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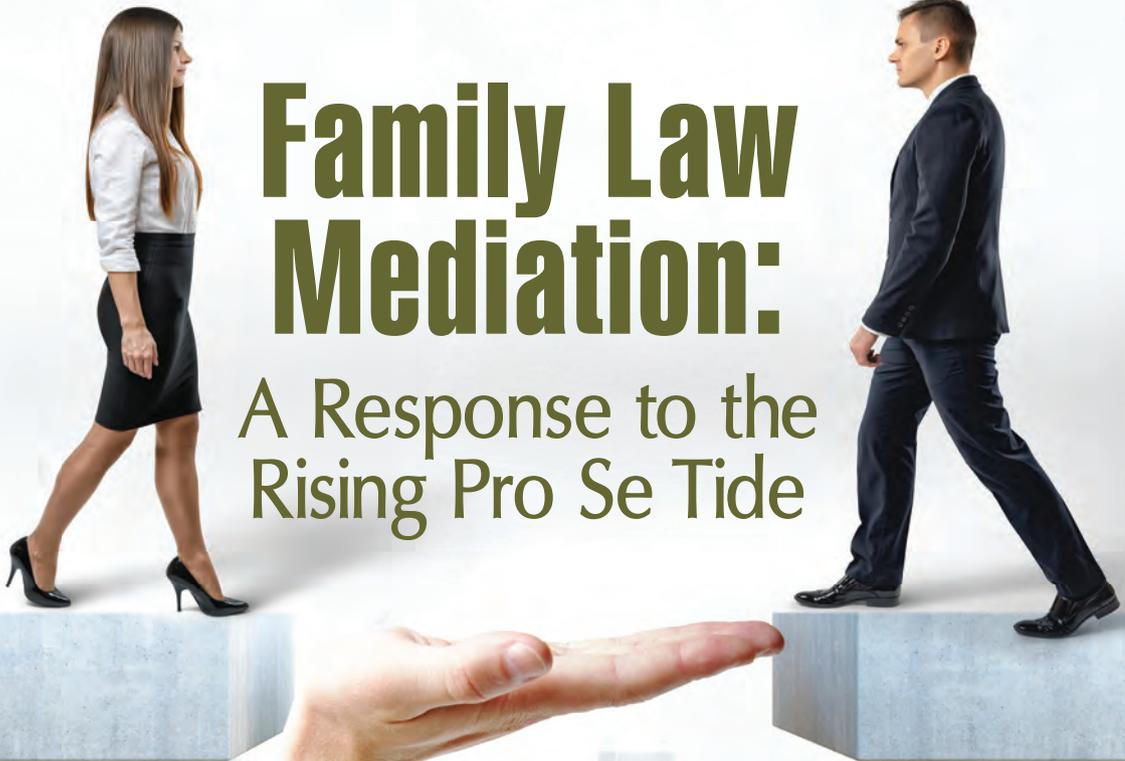
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# Family Law Mediation:

## A Response to the Rising Pro Se Tide

Lawyer-provided mediation bridges the gap between each party hiring a lawyer and no legal guidance at all.

By Susan Hansen and Paul Stenzel, Family Lawyers

**A** sea change has taken place in family law over the last quarter-century. Twenty-five years ago, 90+% of divorcing parties each hired a lawyer and reached resolution through a mix of negotiation and litigation. That has changed dramatically in many states across the country; in Wisconsin, for example, an estimated 70% of parties in divorce actions are self-represented.

This change is being fueled by a number of factors, including concerns about the high cost of legal representation for middle and lower-income couples, the perception that lawyers increase rather than resolve conflict, a growing recognition that the adversarial system is not well-suited for family issues, and a rise in the do-it-yourself mindset supported by the internet.

### Lawyers React to the Rise of Pro Se/ Self-Represented Litigants

Some lawyers blame inexpensive *pro se* forms and online legal services for reducing respect for their services. Other acknowledge that they have lost market share and ask, “What can we do to provide value to clients?”

The legal profession has been slow to adapt, but an increasing number of lawyers are expanding their services to include collaborative divorce, limited scope representation, and lawyer-provided mediation for self-represented couples.

In some states, courts are starting to embrace the move towards mediation for self-represented litigants. In 2017, the Wisconsin Supreme Court modified its professional responsibility rules to explicitly authorize lawyer-mediators to

draft and file all necessary legal documents on behalf of both parties in family law cases. This allows lawyers to utilize their expertise and provide value to self-represented couples as a neutral educator, drafter, and legal-system navigator.

As a reflection of the changing culture of family law, many private-practice lawyers are now seeking mediation training. “I have seen my practice shift over the past year from 80% individual client representation and 20% mediation to 80% mediation and only 20% individuals,” says Susan Hansen. “My partner and I created the Family Mediation Center in Milwaukee as a business entity solely dedicated to providing lawyer mediation services to assist self-represented couples throughout the divorce process.”

“I divide my time between being a Family Court Commissioner and private

lawyer and mediator,” notes Paul Stenzel. “I see mediation as an essential aspect of the future of family law that can benefit families, lawyers, and the courts.”

### **An Efficient and Cost-Effective Process**

In mediation, couples can get legal education, creative negotiation assistance, and legal drafting to help them avoid the pitfalls of a do-it-yourself divorce. Mediation can also involve child specialists to assist with parenting plans, and financial experts to address valuations, tax calculations, or other financial complexities. This interdisciplinary approach gives couples maximum value from each profession in an efficient and cost-effective process.

Mediation addresses many of the concerns that have made parties avoid lawyers – including cost, conflict, and loss of control – and it helps parties see divorce as family restructuring rather than a potential court battle. It supports informed decision-making and provides expert guidance to clients navigating the legal system, and helps lawyers embrace the role of positive problem-solver. ■



*Susan A. Hansen is a Partner at Hansen & Hildebrand, S.C. and co-founder of Family Mediation Center. Paul W. Stenzel is a Deputy Family Court Commissioner, and Of Counsel at Hansen & Hildebrand, S.C. [www.h-hlaw.com](http://www.h-hlaw.com)*



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