

CHAPTER 4

ONLINE DOCUMENT ASSEMBLY INITIATIVES TO AID THE SELF-REPRESENTED

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WHAT IS ONLINE DOCUMENT ASSEMBLY?

The rise of people going to court without a lawyer is now a well-established phenomenon. In the past five years a number of approaches have been tried by courts and legal service providers working to assist these self-represented litigants. Many are familiar with brick and mortar approaches where a court or legal aid group operates a self-help center for the self-represented to obtain information and forms. Virtual self-help centers have been on the rise, relying on websites and other tools, such as online guided interviews that lead to the creation of complete sets of court forms. Automated online forms can be a critical tool to enhance the work flow of a staffed self-help center, improving the quality and quantity of services in such centers, while at the same time becoming the backbone of an online self-help resource. This chapter will review online document assembly as it is being used to assist those without lawyers in court settings.

Document assembly is used to speed up the production of legal documents (Bladow 2007). Users respond to plain language questions, the answers to which

are inserted into a document in a specific format and style. Document assembly can be used to create simple forms, as well as complex multi-document legal packages. Document assembly applications can be hosted online, so that data is gathered and stored online, and the document can be produced from any web-enabled location. It eliminates the need for the end user to have licensed software installed on their machine and allows the end users to create their own documents remotely, without having to go to a legal office or court to retrieve forms.

Turbo Tax is an example of document assembly software used in a non-legal context for tax form preparation (Bladow 2007). The same principles that enable Turbo Tax users to answer questions and assemble a tax form can be applied in a legal context.

LEGAL EXAMPLES

In the private law firm environment, firms use document assembly applications to aid attorneys and paralegals to quickly produce contracts, employment and benefit manuals, and other complex legal documents. As the willingness of clients to pay hefty fees diminishes, large private firms are beginning to offer online document assembly to allow their corporate clients to create their own legal documents. This allows those clients to reduce the costs of drafting and encourages them to retain the private firms to consult with a legal expert for draft review upon draft completion (Randag 2009). In the private sector many foresee a fundamental restructuring of law practice and perceive online document assembly as a cornerstone of this change (Staudt 2009). Richard Susskind writes about how private legal practice is changing due to improvements in technology and other factors, including the fact that legal knowledge now can be commoditized through technology (Susskind 2008). Stephanie Kimbro, a leader in the virtual practice arena for private practitioners, concurs with Dr. Susskind. She argues that the factors that he identifies will be enhanced by changes in consumer taste. According to Kimbro (2009), the public at large expects better access to more affordable legal services.

In the legal non-profit environment, online document assembly was popularized by I-CAN!™ in 1999. I-CAN!™ was developed in California by the Legal Aid Society of Orange County. It was designed for the client community, and

interviews and instructions were geared for a fifth grade reading level (Hammond 2006). A number of court systems started using I-CAN!TM's version of document assembly to assist the self-represented court users at a "kiosk" or computer, where people could use a touchscreen to answer questions and produce documents.¹

The other software option that became popular in the legal non-profit community is HotDocs. HotDocs was originally developed by LexisNexis and was made available for free to recipients of Legal Services Corporation (LSC) funding (Hammond 2006). In 2008, this donation program was expanded to all Interest on Lawyer's Trust Account (IOLTA) programs (Legal Services Corporation 2008).

HotDocs became the software of choice in the legal aid community in large part because, as early as 2001, the Legal Services Corporation and the State Justice Institute supported and nourished LawHelp Interactive. They did so by providing a grant to the Ohio State Legal Services Association to create what at that time was called National Public Automated Documents Online (NPADO) (Legal Services Corporation 2008). NPADO became the delivery infrastructure by which legal aid programs could post online interviews to allow self-represented litigants to create their own legal documents (Staudt 2009; Bladow and Johnson 2008).

NPADO was launched as a pilot project in 2001 (Lauritsen 2004). Initially, the project was a two-year pilot to explore the creation of web-enabled infrastructure that would allow states to create their own interviews and post and share them in a central database (Lauritsen 2004). LSC provided grants to various states so local providers could learn how to use online document assembly tools to author their own forms applications (Staudt 2009).

LAW HELP INTERACTIVE

In 2010, NPADO changed its name to LawHelp Interactive. LawHelp Interactive (LHI) became a project of Pro Bono Net in 2005. Pro Bono Net is a national non-profit organization that works with courts, legal aid groups, and bar associations to increase access to justice using innovative approaches bolstered by technology. LHI refers both to a technical infrastructure developed over the years to meet the needs of diverse and large numbers of self-represented litigants, as well as to a

series of support services for users and contributors that include training, technical assistance, project management, discussion forums and one-on-one support (Bladow and Johnson 2008). LHI assembles documents using HotDocs and, optionally, A2J Author. In the LHI environment, HotDocs and A2J Author have been tightly integrated to work with each other and create a user experience that is simple, easy to understand, and results in assembled legal documents. A2J AuthorTM is a product from the Center for Access and Technology and the Chicago Kent School of Law that can be used to gather the appropriate information and has a graphic design that was developed specifically for low-literacy communities. In the LHI back end, the data collected by A2J Author is integrated into a HotDocs file that inserts the information into a prepared form that then assembles the documents either in MS Word or PDF format. In addition to the end user experience, LHI has developed an environment where legal non-profits and courts can test, post, and share interviews, and manage their own content. As of the end of 2010, there were slightly over 2,000 online interviews currently available through LHI, being used by hundreds of thousands of users in the U.S. and Canada. LHI created different user profiles that allow court personnel, advocates and self-represented litigants to use the interviews, save them, and then retrieve them so that they can be used to seed new forms. In 2010, LHI became a fully English-Spanish bilingual environment where users can access online interviews in English or Spanish and select the language in which the LHI information and instructions are saved.

LHI is now a well established project. By the end of 2010, 411,494 “interviews” had been conducted using LHI and users had prepared a total of 217,213 documents as a result. Because not all interviews lead to the creation of a document, the rate of assembly is, on average, 53%² (Pro Bono Net 2011).

The most frequent users of LHI applications are self represented litigants who assemble family law pleadings, other self-help forms and relevant correspondence. This may include, for example, letters to landlords. Some self-represented litigants are using the forms to request public benefits or to request administrative appeals. Legal aid attorneys are using the forms to assemble pleadings and reduce the time they spend on routine tasks, freeing some of their time to focus on more complex lawyering tasks, including research, community building or litigation. In addition to public interest lawyers, pro bono attorneys are also using LHI forms to assemble pleadings in areas of law where they are not substantive experts. With

LawHelp INTERACTIVE

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Mi cuenta | Mi contenido | Portal | Terminar sesión | Ayuda | Envíenos un correo electrónico | Español

Comience a responder las preguntas

Puede usar las respuestas que guardó o comenzar de nuevo.

Respuestas nuevas

Ingrese todas las respuestas

Respuestas guardadas

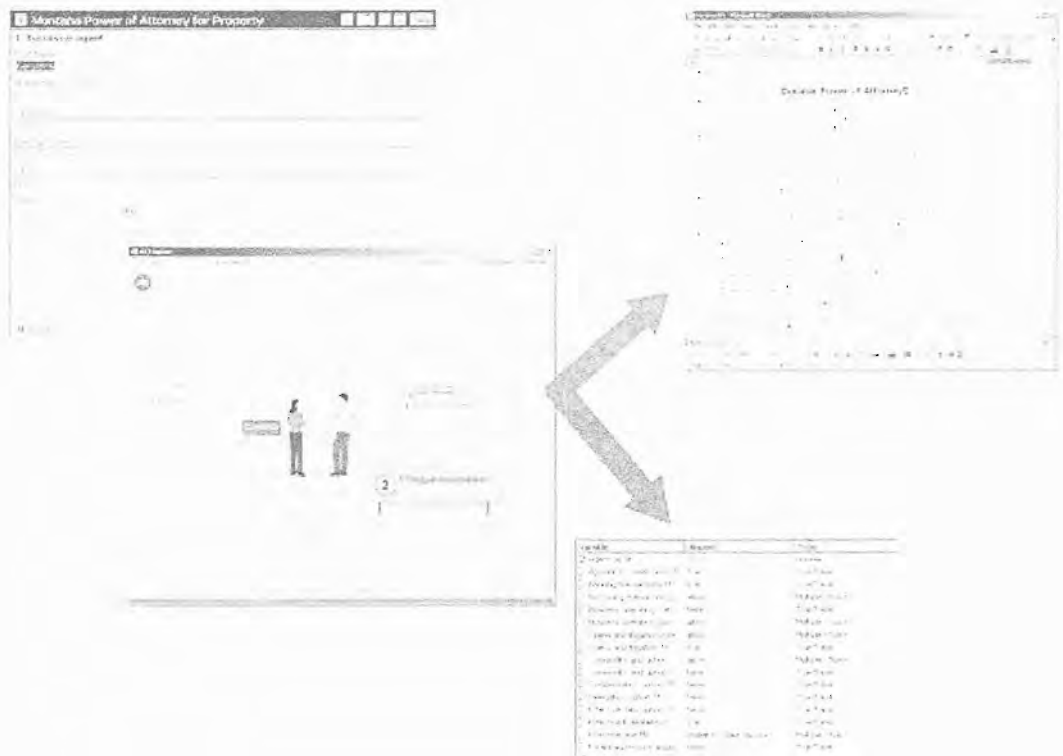
Comience con las respuestas guardadas. Haga clic en el nombre del archivo de las respuestas que desea usar.

Claudia Johnson's Answers (Created 02/24/10 03:14 PM ET)	February 24, 2010 03:14 PM	February 24, 2010 03:14 PM
Claudia Johnson's Answers (Created 06/30/10 01:29 PM ET)	June 30, 2010 01:29 PM	June 30, 2010 01:29 PM
Claudia Johnson's Answers (Created 08/20/10 01:29 PM ET)	August 20, 2010 01:29 PM	August 20, 2010 01:29 PM

LawHelp Interactive is now available in English and Spanish. Users can select the language of the site, and interviews can be started in either language as determined by the author of the interview. Source: <http://www.lawhelpinteractive.org>.

support and training from their local pro bono bar and legal aid programs, pro bono attorneys use the LHI forms to produce complete and accurate forms (Hopkins et al. 2009). Another substantial group of users are self-help center staff and volunteers. LHI forms are used by self-help centers in a number of states, as well as in Ontario, Canada, to help litigants prepare their pleadings. Users also receive procedural assistance and other support they may need to effectively represent themselves (Hopkins et al. 2009).

LHI is restricted to linking directly to two types of sites—the statewide access to justice website and mirror advocate website if it exists in that particular state, or, a court website that has a license with Pro Bono Net to link directly to LHI. Statewide legal help websites have existed for approximately ten years. The Legal Services Corporation, via its Technology Initiative Grants, funded legal aid programs to create both client-based websites and advocate based websites (LSC 2003). As of 2010, all state justice communities have at least one client-based statewide website, which provides information and referral to those seeking legal information. A full list of websites can be found at <http://www.lawhelp.org>. Pro Bono Net operates the websites for 28 states. Other states operate their own



Either HotDocs or A2J Author can be used to ask questions to populate forms in LawHelp Interactive. A2J Author is the more graphical interface that most states use for non-attorney users. HotDocs is the text based interface that attorneys and high volume users prefer to use. They gather information that is then inserted into documents that have been pre-tagged to identify the specific fields where the information should be inserted. At the end of the process, the user receives a document that is fully formatted and contains legible and complete information. Source: (SRLN 2008).

websites, sometimes in collaboration with other states, sometimes alone. LHI-powered forms can be posted in any of the LSC-funded statewide websites. Some of the most active users of online forms are in states not using websites other than Pro Bono Net websites; these include Illinois, Arkansas, and Idaho, all part of the top five states by volume of interviews.

To date, courts can take advantage of the LHI infrastructure and services free-of-charge, when they collaborate with their local legal aid programs. Courts can provide links on their websites to the interviews residing on the statewide legal help website. Recently, some of the most popular templates running from LHI

include small claims templates from Colorado. The courts are linking to the Colorado legal services website, and from there self-represented litigants are preparing their small claims pleadings online. Courts that *prefer* to exercise more control over the interviews that are created, want to direct where they are posted, and want to be more directly involved in serving court users without attorneys may license directly with Pro Bono Net for full access to LHI. They have full control over the creation of content, where and how those interviews are used, and how the online interviews support self-help services provided by the courts. For example, in California, self-help center staff link to LHI from a court-created and hosted webpage that only self-help center staff use. In New York, the courts created their own Do-it-Yourself webpages and forms linked directly to LHI from those pages owned and controlled by the New York courts.³

IMPACT OF DOCUMENT ASSEMBLY: EFFECTIVENESS AND EFFICIENCY

Courts

The New York Courts recently released a report on their self-help initiatives (Lippman, Fisher, Pfau, and Klempner 2011). They call their online forms initiative, “Do It Yourself” (DIY). New York reports that 55,000 DIY interviews were used in New York State (Lippman et al. 2011). New York also reports an increase in DIY form filings in family law court. Twenty-two percent (22%) of DIY users reported no Internet connection at home. Of these, 87% use the DIY application from public access computers in the courthouse. The report concludes that, regardless of Internet access at home, most litigants are using the online forms on-site in courthouses, highlighting the need for on-site public access computers (Lippman et al. 2011).

The report also notes that 39% of DIY form users were low income, with incomes below \$20,000 per year (Lippman et al. 2011). New York courts have focused resources on training court staff and clerks on the online forms they sponsor. Training significantly increased the utilization of forms. For example, live training on the New York City Affidavit to Vacate Default Judgment—Consumer Debt DIY Form led to a 1,779% increase in courthouse usage of the form

(Lippman et al. 2011).

In addition, New York courts are working on using the online forms to improve court access for Spanish speakers. They recently added Spanish instructions to some of the interviews. For example, in the child support modification interview, the litigant is given the option of choosing Spanish instructions. If the user chooses the Spanish option, the instructions generated with the DIY court form are printed in Spanish, in addition to English.

Idaho Legal Services recently released its evaluation of its online project (Zorza 2010). In Idaho, the courts and legal aid have been working closely together on using online forms for the past four years. The evaluation spanned the length of the project. Judges, clerks, and court assistance officers were surveyed as part of the evaluation. Clerks reported spending approximately 11.8 less minutes with the filers that came in with online forms. Judges reported that those who came in with online forms came better prepared to the hearings. In addition, clerks



In this interview created by the NY Courts Access to Justice Program, the interview asks the user if they want to print out instructions with the form in Spanish as an option. Source: https://lawhelpinteractive.org/groups/NY-NewYork/template.2009-05-21.0133314769/get_interview, screen 7.

reported that those using the online forms were better prepared to present their cases to the judges and increased the amount of information shared with the court. In essence, the online guided interviews have an educational and confidence building effect on those without lawyers (Zorza 2010). Judges reported that they were making more informed decisions in 35% of the cases that used the online forms. Clerks corroborated this by saying that the specificity of the orders had increased by about 25% for those cases using online forms (Zorza 2010).

Over 13 self-help centers in Southern California are actively using online forms to support and enhance their daily work, with centers requesting more pleadings and forms, and new centers exploring online forms (Hopkins, Thomas, and Jacobs 2010). One of the supervising attorneys of those centers reports that using the online forms enables them to serve more people each day, turn fewer litigants away, and provide more workshops than before they were using LHI forms (L. Parish personal communication, April 28, 2009). They note a reduction in mistakes in the forms, a reduction in the amount of time it takes to complete a pleading, and a reduction in litigant stress.

The Self-Represented

LHI regularly receives feedback from those who create their documents using the LHI forms. Users often report that the forms applications have a positive impact on their lives:

“Your website is a great service to someone on a limited income. Thank you.”

“This package was very user friendly, it compiled everything for the end user. Not having any knowledge on how to proceed, this system takes the guesswork out of what needs to be done which makes the process less intimidating. Thank you so much.”

“I have waited all these years to file for divorce because I didn't know where to start and the cost. I'm not able to afford a lawyer. Thank you!”

In Los Angeles, the self-help center staff report that the online forms allow liti-

gants to focus on the important aspects of the case, and to stop worrying about filling out the forms. They call it “reducing litigant fatigue.” In the past, users had to write information by hand, rewriting their name, address, and case number multiple times. With the online forms, the litigant can enter the information once and that information is replicated throughout all necessary forms. This enables the self-help center staff and litigants to focus on the information required, as well as the background and contextual information they will need.

In Idaho, users reported that LHI forms were quicker to complete than paper forms. They felt the online forms provided much more information and that they understood the process better after using the forms. They also reported that they felt like they were providing more information to the court when using the online guided interview (Zorza 2010).

Other self-help center supervisors report that most litigants are able to use the online forms with little assistance and that many times litigants express pride and self-satisfaction at being able to create their own legal documents.

In rural communities, where distances to the courts can be vast, the availability of online forms allows the self-represented to complete their pleadings without having to take time off from work, travel many miles to pick up paper forms, and then make a return trip to file them. Self-represented litigants can access and complete the interviews online, and then travel to the court one time to file them.

BUILDING A PROJECT

The following section describes the necessary steps to launch an online document assembly project using LHI.

Plan

When starting an online project, the most important activity is the initial planning stage. Some of the questions to ask are:

- a) Who is the intended audience? Are they experts or not experts? Are they attorneys or non-attorneys?

- b) Where will they fill out the forms? At home? At work? In a courthouse or at a public library computer?
- c) What forms will be used most often? Are those forms uniform across the state or do they vary by court or county? What are the most difficult forms?
- d) Who will make changes to the forms if the law changes?
- e) If the user will be at a public computer, who will provide Internet access? Printer support? Headsets for sound and privacy?*

By answering these questions courts and their partners can determine the type of interview to develop, and what level of support users will need, to ensure they find the application easy and convenient.

For example, if the users of the form will be attorneys, self-help center staff, or high volume users, the interview interface may be created only in HotDocs and not in A2J Author™. This is the approach adopted in California. They are creating HotDocs interviews that court staff and volunteers use in court-based self-help centers to populate the forms. Some programs leave sections of the forms incomplete, which will be filled out by the litigant in the course of a workshop that explains the legal concepts in more detail. Others allow supervising attorneys to remotely review the draft pleadings prepared by volunteers in different court locations. California has other document assembly programs that are designed for litigants to complete themselves, focusing on increasing efficiency of staff, volunteers and regular users.

In New York, by way of contrast, the forms are intended primarily for online self-represented users and those visiting the courts and using the forms in kiosks where additional support may not be provided. New York built all of its interviews using A2J Author. The New York interviews are written in plain language and provide many definitions and assisted dialogs that aid the self-represented user to work through the interview from beginning to end.

In all of these projects, LHI forms are made available for free to the end user and cannot be sold. If a pro bono program or bar association wants to make the forms available for its volunteer lawyers, and the program is using LHI to make the forms available online, the pro bono program cannot sell access to the forms to its members. Attorneys who use the forms in their pro bono work are precluded

from using them in their paying cases. Local programs are responsible for enforcing these form use restrictions. Local programs are also responsible for ensuring that in distributing these interviews they are not violating ethical and professional rules of conduct.

The best types of forms to automate using LHI appear to be civil forms primarily used for low-income users. These can be forms that are used in administrative proceedings, or they can be forms that are used in litigation. To date, the forms most often developed for document assembly applications have been family law forms, because that is where courts and legal aid partners have the most demand. The criteria for selection will vary state by state and partnership by partnership. Some of the criteria used to prioritize forms for development might include:

1. Whether the form is uniform or not.
2. Whether the form is accepted.
3. The need for screening before granting access to the form.
4. The level of complexity.
5. Available assistance that might support the use of the form.
6. The percentage of represented opposing parties.

Lack of uniformity need not impede the automation of a project; however, it may affect the willingness of other courts to accept the form. In some states, the advent of online forms has served as the mechanism for promoting the use of uniform state forms. In Idaho, the Supreme Court established a process and dialog regarding uniform forms before online forms were created. Thus, local forms had been eliminated earlier, paving the way for uniform online forms. The Idaho Supreme Court continues to monitor local courts to ensure that they accept forms watermarked as produced by LHI and Idaho Legal Services (Dennard 2007).

Not all states have uniform forms before automation of forms begins. In Illinois, courts that create virtual self-help centers in partnership with Illinois Legal Aid Online voluntarily accept the forms, realizing that their partners are non-profits that do not have the resources to customize each form to each local nuance and requirement. As a result, 38 counties now accept the same form for various types of pleadings. In Kentucky, online forms were first deployed in Jefferson County,

where the Legal Aid Society of Louisville (LASLOU) is the local federally-funded legal aid provider. There are no uniform divorce pleadings in Kentucky to date. Once the other counties learned that in Jefferson County there was an online self-help center where litigants were creating full, complete, and legible forms, other judges began to consider accepting the Jefferson County forms for use in their own proceedings. The adoption of a statewide divorce form for the state of Kentucky is now under consideration. This would not have had happened without the creation of the online pleadings by LASLOU.

Triage is another important form selection criterion. Triage forces the groups working together on access to justice issues to identify the gaps in service and identify where to best refer users that need attorney representation. When there are few resources, there is often a concern that the availability of online forms will encourage litigants who really need the assistance of counsel to proceed self-represented. In reality, people are proceeding on their own whether or not they have access to online forms, because hiring a lawyer is expensive.⁵ The fear is that people will find the forms online and use them without fully understanding the implications of their pleadings, placing their own case at risk. This is a very valid concern and one that can best be addressed by careful planning: choosing the most appropriate forms to automate, building in a screening component, and supporting the use of forms in self-help centers and in conjunction with other free or low-cost legal services.

Online interviews can be implemented for in-depth screening using decision trees. At the beginning of an interview, before answering questions to create a document, the person can be asked key questions to ensure that the form is appropriate for their particular type of case and circumstances. Persons who do not meet the requirements for a particular type of action, or may be at risk if they proceed on their own, can be identified and referred to the appropriate resources, including the private bar and legal non-profit organizations. The screening capacity of online interviews requires that the partners know and understand the delivery of legal services locally, as well as the gaps. If there are no referral sources for a certain type of cases, the creation of online forms leads to the identification and discussion of how that gap can be addressed within the continuum of services. In Los Angeles, for example, when a litigant indicates that there is a pension in a divorce case, the staff at the self-help center refers the user to law firms that are willing to prepare special pension pleadings known as Qualified Domestic

Relations Orders (QDROs). Thus, in creating self-help forms, the creation of triage and identification of cases that can benefit from self-help and those that need additional assistance is enhanced by the nature of the interviews themselves.

The other factor to consider when selecting a form for automation is the percentage of litigants in that particular court that are proceeding without a lawyer. If a large number of pleading parties and responding parties are self-represented, the automation of those forms will require that the forms be prioritized for both groups. If primarily the respondents are proceeding on their own, then preparing petitioner pleadings may not be as high a priority as providing a guided interview for respondents. However, courts must be mindful of the importance of providing neutral services for all litigants before the court. If the percentage of self-represented litigants is low in a particular docket, but a large number of cases are delayed because parties fail to follow certain court orders or requests, online forms may help increase compliance in those cases.

Launch

The process of automating a form can take anywhere from three to nine months. Once the forms are completed and tested, the time to launch them and make them available to the public at large begins. The time when the forms are being created is the time to start planning and thinking about the launch.

When a form is posted to LHI for public use, it creates with it a great opportunity to attract media attention and to educate the public about the statewide website, where the forms reside, and the programs operated by the partners that created the form. Courts and nonprofits creating online forms should prepare press releases to explain and promote the use of the forms and related resources.

Assess

Before an online forms project goes live, it is important to ascertain that all the necessary components are running properly. It is best to monitor the use of the forms over a period of six months or longer, to ensure that outreach has been effective, and that forms are easy to use and understand.

If a self-help center plans to use the forms inside the center, court IT will need

to provide assistance with Internet access and connectivity, ensuring that the computers have the necessary software to display and print the forms. The center will need to have a policy on how to save answer files, and what type of accounts they want to create on LHI. Managing the answer files of hundreds of self-help center visitors will require some planning and evaluation. If the self-help center uses pro bono lawyers or student volunteers to help prepare or review forms online, protocols will also need to be drafted and discussed prior to deployment.

Before launching the application, the host court should identify how it will evaluate user satisfaction and program impact. In some states, users of online forms are given the opportunity to answer a survey after they complete their forms. In other states, users are encouraged to email feedback directly to LHI or to the statewide website where they found the form.

Another important consideration is to identify how support will be provided to the users of the forms. If the forms are being made available in unstaffed kiosks or from the user's own residence or a public library, how will the user obtain help remotely? If a form is identified as defective, who will be responsible for changing it and uploading it? It is important to identify the policy that will guide future improvements and investments in the project as utilization increases and new scenarios evolve. Some states are using web chat tools to provide this additional support to remote users. In Montana, users of online forms in LHI can request assistance via online chat provided using the Live Help application. Other states, like Minnesota, are providing remote assistance using other commercial tools.

Essentials for Success

Every access to justice community is different, and every state has a different set of resources and a different level of support from the private bar and the state. Despite these variations, there are some common factors that are key to the success of an online document assembly project. Key factors for success are:

1. Identifying the optimal forms to automate and managing the process.
2. Building the forms in partnership.
3. Planning for sustainability from the beginning of the project.

Forms and Project Manager

Identifying the correct form and building in effective screening and decision trees within the application ensures that users have a positive experience.

In developing a project of this nature, it is important to assemble a planning and oversight team that includes key stakeholders. To ensure that the materials are legally sufficient, you must include lawyers with expertise in the subject matter of the form. You will also need to obtain the buy-in of court administrators and the private bar. A project like this requires a communication strategy that educates and informs the groups that have a vested interest in serving those without lawyers, including pro bono programs and the private bar. Project teams will need to include three or four different types of participants: a) a template developer—the person who automates the form; b) a substantive expert—usually an attorney who reviews the forms and interviews for accuracy and to ascertain that there are no material omissions; and c) court self-help center personnel or court administrators—as these individuals understand who the self-represented are in the court.

Partnerships

Pro Bono Net is an organization that has a strong history of fostering collaboration centered on new ways to use technology tools. The automation of online forms by necessity creates the need to consult and include various groups working with overlapping populations in the same court rooms. For an online form to succeed, it needs to benefit from both the substantive expertise in the chosen area of law (family, housing, consumer), as well as the view points of the private bar, the organized bar, and legal aid communities. When all of these groups work together, forms emerge that everyone can support. Each application should include a certain level of triage with strong referrals for those who do not qualify for the form. If the forms are created in isolation, the project may lack support and may even engender opposition from other groups working in the same area of law. Poorly vetted forms may fail to adequately screen the cases to identify those who are not good candidates for self-help interventions.

Sustainability

Because laws and rules change regularly, it is always safe to assume that at some point the automated forms will need to be updated to reflect changes. From the initial planning stage, those working on document assembly applications need to identify who will monitor the law and rules for changes, who will implement the changes, and how new users will be informed about updates. It is critical to plan for project sustainability from the beginning. Sustainability also includes being able to create forms in new emerging areas of need. For example, divorce forms have been one of the LHI form types in highest demand. In 2010, this shifted, as the use of child support modification forms eclipsed the use of divorce forms. As the economy changes and new needs arise, communities will need to increase the number of developers able to meet the demand for more and more complex forms. Pro Bono Net trains new and experienced developers on how to create forms. Each community will need to allocate resources to make sure that as staff turn over, and as the needs of the community change and grow, they can meet the demand for online forms. Legal non-profits and courts will need to educate funders on how they are using online forms and identify new funding sources for the projects the forms enhance and support. Although traditional legal services funders are familiar with online forms projects, a majority of foundations and traditional funders may not be. Education of future funders will need to be a key activity to continue creating additional forms and projects that address new, growing, or emerging areas of need.

LESSONS LEARNED AND BEST PRACTICES

Triage

Generally, when a project to automate forms is getting started, the most common concern and potential source of opposition is that the online forms may end up being used for the wrong type of case or fact pattern. This is a valid concern and one that practitioners experienced in the self-help realm also must heed. Self-representation is not appropriate for all cases or every litigant. Self-help works well when it targets a particular type of case for a particular type of situation. Selecting

the forms to be automated and the level of complexity that the self-help delivery mechanism will address is crucial.

Fortunately, document assembly interviews allow persons to read information before they begin, so they can understand what they need and what the form requires. This information resides outside of the interview itself, on the “staging page,” where the link to the online interview to LHI can be found. In addition, the interview can itself screen for specific scenarios and circumstances that a substantive expert believes may require a different type of intervention. Some states are screening out certain types of cases where self-representation may be inappropriate. When inappropriate, the application does not allow the person to complete the form and provides referrals to other resources that may be able to provide more in-depth legal assistance or representation. A partnership approach can help ensure screening and referrals are effective.

Well-Defined Terms and Plain Language

Because the online forms can be used by anyone from anywhere, it is important to write all the instructions, questions and any definitions in plain language. Utilization of plain language can significantly increase the success in assembling the form, but also the likelihood that the person will know what to do with the form and what to expect out of the process.

A key element of guided interviews is the inclusion of plain language definitions of legal concepts and processes.⁵ As guidance is inserted into a form, it is important to stay away from legal terms and definitions and provide the guidance in simple plain English.⁷

Outreach Is a Constant and Ongoing Activity

During the initial period of this process, courts and legal aid groups focus on the forms and on the creation of the form. However, creating a form is not enough. Document assembly project teams need to incorporate an ongoing outreach strategy, and utilize every opportunity to make sure the public at large can easily locate the online forms. Website managers should be encouraged to highlight any new forms that are created every time they do outreach for the website. Online forms

are very valuable content, so highlighting them during regular website outreach is important.

In addition, programs should treat the release of new forms as a press event. Because different groups have been involved in creating the forms, the advent of forms makes a nice story about collaboration to increase access to justice. In a time of cuts and furloughs, a story on automated forms and online tools may highlight that the courts do care about access, despite the budgetary need to reduce services on other fronts. The same applies to legal aid.

Make it Easy to Find, Visible

In a statewide website, post the link to the forms in a place of prominence, perhaps *on the home page*. Some states and courts are creating self-help or form specific portals in their web pages to increase the number of people that benefit from the forms. Some states are using web chat (LiveHelp) to help information seekers quickly find the forms (ABA YLD 2010). Sharing the links to the forms with social service agencies and public libraries is also a good way to ensure that those needing to respond to a legal issue in writing can quickly find help without undue delay.

Highlights From the Field

Many court systems share a deep commitment to grant access to those that cannot afford attorneys. Some of those states use LHI-powered forms as a cornerstone of the court system response to the phenomenon of increased self-representation, and a reflection of their commitment to improve access to justice.

New York

The New York Courts entered into a license with Pro Bono Net to provide direct links to the court's website for online form packages at the statewide level. In New York, the forms are for use by self represented litigants. They use the A2J Author interface and assemble the documents in HotDocs. The forms are served from LHI, and the answer files are stored in LHI. Technical support and user sup-

port is provided by Pro Bono Net.

Idaho

The partnership between Idaho Legal Aid Services Inc. (ILAS) and the Idaho courts is one of the earliest and most enduring partnerships established to develop automated tools to enhance access to justice. The partnership was created in 2004 and 2005 out of a recognition that a large percentage of the family law litigants were going to court on their own. ILAS successfully applied for LSC funding to develop online forms to support the courts in their effort to enhance judicial efficiency and improve their self-help services. From the beginning, the Idaho Supreme Court was a champion of the project, pushing for form uniformity and acceptance across the state. They limited the creation of forms to dockets where self-representation was high. In 2005, the state adopted uniform forms, limiting the use of local forms. Under the leadership of Judge Michael Dennard, the court launched a number of self-help initiatives to complement the use of online forms, including the creation of court self-help center websites. As early as 2001, the Idaho Legislature passed enabling statutes that authorized the Idaho Supreme Court to issue guidance and rules on self-representation. The strong partnership between the courts and ILAS allows thousands of users each year to prepare correct pleadings, even if they do not have access to legal representation. As of 2010, five years later, Idaho continues to be one of the states where LHI forms are most heavily used. In 2005, Idaho users participated in 939 interviews online, 339 of which resulted in the creation of completed forms. In 2009, Idaho users participated in 42,485 interviews, of which 21,801 resulted in the creation of forms. Every year since 2005, utilization of Idaho forms has been robust and increasing (Bladow 2010).

Illinois

In Illinois, as in Minnesota, the legal services group has a technology back-up center that has undertaken the automation of self-help forms. Illinois Legal Aid Online (ILAO) was created in 2001 as a Tech Center, the project of a partnership of 12 legal aid groups and organizations in Illinois. In 2006, ILAO partnered with the Illinois Coalition for Equal Justice to develop and establish technology-based

self-help centers through out the state. Since then, 38 self-help centers have been opened throughout the state, some in partnership with courts and some in partnership with public libraries, and sometimes with both. In Illinois, uniform forms do not exist and courts tend not to have established brick and mortar self-help centers. In those counties where the virtual self-help centers have been created, the courts voluntarily accepted the standard online forms created by ILAO. ILAO takes responsibility for monitoring statewide legislative changes to the law. ILAO has one staff attorney in-house who monitors multiple areas of law to keep the forms current and up-to-date. Illinois has posted the most extensive and diverse self-help content to LHI, with over 50 forms designed for self-represented litigants. The Illinois materials are diverse and cover many areas including those often resolved outside court, including consumer law materials, employment documents, and identity fraud resources, among others. In 2005, Illinois had served 1,650 interviews and assembled 848 documents online. As of the end of 2009, Illinois had served over 52,000 on LHI, with 26,495 documents produced. Like Idaho, Illinois is one of the top ten states in terms of online form utilization using the LHI project. In 2009, ILAO obtained funding to integrate the online document assembly forms with legal aid case management systems. This pilot project can serve as a guide and model to other legal aid programs that want to integrate their client database systems to automatically populate online forms.

California

The online document assembly initiative in California started with the Administrative Office of the Courts (AOC), which dedicated an attorney-technologist to develop templates in conjunction with local court self-help centers. This is one example where the courts, rather than legal aid organizations, drove the project. While legal aid organizations and courts have a long history of collaboration in California, in the area of document assembly, the legal services community has played a lesser role.

In California, as the downtown Los Angeles courthouse self-help center was being established, LHI was also coming into its own. The advent of the first online forms coincided with the launch of the downtown center, which serves 300 litigants per day using Americorps volunteers and paralegal staff under the direction of experienced attorneys.⁷ Initially, the LHI forms were used to create

divorce pleadings. Over time, more forms and court locations have been added.

The AOC has also worked with legal services agencies, such as Neighborhood Legal Services (NLS) in Los Angeles, to develop templates for their domestic violence clinics. With LHI, one staff attorney, overseeing three pro bono attorney volunteers per day in different courthouses, is creating approximately 6,000 petitions for domestic violence restraining orders per year.

In 2009, Neighborhood Legal Services (NLS) became the first LSC-funded group in California to successfully submit and receive an LSC TIG grant to create online eviction defense answers, using statewide forms, to be used at the self-help centers NLS manages under contract with the courts. These online forms will be posted on the statewide website and will be available across the state. Court-based self-help center staff will also have access to these templates. The project is proceeding in a collaborative fashion, with the AOC preparing the landlord's petition and NLS preparing the tenant's answer and motions.

The decision to use LHI forms is a local decision and was not mandated or driven by the AOC. Some courts use EZLegalFile, a forms completion program created by the San Mateo, California, court, which is designed for self-represented litigants to use themselves. Since California uses standardized statewide forms for most actions, there are also many commercial forms vendors.

California courts alone have posted over 60 active templates on the LHI platform. As mentioned previously, in California the majority of the templates are used in fully staffed established self-help centers; thus, most of the forms are created in HotDocs, to allow staff users more ease of use during workshops and group sessions. In 2009, California users generated 29,356 interviews on LHI, generating 28,703 completed documents. By far, California has the highest rate of assembly, in large part because the forms are used inside a self-help center, where they benefit from the review for completion by a staff attorney or pro bono lawyer outside of the courthouse and support from an Americorps volunteer. The rate of assembly in California, at 98%, is the highest across the country.

Even though they all are using LHI online forms, each of the self-help centers using LHI in Southern California is different in the way they use the forms to support the center's work flow. In Pasadena, a center that serves a large Asian-Pacific Islander community, the self-help center hired a trilingual attorney who speaks English and two Asian-Pacific Islander languages. Although the forms and interviews are assembled in English, the staff attorney is able to provide one-on-one

sight translation of the online interview to help the litigant answer the questions in their native language, while the staff enters the information in English. A similar process occurs in other Los Angeles courthouses, where most of the Americorps volunteers are fluent in languages other than English and are able to sight translate the interviews for Limited English Proficient clients, while helping them enter the answers in English.

In Los Angeles Superior Court, the self-help center is experimenting with having the forms reviewed by pro bono attorneys who do not come into the courthouse. The LHI platform allows for the sharing of documents and the Los Angeles Courthouse is testing the email feature within LHI to see if it allows them to recruit pro bono lawyers who can work from their own offices.

CONCLUSION

Self-help centers are no longer a novel and new idea. Over 30 states now offer assistance to the self-represented using document assembly applications. Court and provider partnerships are developing and supporting new and diverse applications, ranging from the simple to the complex. Since 2005, LawHelp Interactive has made over one million interviews available and has been used to generate over 630,000 documents (Pro Bono Net 2011).

To promote the use of these technologies, funders and partners will need to address a number of challenges. It is critical that existing projects be thoroughly evaluated to assess the impact of these initiatives on the intended beneficiaries, including the self-represented, courts, pro bono attorneys, and legal aid attorneys. It will also be important for courts and project partners to focus on project sustainability, to ensure the LHI infrastructure remains robust enough to accommodate the many thousands of forms and projects it supports. With planning and funding, new features and functionality can be added to further improve access to justice.

There is, as yet, no uniform measure of success for online document assembly projects. Although some projects use volume or rate of document assembly to measure their impact, it would be better to identify a range of core qualitative and quantitative measures. Ideally, the field would benefit from a complete cost-effectiveness study, which compares outcomes for the unaided self-represented with

outcomes for users who have had the benefit of commercial applications and the LSC-funded LHI applications.

It will be critical for LHI to attract sufficient funding to permit project developers to continue building on the latest technology, and to enable LHI to maintain the level of support it has been able to provide to new and continuing participants of an ever growing number of users and template developers. As the complexity of pleadings increases, and new technologies are harnessed to aid the self-represented, LHI will need to continue modifying its robust infrastructure to accommodate those new developments. Additionally, as the legal aid community moves from print media brochures to video and audio-visual files, LHI will also need to adapt. Future developments may include the need to capture the benefits of mobile and hand-held technology, and to capitalize on the advent of better and more robust search algorithms and data transmission protocols.

Courts will want to build e-filing applications around document assembly technology. Automated forms can become a vehicle through which courts ensure their electronic case management systems remain accessible to the indigent and the self-represented. These are foreseeable developments that bring a host of opportunities and challenges to those working together to increase access to justice. They are also opportunities that bring costs with them and cannot be achieved without resources. Courts will need funding for pilots, testing, evaluation and eventually dissemination of new applications with a focus on long term sustainability.

LHI continues to offer hands-on support to developers and end users, providing training, technology support and monthly phone calls, where the wealth of experience within the wider LHI community can be shared. Each year, new courts and legal aid groups join the collaborative enterprise that makes up LHI. Pro Bono Net is proud to be the steward of an active, collaborative, and engaged national community focused on increasing access to justice for all.

NOTES

1. A description of kiosks and their uses in government and other sectors can be found at LSC 2005.
2. As will be discussed below, some interviews include triage protocols that do not allow the completion of an interview if certain elements in a case are present or missing. In addition, when a new template is posted to LHI, there is always testing that occurs. Testing may

result in incomplete interviews, leading to lower assembly rates.

3. In New York, the forms are also posted in the statewide website <http://www.lawhelp.org/ny>. In California, the interviews that court self-help center staff use are not posted on <http://www.lawhelpcalifornia.org>. They are posted on a website for legal services and court-based self-help staff: <http://www.courts.ca.gov/programs/equalaccess>.
4. The A2J Author interviews provide for the use of a sound file that reads the questions and provides explanations as the user moves along the interview. This is helpful to low-literacy populations. In a public setting, some courts are using speakers attached to the computer to magnify the sound and other locations are using headsets to facilitate privacy. In December 2010, A2J Author 4.0 was released. It allows for the insertion of video in the guided interview. LawHelp Interactive supports A2J Author 4.0.
5. The average national hourly rate in 2009 was reported at \$289.00 (Miller, R. 2009).
6. For more information about plain language in legal services please go to <http://www.writeclearly.org>. This webpage was created with LSC funding by Legal Assistance of Western New York, and includes examples of online interviews before plain language and after plain language editing. See also Marz article this volume supra note [9] as well as www.transcend.net.
7. See chapter in this volume by Dixon and Little on Los Angeles self help services.

REFERENCES

- American Bar Association Young Lawyers Division. "The Digital Edge, LiveHelp Increasing Access to Legal Information Online," *The Young Lawyer*, Volume 14, Number 3, 2010.
- Bladow, K. (2007 August 15). *The Primer in Document Assembly*. Retrieved from <http://lsntap.org/node/288>.
- Bladow K. and Johnson C. (2008). Online Document Assembly, *Future Trends in State Courts 20th Anniversary Edition*, National Center for State Courts, p. 44. Retrieved from http://www.ncsconline.org/WC/Publications/KIS_CtFutu_Trends08.pdf.
- Bladow, K. (2010 May 11). LHI State Statistics, *National Usage Reports*. Retrieved from http://www.probono.net/dasupport/library/item.313102-2010_Q1_State_Usage_Report (need password to access).
- Bladow, K. (2010 May 11). LHI State Statistics, *National Usage Reports*. Retrieved from http://www.probono.net/dasupport/library/item.313102-2010_Q1_State_Usage_Report (need password to access).
- Judge Dennard, Michael (2007 March). *Idaho Interactive Court Forms Project*. Presented at the

- Equal Justice Conference of the ABA/NLADA, Denver, Colorado. Retrieved from http://www.probono.net/dasupport/library/item.147889-Idaho_Interactive_Court_Forms_Project.
- Hammond, G. (2006 September 27). *Document Assembly Software for Legal Services*. Retrieved from <http://lsntap.org/?q=node/1407>.
- Hopkins, M., Austin, C., Johnson, C., Keith L., (2009 May). *Tech Enabled Self-help Centers*. Presentation at the Equal Justice Conference meeting of the ABA/NLADA, Orlando, Florida. Retrieved from http://www.probono.net/dasupport/library/folder.250182-2009_ABA_Equal_Justice_Conference.
- Hopkins, M., Thomas, K.C., Jacobs, H., (2010 April). *Integrating Technology into Self-help Center Operations*. Presentation at the California Conference on Self Represented Litigants. Organized by the Administrative Office of the Courts, San Francisco, CA. Retrieved from: http://www.probono.net/dasupport/library/item.309037-Integrating_Technology_Into_SelfHelp_Center_Operations.
- Johnson, C., Medina, R., Klempner, R., Marz, S., (2009 September). *Technology Enabled Self-help Centers*. Presentation at the Courts Solution Conference meeting of the National Center for State courts, Denver, Colorado, page 15. Retrieved from http://www.probono.net/dasupport/library/item.274099-Technology_Enabled_SelfHelp_CentersPaper.
- Kimbro, S. (2009 October 19). *Susskind Predicts: "Disaster Ahead for Lawyers Unwilling to Change."* Virtual Law Practice. Retrieved from: <http://virtuallawpractice.org/2009/10/susskind-predicts-disaster-ahead-for-lawyers-unwilling-to-change/>.
- Legal Services Corporation (2003). Using Technology Innovations to Strengthen the Delivery Systems of State Justice Communities, *Technology Initiative Grant, Status Report*, p.2. Retrieved from http://www.lri.lsc.gov/pdf/03/030066_TIGrptf.pdf.
- Legal Services Corporation, Office of the Inspector General (2005 July 22). *Public Access Kiosks*. Retrieved from <http://www.selfhelpsupport.org/search/item.79800> (password needed for access).
- Legal Services Corporation, (2008 August 4). *Legal Services Corporation and LexisNexis Launch "HotDocs® Software Donation Program" to Help Legal Organizations Serving Nation's Poor*. Retrieved from http://www.lsc.gov/press/pr_detail_T7_R57.php.
- Lauritsen, M. (2004 January). History of Online Document Assembly for Legal Services, Technology Initiative Grants Conference conducted by the Legal Services Corporation, Austin, Texas.
- Lippman J., Fisher F., Pfau A., and Klempner R. *NY State Courts Access to Justice Program 2010*. Retrieved from http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J_2010report.pdf.
- Miller, R. (2009 July 7). *Average Hourly Rate for Lawyers* [Web blog post]. Retrieved from http://www.marylandlawyerblog.com/2009/07/average_hourly_rate_for_lawyer.html.

- Randag, S. (2009 July 28). Orrick's Free Term Sheet Generator and Forms Library Aimed at Entrepreneurs, *ABA Journal: Law News Now*. Retrieved from http://www.abajournal.com/news/article/orricks_free_term_sheet_generator_and_forms_library_aimed_at_entrepreneurs/.
- Pro Bono Net (February 5, 2011) , 2010. LHI National Statistics, *National Usage Reports*. Retrieved from <http://www.probono.net/dasupport/library/folder.313098-2010> (password required).
- Self Represented Litigants Network, Court Leadership in Self Represented Litigation, Bladow K, and Richard Zorza ed., *Module 7, Deploying Automated Forms for Access*, Copyright National Center for State Courts, Court Solutions Conference, Baltimore, Maryland, 2008.
- Susskind, R. (2008). *The End of Lawyers?: Rethinking the Nature of Legal Services*. Oxford University Press USA.
- Staudt, R. (2009 Summer). All the Wild Possibilities, *Loyola of Los Angeles Law Review*, Vol. 47, page 1118. Retrieved from <http://llr.lls.edu/docs/42-4staudt.pdf>.
- Zorza, R. (October 2010). *Idaho Legal Aid Interactive Forms Evaluation*. Retrieved from: http://www.probono.net/dasupport/library/item.341486-Idaho_Evaluation_of_Online_Forms (password required).

