

ONLINE DOCUMENT ASSEMBLY

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Courts must serve an increasing number of self-represented litigants—and deal with the problems such inexperienced litigants present. Online document assembly is one way that courts can make life easier for not only self-represented litigants, but also court staff.

A review of various state legal-needs studies and court statistics revealed that between 40 and 90 percent of litigants are representing themselves, without assistance from an attorney, in civil matters such as eviction defense, divorce, and creditor claims. Studies in California and New York confirm that in big cities between 70 and 90 percent of litigants who go to court facing abuse or the loss of their home do so without lawyers (see California Judicial Council, 2004: 2).

Certainly, these numbers are not a surprise for the clerks, judges, and others who are on the courts' front lines. Daily, they see how a system built for attorney-represented litigants is not capable of handling an influx of self-represented litigants. Clerks and judges often report frustration with incomplete and incomprehensible court pleadings and are forced to straddle a fine line between maintaining impartiality and "helping" self-represented litigants provide crucial facts to the court. At the same time, self-represented litigants report frustration with not knowing "legalese" and with the barriers of complicated court procedures required to access the only forum in which they can resolve their legal problems. Many persons interviewed for legal-needs studies complain that legal forms are too complicated to complete easily, and many others report that they cannot understand what is required of them.

Courts are exploring innovative methods for assisting self-represented litigants. In particular, several are using online document-assembly software to help litigants complete legal forms easily and in a manner acceptable to the courts. Document-

assembly software asks questions and then puts the answers to these questions into the appropriate places on forms. The software also often provides an easy way to integrate definitions and explanations of basic legal terms and concepts. Two well-known examples of online document-assembly software for court forms are EZLegalFile, which was initiated by the Superior Court of California, County of San Mateo, and I-CAN!™ Legal Modules, which was initiated by Legal Aid Society of Orange County and the Superior County of California, County of Orange.

I-CAN! Legal

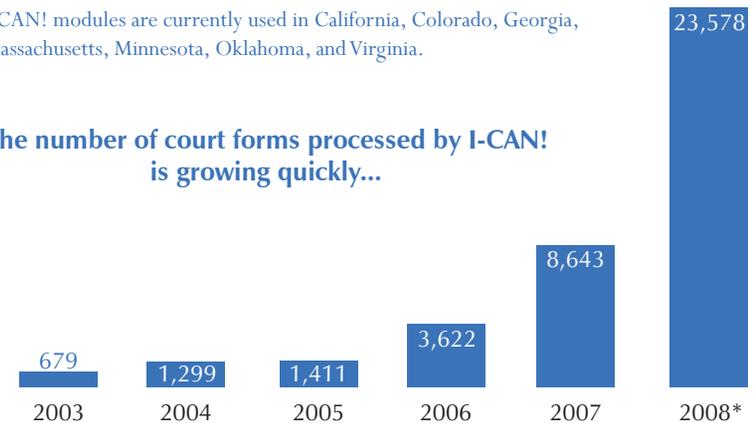
I-CAN! is a kiosk and web-based legal services system designed to provide convenient and effective access to vital legal services for lower income people. I-CAN! modules create properly formatted pleadings; provide court tours; and educate users on the law and the steps needed to pursue their matter.

I-CAN! modules were designed for individuals with little knowledge of computers. A "video guide" takes the users through a series of tutorial-type questions. Answers are chosen by touching a computer screen and are then "mapped" to the appropriate judicial forms.

I-CAN! minimizes the information a user must type by providing multiple choices when possible. Videos for court tours and safety tips (e.g., for Domestic Violence) are a part of many modules.

I-CAN! modules are currently used in California, Colorado, Georgia, Massachusetts, Minnesota, Oklahoma, and Virginia.

The number of court forms processed by I-CAN! is growing quickly...



Source: I-Can! Legal

*Through August

These systems have helped many individuals and families resolve critical legal problems; however, traditional court-based document-assembly initiatives have some drawbacks. First, developing the infrastructure necessary to deliver online document-assembly services is expensive—often more than small jurisdictions can afford to invest. Second, significant technical expertise is needed to develop and maintain the document-assembly content. In jurisdictions where forms and instructions change frequently, the maintenance costs can quickly add up.

To benefit from document assembly and lessen the impact of these obstacles, several courts are participating in a project that allows them to share a single technical infrastructure and to use document-assembly tools that have been made expressly for nontechnical staff. This project is called the National Document Assembly Project; it is also known as National Public Automated Documents Online (NPADO).

The NPADO Project

A project of Pro Bono Net, a national nonprofit organization that works with courts, legal-aid organizations, and pro bono programs to increase access to justice through innovative uses of technology, NPADO offers the technical infrastructure necessary for online document assembly, as well as programmatic and technical support for local projects. NPADO participants use LexisNexis's HotDocs Professional, and optionally the Center for Access to Justice and Technology's A2J Author, to create document-assembly content from their existing forms. Content is then uploaded to the NPADO Web site and linked to from the participants' Web sites. From there, users access the content, answer the questions, and generate professional-looking legal documents.

This project started in 2001 when, through its Technology Initiative Grant (TIG) program, the Legal Services Corporation (LSC) funded a pilot project to learn more about the potential of document assembly. NPADO's national infrastructure developed from this initial funding, as well as from a generous LexisNexis donation

of a HotDocs Server license. Initial participants were legal-aid organizations and pro bono programs that wanted to provide document-assembly content for legal advocates. This goal expanded to include assisting self-represented litigants with the launch of A2J Author, a tool that creates customer-friendly interfaces for data collection and document assembly. For a few states, this expanded focus provided an opportunity for legal-aid programs and courts to collaborate. Together, they could create tools to improve access to justice and to increase court efficiency. To encourage these partnerships, LSC and the State Justice Institute (SJI) began to collaborate in funding document-assembly initiatives where courts and legal-aid organizations were working together. Over the past two years, LSC and SJI have funded initiatives in twelve states: Arkansas, Idaho, Indiana, Iowa, Kentucky, Maine, Montana, New York, Oklahoma, Vermont, Washington, and Wyoming. In addition, both LSC and SJI have provided funding to support the NPADO infrastructure.

NPADO is a well-used system. In 2007 over 75,000 documents were generated, and in the first three months of 2008 almost 25,000 documents were generated. On the NPADO Web site, there are about 340 active pieces of document-assembly content that cover a wide variety of common legal problems: dissolution of marriage, parenting plans, powers of attorney for property, eviction defenses, and small-claims actions, to name just a few. One example, available through LawHelpCalifornia.org and developed by the California Administrative Office of the Courts, is a letter to a landlord asking for the return of a security deposit (see NADPO, 2004-08). This letter was generated approximately 44 times per week in the first three months of 2008. While filling out and sending this letter may resolve the problem and the self-represented litigant may never end up in court, this outcome can also positively contribute to the efficiency and public perception of the California courts. It helps a self-represented litigant go through the proper steps before filing with the court, and if the person decides to proceed with a small-claims action, the litigant can use the letter to show that there was an attempt to collect the security deposit before filing the case.

Beyond this type of typical use, NPADO is also helping legal-aid programs implement some creative tools. For example, in Pennsylvania, North Penn Legal Services (NPLS), in cooperation with Community Legal Services of Philadelphia (CLS), created a self-guided interview that helps estimate how much a person might

National Public Automated Documents Online (NPADO) use continues to grow at a rate of approximately 20 percent per year.

receive in food stamps if he or she applies. Following the example of NPLS and CLS, some courts may also find that they can create tools to help customers with tasks beyond filling out traditional court forms.

Experiences of Early Adopters

Early adopters of NPADO have included the California Administrative Office of the Courts, Idaho Legal Aid Services, and the Idaho Supreme Court, as well as the New York State Unified Court System and New York's legal-aid community. These groups have demonstrated the concrete benefits of document assembly and rely on NPADO to deliver critical services to their constituents.

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California Administrative Office of the Courts. Through a partnership with LawHelpCalifornia.org, the California Administrative Office of the Courts is using online document assembly to improve its self-help workshops and clinics. With help from JusticeCorps volunteers, self-represented litigants use document assembly to fill in their basic information (name, address, birth date) on their forms. They then participate in a class where a staff attorney introduces the legal issues involved in their cases and helps them fill out the rest of their forms by hand. Currently, this project is being piloted in a few jurisdictions; however, there are plans to expand.

Both staff and self-represented litigants are extremely happy with the results of the project. “The production of the forms from the computer program greatly reduces litigant fatigue usually generated by the repetitive process of completing by hand the numerous court forms required in a family-law proceeding,” said Michelle C. Hopkins, a family-law attorney at the Los Angeles Superior Court's Resource Center for Self-Represented Litigants. In 2007 over 28,000 documents were generated from California's 41 available document templates; in the first six months of 2008 over 17,000 documents were generated.

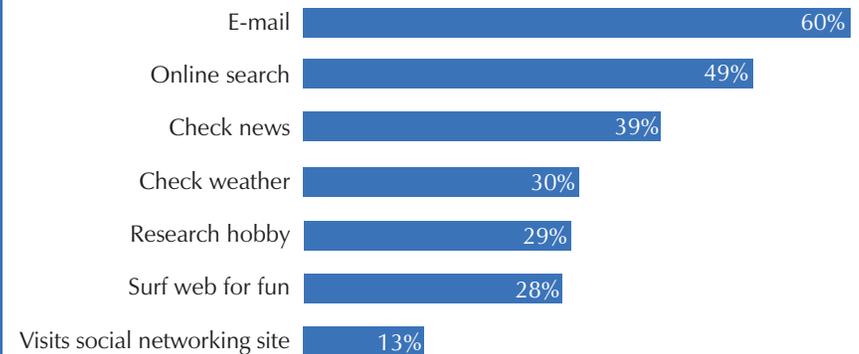
Idaho Legal Aid Services and the Idaho Supreme Court. Beginning in 2005, Idaho Legal Aid Services (ILAS) and the Idaho Supreme Court partnered to develop online document-assembly content. So far the partners have created 32 legal-document templates, which help the public complete over 160 court forms. ILAS and the Idaho Supreme Court offer five of these document templates in both English and Spanish. The generated documents are in English; however, the accompanying instructions are produced in English or Spanish, as appropriate.

The response to the content has been overwhelming. Self-represented litigants say that document assembly “takes out all the anxiety of doing it yourself,” and judges report that “those who use interactive forms are much more likely to have all their paperwork in order so that the case can be completed in one session and with the minimum of assistance from the court.”

The Idaho Supreme Court, with the support of ILAS, is tracking the number of NPADO-generated forms filed with the court. Between June 2007 and the end of March 2008, over 1,500 forms were filed in courts across Idaho.

Courts are positioning themselves to take advantage of expanding Internet activity in the daily lives of Americans...

Percentage of Internet Users Performing Various Activities in a Typical Day



Source: Pew Research, 2002-08

New York State Unified Court System and Legal Aid Community. Legal Assistance of Western New York, Inc. (LAWNY) and Legal Services for New York City (LSNY) are working with the courts to create online document-assembly content for both self-represented litigants and legal advocates. A relatively new project, they have only five document templates online; yet in 2007, 1,500 documents were generated from this content, while in the first six months of 2008, over 3,000 documents have already been generated.

The New York courts recognize that NPADO's shared infrastructure and support helped to get the project up and running. "Without NPADO, the Civil Court of the City of New York would not have been able to complete the user-friendly interactive programs we created to assist the court's numerous self-represented users," said Rochelle Klempner, the law secretary for Hon. Fern A. Fisher, the administrative judge of the Civil Court of the City of New York.

Identified Best Practices

Due to these projects' successes, NPADO is being used by an expanding group of courts, legal-aid organizations, and pro bono programs. To help these new initiatives succeed, Pro Bono Net has been studying the existing projects and identifying best practices. These three projects have several factors in common.

Strong Leadership and Support. Document-assembly projects need the strong leadership and support of a "champion" who is an influential judge or court administrator. Additionally, if a court is partnering with the legal-aid community, there also needs to be strong leadership and support from the management of these programs. This leadership and support helps the initiative to be accepted and allows others to invest the necessary resources to see that the project is implemented more quickly and smoothly.

Partnerships. Partnerships are essential to a document-assembly project's success. Each partner brings a pool of expertise and resources that can benefit the project. For example, ILAS had the resources to develop the document-assembly content, but the Idaho Supreme Court had the influence and ability to create standardized forms and support self-represented litigants who use the content at the court self-help centers. Neither the court nor legal aid would have been able to move the project forward as well on their own. Pro bono programs are another

potential partner. For example, the Washington, D.C., Bar Foundation is developing document-assembly content for a housing clinic at the courthouse. The availability of this type of content could make it easier to recruit, train, and supervise volunteer attorneys, who can then assist or represent self-represented litigants with more-complicated cases.

Resource Investment. Document-assembly projects require investing significant resources—money, time, and knowledge. While NPADO can help decrease the cost of implementing a document-assembly initiative, projects for self-represented litigants that succeed recognize that they still have to invest in the project. Partnerships with other organizations can spread these costs across several organizations.

Cultural Acceptance of Self-Represented Litigants. Document-assembly projects will be more successful in courts that are accepting and accessible to self-represented litigants. These courts have realized that the experience of going to court is scary and intimidating, especially when the potential for harm is high. They have often taken other steps, aside from implementing document-assembly initiatives, to make the experience less intimidating and easier to understand for self-represented litigants. That said, document-assembly projects can be successful in courts where self-represented litigation is not as well accepted; however, more leadership and support will be needed.

Benefits Experienced By Participants

NPADO makes implementing document-assembly initiatives easier and less costly for courts, legal-aid organizations, and pro bono programs. Using NPADO, HotDocs, and A2J Author to create and deliver user-friendly content online, as well as at self-help centers and clinics, has significant benefits for the litigants and courts in terms of access, efficiency, and effectiveness.

Participating in NPADO provides additional benefits for courts. Courts develop their own content locally with document-assembly tools intended for nontechnical staff and can easily replicate content developed by other participants. In addition, the software and hardware infrastructure necessary to deliver online document assembly is managed by Pro Bono Net, allowing courts to focus on delivering content and not maintaining the technical infrastructure. Furthermore, Pro Bono

Net has helped to foster a national community of courts and legal-aid programs involved in the document-assembly project, who share best practices with each other around content development, project management, coordination, and partnership building, outreach, and evaluation.

Upcoming Improvements and Enhancements

NPADO has a series of exciting improvements ahead. An underlying benefit of sharing an infrastructure is that these improvements and enhancements will benefit all participants and require less investment than if each participant had to make similar improvements on their own.

Self-Help Center/Bench Officer Module. NPADO has received additional funding from LSC and SJI through the TIG program to fund the development of a Self-Help Center/Bench Officer Module. This enhancement will allow court personnel and self-help center staff to review the pleadings and proposed orders of self-represented litigants before filing and then use the same data to produce final orders for those litigants after judicial approval.

LiveHelp. Through funding from Montana Legal Services Association, Pro Bono Net will integrate LiveHelp with NPADO. LiveHelp allows Web-site users to click on a button, connect with a trained specialist, and ask for assistance. This communication is done through real-time chat. LiveHelp integration with NPADO will make online document preparation more efficient and accurate, as well as increase the services available to users in rural areas. For example, a paralegal in an urban area will be able to assist a user in a rural area without the burden of traveling to that location. LiveHelp also provides the means for remote staffing for self-help computer workstations in courthouses. The LiveHelp/NPADO integration pilot will assess both the technical feasibility of chat-based support for online document assembly as well as the management, policy, and training considerations for creating a seamless, high-quality help system for users.

Interface Redesign. A key part of NPADO is the experience of self-represented litigants and advocates. Because NPADO began as a pilot project, few resources were invested in polishing its look; however, now that NPADO has proven its worth, Pro Bono Net is working with a designer to refine the user interface and provide self-represented litigants and advocates a more pleasant experience.

Conclusion

In the past three years, NPADO has been used to generate over 200,000 documents for a wide variety of legal problems: divorce, custody, wills, powers of attorney, guardianships, name changes, and evictions, to name a few. NPADO's use continues to grow at a rate of approximately 20 percent per year. This remarkable growth in such a short period of time is a strong indicator of the need for legal-aid organizations, and increasingly the courts, to grapple with the growing number of self-represented litigants. As courts continue to struggle with how to stretch limited financial resources, online document assembly may be a trend that they can use to keep their doors open for the increasing influx of self-represented litigants.

RESOURCES

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National Public Automated Documents Online (2004-08). Automated Documents Online for Nonprofit Legal Services. Web site. https://npado.org/login_form?template_id=template.2006-05-04.1466678804

Pro Bono Net. www.probono.net

Self-Help Support.org. www.selfhelpsupport.org

ENDNOTES

¹ For example, using HotDocs, A2J Author, and NPADO, a court might implement a tool to help customers understand the process of filing or to help customers determine if they are capable of representing themselves.

² This project's evaluation is available on SelfHelpSupport.org at <http://www.selfhelpsupport.org/link.cfm?10264>.

³ LiveHelp was first piloted on the MontanaLawHelp.org and IowaLegalAid.org statewide legal-services Web sites through an LSC Technology Initiative Grant-funded partnership of Montana Legal Services, Iowa Legal Aid, and Pro Bono Net. An evaluation of those projects found that the service is growing rapidly, has high satisfaction levels, and significantly increases both the extent to which visitors are able to find the information and the speed with which they are able to do so. (The full evaluation report is available at <http://www.probono.net/link.cfm?9421>.) LiveHelp has now expanded to statewide legal-services Web sites in Louisiana, Georgia, Arkansas, and Minnesota. Under a follow-up TIG grant, Pro Bono Net is developing capacity to support additional LiveHelp partners in legal-aid, court, and other access-to-justice contexts.