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2005

### Self-Represented Litigants and Electronic Filing

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## WHITE PAPER

### Self-Represented Litigants and Electronic Filing

#### Introduction

On January 16, 2003 a small group of experts met in Chicago, Illinois at the Chicago-Kent College of Law to discuss the nexus between electronic court filing and state-wide legal services web sites. The group included representatives of some of the important constituent organizations involved in legal services and court e-filing: the Legal Service Corporation, the National Center for State Courts, LexisNexis File & Serve (formerly, Courtlink), Orange County California's I-CAN! Project, Chicago-Kent's Justice Web Collaboratory and the Illinois Technology Center for Law and the Public Interest. Telephone participants represented the State Justice Institute, ProBono.net and the Open Society Institute.<sup>1</sup>

The group met because both industry and justice community representatives recognized that electronic filing and the emergence of web assisted legal services to low-income people faced common problems of interface design, financial viability and access concerns driven by the digital divide. This paper presents the background leading up to this meeting, a description of the common problems faced by electronic filing and low-income legal services web sites, and the preliminary conclusions reached by the group.

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<sup>1</sup> The names and affiliations of all participants are reproduced in the Appendix.

## Origins of electronic filing in State courts

Electronic filing (e-filing) of court documents brings with it the promise of dramatic savings and improvements in the work of courts and changes the way that courts will operate in the future.<sup>2</sup>

Electronic filing in State and local court systems began as an effort to lower costs and improve efficiency in large multi-party mass tort cases. The cost of building electronic court filing systems could be justified based on savings from the virtual elimination of human messengers who were used to deliver notices and copies of court papers in these complex civil cases. This business case was strong enough to support the formation of private enterprises that built electronic filing and storage systems without any public funding on the expectation that they could sell services to lawyers. These private enterprises invested significant sums in software, hardware and business infrastructure. The real customers, the source of revenue for these private electronic filing businesses, were the attorneys and ultimately their clients. Banking on the steady flow of filing fee revenue and fees for search, retrieval and print once court documents in these large cases were automated, the court filing businesses were able to offer this “outsourcing” service to courts at no public cost. While the business model did not need public money, it did require court action to allow the parties and their lawyers to use the electronic filing system and it needed official approval by the court or by legislation to make electronic filing the legal equivalent of official paper filing.

This historical model for financing and deploying outsourced electronic filing systems is not well suited for those case types in which litigants are frequently self-represented like traffic violations, small claims, family law matters, and many landlord tenant cases. The systems built are for law firm users, attorneys and paralegals, not for the self-represented litigant. While the systems today can handle all case types, including small claims, it is often difficult for some of the legal professionals to learn a new e-filing system for cases that are infrequently filed.

The private systems have been built for professional customers with fixed business locations all of whom are lawyers or are represented by lawyers. In contrast, small, high volume cases like divorces increasingly have been pursued by litigants without lawyers. The pro se explosion has been studied

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<sup>2</sup> National Center for State Courts web site, visited 02/05/2003, [http://www.ncsconline.org/WCDS/Topics/topic1.asp?search\\_value=Electronic%20Filing](http://www.ncsconline.org/WCDS/Topics/topic1.asp?search_value=Electronic%20Filing)

and described elsewhere.<sup>3</sup> The growth in the number and percentage of these cases in the State justice system has been attributed to disaffection with lawyers, the high cost of hiring lawyers, even a new sense of independence characteristic of the “do it yourself” movement. Whatever the reasons for the large numbers of self-represented litigants in State courts, these customers of our justice system pose difficult challenges for judges, court clerks and administrators. Self-represented litigants also pose significant challenges for electronic court filing.

## **Federal Electronic Filing and Self-Represented Litigants**

The federal courts are now deploying electronic filing initiatives across the country. The Federal Electronic Case Filing System is described on its website as follows:

The federal judiciary is now well underway with the nationwide implementation of its new Case Management/Electronic Case Files (CM/ECF) systems. CM/ECF not only replaces the courts' aging electronic docketing and case management systems, but also provides courts the capability to have case file documents in electronic format, and to accept filings over the Internet if they choose to do so.

CM/ECF systems are now in use in 12 district courts, 43 bankruptcy courts, and the Court of International Trade. Most of these courts are accepting electronic filings. More than 5 million cases with more than 15 million documents are on CM/ECF systems. And more than 25,000 attorneys and others have filed documents over the Internet. Under current plans, the number of CM/ECF courts will increase steadily each month into 2005.

This aggressive plan seems to make no provision for self-represented litigants. Most federal courts adopt local rules to guide the use of the electronic filing systems when they go “live.” Here is the text of the rule for the Bankruptcy Court for the Southern District in Illinois:

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<sup>3</sup> John Graecen compiled the most recent collection of studies of the pro se “explosion”. His paper challenges conventional wisdom by suggesting that in jurisdictions where there are large percentages of pro se cases in certain types, the growth may have stopped. See, John M. Graecen, *Self Represented Litigants and Court and Legal Services Responses to Their Needs: What We Know*, (2nd draft, July 20, 2002). Available at [http://www.lri.lsc.gov/abstracts/020045/020045\\_selfrep\\_litigants&whatweknow.pdf](http://www.lri.lsc.gov/abstracts/020045/020045_selfrep_litigants&whatweknow.pdf)

A debtor without legal representation shall file petitions, schedules, motions, pleadings and any other documents conventionally in accordance with the Local Rules of the Bankruptcy Court for the Southern District of Illinois...<sup>4</sup>

**National organizations supporting State and local courts have not focused on the impact that e-filing might have on self-represented litigants.**

The National Center for State Courts and its affiliated organizations have spearheaded numerous studies, conferences and initiatives aimed at the electronic filing issues facing State and local courts. The Conference of State Court Administrators (COSCA) and the National Association of Court Managers (NACM) formed an E-Filing Standards sub-committee to define a court XML National Standard to allow electronic filing via the Internet, adopted in March 2003.

On December 5, 2002, the Joint Technology Committee of COSCA/NACM and the National Consortium for State Court Automation Standards adopted E-Filing Functional Requirements as "recommended standards."<sup>5</sup> As a result of the action of the Joint Technology Committee, the recommended standard was submitted to the COSCA and NACM Boards of Directors, and they were approved in March 2003.<sup>6</sup>

While these standards make important contributions to the progress of electronic filing generally, there is little treatment devoted to the special issues raised by self-represented litigants. Section 1.1L, the section "addressing the special needs of users," offers several suggestions for helping those who do not speak English, for illiterate persons, the blind, deaf and those who have no computer skills. Standard 1.1L acknowledges that self-represented litigants are filers with special needs in an electronic filing

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<sup>4</sup> Administrative Procedures for Filing, Signing, Maintaining and Verifying Pleadings and other Documents in the Electronic Case Filing (ECF) System, p. 5, viewed 02/05/2003 at <http://www.ilsb.uscourts.gov/so021.pdf>

<sup>5</sup> [Electronic Filing Processes \(Technical and Business Approaches\)](http://www.ncsconline.org/D_Tech/Standards/Documents/RTF/Recommended_%20Process_%20standards_%2011_27_02.rtf) available on the National Center for State Courts web site at [http://www.ncsconline.org/D\\_Tech/Standards/Documents/RTF/Recommended\\_%20Process\\_%20standards\\_%2011\\_27\\_02.rtf](http://www.ncsconline.org/D_Tech/Standards/Documents/RTF/Recommended_%20Process_%20standards_%2011_27_02.rtf) (hereinafter, [Electronic Filing Processes](#)). Section 1.1L of these standards offers some suggestions for self-represented filers:

**Addressing the Special Needs of Users**

In developing and implementing electronic filing, courts will consider the needs of indigent, self-represented, non-English speaking, or illiterate persons and the challenges facing persons lacking access to or skills in the use of computers.

<sup>6</sup> These standards are available on the National Center for State Courts web site (last viewed on July 6, 2003) at: [www.ncsconline.org/D\\_Tech/Standards/Standards.htm](http://www.ncsconline.org/D_Tech/Standards/Standards.htm).

system, but it provides scant guidance for courts that plan to implement e-filing systems for self-represented litigants. The Standard suggests that courts can:

- waive e-filing fees or require private services providers to make e-filing available at no cost to self-represented persons,
- ensure that the e-filing applications are as easy to use as possible, and
- ensure that access computers are available in libraries, courthouses, shelters and community centers.<sup>7</sup>

The Technology Bill of Rights (TBOR) initiative in the State of Washington is a remarkable exception to the relative inattention given by State e-filing projects to low-income self-represented court customers. TBOR is a unique project that is strongly supported by the Supreme Court of Washington and has become a lightning rod for analysis of the special needs of the poor and other disadvantaged groups when technology is implemented in the State justice system.<sup>8</sup> TBOR is working on “best practices” that should govern the implementation of electronic filing in Washington as the first of its efforts to manage the impact of technology on access to justice.

A pioneering example of the use of electronic filing to increase access to justice for self-represented litigants is the Interactive Community Assistance Network (I-CAN!) (<http://www.legal-aid.com>) developed by the Legal Aid Society of Orange County, California. The I-CAN! system uses kiosks and web sites to inform potential litigants of their legal rights and options and to assist them in creating necessary court forms. Upon completing the forms, the litigant can choose to file them electronically with the Orange County Superior Court from the same kiosk or web site with a few additional commands.

I-CAN!’s experience demonstrates that electronic documents do not necessarily increase the problems of non-English speaking, disabled (e.g., persons with sight or dexterity impairments) or illiterate persons. In fact, electronic documents can more easily be converted into spoken word for persons with vision impairments. But persons in these categories may

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<sup>7</sup> Electronic Filing Processes, *supra*, Note 5 at p.7.

<sup>8</sup> See, <http://www.atjtechbillofrights.org/> (last visited May 2, 2003.) The mission of TBOR is stated on this web site as follows:

“To create a body of enforceable fundamental principles to ensure that current and future technology both increases opportunities and eliminates barriers to access to and effective utilization of the justice system, thereby improving the quality of justice for all persons in Washington State.”

require some special technology and they may need personal assistance from court staff, other community resources or volunteers to be able to use electronic filing and access capabilities successfully.

### **State-wide Web Sites to Improve Delivery of Civil Legal Services**

In 1999 the Legal Services Corporation (LSC) began to explore creative, new approaches to using technology as a leveraging force dramatically to increase the legal services available to low-income people. In three rounds of Technology Innovation Grants (TIG), LSC has launched a national effort to help every State establish a State-wide web portal with information, training, forms and sophisticated tools to educate and support low-income customers. All of the grants were aimed at using technology to expand access to information and services to low-income people with a special emphasis on services to self-represented people who would not receive any assistance without the use of technology.

There are dozens of examples of State initiatives that were energized by the prod of the TIG funds. The I-CAN! Project, discussed above, has adapted its kiosk software to deliver web-based advice and instruction to self-represented litigants in the preparation of court forms. I-CAN! uses high quality streaming video to explain every action a customer must take to prepare and file court documents. I-CAN!'s domestic violence kiosks are able to transmit the documents generated by the user and the computer directly into the Orange County Court system's filing depository. This direct e-filing capability is available on I-CAN!'s web site as well. In 2002, nearly 20% of I-CAN!'s users came from the web.

Similarly, the Illinois Technology Center for Law and the Public Interest (ITC) is a state-wide collaboration dedicated to improving access to justice for low-income people in Illinois. The ITC has built three web sites for Illinois on a data base infrastructure that is fueled by content contributions from poverty law experts across the State. A special ITC project is building multimedia elements to make the site easy to use by customers with no legal training or experience. These new tools educate unsophisticated customers, help them prepare pleadings and other court papers and instruct customers on how to file those papers.

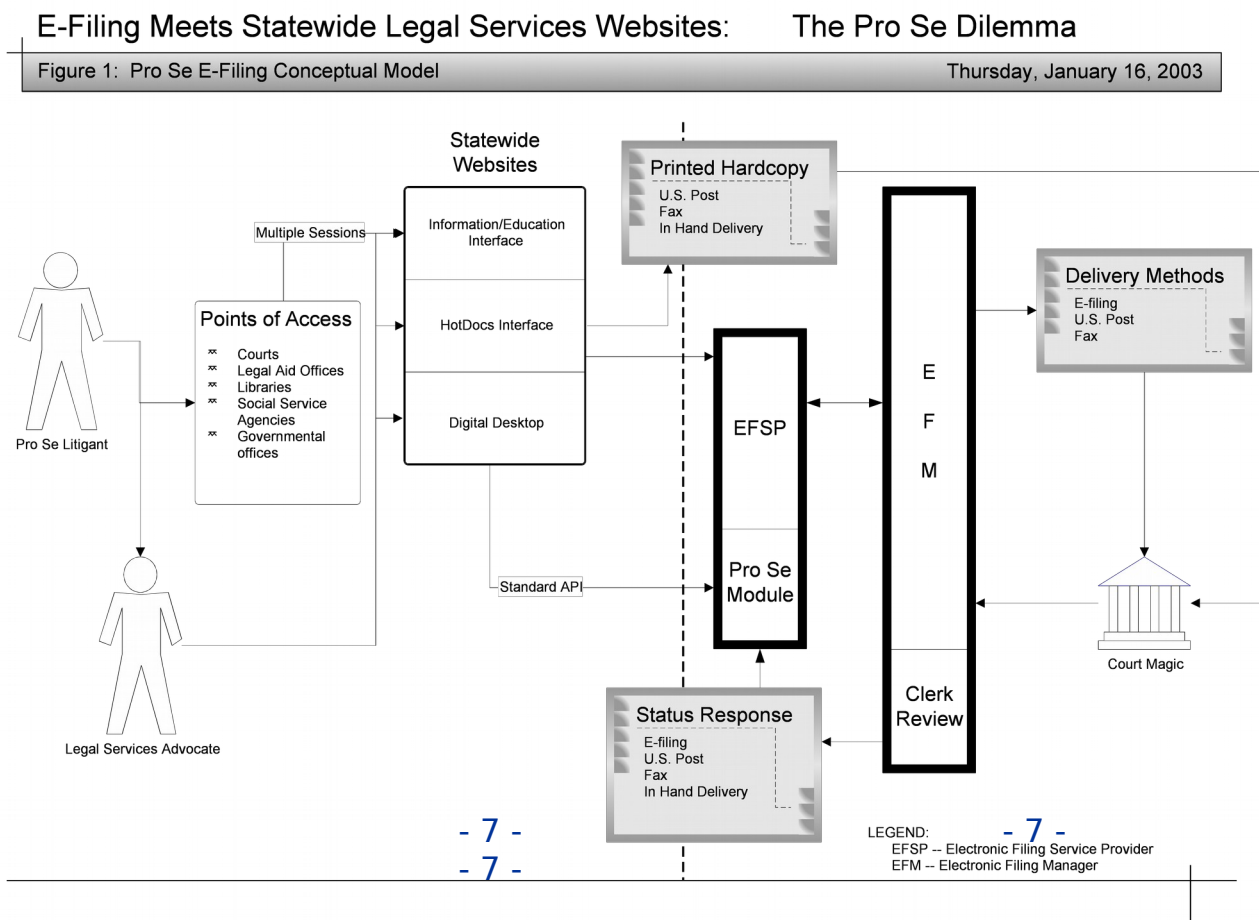
The ITC is also serving as the distribution agent and development host for the LexisNexis HotDocs Access to Justice Project. In 2002, LexisNexis donated 100 HotDocs 6.0 software packages, two sets each to the legal services programs for each state-wide website in the nation. HotDocs 6.0 is used by lawyers and paralegals to build document assembly templates that

speed the creation and printing of forms and pleadings and other documents needed to provide access to courts for low-income people. In addition, LexisNexis donated three licenses for HotDocs Online, a server based software program that supports the delivery of document assembly services to low-income customers over the web. Grants from the Legal Services Corporation in 2003 will support new staff to build HotDocs templates for state-wide web sites.

## A Model to Visualize the Interactions between Pro Se Litigants and Electronic Filing Systems

Two important processes are meeting at the digital door of the courthouse: legal services to low-income people and electronic filing. Both processes are critically important to the improvement of our court system. Both processes are foundations for the use of technology to expand access to justice. Neither process is currently in position to fully coordinate with the other.

The convergence of state-wide legal aid websites and national document assembly web servers powered by the LexisNexis HotDocs software and the emerging model of State court e-filing structures can be mapped as follows:





This is an idealized diagram that identifies the pieces of technology needed to bring self-represented filers into a fully automated electronic court. The diagram organizes the challenges faced by self-represented litigants who seek access to justice in an electronic filing future.

◆ Moving across the diagram from left to right, in most cases the best method for pro se litigants to obtain full access to the court system is to be represented by competent and affordable counsel. While this goal is currently not feasible, the planning process for dealing with e-filing and low-income self-represented litigants must first acknowledge that the greatest achievement would be attaining effective representation for all low-income people who have important legal needs.

◆ The second insight triggered by the left edge of the diagram is that access to justice, delivered digitally, requires special emphasis on the digital divide and the points of access to the internet available to low-income litigants. The obvious points of access include the courts and court clerk's offices, legal aid offices, social service agencies, government offices and libraries. Consistent and pressing emphasis must be placed on the use of county law libraries and publicly funded libraries as institutions poised to bridge the digital divide. There appears to be a groundswell of interest in converting county law libraries, once exclusively aimed at supporting the legal research needs of local lawyers, to become staffed resources for delivering web access and assisted filing services.

◆ Self-represented litigants will need to interact with the court system in multiple sessions over extended periods of time. This interaction pattern is true for a single case and also recognizes the fact that low-income people have frequent interactions with the civil justice system. Low-income citizens are repeat players and the systems for supporting their needs should be aware of the importance of reducing the need to make multiple and repetitive entries of redundant information.

◆ LSC inspired and funded state-wide websites for legal services are under construction or in place in 43 States. These state-wide sites are reasonably consistent in their structure. They rely on the same taxonomy of problems and legal information and use data driven web infrastructure to deliver instruction and information about legal problems and solutions. Most of these sites require registration for legal aid staff lawyers and pro bono lawyers before those users can obtain forms and detailed information but the sites do not, as a rule, expect the public to register to learn about the law and the procedures needed to seek access to justice. By contrast, Illinois Technology Center makes all of its legal information available without registration but provides more tailored services to attorneys who register,

like email notification of new additions to subject areas, discussion group access and the like.

◆ The Legal Services Corporation in conjunction with LexisNexis is setting up document assembly resources available to all the state-wide web sites. HotDocs Online servers will be installed for ProBono.net and Kaivo hosted sites. Document assembly authoring software, HotDocs Pro 6.0, has already been shipped free to 28 States by LexisNexis. The diagram shows an arrow indicating output from the HotDocs module directly into the Electronic Filing Service Provider. It is clear that XML output from HotDocs Online can deliver the data stream needed to fulfill requirements for electronic filing. Similarly, the electronic output from I-CAN! is now able to deliver the electronic document needed to meet the e-filing requirements of its Orange County protective order pilot. The second arrow output from the HotDocs Online module shows delivery of paper documents that can be faxed, filed by delivery or by mail as appropriate.

◆ New “soft” interfaces to HotDocs interviews have been developed and authoring kits that speed the preparation of these simple-to-use interview guides are being built. The Access to Justice Project, jointly undertaken by the National Center for State Courts and Chicago-Kent, has produced a graphics pilot for simple divorce cases in Illinois and those partners together with the Center for Computer Assisted Legal Instruction are building an authoring toolkit based on that interface. California’s I-CAN! has built a video-based web delivered interface for a custom designed document assembly interview for several frequently used forms in Orange County California and a number of additional counties.

◆ Document assembly and soft interfaces to the data gathering interview need to be complemented by a digital desktop, or personal digital assistant layer, for self-represented litigants that will manage the data that is gathered in the interview processes. This is another critically important, but currently missing, layer of functionality for low-income self-represented litigants. In addition to the help that State-wide web sites can offer in cutting through the complexity of document preparation using HotDocs and web based education, self-represented litigants need to be able to store their answer files and their digital documents and to have a consistent and easy way to maintain information on the status of their interactions with the courts. Some of this function should be naturally included within the deliverables of an electronic filing system as it faces the customers who are not represented by lawyers.

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Bob Cohen reports that I-CAN! Is delivering this type of service in 11 counties in California and is also in use in Oklahoma and Massachusetts.

Sophisticated self-represented filers will need to learn to use the Electronic Filing Service Provider's (EFSP) system and pay for the transaction via credit card. This option will require some sophistication on the litigant's part, access to established credit and payment options and the independent ability to support oneself without EFSP help throughout the process. Less sophisticated self-represented litigants and many low-income self-represented litigants will need the help of State websites or something like I-CAN! or the ITC Access to Justice project to help manage their interactions with the EFSP and the court. To complete the connection between self-represented low-income litigants and court based e-filing, ITC or I-CAN! or any other state-wide website providing document assembly of court documents for self-represented litigants will need to act as an EFSP to display filing status messages from the Electronic File Management system (EFM) and communicate directly with the EFM.

- ◆ As the Electronic Filing Service Provider (EFSP), LexisNexis File & Serve sits in the diagram of activities as the bridge between the end user and the Electronic File Manager (EFM) system. This role is illustrated most crisply in the partnership that LexisNexis File & Serve, BearingPoint and Microsoft are currently testing in Texas in a project called Texas Online. The electronic document and file management for Texas Online will be provided and maintained and managed by BearingPoint using Microsoft tools. LexisNexis File & Serve and other EFSPs sit in front of the EFM and help customers obtain less expensive and convenient access to those processes.

LexisNexis File & Serve has built a new interface to make e-filing more accessible to a wider variety of users, especially those infrequent professional users filing small claims, criminal cases and other case types currently not being serviced by other EFSPs. Most of LexisNexis File & Serve's customers are law firms and other professional court participants, though LexisNexis File & Serve does have a growing number of self-represented filers among its current customers. The new LexisNexis File & Serve user interface is attractive and bright, modeled on the rich interactive arrays that are now found on Yahoo and Amazon.

While the experts attending the January 16, 2003 meeting thought the new interface was effective for professional filers and sophisticated self-represented litigants, every participant in the January 16, 2003 meeting who represented low-income or self-represented litigants stated that their customers, low-income people, would need even more simplicity and assistance to interact with the courts

electronically.<sup>9</sup> This conclusion was based on the shared opinion that low-income self-represented litigants lack familiarity with computers and the Internet. User interfaces for this customer group will require ATM-like simplicity with one task at a time displayed in simple screens with clear and few options. The conclusion was disappointing for anyone who thought that low-income self-represented litigants could easily use the existing interfaces of commercial EFSPs.

- ◆ The diagram, above, illustrates that there are two components of the information flow that are critical for self-represented litigants:
  - a “pro se e-filing module” using document assembly tools expects input from an unsophisticated user and can guide the user through the steps necessary to complete document needed for each transaction with the court’s electronic filing system.
  - a “digital desktop” or personal case account or “home” on the state-wide web site that will permit the customer to discover the right processes, court papers and other actions needed to obtain access to justice, and to store answer files and digital documents and to provide a consistent and easy way to interact with EFSP and maintain information on the status of interactions with the courts.

Precise requirements for these elements of the system needed for low-income pro se litigants have not yet been written. Preliminary efforts to define some of these tools can be drawn from a research and design project funded by the State Justice Institute, Illinois Institute of Technology, the Open Society Institute and the Center for Access to Courts Through Technology. That project and some of its relevant conclusions are described in Appendix 1.

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<sup>9</sup> It should be noted here that the LexisNexis File & Serve improvements were not targeted at the low-income filers discussed at the meeting. LexisNexis File & Serve was aiming at, and apparently did an effective job of reaching, customers who were familiar with the Internet but had infrequent electronic filing needs.

## Conclusions

Four high level conclusions about the nexus between web based legal services to low-income persons and electronic filing can be stated with confidence.

1. *Do no harm!* Self-represented litigants must be considered and included in the planning and implementation of electronic filing in our State court systems but pro se e-filing solutions must not create new barriers for low-income self-represented people as they seek access to the justice system.
2. *COSCA/NACM Joint Technology Standards are inadequate for pro se customers.* Section 1.1L of these standards is insufficient to address the range of issues faced by courts implementing electronic filing systems for self-represented litigants. There must be a set of national standards that fully address e-filing from a pro se perspective with special emphasis on the needs of low-income self-represented litigants.
3. *Interface Design specifically crafted for self-represented litigants is a key need and most of this design work is still in the future.* A distinction must be made between the e-filing interfaces used by the professional legal aid community, on the one hand, and the user interfaces used by the pro se filer him or herself. Soft interfaces such as those developed by I-CAN! or the Chicago-Kent/NCSC project are better suited for the pro se filer than even the most advanced interfaces an attorney would use. These interfaces must deliver two different types of services to the self-represented litigant: first, a document needs to be assembled into the format and with the content required to trigger the proper action in the court system, and second, a separate and distinct process is needed to control the e-filing and workflow routing of the document. Those two processes are serviced by completely separate industries and initiatives and courts should not confuse and mingle them together.
4. *New financial models are needed to pay the cost of building and maintaining electronic filing for self-represented litigants, especially those who are also low-income.* Deploying electronic filing systems is expensive. Courts are struggling to find funding for these systems. Courts have not been successful, as a rule, in building and running these systems in house. The costs of this re-

engineering will dwarf the funding recently made available for Legal Services Corporation technology initiatives. Current private electronic filing revenue models are not well suited to help finance and maintain e-filing systems that will be useful for high volume cases involving frequent appearances of self-represented and low-income litigants. New sources of significant funds are needed to make this re-engineering leap into a more accessible electronically empowered justice system.

## **APPENDIX 1**

### **Customer Centered Design: The NCSC/ Chicago-Kent /Institute of Design Access to Justice Project**

Chicago-Kent College of Law, Illinois Institute of Technology's Institute of Design and the National Center for State Courts worked together in 1999 and 2000 to study the access to justice problems posed by the flood of self-represented litigants in U. S. State and local courts.<sup>10</sup> Using design technology pioneered by Professor Charles Owen at the Institute of Design, the researchers sent 10 teams of law students and design students to observe the customers (self-represented litigants and those who deliver justice to them) and the processes of four different State courts.

Immersed in the reality of these observations, the interdisciplinary team spent 15 weeks in 2001 using systematic design methods to identify barriers, describe problems and propose solutions to address these problems. The fully described results of this redesign project are available at its web site, [www.judgeline.org/A2J/](http://www.judgeline.org/A2J/) and in book form.<sup>11</sup>

These teams found that self-represented litigants valued the traditional dispute resolution system, our civil courts. The teams found solid evidence in their observations to support the importance of the current dispute resolution system to court customers. Self-represented litigants placed high value on the direct interaction with court personnel, judges and clerks. The utility of our courts as valued institutions for dispute resolution is strong. Most court and clerk employees worked hard to deliver justice and most were aware of the special problems of self-represented litigants. Some courts were more innovative and customer centered than others. Courts and clerks in Colorado, California and Delaware had created self help centers, pro se facilitators, extended office hours and even mobile clerk's offices that motored into remote areas to bring the court's filing services to farm workers. This is the good news.

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<sup>10</sup> The research reported in this testimony was funded by grants from the State Justice Institute (SJI-00-N-248), the Open Society Institute (No. 20001562), the Center for Access to the Courts through Technology, and the Illinois Institute of Technology. The points of view expressed are those of the author and do not represent the official positions or policies of the State Justice Institute, the Open Society Institute, the Center for Access to the Courts Through Technology, the National Center for State Courts, or the Illinois Institute of Technology.

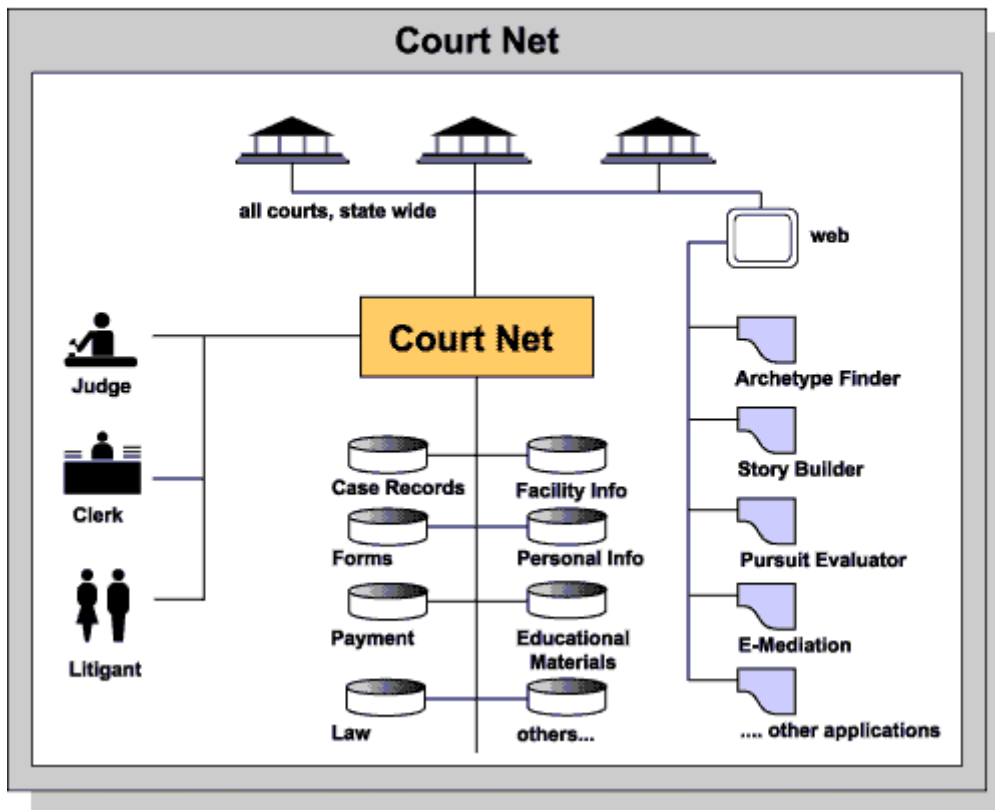
<sup>11</sup> C. OWEN, R STAUDT, T. PEDWELL, ACCESS TO JUSTICE: MEETING THE NEEDS OF SELF-REPRESENTED LITIGANTS (2002). To purchase, contact Ron Staudt at [rstaudt@kentlaw.edu](mailto:rstaudt@kentlaw.edu), or (312) 906-5326, or Todd Pedwell at [tpedwell@kentlaw.edu](mailto:tpedwell@kentlaw.edu) or (312) 906-5328.

The project found that even the most service oriented courts and their associated clerk's offices were unable to deliver excellent customer service. Story after story told of bad outcomes, wasted time, confused and error filled filings, long waits and baffling processes only thinly explained and almost never understood by customers. Some of these problems are driven by unnecessary complexity built into current court processes. Some problems come from the knowledge, language and skill gaps that burden many self-represented litigants.

The design team began to develop solutions to streamline the process, to educate the customer and to supplement the existing court system with tools and products that empower the customer and the court personnel alike to resolve disputes with efficiency and transparent fairness. A large amount of the dissatisfaction of court customers comes from the complexity of courts and customer ignorance of their particular place in the complex arena. Other sources of dissatisfaction, like lengthy delays, long waits for court calls and scheduling inefficiency, affected both unrepresented litigants and lawyers. Even the most customer-centered courts are quite poor at reducing these inefficiencies that burden the time of all court customers. The design team was struck by the notion that Wal-Mart was better able to schedule delivery of disposable diapers to its hundreds of stores than were courts able to organize and plan hearings. Many of the information processing and customer relationship management tools of modern business could be applied to the challenges courts face as they struggle to improve customer service to self-represented litigants: reengineering, total quality management, personalized segments of one, supply side value chains and net communities.

Drawing on their observations, the structured design methods of Professor Owen and their own diverse business and educational backgrounds, the teams designed fifty-three solutions product proposals like Storybuilder, Pursuit Evaluator and Personal Case Account. The guiding principle in each of these solutions was the most palatable of all the change management ideas: start with the customer and drive all processes to meet the customers' needs. Nearly every solution presumed access to modern information technology. The team named this pervasive technology infrastructure, Court Net. The following diagram illustrates the expansive but simply stated mission of the technology infrastructure: digitize all the information that anyone connected to the courts will use and make it available wherever and whenever needed.





This illustration shows all the actors on the left: judges, clerks and litigants; all the information in the middle: case records, forms, law, payment records, facility and personal information, and more; and all the tools that a systematic redesign could deliver on the right, Emediation, Storybuilder, Pursuit Evaluator, etc. All the people and all the information and all the tools are connected by a line, a wire, and a network.

Written small, this network could be the local network of a small, integrated court system. Written large, it could be the Internet with necessary and relevant privacy and security protections. The key insight here, the critical "going forward" assumption, is that court information must be digitized so that modern computing and networking and communication techniques can be employed to solve severe problems of poor customer service, inefficiency, complexity and lack of effectiveness.

In fact, Court Net is an ideal, more of a dream than a reality. State and local courts move paper, not digital information. Court systems are in desperate need of massive infrastructure investment to be able to deliver the type of service that today's customers deserve and expect. "In a period

of increasingly tight budgets and ever expanding caseloads, courts across the country have looked at the concept of “electronic filing” as a way to reduce the considerable demands of handling physical case files and to reduce the long term costs of storing official documents.”<sup>12</sup> The Chicago-Kent/ NCSC Study and the “e-filing” movement within State courts both point toward the emergence of an electronic infrastructure that will face low-income self-represented. As this infrastructure is built, it is critically important that the special needs of this set of customers are included within the design requirements.

The Chicago-Kent web prototype that is described next, attempts to build an interface from the customer’s perspective. The interface has potential to make LSC funded state-wide web sites more accessible to low-income self-represented people. The same interface can be a more welcoming entrance to State court systems as they build e-filing infrastructure that self-represented customers must use to obtain access to justice.

### **A Prototype “Access to Justice” Interface for Self-Represented Litigants**

To test the design conclusions of the Chicago-Kent/ NCSC Study (and inspired by the pilots constructed by I-CAN! in California), Chicago-Kent built a prototype web application to educate unsophisticated customers, to help them prepare pleadings and other court papers and to provide instruction on how to file those papers. The first pilot project was released to customers as the Illinois Joint Simplified Dissolution of Marriage system.<sup>13</sup>

The JSDM pilot was launched on the web by the Illinois Technology Center in early 2003. The pilot includes a “soft” graphical interview that is designed to be customer friendly. The interview helps determine client eligibility for the special dissolution procedure and gathers all the data needed to complete all the court papers that both the husband and wife need to sign to obtain dissolution. This data is formatted and sent to a web server running HotDocs Online, a document assembly system donated to the legal aid community by LexisNexis. The document assembly server compiles all the court forms and a set of graphical instructions and sends the packet electronically to the customer’s web site. In Illinois, the documents are printed either at home, a legal aid office or at a special Self Help Desk to be installed in the Circuit Court of Cook County in July 2003. The same tools

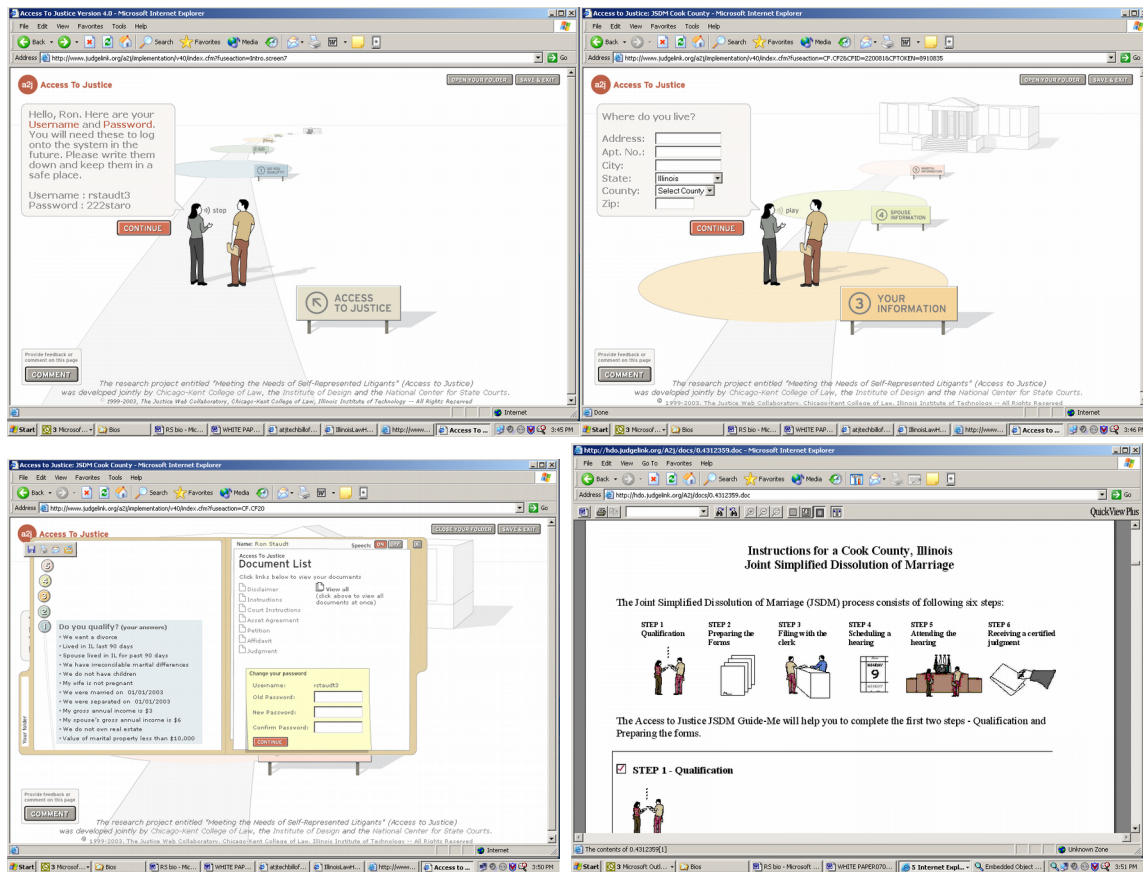
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<sup>12</sup> [Electronic Filing Processes \(Technical and Business Approaches\)](#) *supra*, Note 5 at page 9.

<sup>13</sup> This prototype is available on the Illinois Technology Center for Law and Public Interest web site at [www.illinoislawhelp.org](http://www.illinoislawhelp.org) as part of the simple divorce “Guide me.” It can also be launched directly from the Chicago-Kent Access to Justice Project website at <http://www.judgelink.org/a2j/implementation/v40/index.cfm?fuseaction=Intro.screen1&mod=2>.

could be used to format and deliver to an electronic filing server if a court were equipped to accept electronic filing.

Sample screens from the Chicago-Kent Dissolution Prototype:



## APPENDIX 2

### Participants in the January 16, 2003 Brainstorming Meeting in Chicago, Illinois.

Attendees: **Justice Web Collaboratory**

Ron Staudt  
Todd Pedwell

**Illinois Technology Center for Law and the Public Interest**

Lisa Colpoys

**Legal Service Corporation**

Glenn Rawdon  
Joyce Raby

**Legal Aid Society of Orange County**

Robert Cohen

**National Center for State Courts**

Jim McMillan

**LexisNexis File & Serve**

Tobias Hartmann  
Mason White

Telephone Attendees: **State Justice Institute**

David Tevelin

**Center for Access to the Courts through Technology**

Clark Kelso

**Legal Service Corporation**

Mike Genz

**California Administrative Office of the Courts**

Harry Jacobs for Bonnie Hough

**Kaivo**

Ray Agostinelli

**Probono.Net**

Michael Hertz

**Open Society Institute**

Richard Zorza