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Jessica Frank∗

INTRODUCTION

There is a huge justice gap in the United States today. In 2015, there were more than sixty-three million Americans income-eligible for legal aid.[1] However, there are less than 5,000 attorneys working in legal aid organizations nationwide.[2] Multiple studies have shown that eighty percent of the civil legal needs of low income people go unmet each year due in part to this shortage of legal assistance.[3] Low-income people, by necessity, are becoming self-represented litigants.

For example, in New York state, over ninety-six percent of defendants in consumer debt, eviction, and child support proceedings are unrepresented.[4] Even though low-income people risk "going to jail, or losing a house, health care or custody of their children[,]" they do not have the right to an attorney in civil cases.[5] Without years of legal training, these self-represented litigants are often confused by

1. *FY 2016 Budget Request*, LEGAL SERVS. CORP., http://www.lsc.gov/media-center/publications/fy-2016-budget-request [https://perma.cc/DKP3-3APH].

2. *2013 LSC By The Numbers: The Data Underlying Legal Aid Programs*, LEGAL SERV. CORP., http://www.lsc.gov/media-center/publications/2013-lsc-numbers [https://perma.cc/4DW7-ZENR].

3. *The Unmet Need for Legal Aid*, LEGAL SERVS. CORP., http://www.lsc.gov/what-legal-aid/unmet-need-legal-aid [https://perma.cc/RNG7-NN7Y].

4. Rochelle Klempner, *The Case for Court-Based Document Assembly Programs: A Review of the New York State Court System's "DIY" Forms*, 41 FORDHAM L. REV. 1189, 1192 n.23 (2015).

5. Tina Rosenberg, *Legal Aid with a Digital Twist*, N.Y. TIMES (June 1, 2016), http://www.nytimes.com/2016/06/01/opinion/legal-aid-with-a-digital-twist.html?_r=0 [https://perma.cc/GJS6-4D28].

the myriad of legal documents and procedures they face. Legal self-help websites and automated court forms can often help bridge that knowledge gap, allowing self-represented litigants to complete their legal matters. This article will discuss the history of document assembly and A2J Author®, an interactive interviewing tool for self-represented litigants,[6] within the legal aid context; make the argument for why document assembly can help to close the justice gap; show that over the past decade, this technology has repeatedly proven itself to be cost effective, efficient, and well received by self-represented litigants; and finally, discuss the next wave of technological advances A2J Author is making to keep itself relevant and useful to self-represented litigants.

I.   HISTORY OF DOCUMENT ASSEMBLY AND A2J AUTHOR IN LEGAL AID

Fifteen years ago, Illinois Tech Chicago-Kent College of Law ("Chicago-Kent") and Illinois Tech Institute of Design partnered on the Access to Justice, Meeting the Needs of Self-Represented Litigants: A Consumer Based Approach Project ("Meeting the Needs Project").[7] By visiting five courthouses across the country and watching self-represented litigants navigate the court system, the team identified ways in which the justice system's user experience could be improved.[8] These observations led to a key insight that "the simple act of filling out forms raises unique challenges that . . . many low income self-represented litigants have trouble overcoming."[9] Based on the Meeting the Needs Project, Chicago-Kent created the Illinois Joint Simplified Dissolution of Marriage ("JSDM") prototype.[10] This custom-designed software automated the Joint Simplified Dissolution of Marriage pleadings for litigants in Illinois. The JSDM prototype showed that with automated assistance, self-represented litigants could overcome the paper work hurdles within the justice system.[11] However, the JSDM

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6. A2J Author is a Registered Trademark. For the remainder of this Article, the ® symbol will be omitted.

7. Charles Owen, Ronald Staudt, & Edward Pedwell, *Access to Justice: Meeting the Needs of Self-Represented Litigants*, ILL. INST. OF TECH. 1, http://kentlaw.iit.edu/ Documents/Institutes%20and%20Centers/CAJT/access-to-justice-meeting-the-needs.pdf [https://perma.cc/2ULY-KS79].

8. *Id.*

9. *History of A2J Author*, A2J AUTHOR, http://www.a2jauthor.org/content/ history-a2j-author [https://perma.cc/6WBY-8LJB].

10. *Id.*

11. *Id.*

prototype was expensive and time consuming to build.[12] Around the same time, the Legal Services Corporation began granting special funds under the Technology Initiative Grants ("TIG") program to encourage legal aid organizations to use technology in innovative ways.[13] In 2001, TIG signaled its interest in using automated forms within the legal aid context by funding a pilot project that explored document assembly.[14]

In 2004, the Center for Computer-Assisted Legal Instruction ("CALI") and Chicago-Kent partnered to create a software tool that would allow court staff and legal aid attorneys to replicate the success of the JSDM prototype quickly, easily, and cheaply. With grants from TIG and the State Justice Institute ("SJI"), CALI and Chicago-Kent created A2J Author.[15]

A2J Author is a web-based user interface for document assembly used by legal aid attorneys, court staff, and law students to create A2J Guided Interviews®.[16] A2J Guided Interviews present the content underlying complicated legal forms in a user-friendly and understandable format. A guide avatar walks the self-represented litigant down a virtual pathway to the courthouse, asking questions as they proceed.[17] Questions are asked one at a time and the self-represented litigant is given additional information along the pathway in the form of pop-up videos, audio, graphics, and text as they progress. The answers collected from the self-represented litigant's responses to the questions can then be used in a variety of ways. Most commonly, the answer file is sent to a HotDocs template to be placed into an automated document, but it can also be put directly into an organization's case management system to facilitate online intake at that organization, or e-filed with a court system.[18]

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12. *Id.*

13. *Technology Initiative Grant Program: Overview*, LEGAL SERVS. CORP., http://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig (last visited Oct. 15, 2016) [https://perma.cc/6WBY-8LJB].

14. KATHERINE BLADOW & CLAUDIA JOHNSON, FUTURE TRENDS IN ST. CTS., ONLINE DOCUMENT ASSEMBLY 2 (2008), http://www.probono.net/library/attachment.141692 [https://perma.cc/9EL6-X6V3].

15. *A2J Author*, CHI.-KENT C. LAW, http://kentlaw.iit.edu/institutes-centers/center-for-access-to-justice-and-technology/a2j-author [https://perma.cc/2ULY-KS79].

16. A2J Guided Interviews is a Registered Trademark. For the remainder of this Article, the ® symbol will be omitted.

17. *A2J Authoring Guide Chapter 1: A2J Author Overview*, A2J AUTHOR, http://www.a2jauthor.org/content/chapter-1-a2j-author-overview [hereinafter *A2J Authoring Guide Chapter 1*] [https://perma.cc/DK8A-CLP8].

18. *Id.*

A2J Author credits much of its success to its partnership with ProBono Net's LawHelp Interactive ("LHI") server.[19] LHI, also funded in part by the Legal Services Corporation, hosts the A2J Guided Interviews and the associated HotDocs templates at no cost for legal aid organizations or the self-represented litigant. These A2J Guided Interviews are then made available to self-represented litigants on court and legal aid statewide websites.[20]

II. WHY DOCUMENT ASSEMBLY?

The Meeting the Needs Project identified the process of selecting and completing court forms as a major hurdle for self-represented litigants to overcome.[21] This process cannot be avoided because "[i]t is impossible to fully access the legal system without completing and filing written court papers."[22] There are numerous forms needed to complete even a simple court case and they often must be presented to the court in a specific order.[23] Even when the correct form is found, self-represented litigants often find the questions confusing and the process intimidating.[24] The failure to properly fill out a form can have serious consequences for self-represented litigants.[25]

The legal forms themselves, while difficult for individual self-represented litigants, are filled with repetitive content and easily identifiable unknowns or variables. With the emergence of TIG funding and advancements in document automation technology in the early 2000s, legal forms were ripe for the application of technology to solve a societal need.

Document assembly programs can help the self-represented litigant choose the correct forms, guide them in answering the questions, provide additional helpful information throughout the process, and return completed documents to them in an organized

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19.   *History of A2J Author*, *supra* note 9.

20.   *See, e.g.*, *Self Help-Idaho Interactive Forms*, IDAHO LEGAL AID SERV., http://www.idaholegalaid.org/node/2207/self-help-idaho-interactive-forms   [https://perma.cc/WZ4S-6JCT].

21.   *Id.*

22.   Klempner, *supra* note 4, at 1194.

23.   *Id.*

24.   James E. Cabral, et al., *Using Technology to Enhance Access to Justice*, 26 HARV. J.L. & TECH. 241, 256 (2012).

25.   JULIE MACFARLANE, THE NATIONAL SELF-REPRESENTED LITIGANTS PROJECT: IDENTIFYING AND MEETING THE NEEDS OF SELF-REPRESENTED LITIGANTS FINAL REPORT 113 (2013), http://www.representingyourselfcanada.files.wordpress.com/2014/02/reportm15-2.pdf [https://perma.cc/PTH6-YAMZ].

and legally sufficient packet.[26] The delivery of automated forms over the internet allowed legal aid organizations to capitalize on a new service delivery model. Automated documents "provide agencies with a way of leveraging their services by adding, ultimately, significant numbers of additional users at minimum additional cost."[27] Furthermore, people want "ready access to information, and the ability to navigate some aspects of their problems on their own."[28] As LSC President James Sandman recognized, "The do-it-yourself movement is pervasive across all segments of the economy today. It's not going away, and anyone who thinks law is immune to it is delusional."[29]

With the availability of TIG and SJI funding, legal aid organizations and courts were able to come together to overcome the financial and technical infrastructure barriers of setting up a document assembly server that large-scale document assembly projects face in private practice. These systems are often very expensive to set up and maintain, and require extensive technical expertise.[30] The LHI national server (formerly known as the National Public Automated Documents Online or NPADO) provides the technical server expertise, eliminates issues with hosting high volume public facing A2J Guided Interviews and HotDocs templates, and provides developer training along with the A2J Author team.[31]

The national server model allows legal aid organizations to focus more on content creation and legal expertise and less on technical know-how. It has unified the knowledge base around a small set of technology tools, mainly A2J Author and HotDocs, and it has allowed the American legal aid system to use their

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26.   Klempner, *supra* note 4, at 1198.

27.   ROGER SMITH, LEGAL EDUC. FOUND., DIGITAL DELIVERY OF LEGAL SERVICES TO PEOPLE ON LOW INCOMES 26 (May 2016), https://www.thelegaleducationfoundation.org/wp-content/uploads/2016/05/Digital-Technology-Spring-2016.pdf [https://perma.cc/D4LU-ZYSJ].

28.   John M. Greacen, Amy Dunn Johnson & Vincent Morris, *From Market Failure to 100% Access: Toward a Civil Justice Continuum*, 37 U. ARK. LITTLE ROCK L. REV. 551, 554 (2015).

29.   *"We Need Technology & Paraprofessionals": Jim Sandman's Interview with Bloomberg BNA*, LEGAL SERVS. CORP. (Aug. 1, 2015), http://www.lsc.gov/media-center/blog/2015/08/06/we-need-technology-paraprofessionals [https://perma.cc/JEK9-RNGD].

30.   *See, e.g.*, *HotDocs Server Help File Overview*, http://help.hotdocs.com/server/webhelp/ [https://perma.cc/396X-QRGG].

31.   BLADOW & JOHNSON, *supra* note 14.

collective purchasing power to significantly lower the cost of document automation.

This model has expanded to include several state and federal court systems as well. The courts looked to document assembly programs as a way to manage the increasing number of self-represented litigants coming through their doors every day. The New York state courts were an early adopter of A2J Author and HotDocs for their "Do-It-Yourself" or "DIY" Programs.[32] In their Best Practices Guide, they argued "[t]echnology's exponential growth, its enhanced accessibility and its decreasing costs, has made self-help Document Assembly Programs an ideal mechanism for serving the unrepresented public. Both access to justice and court operations are greatly improved through their use."[33]

As this service delivery model proved itself, more legal aid organizations across the country created A2J Guided Interviews and HotDocs templates. To date, there are over 1,000 A2J Guided Interviews in forty-two states, four federal courts, and two foreign countries.[34] The legal subject matters include everything from name changes to fee waivers, from divorce to protection orders, and from child support to eviction.[35] Since 2005, over 3 million people have run an A2J Guided Interview, and over 1.8 million court documents have been generated on LHI.[36]

III.   PROVEN RESULTS

Beyond the impressive run statistics, studies of self-represented litigants and anecdotal information from the litigants themselves have shown automated documents offered by courts and legal aid organizations do indeed help to close the justice gap. A recent study from Michigan proved self-represented litigants using automated documents on Michigan Legal Help were just as

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32.   FERN A. FISHER & ROCHELLE KLEMPNER, N.Y. ST. CTS.: ACCESS TO JUST., DOCUMENT ASSEMBLY PROGRAMS: BEST PRACTICES GUIDE FOR COURT SYSTEM DEVELOPMENT AND IMPLEMENTATION USING A2J AUTHOR iii–iv (June 2013), https://www.nycourts.gov/ip/nya2j/pdfs/BestPractices_courtsystemdocument_ assemblyprograms.pdf [https://perma.cc/Y8TM-L4TZ].

33.   *Id.* at iii.

34.   *Where is A2J Author Used?*, A2J AUTHOR, http://www.a2jauthor.org/ where_is_A2JAuthor_used [https://perma.cc/V4AM-4YED].

35.   *See 2016 Q2 LHI A2J Content Usage Reports*, LAWHELP INTERACTIVE RESOURCE CTR., http://www.probono.net/dasupport/library/folder.608244-Q2_2016_ Reports (last visited Aug. 2, 2016) (password required).

36.   *A2J Author Hits 3,000,000 Usages!*, A2J AUTHOR, http://www.a2jauthor.org/ content/a2j-author-hits-3000000-usages [https://perma.cc/P5NJ-DWFF].

successful in achieving their divorces as those people who were represented by an attorney.[37] In fact, the divorces were completed in less time than cases that involved attorney-represented plaintiffs or other self-represented plaintiffs who did not use Michigan Legal Help.[38]

Working with the Michigan State Court Administrative Offices, Michigan Legal Help was able to create automated divorce pleadings and track them through the court process.[39] These were then compared to other divorce pleadings filed by attorneys representing the plaintiffs and other self-represented litigants who did not use Michigan Legal Help's forms.[40] The Michigan study notes, "Those who are familiar with the MLH [Michigan Legal Help] forms appreciate that the documents are filled out completely, well-organized, and easy to read and understand; also, litigants presenting MLH pleadings tended to be less frustrated than others."[41]

The New York State Courts Access to Justice Program surveys all self-represented litigants who use their DIY forms. The DIY forms use A2J Author and HotDocs. New York was an early adopter of automated documents and continues to be in the top five states in terms of runs and assemblies on LawHelp Interactive.[42] The New York State Courts Access to Justice Program posts the user testimonials on the New York Courts' website and regularly tweets out the positive feedback.[43] A 2015 look at the survey results found there were over 14,000 handwritten comments on the surveys, over 6,000 of them were about the DIY programs, and over ninety-three percent of those were positive feedback directly from self-

37. KERRY SHELDON, BRIDGEPORT CONSULTING, MICHIGAN LEGAL HELP EVALUATION REPORT: AN EXAMINATION OF THE EFFICACY OF THE MICHIGAN LEGAL HELP WEBSITE IN HELPING SELF-REPRESENTED LITIGANTS SUCCESSFULLY NAVIGATE THE DIVORCE PROCESS 6 (Jan. 2015), http://www.srln.org/system/files/attachments/michigan-legal-help-evaluation-report-1-15.pdf   [https://perma.cc/4J88-63UR].

38. *Id.* at 24.

39. *Id.* at 11.

40. *Id.* at 23.

41. *Id.* at 36.

42. *See 2016 Q2 LHI A2J Content Usage Reports*, *supra* note 35 (showing top five states according to A2J Guided Interview runs in quarters 1 and 2 of 2016 were New York, Arkansas, Illinois, Michigan, and Kansas).

43. *See DIY Forms: User Testimonials*, N.Y. ST. COURTS: ACCESS TO JUST. PROGRAM, https://www.nycourts.gov/ip/nya2j/diytestimonials.shtml [https://perma.cc/ZY78-F2MR]; *see generally* N.Y. State Courts Access to Justice (@NYCourtsA2J), TWITTER, https://twitter.com/NYCourtsA2J [https://perma.cc/QF9B-B6XY].

represented litigants.[44]   One self-represented litigant wrote, "All forms should have a DIY Form program option. It saves a lot of time and there are no errors. It also saves a second trip to the court."[45] Another self-represented litigant said, "The DIY program is the best thing the court system ever did. It makes the process easier and faster."[46]

Document assembly's impact can also be seen in Arkansas. A majority of the divorce filings for people without property or children in Arkansas are done by self-represented litigants using the automated forms created by Arkansas Legal Services Partnership. In 2014, 12,255 divorce petitions for people without property and children were created using the A2J Guided Interview and HotDocs templates on arlegaservices.org.[47] There were 14,383 total divorce petitions without property or support filed in Arkansas that year.[48] This shows that more than eighty-five percent of the divorces without property or support likely came from Arkansas' automated documents.[49]

It is not just the litigants themselves that appreciate the automated documents. Despite helping hundreds of thousands of people navigate the complicated justice system, those running the New York DIY program claim "it is the court system that may have reaped the greater benefit."[50] Self-represented litigants tend to be disorganized, confused, and take up a lot of clerk time.[51] The document assembly programs walk the litigants through the court forms step-by-step, reducing the number of questions that clerks have to answer.[52] A Chief Clerk in New York noted the NY DIY forms "helped my office maximize efficiency . . . . [The litigants] produce accurate, concise, and completed forms without making several trips to the clerk for line by line [sic] instructions."[53] The DIY programs also reduce the number of errors and rejected pleadings which creates less work for the clerks, reduces frustration among the litigants, and helps to ease court congestion.[54] Judge Lisa

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44.   Survey results on file with the author.
45.   *DIY Forms: User Testimonials*, *supra* note 43, at May 13, 2015 submission.
46.   *Id.* at June 6, 2012 submission.
47.   Greacen et al., *supra* note 28, at 559.
48.   *Id.*
49.   *Id.*
50.   Klempner, *supra* note 4, at 1214.
51.   *Id.* at 1215.
52.   *Id.*
53.   *Id.*
54.   *Id.* at 1215–16.

Woodruff White, who chairs the Self-Represented Litigants Committee of the Louisiana District Judges Association, noted that "[s]elf-represented litigants seem to fare better and have a more positive view of the legal system if they have access to self-help resources versus those litigants without access to self-help resources."[55]   Document assembly programs, specifically A2J Author and HotDocs, are well used and well loved by target low-income populations, are as effective in many cases as documents prepared by private attorneys, and improve court efficiency.

IV.   FUTURE GROWTH OF A2J AUTHOR

As the digital native[56] population ages, the expectation that routine justice problems can be addressed not only online, but on one's smart phone, will increase. A Spring 2015 Pew Research Center study found that seventy-two percent of Americans reported owning a smartphone.[57] Breaking that number down a bit shows that while sixty-five percent of American adults over thirty-five years of age have smartphones, ninety-two percent of American adults eighteen to thirty-four years old have them.[58] This is true across socioeconomic backgrounds.[59] Compare that to a 2015 study that found only fifty percent of people in households making less than $30,000 a year owned a desktop or laptop.[60] More of the population is accessing the Internet only from mobile devices.

When using technology to address the justice gap, it is essential to stay ahead of the curve. That is why A2J Author and others

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55.   Press Release, Lisa Stansky, Se. La. Legal Servs., Technology for Justice: Se. La. Legal Servs. (SLLS) Launches Free Online Forms and Library Guides to Help People Clear Life's Legal Hurdles (Aug. 1, 2016) (on file with author).

56.   *See* Marc Prensky, *Digital Natives, Digital Immigrants* 1, http://www.marcprensky.com/writing/Prensky%20-%20Digital%20Natives, %20Digital%20Immigrants%20-%20Part1.pdf [https://perma.cc/M6EN-FYUD], *in* 9 ON THE HORIZON (Oct. 2001) (explaining digital natives are those people who have "spent their entire lives surrounded by and using computers, videogames, digital music players, video cams, cell phones, and all the other toys and tools of the digital age.").

57.   Jacob Poushter, *Smartphone Ownership and Internet Usage Continues to Climb in Emerging Economies*, PEW RES. CTR. (Feb. 22, 2016), http://www.pewglobal.org/2016/02/22/smartphone-ownership-and-internet-usage-continues-to-climb-in-emerging-economies/ [https://perma.cc/YJ74-M9N7].

58.   *Id.*

59.   *Id.*

60.   Monica Anderson, *The Demographics of Device Ownership*, PEW RES. CTR., (Oct. 29, 2015), http://www.pewinternet.org/2015/10/29/the-demographics-of-device-ownership/ [https://perma.cc/7A3X-DNK8].

within the legal aid technology arena are working so diligently to ensure the technology that has proven itself for more than a decade can continue to stand the test of time. For A2J Author, this has meant a re-write of the software from a Flash-based tool to one written in HTML and jQuery that is completely web based.[61] The new version of A2J Author has a mobile responsive viewer, which detects the size of the screen of the end user's device and adapts accordingly. LawHelp Interactive, which hosts A2J Guided Interviews, is also in the process of optimizing their website for mobile.[62]

A2J Author's latest version allows developers of A2J Guided Interviews to create them in the cloud, making the development process available to Windows or Mac users.[63] A2J Author version 6.0 adds an internal document assembly tool that makes A2J Author a complete end-to-end solution for automating court forms in the cloud. Finally, A2J Author is planning to build in analytics tools to better study how low-income people interact with the A2J Guided Interviews. These tools will allow developers to create better A2J Guided Interviews that will increase the number of people able to successfully complete the document assembly process.

The enhancements and additions to A2J Author will allow it to transition smoothly from a world of desktops and dial-up to a mobile world where justice is accessible from the phone in everyone's pocket.

CONCLUSION

The Legal Services Corporation seeks to provide some effective assistance to 100% of the low-income population.[64] They have made it clear that "[t]echnology can and must play a vital role in transforming service delivery,"[65] because there are not enough resources to provide an attorney for every income eligible litigant. Document assembly, powered by A2J Author, has a proven track

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61. *History of A2J Author, supra* note 9.

62. *LHI/HotDocs Overview*, JUD. COUNCIL OF THE CAL. CT. 2 (Jun. 15, 2016), http://www.courts.ca.gov/partners/documents/LHI-Hot-Docs-Overview.pdf [https://perma.cc/AB2C-XFDG].

63. *A2J Authoring Guide Chapter 1, supra* note 17.

64. LEGAL SERVS. CORP., REPORT OF THE SUMMIT ON THE USE OF TECHNOLOGY TO EXPAND ACCESS TO JUSTICE 1 (Dec. 2013), http://www.lsc.gov/sites/default/files/LSC_Tech%20Summit%20Report_2013.pdf [https://perma.cc/Q2D3-8E9Z].

65. *Id.* at 2.

record of helping those who would otherwise have no other place to turn. The expansion in subject matters and jurisdictions covered by automated forms should be a priority moving forward. Document assembly saves litigants and court staff time, is inexpensive, easily replicable, and well received in the legal services community.   Automated forms provide an essential lifeline to self-represented litigants and with forthcoming technological improvements will continue to bridge the justice gap in the future.