours at public service counters in 30 courts, limited court service days at 15 courts, closed 52 courthouses and 202 courtrooms, and laid off
uniquely deprive self-represented parties who rely heavily on the assistance of court personnel. Once supported by court staff members, pro se litigants are now stranded, facing budget cuts that leave them without access to help or guidance as they attempt to navigate the court system alone. Most jurisdictions actually prohibit court staff from providing assistance, particularly legal advice, to pro se litigants.\footnote{Such assistance is deemed the unauthorized practice of law. See \textit{Richard Zorza, Some First Thoughts on Court Simplification: The Key to Civil Access and Justice Transformation}, \textit{61 Drake L. Rev} 845 (2013), http://www.zorza.net/Simple.pdf.}

In an effort to address the problems posed by dwindling court resources that underserve the expanding pro se litigant community, some courthouses have tried to set up family facilitator offices and self-help centers.\footnote{See, e.g., \textit{Samantha Yale, New facilitator lends a hand with family law}, \textit{Lompoc Rec.} (Nov. 27, 2006), http://lompocardinal.com/news/local/new-facilitator-lends-a-hand-with-family-law/article_27d49c02-a7a9-5d93-9745-88a52d388ba5.html; \textit{Family law facilitator for Lake County honored by state association}, \textit{Lake County News} (Mar. 30, 2014), http://www.lakeconews.com/index.php?option=com_content&view=article&id=36092:family-law-facilitator-for-lake-county-honored-by-state-association&catid=1:latest&Itemid=197; Ashley Nerbovig, \textit{Self-Help Law Center moves; becomes permanent part of Montana Supreme Court budget}, \textit{Billings Gazette} (Dec. 10, 2015), http://billingsgazette.com/news/crime/self-help-law-center-moves-becomes-permanent-part-of-montana/article_1ac83c2-35cc-5ad8-85bb-397849df3db5.html.} These centers, found within the courts, help pro se litigants prepare court forms and learn general legal information at no cost.\footnote{Family facilitators, typically court attorneys, paralegals, and clerks with experience in family law, help pro se litigants prepare court forms and learn general legal information at no cost. The facilitators organize educational workshops and help pro se litigants understand their rights, the litigation process, and what they must do in order to navigate the process on their own. Self-help centers similarly offer legal forms and education to pro se litigants. Goode, \textit{supra} note 36.} While these mechanisms are a step in the right direction, facilitator offices and self-help centers do not have enough resources to meet the needs of the growing pro se litigant population. Court system budget cuts affect facilitator offices and self-help centers as well. For example, self-help centers housed within two county courts in California turned away nearly 8,000 pro se litigants in 2012 alone, citing that they were at capacity and unable to assist walk-in clients or return the myriad of phone calls that were made in a given day.\footnote{Id.}

and the centers find themselves at a loss for how to survive, let alone expand.41

Aside from the procedural injustices experienced by pro se litigants with limited access to courthouse resources, the overall atmosphere of family courthouses poses another problem. The interior design of most courthouses is reminiscent of hospital hallways lined with cold tiles and uncomfortable benches.42 While waiting to be called into a courtroom, anxious parties pace in rooms that resemble gates at an airport, watching dissatisfied litigants come and go as they struggle to avoid the glances of their disgruntled spouses. Where many courthouses do not offer daycare centers, parties try to quiet and care for the children who stand beside them in these hallways riddled with tension and animosity. The design is not conducive to family peacemaking.

At a loss for guidance, tensions escalate as pro se litigants seek advice from those unable to give it. Some litigants scramble to ask a passing attorney for guidance, which many attorneys decline to offer. Others turn to court officers for help, not realizing that they do not have the knowledge or time to assist them. Petition windows are overcrowded with stressed, overworked employees whose patience has run out. The negative atmosphere of the courthouse is compounded by gruff responses from tired personnel and persistent queries from confused litigants. Inevitably irritated, litigants cannot help but allow this energy to permeate subsequent negotiations and interactions with judges. Thoughtful resolution of family problems becomes extremely challenging in these conditions.

As discussed later in this Article, the development of an Elder Volunteer Corps could address the concerns of understaffed and underfunded self-help centers and intimidating courthouse environments alike. As the elder population in the United States expands, these willing volunteers can offer invaluable, in-court manpower and expertise at little cost. Self-help centers, redesigned and staffed by elderly volunteers, could be the way of the future.

41 Id.
C. Elder Wisdom Has Guided Human Development, Problem Solving, and Continuity

It is only in recent American history that the elderly have become a “forgotten generation.” The elderly have been active members of multigenerational family structuring since before the inception of human civilization, and the transfer of elder wisdom transcends culture, continent, and time period. Grandparental involvement in familial life extends from birth to death, from sickness to health, through periods of war and periods of peaceful prosperity, and even to religious and educational development. The elderly have offered parenting wisdom to their children, logistical support to their grandchildren, and general guidance to their communities at large. The formal development of an elder corps of volunteers is a natural extension of this timeless exchange between the old and the young that would benefit divorcing parents and their children, the family court system, the pro se litigant community, and the elderly population.

1. Elder Wisdom Is a Constant Across Cultures and Time Periods

Throughout history, elder members of nearly every community have been seen as beacons of wisdom and sources of support. For many, respect for elders needs no explanation—it is a cultural expectation. The elderly are our living sources of vital communal information.

The Inuit culture offers a perfect, timeless example of the role and importance of the elderly. In the Inuit community, an Inuk person typically turns to an official panel of elders within his community for direction and guidance. These Inuit elders garner deep respect among members of the community, due to the fact that their opinions are based upon a vast array of social and personal knowledge. In the Inuit community, this unique, elder

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43 See JENSEN, supra note 8.
44 While longevity and human lifestyle alterations have informed a change in the definition of who is an elderly person, we refer here to individuals that have been perceived as “elders” according to their time period.
46 Bell, supra note 45.
knowledge is divided into three primary categories: historical knowledge, practical knowledge, and spiritual knowledge.\textsuperscript{47} The elders’ historical knowledge about their community includes an understanding of culture, cosmology, relationships with nature and people, communal development, economics, and tradition.\textsuperscript{48} The elders’ practical knowledge offers insights about survival in the Inuit environment, and often takes changes in technology and human lifestyle into account.\textsuperscript{49} The elders’ spiritual knowledge guides the communities’ values, ethical behavior, and responsibility to family and community.\textsuperscript{50} The wisdom of Inuit elders is neither limited nor static. It evolves from generation to generation, responding to social change while learning from history.

Just as the elders of the Inuit community are able to offer historical, practical, and spiritual knowledge to members of their community, many elderly individuals have experiential advantages that transform them into historical, practical, and spiritual guides for younger parents struggling through divorce. While the Inuit community offers particularly artful explanations for their deference to elder wisdom, most communities defer to their elders for similar reasons.

Deference to elder support was originally rooted in humanity’s reliance on intergenerational childrearing.\textsuperscript{51} It was the liberation of women and their influx into the workforce that altered this intergenerational childrearing dynamic.\textsuperscript{52} During this period,

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\textsuperscript{47} Id.
\textsuperscript{48} Id.
\textsuperscript{49} Id.
\textsuperscript{50} In this third role as spiritual guides, elders offer insight into child rearing, education, familial respect, and individual and interpersonal sensitivity. Id.
\textsuperscript{51} During the age of hunters and gatherers, physically weak members of the community were unable to scavenge or hunt and remained by caves and campfires together. These physically limited individuals were, most commonly, the oldest and youngest members of the community. Thus, older individuals became caretakers for younger ones. Children grew up to recall their elderly caretakers as comforters, nurturers, and beacons of wisdom, and would entrust the next generation of elders with the caretaking of their own infants. In trusting elders and relying on them for infant childcare, young adults in the community showed their elders that they respected their role in society. The elderly, in turn, felt validated as integral members of the community’s cycle of life. See Melvin Konner, \textit{Hunter-Gatherer Infancy and Childhood}, in \textit{The Evolution of Childhood: Relationships, Emotion, Mind} (2010).
\textsuperscript{52} The evolution of traditional gender roles did deprive the elderly of some of child-rearing responsibilities. When nomadic communities settled down, more women remained in the home with their children. At first, however, since the rate of childbirth and infant survival increased, women still turned to the elderly for assistance. The elderly, in turn, benefited from improved healthcare and lifestyles, and were able to remain in the workforce as able-bodied individuals for longer periods of time. They became a generation that had lived longer and seen more, offering new insights. Hannah Devlin, \textit{Early men and women were equal, say scientists}, \textit{Guardian} (May
childbirth rates decreased. While the elderly still offered support to working parents, reliance on their logistical contributions diminished. The elderly shifted their attention to cultural pursuits, spending their time volunteering in museums or cultural centers since they were no longer needed by their families. Even in societies ranging from the Mediterranean to China, Japan, and India, where filial piety, obedience, and respect are the highest cultural values, modernization continues to undermine a culture of intergenerational collaboration.

The loss of elder input and guidance has harmed society. Many studies now urge a revitalization of elder involvement in childcare and multigenerational household decision-making. The absence of elder involvement has been detrimental to families.

The value of elder involvement extends well beyond childcare and the nuclear family. Contemporary societies worldwide would invariably profit from the involvement of a generation of modern elder individuals, many of whom have the benefit of education,
work experience, and rising longevity. Not unlike the elders of the Inuit community, elders around the world can offer multifaceted and interdisciplinary assistance to the community at large.57


The United States, a nation that prioritizes individualism and youthful vitality, continues to overlook the importance of engaging its elderly population. In doing so, the United States has become an outlier in the otherwise unified global approach to intergenerational community building, widening the gap in US-global relations. Even in the United States, however, this marked indifference is under a century old.58 American family culture did once reflect the global, multigenerational family experience.

Until the early 1900s, most American households contained multigenerational families.59 However, in the early Twentieth Century, the tides of social and economic change disrupted the multigenerational family dynamic.60 Now, while aging individuals live


58 During the Great Depression, elderly individuals remained in their multigenerational homes due to poverty and infirmity. In 1937, however, when healthcare improved and social security and pension safety nets were established, the elderly became able to pursue independent lives. Younger generations lost their sense of responsibility, seeking employment and opportunity far from home. During WWII, birthrates declined, as did the need for elderly assistance at home. By 1950, the federal government opened nursing homes across the nation, and in the 1970s, social security regulations spurred the advent of assisted living facilities. In 1900, 57% of the elderly had cohabited with their children and grandchildren. By 1980, that number decreased to 12%. See Richard Fry & Jeffrey S. Passel, The Growth in Multi-generational Family Households, PEW RES. CTR. (Jul. 17, 2014), http://www.pewsocialtrends.org/2014/07/17/the-growth-in-multi-generational-family-households; Suzanna Smith, Family Relationships in Later Life, STRONGERMARRIAGE.ORG (1999), http://strongermarriage.org/married/family-relationships-in-later-life (noting that “about three-fourths of older persons in the U.S. are grandparents”).


60 In the idyllic depiction of a 20th century American family, grandparents are rarely featured. Norman Rockwell’s iconic paintings show grandparents at Thanksgiving tables once a year, not highlighted as members of daily life. The 1950s featured stay-at-home mothers and hard-working fathers. While wealthier iterations of this image included nannies and au pairs, grandparents were no longer factored into the equation. See Bob Duggan, What is Norman Rockwell's Thanksgiving Picture Really About?, BIG THINK (2013), http://bigthink.com/Picture-This/what-norman-rockwells-thanksgiving-pictures-really-about.
longer and have more places to reside, their vitality and communal interests remain ignored.\textsuperscript{61}

Relegating today’s capable elders to lives in senior centers with little opportunity to actively partake in society underutilizes their unique experiential and professional qualifications. Having been integral members of society for many decades, many elderly individuals want to continue to engage with their communities. Their varied interests extend beyond assisting their immediate families. Involving seniors in re-envisioning the family court experience is a perfect opportunity for elderly engagement and communal service expansion.\textsuperscript{62}

D. Creating an Elder Volunteers Corps Benefits Families, Divorcing Pro-Se Litigants, and Society at Large

An Elder Volunteers Corps for Divorcing Families, as proposed by this Article, is a trained collective of elderly individuals who can actively envision, create, and improve programs and community services for underserved divorcing families. An Elder Volunteer Corps would serve as a resource for understaffed courthouses and community centers. In addition to providing direct assistance to young parents and children facing family con-

\textsuperscript{61} After the Great Recession of 2007-2009, multigenerational cohabitation did increase. However, the elderly were excluded. Young adults, ages twenty-five through thirty-four, boosted the multigenerational cohabitation rate from 12% to 18.1%. Cohabitation involving the elderly, however, continued to decrease as elder housing options increased. But housing options alone do not address the realities of increased longevity and elder competence. Once these elders are conveniently situated in safe facilities, they are often otherwise forgotten. Only four in ten adults in the US consider the growing number of elderly people to be good for society. However, today’s elderly, raised in the 1950s and 1960s, are the product of a generation with more education and work experience than that of prior decades. The presence of a growing population of vital, experienced, educated, and talented elders should be viewed as an asset, not an inconvenience. \textit{See Views About Aging, in The Pew Forum: Living to 120 and Beyond: American’s Views on Aging, Medical Advances and Radical Life Extension, The Pew Research Center} (Aug. 6, 2013), http://www.pewforum.org/2013/08/06/chapter-3-views-about-aging; David J. Eggebeen, \textit{Family Structure and Intergenerational Exchanges}, 14 RES. ON AGING 427 (1992), http://roa.sagepub.com/content/14/4/427.short; \textit{See generally Jit Biswas & Hisato Koyayashi, Inclusive Society: Health and Wellbeing in the Community, and Care at Home} (2013) (noting that “elderly people want to keep their independence, remain active and maintain social relations”); Katherine Hobson, \textit{A Long Life: 7 People, Sailing Past 90 with Lots Left to Do}, U.S. News (Jan. 25, 2010), http://health.usnews.com/health-news/family-health/slideshows/a-long-life-7-people-sailing-past-90-with-lots-left-to-do.

\textsuperscript{62} Elder support increases when family members experience periods of strife, such as divorce or widowhood. People experiencing family conflict tend to be open to elder intervention. \textit{See} Eggebeen, supra note 61.
flict. Elder Corp Volunteers can give support and bonding to grandparents and other extended family members who are part of the family reorganization. Furthermore, an Elder Volunteer Corps would offer an outlet for elderly individuals who seek to engage with their communities. In serving as a source of expert manpower for the community, as well as an avenue for meaningful engagement for families and the elderly alike, the creation of an Elder Volunteer Corps would advance the well being of all.

1. Helping Families is a Communal Responsibility

The oft-mentioned African proverb “it takes a village to raise a child” is a profound reminder of how difficult it is to raise a child, to sustain a community, and to preserve morality and virtue. Even in the most traditional settings, multigenerational family members, teachers, doctors, nutritionists, and many more members of society gathered together in order to raise the next generation. Even though these traditional families featured married mothers and fathers, raising children in accordance with conventional gender roles, communal involvement was still expected.

Today, the need for communal collaboration extends even further. Traditional, intact families are now a minority model in the United States. Most family trees feature unwed couples, step-parents, divorce, and community parenting. The community is just as responsible for helping the parents and children of divorce as they were for helping members of intact traditional families. Arguably, they are even more needed.

The need for community involvement is not news to the family court system. Many family courts, as community institutions, are

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64 Elderly individuals have used their vast life experience to become calming, and reliable caretakers for members of their families, workplaces, and communities. In turn, individuals in need have developed trust for elderly input. When individuals enter a period of conflict, they yearn for the security that the elderly can offer. In turn, the elderly find continued purpose in remaining useful members of society. There is great value to feeling needed, and studies show that the elder health improves when the elderly feel engaged with their surroundings.
already connected to social service agencies, non-profits and government agencies. Unfortunately, due to the growing needs of the pro se litigant community, these relationships remain insufficient. Courts, as well as other community institutions and organizations now assisting divorcing parents, should strongly consider aligning themselves with an Elder corps of volunteers that can join them in a communal effort to guide families through some of the most tenuous stages of emotional and familial discord. The elder population wants to continue to be part of the village, raising the children who need elder help during periods of family reorganization. The court system should foster the elderly populations’ sense of communal responsibility and acknowledge the incredible benefits that everyone could reap from elder involvement.

2. Elder Involvement with Child Care Offers Reciprocal Benefits

Children are the collateral damage of family conflict. Some find themselves the object of disputes, with no opportunity to express themselves and few ways to process their feelings. Others find themselves called as witnesses, or as actual parties to a case in family court. As intact families become a thing of the past, more and more children find themselves struggling to understand their tense surroundings and complex family dynamics. In the pro se litigant and indigent communities, children often navigate this emotional journey alone, unable to seek the counsel of overextended and distracted parents or expensive, inaccessible therapists. Elderly individuals can help.


69 Studies show that the presence of elderly individuals has a therapeutic effect on children. Children feel safe and learn about altruism, empathy, and compassion. When they see an elderly individual walk more slowly, they slow down and develop thoughtfulness. When they are engaged by the stories of elderly individuals, they sit still and absorb the values of yore. When they realize that their own parents were also once children, they begin to appreciate their roles in the circle of life. Parental fallibility becomes easier to process, and children develop the maturity necessary to engage with their unconventional family dynamics. See Thomas E. Denham & Craig W. Smith, The Influence of Grandparents on Grandchildren: A Review of the Literature and Resources, 38 Nat’l Council on Fam. Relations 345 (1989), http://www.jstor.org/stable/
Caring for children has had significant, positive impact on the elderly as well. A 1992 sociological survey showed that elder participation in intergenerational child-care programs increased elder feelings of self-worth and social contact. In feeling that their efforts directly benefited the children that they were caring for, the senior childcare workers felt that they were useful members of society. As such, they found themselves capable of continued personal growth as well, obviating a common fear of elder developmental stagnation.

Encouraging members of an Elder Volunteer Corps to assist children and their parents benefits the children and elder individuals alike. Children experience nurture, develop a sense of calm, and gain important perspectives about their role in tenuous family dynamics. Elderly individuals find comfort in the companionship of children, develop feelings of self-worth as a result of their contributions, and continue to grow themselves. Mutual benefits ensue.

3. Seniors Have Experience in Issues Surrounding Diversity, Cross-Cultural Tension, and Same-Sex Relationships Involved in Separating Families


70 See id.

72 The United States is a nation of diverse linguistic, cultural, and social experience. Cross-cultural misunderstanding disadvantages many immigrants and multi-generation Americans alike. Cultural sensitivity is key, and studies show that when community members conduct community outreach, outcomes improve exponentially. Since Elder Volunteer Corps members include representatives of every community, their efforts can similarly offer improved outcomes.

family law process. While courts strive to provide immigrant litigants with court interpreters and targeted assistance, the courts’ resources cannot always meet the needs of a growing immigrant population.

Many members of the growing elderly population are immigrants themselves. They too speak a variety of languages and engage in a myriad of traditions. The diversity of the Elder Volunteer Corps’ membership can serve as a culturally sensitive resource for the family court system. Elders from the Spanish-speaking community could assist new immigrants who speak Spanish. Elder members of religious communities can help observant families navigate a system that seems, at times, sacrilegious. Elder members of Chinese or Indian communities can show sensitivity to the differences between US courtroom norms and cultural family dynamics that inform child custody or financial expectations. Since the elderly population is nearly as diverse as the pro se litigant community, every elder volunteer could serve not only as a general resource, but also as a specific beacon of cultural understanding for litigants. Furthermore, mutual respect for the involvement of elderly guides can serve as a bridge between these litigants’ culture of origin and the courts.

Same-sex couples also often find themselves at a loss for how to navigate the family court system, especially in a time when relevant laws continue to change. Elderly individuals from the same-sex community are experienced navigators of unaccommodating social and legal regimes. As such, they may often be the best, if

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75 Passel & D’Vera Cohn, supra note 1.

76 For example, the number of Hispanic individuals in the elderly population is slated to triple by 2050, significantly increasing the Spanish-speaking elderly population. Id.

not only, guides for same-sex families. Moreover, the growing elderly population of today features one of the first waves of openly homosexual individuals. From Windsor\textsuperscript{78} to Obergefell,\textsuperscript{79} aging members of the modern day LGBTQ community have been integral to advocating for the rights of same-sex couples over the past few decades. As people who have experienced the challenges of building relationships during a period of social instability, these elders are uniquely able to guide and advise same-sex couples with a level of insight that is unlike that of prior generations of elders.

Members of an Elder Volunteer Corps represent the trailblazers of society. Diverse members of the Elder Volunteer Corps remember their own trials as they came to the United States in pursuit of an American Dream while hoping to retain and honor their individual cultural histories. These elders’ personal experiences could offer invaluable insight and sensitivity to families caught in a system that cannot holistically serve them.

III. STARTING AN ELDER VOLUNTEER CORPS

In order to form a successful Elder Volunteer Corps, a thoughtful approach to training and engagement is vital. Fortunately, the needs of pro se litigants and the court system are so vast, that there are relevant roles for most elderly individuals.\textsuperscript{80}

In order to meet a variety of challenges, a successful Elder Volunteer Corps would be comprised of seniors from a variety of professional and demographic backgrounds, forming an interdisciplinary cohort that has a broad array of experiences. The Elder Volunteer Corps would be comprised of retired teachers and librarians, lawyers, retired sales clerks, retired homemakers, entertainers and members of the food industry, retired architects and designers, retired legal\textsuperscript{81} and mental health professionals, and many more.

\textsuperscript{78} U.S. v. Windsor, 133 S.Ct. 2675 (2013).
\textsuperscript{80} As long as intellectual capacities are routinely monitored, the screening for qualified volunteers need not be particularly restrictive or competitive.
\textsuperscript{81} Because retired attorneys and judges may be even more susceptible to the unauthorized practice of law, directed trainings would need to approach such volunteers with nuanced attention. Retired mediators, however, could continue to be mediators in and outside the courthouse, or serve as mediation coaches that help parties prepare for their mediation processes.
Just as community justice centers were the origin of modern mediation, Senior Citizen Centers and Senior Volunteer Organizations can be the nucleus of the Elder Volunteers Corps initiative, hosting trainings, offering recruitment opportunities, and supporting elder volunteers. With proper training, a myriad of talented elderly individuals can be taught to provide their unique skills and approaches to families as they journey through the complex terrain of the family court system.

A. The Family Court Docent: Bringing Elder Volunteers Into Family Courts

The Elder Volunteer Corps’ key utility hinges on the development of Elder Family Court Docents—trained retirees devoted to guiding pro se litigants through their family court cases. Elder Family Court Docents would be new to the family court arena, but the concept is not entirely novel. Elderly individuals have already served as successful docents in a variety of other disciplines. The creation of this specific role merely requires slightly re-envisioned application of an existing elder volunteer role.

Docents have been utilizing cultural outlets to reintegrate themselves into their communities in an accessible and active manner. Museums, historical sites, and community activities have blossomed with the advent of elder involvement. At museums, art galleries, and zoos specifically, elder volunteers have become the primary demographic undertaking roles as docents.

As docents, seniors train, study, and lead tours of children and adults through various cultural venues. Many elderly docents

find themselves invigorated by the enterprise, enjoying an oppor-
tunity to engage with inter-generational members of their community
and share some of their wisdom and knowledge in a way that is
useful. Docent work is empowering for the elderly.

In turn, museum attendees have expressed increased enjoy-
ment when guided by elderly docents. They claim to prefer the
manner in which such docents explain exhibits and lead them
through historical information, commenting on their soothing
voices, their ability to convey information with a variety of accessi-
ble analogies, and the comfort that they feel in the presence of
someone resembling their own grandparents or elderly relatives.

The voluntary guidance and comfort that Elder Docents can
offer need not be limited to the cultural sector. Elder Docents can
serve as an invaluable asset to the family court system.

Elder Family Court Docents would also serve as guides. In
this new setting, however, the constituents and content would dif-
er from that of cultural institutions. In their capacity as guides,
Elder Family Court Docents could offer orientations about the liti-
gation process, help pro se litigants fill out forms, show films about
the court process, share anecdotal experiences, support those who
wish to participate in mediation, therapeutically comfort victims of
domestic violence, and offer courses in negotiation, parenting, fi-
nancial planning, and vocational transitioning. Elder Family Court
Docents would lend their worldly knowledge, professional expertise,
and comforting familial energy to a process that truly needs
their special touch.

1. Training Elder Family Court Docents

Training Elder Family Court Docents requires some time and
monetary investment. In order to teach docents how to guide pro-
se litigants through a myriad of questions and challenges, a proper
training program would need to explore common questions and
overlooked needs, and teach docents how to field a variety of
concerns.

An Elder Family Court Docent Training Program could con-
sist of a series of experiential workshops. These workshops could
be led by a single, experienced trainer, or approached in a more

gram, OJAI FOUND. (2015), http://www.ojaifoundation.org/volunteer-docent-program; Dave
Moran et al., The Golden Docent: Perspectives on an Elder Population Remotely Facilitating a
Multi-Sensory, Augmented Reality Museum Exhibit, CS.UCF (2009), www.cs.ucf.edu/~jm-
moshells/DIG6551.fall09/paperMoran.doc.

85 Id.
interdisciplinary manner that involves various professionals in the training process. While potentially more expensive, the latter model could offer important employment opportunities to members of the court system that have lost their positions due to budget cuts and systemic changes.

Current and former court personnel could teach future do

cents about the court process, explaining various filing procedures and showing them how to guide pro se litigants through the many complicated forms and procedural steps that the system requires. Professional mediators could teach the elder corps members about the mediation process and even train some future docents how to mediate disputes themselves. Mental health professionals could offer helpful tips regarding the emotional challenges faced by parties during periods of family conflict. Judges and lawyers can offer “legal updates” for current and future docents so that they are informed of changes to the law. Each of these professionals would offer future docents a holistic understanding of the family court experience, while teaching them how to flag issues, offer relevant information, and refer those seeking legal advice or therapeutic intervention to appropriate service professionals.  

The recruitment and training of elder volunteers can take place virtually anywhere. Freelance trainers can conduct workshops in Senior Citizen Centers, Independent Living Facilities, and Religious Centers. Seniors can also develop relationships with local clinics and agencies, where professionals can conduct trainings on location. Seniors can shadow practicing attorneys or judges in active courtrooms. Once the program evolves, trainings can even be conducted in courthouses themselves. Many models for how to train community volunteers already exist, and these models can be easily applied to training members of the elderly community.

2. Matching and Supervising Elder Family Court Docents

After Elder Family Court Docents complete their training and receive certification, the community needs to integrate them into courthouses and legal help centers. Easy access to assistance is im-

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86 After a series of workshops, the training program would conclude in a comprehensive final review. At this review, docents-in-training could be matched with actors from the community, who would impersonate pro se litigants seeking assistance. In this setting, docents-in-training would utilize the skills they have acquired to resolve the scripted scenarios. Trainers would closely monitor this “test” and offer feedback during a comprehensive evaluation. At the conclusion, individuals who have demonstrated successful application of docent skills can receive an Elder Family Court Docent certificate and proceed to be matched with a local court or community center.
important for pro se litigants with limited time or knowledge about free resources. Thus, Elder Family Court Docents should be situated within, or directly adjacent to, the courthouse.\textsuperscript{87} Since the court system is currently struggling with budget cuts and courtroom consolidation, a program for Volunteer Elder Family Court Docents must demonstrate that it can offer services at little to no additional cost to the court system. Because trainings would take place before docents are matched with local courthouses, the courts need not concern themselves with many of the upfront expenses associated with engaging new personnel.

Within an operating courthouse, volunteers can be integrated into existing facilitator offices and self-help centers.\textsuperscript{88} Their presence would resolve the issue of understaffing without requiring extra compensation. Furthermore, in a system where many courtrooms and municipal offices remain empty due to budget cuts, Elder Family Court Docents can use darkened rooms and set up offices in spaces that already exist. These spaces can be re-opened, redesigned, and staffed with elderly volunteers. Even where spare rooms do not exist, docents can be positioned throughout the courthouse, offering comfort and guidance to those who are waiting in the hallways or seeking direction.

At the outset, docents can be supervised by volunteer coordinators, current self-help facilitators, court personnel, and other interested community members. However, this labor need not fall on salaried individuals alone. Docents’ actions, negligence, malfeasance, and good work need not be the administrative or financial responsibility of the court system. Retired business persons and middle management individuals can join the Elder Volunteer Corps as middle management, utilizing their unique expertise to create systems to manage volunteer docents, assess the viability of certain plans to revolutionize the court system, and write grants and budget requests to fund any necessary add-on features so that the docent program can eventually become financially self-sufficient.

Feedback by pro se litigants could offer another invaluable tool for ensuring that all docents are contributing services consistent

\textsuperscript{87} For a myriad of working replicable models to increase legal access, see ABA Louis M. Brown Legal Access Programs, ABA, http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/louis_m_brown_award_for_legal_access.html (last visited Jan. 10, 2016).

\textsuperscript{88} California has an existing network of self-help centers that is replicated throughout the US. See The California Courts Self Help Center, COURTS.CA.GOV, http://www.courts.ca.gov/self-help.htm (last visited Jan. 10, 2016).
ently and effectively. And while periodic health assessments might be needed to ensure that volunteers maintain the capability to fulfill their roles, these assessments need not take place within the courthouses themselves. They can be conducted by volunteer doctors and free clinics, at no cost to the court system.

Of course, the creation of an Elder Volunteer Corps and Elder Family Court Docent program does not come without cost. However, the initial investment in training an Elder Volunteer Corps could prove incredibly cost effective in the long run. Despite ongoing budget cuts to trim court staff, retaining a small staff of salaried court personnel to oversee unpaid, elder volunteers could continue necessary services and still save public dollars.

As the Elder Volunteer Corps program evolves and expands, private grants to set up assistive clinics near courthouses could be explored. These clinics can serve as legal resource centers, day care centers, safe havens for respite, and provide other community needs. While the creation of such clinics would require outside funding, state governments and private philanthropists alike might be interested in supporting such a worthwhile venture in the future.

B. Elder Volunteer Corps Members: Beyond Docents

While Elder Family Court Docents might anchor the Elder Volunteer Corps as an entity, other opportunities for the elderly remain. Diverse members of an Elder Volunteer Corps can use their interdisciplinary skills to offer wearied litigants a slice of peace, comfort, and family in a variety of ways.

Most courthouses do not have free meal options for indigent litigants. In an effort to improve the experience of those who find themselves stranded during the courthouse lunch hour, retired homemakers, food industry professionals and entertainers can contribute their host and hostess skills to upgrade the courthouse experience. The limited food options that tend to be available near courthouses are often too expensive for indigent litigants, and courthouse personnel often spend their lunch hour catching up on paperwork and eating at their desks. Elder volunteer hosts can bake cookies, stock donated fruit, and prepare and serve hot drinks to court users and court personnel alike. While a seemingly small detail, offering food in a warm and compassionate fashion can help litigants and employees survive their arduous days in court.
The ancillary needs of litigants do not end there. Elder volunteers can continue to meet a myriad of challenges. For example, as mentioned earlier, arranging for transportation is often an ordeal for litigants. Parking costs are high, and many live in locations that are hard to reach via public transportation. Retired drivers can provide litigants with free transportation to appointments and court dates.89 This free assistance can undercut the cost of frequent court attendance and minimize the stress and lateness caused by long commutes.

While budget cuts may not allow for many aesthetic alterations, talented retirees such as architects, landscape artists, and interior designers can help re-design and beautify courthouses at reduced cost to the court system. Unused courtrooms can be converted into settlement rooms with round tables and comfortable furniture, hallways can be beautified with rugs and warm lighting, and the tense atmosphere can be softened into one that is more therapeutic. When pro se litigants find themselves unable to locate comprehensive resources about the court process, retired teachers and librarians can design and service peacemaking libraries of books, brochures, and online materials that target various reading levels and minimize adversarial messaging. Where parents without childcare are forced to bring their children to court, retired childcare workers can collaborate with interior designers to create and staff tastefully designed learning centers that keep children from roaming the halls, avert some of the inevitable loyalty conflicts that arise when children find themselves physically caught between two parents, and offer children a neutral space where grandparental figures can distract, teach, and nurture them.90 Retired counselors, parents, and teachers can provide emotional support services for parents and children. Retired lawyers, judges, and mediators not already serving as docents can help draft legal information books and materials and show divorcing parents how to utilize them. Since the expert qualifications of elder corps members are endless, the potential benefits to the courthouse experience are endless as well.

89 Retired drivers would be required to complete regular physical examinations to ensure that it is safe for them to continue to drive.

IV. Conclusion

Throughout history and across the globe, elderly members of society have been the beacons of historical, practical and spiritual wisdom for the next generation. The increased longevity, higher education, and diverse work experiences of America’s growing elderly population position today’s elderly as even more equipped to serve varying communal needs. As family court resources continue to deteriorate and the needs of a growing pro se litigant community expand, the creation of an Elder Volunteer Corps to address those needs is a natural and necessary next step. With proper training, thoughtful structuring, and minimal investment, society can create a community program that engages the elderly, services unrepresented litigants, and betters society as a whole. The creation of an Elder Volunteer Corps could help revolutionize American culture, benefit multigenerational constituents on a national scale, and revive the United States’ relationship with important social and communal values that transcend time, culture, and continent.