

Building Towers with Less Babble

KATE BLADOW AND MARC LAURITSEN

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This is the fourth in a series of articles about document assembly technology in judicial contexts. The first¹ discussed the general idea of integrating document automation with e-filing. The second² delved into practical specifics. The third³ was an exploration of how courts can use online assembly services to revise documents filed by unrepresented litigants. This article examines how an integrated online document assembly and e-filing system can reduce barriers for self-represented litigants and avoid pitfalls that arise when data and templates exist on heterogeneous servers.

The Access Issue

Cases involving self-represented litigants (SRLs) are and likely will remain a significant portion of court caseloads. Because most SRLs do not understand court processes, which generally have not been developed with non-attorneys in mind, an increase in filings by SRLs is often accompanied by an increased demand for court resources. To stretch their limited resources, courts are implementing innovative technology initiatives. While movements in this direction are to be commended and

encouraged, access-to-justice groups, such as the Washington State Access to Justice Board, which developed the Washington State Access to Justice Technology Principles, urge court systems to make certain that they “avoid creating or increasing barriers to access and to reduce or remove existing barriers for those who are or may be excluded or underserved.”⁴ See the full text of these principles on page 6 of this issue.

Online document assembly and e-filing should be areas that lead in this regard. While such systems can improve access to the courts, such as by allowing SRLs to access the court outside of normal hours, providing additional legal information to assist them through the process, and catching common errors that they make, sound design and implementation plays an important role in how user-friendly the system is. When such a system has been designed and

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From the EDITOR

Electronic filing systems are commonly developed for the receipt of electronic filings from attorneys and high-volume government filers. However, “pro se,” or “self-represented” litigants also represent a growing number of filers in state and federal courts. Consequently, more work is being done today than ever before to serve the needs of self-represented litigants, and that work is starting to show up in connection with electronic filing.

Our feature article in this issue was written by Kate Bladow and Marc Lauritsen, titled, *Building Towers with Less Babble*. The article focuses on the use of online document assembly and e-filing to reduce barriers for self-represented litigants. The co-authors are very knowledgeable on the topic of self-represented litigants. Ms. Bladow is the NPADO Project Coordinator at Pro Bono Net, a national nonprofit that works in close partnership with legal organizations to increase access to justice for unrepresented individuals. Mr. Lauritsen is the president of Capstone Practice Systems, a firm that specializes in document assembly and knowledge systems for the legal profession. Together, they provide a unique perspective on solutions to serve the need of self-represented litigants in the electronic filing environment.

The Bladow/Lauritsen article has inspired us to dedicate the entire issue to the topic of self-represented litigants. We follow up with a reprint of the Washington State Access to Justice Technology Principles, referenced by Bladow and Lauritsen in their article. Although adopted in 2004, these Principles remain current and represent a significant effort by state courts to carefully and thoughtfully address the fundamental right of equal access to justice and the reduction of barriers to access by the underserved, including those not represented by counsel.

We also feature the new California Court Rule 10.960, *Court self-help centers*, adopted effective

January 1, 2008. This rule states that “[p]roviding access to justice for self-represented litigants is a priority for California courts.” It directs the Administrative Office of the Courts, in collaboration with others, to develop and disseminate guidelines and procedures for the operation of court self-help centers to the trial courts by March 1, 2008. Turn to page 9 to read the topics to be addressed by the guidelines and procedures, which include the use of technology.

We also highlight the efforts of select courts that have established web services to assist self-represented litigants. We feature the Minnesota and Indiana State Courts’ online self-help centers, along with the United States Bankruptcy Court-District of Wyoming’s Guide for Pro Se Filers and the U.S. District Court for the Middle District of Pennsylvania’s Pro Se Information & Forms.

Finally, we reference a 2007 Trends Report article by the National Center for State Courts, on the topic of increased access for the self-represented.

Please send your comments, questions, and ideas for future articles to the Editor at Susan@JennenLarson.com

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implemented thoughtfully and with attention to all court customer communities, these technologies are not an access-to-justice barrier. On the contrary, they can improve access for SRLs and the efficiency of court processes as well as public confidence in the justice system.

The Self-Representation Litigation Network (SRLN – <http://www.srln.org>), a membership network dedicated to researching and promoting best practices for courts and access-to-justice organizations assisting and serving SRLs, has outlined a set of suggested characteristics of user-friendly document assembly and e-filing. While these lists are not intended to be all-encompassing, they reflect the knowledge and experience of the many members of the SRLN, which consists of courts, bar groups, and access-to-justice organizations.

For example, the SRLN has found that e-filing systems are most effective when they

- assist with the preparation of documents prior to filing.
- interface with the court’s case management system by using tools such as XML documents.
- require no fees or allow for waiver of fees, with application for waiver built in.
- ensure that there is no disadvantage to those who file manually.
- are built on an interface that uses a standard web browser.
- are not dependent on a particular browser.
- have an interface that is easy for non-experts.⁵

These attributes alone won’t guarantee an access-increasing e-filing system, but they will improve the likelihood that the system is being designed and implemented with all end-users in mind.

Online document assembly and e-filing systems can also leverage the data collected through them so that other components of the system work better for SRLs. Below is a description of how one provider intends to do that.

National Public ADO – a Shared Document Assembly Service

National Public Automated Documents Online (NPADO) was developed to make document assembly initiatives easier and less costly for courts, legal aid organizations, and pro bono programs. A project of Pro Bono Net, the national non-profit access-to-justice network, NPADO offers programmatic and technical support in addition to the technical infrastructure necessary to offer online document assembly content. NPADO supports both HotDocs templates and A2J modules.⁶

With funding from the federal Legal Services Corporation’s Technology Initiative Grant program and the State Justice Institute, NPADO intends to develop a Self-Help Center/Bench Officer module. This enhancement will make the following possible:

- Court personnel and self-help center staff will be able (with the litigants’ permission) to access data entered by self-represented litigants to review petitions and proposed orders prior to filing. This will help the litigants avoid common mistakes and allow court clerks to process the filings more efficiently.
- Judges, court personnel, and self-help center staff will also be able to re-use the data entered by self-represented litigants to produce final orders after judicial approval. This will expedite the process for both self-represented litigants and court staff and save resources.

While this initiative alone won’t allow SRLs to e-file their forms, PBN sees it as an initial step in a possible longer-term plan to support integration of e-filing systems with NPADO’s document preparation services.

Speaking a Common Language

The benefits of integrating online document assembly and e-filing systems do not come without challenges. As mentioned in the previous article in this series:

We can anticipate that data sets and templates may end up in multiple systems and servers. E.g., a court may want to apply a litigant's answers to its *own* templates, stored on its own server, rather than the templates originally used. The need for naming conventions and other standards is obvious in such situations. Unless there is consensus on at least key variables, we'll have a Tower of Babel. XML schemas are part of the solution. This topic requires an article of its own.

This is not that article. But we can report several relevant developments in the area of standards for data modeling and variable naming.

The LegalXML initiative (<http://legalxml.org>) of course is a venerable effort that brings legal and technical experts together to create standards for the electronic exchange of legal data. Its Electronic Court Filing technical committee has been developing specifications for the use of XML to create legal documents and to transmit them from an attorney, party, or self-represented litigant to a court, from a court to an attorney, party, or self-represented litigant or to another court, and from an attorney or other user to another attorney or other user of legal documents.

Courts would be well advised to devise and articulate standards that go beyond the simple metadata now managed in most e-filing contexts, however.

The most significant data standards initiative now is probably the National Information Exchange Model (NIEM), sponsored by the United States departments of Justice and Homeland Security. It is the successor to the Global Justice XML Data Model (GJXDM), and seems to be the standard around which many courts and other justice entities are rallying. It offers a very complete and robust universe of data elements and relationships and has catalyzed many decent tools for building context-specific implementations.

NIEM seems to currently have a criminal justice and public safety focus, but it ought to have bearing on all initiatives in which data exchanges between document automation contexts and case management and/or e-filing systems will need to be supported. Having a NIEM-compliant schema underneath its component architecture may eventually be *de rigueur* for online document assembly providers.⁷

Another Legal Services Corporation TIG-funded project in this area, being coordinated by Legal

Assistance of Western New York, involves the distribution of a 'family law system kit' that will include a complete library of standardized variables and other components, notes on common issues and solutions, and other resources for teams of technical authors and content experts who are working on legal tools in the family law context that involve HotDocs or A2J modules.

A Matter of Semantics

Standards involve much more than shared syntax and agreed upon names. For them to work in the complex world of legal and judicial technologies, they need to be grounded in well designed data structures. These structures should pay close attention to data types, cardinalities, constraints, and other dimensions of modern information engineering. They should also reflect thoughtful conceptualizations—ontologies—of the entities, attributes, and relationships at play in judicial proceedings.

The emergence of intelligent document automation systems will compel courts to take 'ontological engineering' seriously and provide golden opportunities for process improvements in our new software edifices. Let's try to build those gleaming towers with humility, lest we be cursed with mutual unintelligibility, and in the process make sure we do justice to the principles of equal access that we rightfully take pride in espousing.

NOTES

1. Document Assembly and the Blob. *E-Filing Report*, July/August 2003, Vol. 3, No. 7, p. 1
2. Going the Last Mile: From Document Assembly to E-Filing. *E-Filing Report*, November 2004, Vol. 4, No. 10, p. 14 (with Blair Janis)
3. Reassembling Self-Represented Litigant Filings. *E-Filing Report*, November 2006, Vol. 7, No. 9, p. 1
4. "Washington State Access to Justice Technology Principles." ATJ Web. Washington State Access to Justice Board. 30 Dec 2007. <http://atjweb.org/files/principles/ATJ-Technology-Principles.pdf>.
5. "Best Practices in Court-Based Programs for the Self-Represented: Concepts, Attributes and Issues for Exploration." National Center for State Courts. 2006. Self-Represented Litigation Network. 30 Dec 2007. http://www.ncsconline.org/WC/Publications/KIS_ProSeBestPracticesSRLN.pdf. A second version is in preparation.
6. For more about A2J, see <http://www.a2jauthor.org>
7. NIEM 2.0 was recently released, and is regarded as mature and stable. Information can be found at <http://www.niem.gov/>, <http://it.ojp.gov/niss/helpdesk/>, <http://www.ijis.org>, <http://it.ojp.gov/iepd/>, and <http://niem-orama.org/>.