

# Technology Facts

BY ALEX ZILBERFAYN



*"In the last few years, a growing number of court professionals have come to realize that self-represented litigants are not just a minor, peripheral source of irritation for court administrators and judges. Rather, they see that self-represented litigants provide a large and important percentage of the courts' customer base, and innovations in access for the self-represented will significantly improve the functioning and reputation of courts."*

NCSA, FUTURE TRENDS IN STATE COURTS 2006

## UTILIZING TECHNOLOGY IN SERVICING SELF-REPRESENTED LITIGANTS

Nationwide, the number of self-represented litigants continues to grow. At the same time, courts and clerks are expected to do more with the same or fewer resources. This column reviews an approach that addresses both of these problems.

Most self-represented litigants lack a basic understanding of the judicial process; it does not feel very accessible to them. Legal language, not understanding what the court is looking for or what to put on forms, presents barriers to effective representation in family law and other cases.

Self-represented litigants seeking help place increased demands on staff. Interruptions to answer questions and to provide assistance are common. Incomplete, inaccurate, incoherent, and/or illegible filings impact the process and frustrate frontline and courtroom staff as well as judicial officers. Litigant questions, particularly at the early stages, often request legal advice rather than generic procedural guidance. Staff at the counter, answering phones, or in the courtroom are asked to balance common courtesy and customer service with prohibitions against providing legal advice.

The question becomes, "Is there another way to help self-represented litigants and at the same time make the court processes more effective and efficient?" Through the innovative use of Internet software technology, an effective alternative is available. Presenting critical information through intelligent, interactive programs can relieve staff by providing accessible, easy-to-use tools to the self-represented. By using these tools, litigants can get the information they need to adequately represent themselves, particularly with more complex legal filings. And because it is Internet-based, it can be used from the home, office, public library, or through local legal aide groups, self-help centers, or kiosk stations. It effectively gives self-represented litigants virtual access to assistance at any time from nearly any location and affords them as much time as they need.

In looking for a solution, it is important to examine the problem from the perspective of the self-represented litigant. Most haven't got a clue what to do when they are handed a stack of forms. They aren't sure which forms apply to their circumstances, nor are they certain which areas of each form are relevant and required, nor do they know how to respond to a question with what the court is looking for. Using the proven approach of a "virtual interview," the self-represented litigant is guided through a set of questions requiring mostly simple yes/no, multiple choice, or fill-in-the-blank responses. By interviewing the litigant this way, an intelligently designed software program can provide the litigant with helpful information, define terminology, and provide context without improperly offering legal advice. When your court forms are converted into a virtual interview, the self-represented litigant doesn't see the forms until they are already completed, accurately, legibly, with relevant information, and with just those forms needed for their particular situation.

This approach educates self-represented litigants, enabling them to easily and properly enter the right information on the right forms on their own behalf. The number of "how do I" inquiries and problematic filings are dramatically reduced, saving staff time. It also simplifies case management, reduces continuances of hearings to get the right forms or information, and reduces "sending back" incomplete filings.

Critical features necessary for the success of an Internet-based interview approach include help screens, Frequently Asked Questions (FAQ) pages, and a tutorial that leads self-represented litigants through the filing process and associated forms. It is assumed that many of the users will have little or no Internet experience, so the program must be very easy to follow. Information and questions must be presented in simple language, and response options should be clear. Whenever possible, the need to enter data more than once should be eliminated. The system should be intelligent enough to reutilize any piece of information once it's been entered. This reusing of the litigant's answers should occur within the interview itself, such as not having to retype an address over and over, and the system should reutilize answers such as a shared address and automatically populate all necessary areas of the filing forms using information already provided.

As litigants make their way through the interview, status bars should show where they are in the interview as well as where they are in the filing process. Upon completion, easy-to-follow instruction sheets should be printed along with the forms to explain who needs to sign them, where to sign, how much the filing fee will be, and other essential information about filing requirements.

The interview solution should also make extensive use of data validation and rules-based logic to ensure that filings are accurate and complete. For example, if a litigant provides a date of separation that occurs prior to the date of marriage, the system should catch the error and prompt the litigant to correct it before proceeding to the next question. In addition, the system should point out missing fields to the litigant and not allow the forms to be printed until all required fields are completed. Furthermore, most numeric and financial calculations required should be accomplished by the system, requiring only the submission of the numbers and dates needed for the calculation. Most importantly, the system needs to include advanced rules-based logic to be capable of addressing legal scenarios based on almost all the possible combinations of a litigant's responses so that the proper follow-up questions are asked, unnecessary questions are avoided, and a complete and accurate form set is created. Because the forms are computer-generated, they are easier to read and understand. And unlike manual paper forms, naming additional parties involved and providing lengthy responses can be continued on properly formatted attachment forms that are created automatically. This type of quality control is not possible with manual forms, and errors almost always become apparent late in the process when a litigant is before a judicial officer or other staff.

**The result?** Litigants are better informed and better prepared. Clerks, paralegals, case managers, facilitators, mediators, and judges have more complete, readable, and meaningful information on the forms, making it easier to review, manage, and decide the case.

Most importantly, justice is more accessible. People can come to the virtual court or clerk's office without going to the courthouse or calling staff for assistance. Self-represented litigants are well served by such a solution because they need not postpone seeking relief due to the time of day or their distance from, or lack of, transportation to the court or clerk's office.

Attorneys or any "facilitators" whom a litigant approaches (a friend, relative, social service advocate, or other individual), can use the system. This enables courts and clerks to provide better service to constituents who "represent" these litigants.

Furthermore, courts seeking a more efficient filing process can utilize the electronic data and forms generated by such a system by connecting it with their case management, document management, and financial systems. Litigants could file documents electronically and pay the proper filing fees directly from the system, once again lessening the interaction time with staff and simplifying accounting.

**Finally, what does it take to design, develop, implement, test, run, and support such a solution? What are the financial and staff resources required? What expertise is essential? How long will it take?**

There are different approaches that can be taken: develop your own system, try to adopt another court's system, or contract with a qualified vendor. Each approach has its benefits and challenges.

A home-grown approach gives you a sense of complete control but at the cost of a long development cycle and extensive use of staff from across the organization, particularly technical staff. With a home-grown approach you can create whatever style Internet-based application you want, but you may not have all the expertise and long-term funding needed to meet the demands of a high-availability, modular, Web-services architecture accessible 24 hours/day, 7 days/week.

An alternative approach is to use another court's system, if one exists that meets your needs. Many of the challenges surrounding the home-grown solution also occur with this approach, particularly regarding modification of the system to meet your present and future requirements. Other issues that can arise have to do with the quality of the software tools and source code of the system, its reliability in a 24/7 production environment, and how easy it is to train your staff to maintain the code and make changes and enhancements.

Another approach is to work with a vendor. Here, too, there are benefits and challenges. Has the vendor developed this type of application before? Is the vendor reliable and dependable? What is their track record? Is the system able to support statewide needs? How professional are they to work with? What is the quality of their products? If the vendor meets these qualifications, several advantages are apparent. They will have the expertise and technical skills required to produce a quality product, adapted specifically to your needs. The time it takes from approval of the idea to being ready for public use can often be measured in weeks rather than years. The need for internal staff time is minimal. And if the vendor hosts the applications, the need for in-house technical staff resources is virtually eliminated.

Lastly, a qualified vendor opens up the doors more readily to your having applications available in a variety of legal areas and filing types. And when you are ready to take the next step toward e-filing into your case management system or electronic filing manager (EFM), the right qualified vendor can make this expansion a smooth and successful undertaking.

**About the author:**

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