

Guidance through the gaps

Non-profit agencies and for-profit websites are reaching out to middle-class people who need family law help.

By Monique Conrod

A few years ago, Jeremy Loeb watched a friend struggling through a divorce. He had run out of money to pay his lawyer and was representing himself, which meant late nights studying the law and trying to complete complex forms to the court's satisfaction.

Appalled by his friend's predicament, Loeb decided to act. Drawing on his experience running seminars for the hedge fund industry, he co-founded the Family Law Support Team (www.divorce-advice-ontario.com), a service that offers seminars and workshops for those attempting to navigate the family court system without a lawyer.

As many as 60 percent of Ontario family law litigants now represent themselves in court at some point, stressing themselves and the system by trying to deal with both the procedural and the emotional aspects of their divorce. Self-represented litigants (SRLs) also cause delays in the courts and headaches for opposing lawyers, either because they're unprepared or because judges decide to help them through the process. Generally speaking, SRLs have less successful outcomes.

Self-representation is a necessity, not a choice, for many. This is particularly true of what John Simpson, manager of public legal information for B.C.'s Legal Services Society (LSS) in Vancouver, calls "the sandwich class" — those whose incomes are too high to qualify for legal aid, but not high enough to afford a prolonged legal battle.

The LSS has been operating its Family Law in British Columbia website (www.familylaw.lss.bc.ca) since late 2002. The site offers fact sheets, videos and detailed self-help guides on a variety of family law issues, as well as links to legislation and court rules. It is currently averaging about 20,000 visitors per month, or 650 per day — a 42 percent increase in traffic over the past year.

Sherry MacLennan, director of public legal information for the LSS, notes that the website is only one of several services offered for SRLs. There are also family duty counsel who provide advice onsite at the courthouse; LawLINK, an online legal information service; LawLINE, a phone service by which lawyers and paralegals provide advice and information for eligible callers; and legal information outreach workers, who help people using regional LSS centres find the information they need.

The LSS's Family Law website is often held up as a shining example of what provincial governments could be providing for SRLs, but aren't. In Ontario, the gap between what the legal system demands and what most people can afford is now being filled by two commercial services.



The Family Law Support Team (FLST) website was developed by Loeb along with veteran Toronto family law lawyer Steven Bookman. FLST offers monthly seminars for \$149 per three-hour session, fully refundable if the participant is not satisfied. Attendees are given a general overview of the divorce process, including how to initiate a divorce, what documents and forms are necessary, and how to compose and deliver motions and arguments, followed by a Q&A period where they can ask questions about their specific cases.

For those with more complex issues, there are workshops where, for \$499, lawyers and legal professionals offer one-on-one guidance through each stage of a self-litigated divorce. With FLST, an uncontested divorce, where the client attends a seminar and one workshop, would cost about \$650 (plus court costs). A more complicated case, requiring a workshop for each major stage, might run to \$1,650.

FLST launched in January and held its first session later that month. Loeb says attendance has doubled with each

"Something isn't right when people come to court and don't get justice because their form isn't properly filled out."

— Robert Berman, Toronto

droit de la famille?

Remplir le vide

Des organismes et des sites web tendent la main à des Canadiens de la classe moyenne qui ont besoin d'aide.

Il y a quelques années, Jeremy Loeb a observé un ami lutter pour passer à travers son divorce. Il n'avait plus d'argent pour payer son avocat et se représentait lui-même, ce qui veut dire des longues soirées à étudier le droit et à tenter de remplir des formulaires complexes.

Consterné, M. Loeb a décidé de fonder le *Family Law Support Team* (l'Équipe de soutien en droit de la famille — www.divorce-advice-ontario.com), un service qui offre des séminaires et des ateliers pour ceux qui tentent de naviguer dans le système juridique sans l'aide d'un avocat.

Quelque 60 % des parties dans une cause de droit de la famille se représentent eux-mêmes à un moment ou à un autre. Pour plusieurs, c'est une nécessité beaucoup plus qu'un choix. C'est particulièrement vrai pour ceux que John Simpson, gérant du services d'information

légale pour le *Legal Services Society* (la Société des services légaux — www.familylaw.lss.bc.ca), appelle la « classe sandwich » — qui ont des revenus trop élevés pour l'aide juridique, mais pas suffisants pour se permettre une longue bataille judiciaire.

Le LSS opère son site web depuis 2002. Il offre des notes d'informations, des vidéos et des guides sur une série de questions en droit de la famille. Environ 20 000 visiteurs sont enregistrés chaque mois, ou 650 par jour — une augmentation de 42 % par rapport à l'an dernier.

Le site est souvent cité comme un exemple d'un service que les gouvernements provinciaux devraient fournir. Mais ce n'est pas le cas. Et en Ontario, l'écart entre ce que le système judiciaire requiert et ce que la plupart des gens peuvent se payer est maintenant comblé par deux sites web commerciaux.

Le Family Law Support Team a été

développé par M. Loeb et un avocat vétérinaire du droit de la famille à Toronto, Steven Bookman. Le groupe offre des séminaires à 149 \$ pour la session de trois heures. Les participants se font donner un aperçu des étapes et des procédures nécessaires à un divorce. Les personnes aux prises avec des problèmes plus complexes peuvent obtenir les services d'un guide qui les aidera tout au long de la procédure, pour 499\$.

Un autre site, www.myontariodivorce.com, a été créé en février par Bob Berman, un avocat qui pratique en droit de la famille depuis 1979. Un formulaire de demande de divorce coûte 497 \$ sur le site web, tandis qu'une telle demande peut monter à 5 000 \$ chez un avocat, fait remarquer M^e Berman. Un divorce contesté, dont les frais d'avocats pourraient monter à 50 000 \$, coûte entre 5 000 \$ et 6 000 \$ sur www.myontariodivorce.com.

« Nous devons nous ouvrir au nouveau monde, à la nouvelle économie, estime l'avocat. La personne moyenne a besoin d'avoir accès aux cours de justice sans qu'un avocat lui tienne la main et le portefeuille tout au long du processus. » ■

ChildView®
(coast to coast)

Canada's Family Law Gem!

Complete Solution, One low price

** Canada's premier family law software

- ** affordable, all inclusive program
- ** complete child support calculations
- ** comprehensive spousal support tools
- ** property statements and budgets
- ** unlimited toll free support
- ** timely updates

Toll free: 1-800-787-8620
www.childview.ca

successive seminar. Participants range from recent immigrants to professionals who have lawyers but want a second opinion. Many have had lawyers, but were running out of money.

Then there's My Ontario Divorce (www.myontariodivorce.com), the creation of Robert Berman. A family law lawyer since 1979, Berman has seen firsthand the growing number of self-represented litigants in family courts, and the frustration on the part of judges when they show up unprepared.

"I would be sitting watching this poor guy whose life is basically on the line, or a woman in desperate need of support, and the judge would be saying, 'I can't help you. Get a lawyer and come back with the form,'" says Berman. "Something isn't right when people come to court and don't get justice because their form isn't properly filled out."

Berman decided to create a website that would provide free information about preparing divorce forms, but the complexity of the forms inspired him instead to create a system for generating forms online.

My Ontario Divorce's site uses a questionnaire that simulates the interview a lawyer would conduct and imports that information into the appropriate form. The user answers the questions, hits print, and the completed form emerges — with a money-back guarantee that it will be acceptable in court.

The site, which launched in mid-February, offers various levels of services. At one end of the spectrum, users pay for forms as needed, at \$497 each, with limited access to reference material. At the other, the user has access to all forms, use of the site's education centre, e-mail updates, newsletters, quarterly teleseminars and one hour of legal advice, for \$847 per month. The site is designed so that members can change from one level to another as needed.

Continued on page 42

L'équité envers tous

Un remède à la discrimination en milieu juridique.

Le Code de déontologie professionnelle comporte la règle XX de non-discrimination selon laquelle chaque avocat a le devoir de traiter toutes les personnes équitablement.

Un nombre impressionnant de femmes sont encore largement sous-représentées dans les plus hautes sphères des cabinets juridiques et plusieurs finissent par abandonner les cabinets privés, voire la pratique du droit au sens large. Les minorités visibles sont également peu représentées et les personnes invalides peinent à trouver leur place non seulement dans les facultés de droit, mais aussi dans la pratique.

Se conformer à la règle de non-discrimination demande que l'on se penche sur les barrières d'accès à la profession juridique. Si la composition des facultés de droit et la sélection des étudiants à des fins de stages ont déjà fait l'objet d'une attention particulière, la discrimination sous d'autres formes serait due de faire l'objet d'un examen.

The work involved, notes Bilson, won't be done in an afternoon, or even a week. What's required — and what the guide is designed to do — is to get lawyers talking about issues of access and equity. Then, after discussion has occurred, lawyers can begin to think about practical ways of changing their practices, and possibly the culture of their firm, in order to better promote diversity.

The guide comes with a facilitator's package and videos exploring issues such as racism and disability. Some large law firms in Toronto and Montreal have already indicated their willingness to pilot the training. But even smaller firms, which might not have the personnel or resources to provide formal

Parmi les problèmes dont les cabinets devraient être conscients : le critère utilisé pour mesurer l'avancement professionnel ou les stéréotypes qui font que certains avocats doivent se contenter de se voir déléguer de petits dossiers.

Pour aider les cabinets à appliquer la règle XX, le comité permanent sur l'équité de l'ABC a élaboré le Guide de l'équité et de la diversité pour les cabinets juridiques.

Ce guide encourage les avocats à aborder les questions de l'accès à la profession juridique et de l'équité. Une fois la discussion amorcée, les avocats doivent réfléchir aux moyens de changer leurs pratiques, voire la culture du cabinet, afin de promouvoir la diversité. Le guide est agrémenté de vidéos qui explorent les problèmes comme le racisme et l'invalidité. De grands cabinets de Toronto et de Montréal ont déjà manifesté leur volonté de piloter la formation à la non-discrimination. Le guide est également utile pour les petits cabinets.

La règle XX constitue une responsabilité éthique. Les avocats doivent être un modèle de non-discrimination pour le reste de la société, d'autant plus qu'une clientèle diversifiée aimerait voir à l'œil nu un reflet de la diversité chez les avocats qu'elle engage. ■ — Yasmin El Jamaï

training, can refer to the guide and begin to appraise their layout and practices.

Failure to do so could impact a firm's bottom line, either in terms of current or potential work. A diverse client base, after all, wants to see its diversity reflected in the lawyers it hires.

But the obligation not to discriminate goes well beyond balance sheet issues. Rule XX is an ethical duty: it's a requirement that encourages lawyers, as officers of the court, to set an example to the rest of society, and to show what real diversity could look like. ■

Emily White is a freelance writer in St. John's.

What's New In...Family Law?

Continued from page 38

A simple divorce application would cost the client \$497 through the website, compared to between \$3,000 and \$5,000 for a lawyer, says Berman. A contested divorce, which could cost as much as \$50,000 with a lawyer from beginning to end, could run as little as \$5,000 to \$6,000 through the website, depending on how many forms were required.

Berman says he seems to have hit a chord. In the first month, 1,000 users joined the site's mailing list, and 400 people have become members. He and Loeb both feel the Ontario government should be providing more services for SRLs. But, Berman notes, the real opportunity for change lies with lawyers themselves.

"We as lawyers, particularly in family law, need to be unbundling our legal services. We need to wake up to the new world, the new economy," he says. "The average person needs access to the courts without a lawyer holding their hand and their wallet every step of the way."

Chief Justice Beverley McLachlin has also urged lawyers to consider unbundling services — letting clients pay a flat rate for a specific service rather than retaining a lawyer outright. She acknowledges, however, that unbundling could raise liability issues for lawyers rendering services without knowing all the facts of a case.

Despite the caveats, unbundling has been making inroads with U.S. lawyers for more than a decade. Is it time for Canadian lawyers to follow their lead? "We're in a customer-service world, and the public are our customers," says Berman. "We need to meet their needs." ■

Monique Conrod is a freelance writer based in Toronto.



Precedents One

"Marriage Contract"

researched and prepared by S. Christine Montgomery, B.A., LL.B.

Our Marriage Contract precedent is **easy-to-use**, comprehensive, well-drafted and can be applied to a full range of marriage contract scenarios - from the most basic to the very complex. The **check box format** allows you to select required clauses based on the needs of your client. Once you have selected the appropriate clauses, **click the "create" button**, and you've got your customized Marriage Contract draft in your word-processor... ready for legal review and easy completion! **It's that simple.**

Available as: "Pay Per Use" or "Annual Subscription" **Visit www.divorcemate.com today!**

DIVORCEmate One...From Marriage Contracts to Divorce Judgments and Everything in Between.

DIVORCEmate One
a product of **DIVORCEmate**
SOFTWARE

Toll Free: 1-800-653-0925
or 416-718-3461 x446
e: sales@divorcemate.com
www.divorcemate.com