

The Colorado Equal Access Center: Connecting Unrepresented Litigants to Legal Resources through Technology

by William Hood and Dan Cordova

As part of the Colorado Judicial Department's continuing response to the challenges facing unrepresented civil litigants, Chief Justice Nancy Rice is implementing her vision for the Colorado Equal Access Center (EAC). The EAC will help connect unrepresented Colorado litigants to legal resources through an interactive website. The Judicial Department has contracted with a consortium of Denver-based technology companies to create the EAC website by the end of 2016.

At the outset, the project will focus on three areas in which the judicial branch believes the need for help is the greatest: domestic relations, landlord/tenant, and small claims. Other areas of the law will be added later. An advisory board, assisted by volunteer subject matter specialists, has already started feeding the tech team essential content for an electronic decision tree that will help users evaluate what legal assistance they might need and where they can find it.

By creating the EAC, the Judicial Department hopes to augment the efforts of our self-represented litigant coordinators (or "Sherlocks") and family court facilitators. These legal professionals already make it easier for many Colorado citizens to journey through our court system and tap sources of assistance that might otherwise elude them.

This article briefly examines the civil legal justice gap that inspired the EAC, the anticipated features of the EAC website, and the history of the EAC's development.

The Problem: The "Justice Gap"

Following hearings around the state in 2013, the Colorado Access to Justice Commission (ATJC) observed that there is a significant justice gap in Colorado and around the country: "That gap—the difference between the civil legal needs of low-income people and our system's capacity to meet those needs—remains a considerable barrier to the shared ideal of equality before the law."¹

To better understand this gap, consider these statistics: In Colorado domestic relations cases over the last three years, roughly three-quarters of litigants were unrepresented.² In two-thirds of domestic

relations cases, there was no lawyer on either side.³ In county court civil cases, consisting primarily of collections, evictions, and restraining orders, the pro se rate for responding parties held steady at 98% over the same period of time.⁴ Despite the outstanding work of Colorado Legal Services (CLS) throughout the state, the organization is chronically understaffed and must turn away many prospective clients. CLS has 51 lawyers to serve the entire state. That means the ratio of CLS lawyers to income-eligible Coloradans—households with income up to 125% of the federal poverty level—is roughly 1:16,800 (using data from the 2014 Census Bureau regarding Colorado's population). Across the entire population of Colorado, the ratio of lawyers to residents is approximately 1:213.⁵

Of course, many Colorado attorneys take cases pro bono, and Sherlocks and family court facilitators do an excellent job of offering general legal information to the multitudes, despite being prohibited from offering legal advice. But the volume of cases remains staggering: thousands upon thousands of county court civil and domestic relations cases every year involve parties who struggle to navigate a complicated legal system.

These cases in which so many parties proceed without lawyers often have dramatic reverberations not only for the litigants but also for their children and the larger Colorado community. For example, whether pro se litigants get help affects the rate of homelessness and the ability of courts to act in the best interests of children in allocating parental responsibilities.

Colorado lawyers have long recognized the need for greater access to justice, as evidenced by these initiatives:

- In 2003, concern about access to justice prompted the Colorado Supreme Court and the CBA to unite in creating the statewide ATJC. Today, all but one judicial district also has a local access to justice committee.
- Since 2006, thousands of Colorado lawyers have been recognized by the Colorado Supreme Court under Colo. RPC 6.1 for doing at least 50 hours of pro bono work in a year. Last year,



About the Authors

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144 legal organizations (ranging from large firms to governmental agencies and solo practitioners) met that target. More than twice that number of organizations made the pledge to try to hit the 50-hour goal.

- In 2012, the CBA established the Modest Means Task Force (MMTF) to help address the lack of affordable attorneys available to represent clients of modest means (largely by focusing on discrete-task, or “unbundled,” representation).
- In 2014, members of what is now called the Chief Justice’s Commission on Professional Development identified improving access to justice as one of their top priorities. The resulting Service/Access to Justice Working Group of the Commission has done much to facilitate pro bono representation and to more generally help low-income litigants.
- In 2016, the CBA issued a strategic plan, a pillar of which is to “facilitate access to justice” by supporting new programs that educate members of the bar on how to help indigent litigants and those of modest means.⁶

These recent and widespread efforts show the growing resolve of our legal community to help the unrepresented.

Progress in expanding access to justice has prompted judicial leaders to establish even more ambitious goals. Noting recent strides in many states (like ours) in expanding self-help services, modifying court rules to facilitate access, encouraging unbundled representation, and increasing pro bono assistance, the Conference of Chief Justices and Conference of State Administrators passed Resolution 5 in 2015, which resolves to “support the aspirational

goal of 100 percent access to effective assistance for essential civil legal needs”⁷

Concern about the justice gap is not limited to lawyers and judicial officers. For example, in its June 2016 edition, *5280* magazine ran an article entitled “A Crisis in Colorado’s Civil Courts,” in which the author observed: “More and more Coloradans are appearing in civil courts without attorneys.⁸ Is this a crisis or our legal system’s new normal?” Accompanying the *5280* article is a depressing graphic of a woman marooned on an island made to resemble a scale of justice. The article examined how difficult it can be for pro se litigants to handle even a relatively simple civil case, and how existing resources often remain inadequate. Its message was plain enough: pro se litigants need more help.

Features of the EAC Website

While hardly a panacea, the EAC website will help pro se litigants avoid feeling marooned. In that *5280* article, one litigant is quoted as asking, “Why couldn’t this process be more like filing your taxes online, where if something’s missing, the system sends up a red flag and everything stops?” As it happens, that is precisely the kind of ease of use to which those working on the EAC aspire.

Like online tax services, the EAC website will feature a step-by-step decision tree to help people evaluate how they should proceed. In plain language, the decision tree will assist users in identifying the kind of legal problem they have, the controlling law, and the procedural requirements they must meet as litigants.

The decision tree will feature three aptly named paths from which users can choose: (1) I’m ready to do this myself; (2) I need some help to do this myself; (3) I need a lawyer. As the question-and-answer session unfolds, those who start the process thinking they are solidly in one category are provided the opportunity to shift categories and access resources available to those in the other two categories.

The EAC will provide an electronic portal to repositories of helpful information created by the Colorado Judicial Branch and a variety of legal organizations, including CLS, state and local access-to-justice organizations and bar associations, Metro Volunteer Lawyers, the CBA, and the law schools at the University of Colorado and the University of Denver.

For those seeking counsel, the EAC decision tree will allow users to identify what kind of legal assistance they need and where they might most efficiently find it. This will lead some to CLS or to pro bono providers. It will prompt some to consider unbundled legal services. Others may opt for full-scope, private representation. The EAC will provide a link to a directory for all licensed lawyers in Colorado, which can be filtered by areas of practice, location, availability of alternative fee arrangements, and other considerations.

The EAC website will link litigants to existing judicial resources, such as:

- the Colorado Supreme Court Law Library;
- step-by-step instructions on the state judicial website;
- individual judicial district web pages (including links to self-help centers);
- Sherlock presentations and videos;
- the CLS website;
- self-help center brochures; and
- Colorado Judicial forms (which will be available for completion online with a feature to save sessions).

The EAC website will operate on mobile devices. This is important because many low-income litigants have smartphones they can use to access the Internet, even if they do not own, or have access to, more sophisticated personal computers.⁹ For those users who do not own mobile devices, the EAC will also provide online access at courthouses and public libraries statewide. The Colorado Supreme Court Library staff will provide training and remote support to those locations.

If future resources permit, the EAC hopes to add a “chat” feature and to make the website available in Spanish.

Evolution of the EAC

In 2014, Chief Justice Rice developed the idea for the EAC and presented it to the ATJC with a request for feedback. The ATJC responded with specific suggestions, including the creation of an EAC Advisory Board.

In 2015, the Chief assembled the Advisory Board, inviting participation by representatives from the bench, law firms, CLS, the ATJC, and the CBA. Board members include:

- Kristen Burke, founder of Bluebird Legal Strategies and former counsel to Chief Justice Rice;
- Adam Espinosa, Denver County Court judge and MMTF member;
- Molly French, technology unit manager for CLS;
- Erin Pickering Harris, senior manager of CLS (La Junta);
- Velvet Johnson, 21st JD Sherlock (Mesa County);
- Lauren Schmidt, partner at Brownstein Hyatt Farber Schreck and ATJC member;
- Kathleen Schoen, CBA Access to Justice liaison; and
- Betty Strobel, 19th JD District Court judge (Weld County).

The Judicial Department has an internal team tasked with driving the EAC project forward. This team includes Dan Cordova, Colorado Supreme Court librarian (who is also interim executive director of the EAC); Christopher Ryan, clerk of the Colorado Court of Appeals; Steven Vasconcellos, senior manager of Court Services for the Colorado Judicial Branch; and Andrew Rottman, counsel to Chief Justice Rice. Justice Hood is also actively involved as the Supreme Court’s liaison to the ATJC.

In February 2016, the Judicial Department solicited bids for website design, which resulted in the selection of a local group to build the website, develop its interconnections with the Colorado legal community, and provide a template for adding legal subject areas.

In April 2016, First JD Sherlock Brigitte Smith joined the EAC project on a part-time basis. She will help the EAC Advisory Board and the subject matter specialists frame questions on the website in the way she is accustomed to hearing them posed by litigants in Jefferson County’s self-help center. Having someone regularly available who understands how unrepresented litigants often conceptualize and articulate their problems is invaluable.

In May 2016, the Judicial Department contracted with a consortium of three Denver-based technology companies to build the website by the end of the year: Commerce Kitchen, a software development studio;¹⁰ Anneal Inc., a company that provides project

strategy and management for a variety of organizations;¹¹ and Lark IT, an IT infrastructure company. Together these three companies have built, and continue to support, public sector outreach projects regionally and globally. The Judicial Department is impressed with their experience and optimistic that they will continue their success with the EAC project.

Barring unexpected budgetary developments, the Judicial Department plans to fund two positions to sustain the EAC: a website administrator and an executive director/access to justice coordinator, who will continue to develop more content for the website and establish more links to other resources.

With the creation of the EAC, Colorado joins several other states on the forefront of using technology to help unrepresented litigants.¹² While the Colorado Judicial Branch is proud of the progress our legal community has made in this area, we realize that there is still much to do and we welcome your input. To make suggestions, please contact Dan Cordova, Colorado Supreme Court librarian, at (720) 625-5100 or daniel.cordova@judicial.state.co.us.

Notes

1. Colorado Access to Justice Commission, “Justice Crisis in Colorado 2014: Report on Civil Legal Needs in Colorado” 7 (2014).

2. Colorado Judicial Branch, Research and Data, www.courts.state.co.us/Administration/Unit.cfm?Unit=annrep.

3. *Id.*

4. *Id.*

5. The population of Colorado as of July 1, 2015 was roughly 5.5 million. See U.S. Census QuickFacts, Colorado, www.census.gov/quickfacts/table/PST045215/08. The number of active Colorado lawyers as of July 5, 2016 was 25,801, according to the Colorado Office of Attorney Regulation.

6. CBA Refocus 20/20 Plan Overview, www.cobar.org/Portals/COBAR/RefocusOverview.pdf?ver=2016-06-09-123730-250.

7. Conference of Chief Justices Conference of State Court Administrators, Resolution 5: Reaffirming the Commitment to Meaningful Access to Justice for All, www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ATJReports/18_JFA.authcheckdam.pdf.

8. Gardner, “A Crisis in Colorado’s Civil Courts,” 5280 (June 2016), www.5280.com/magazine/2016/05/crisis-colorados-civil-courts.

9. 13% of Americans with an annual household income of less than \$30,000 per year are smartphone-dependent. 64% of American adults now own a smartphone of some kind, up from 35% in the spring of 2011. Smith, “U.S. Smartphone Use in 2015” (Apr. 1, 2015), www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015.

10. Commerce Kitchen’s clients include the Colorado Secretary of State for Go Code Colorado, DaVita, and Rocky Mountain Cancer Centers.

11. These organizations include Landesa, a legal policy-focused international non-profit, the Public Library Association, and the International City/County Management Association.

12. Massachusetts, through its Legal Aid Websites Project, has created the Legal Resource Finder, www.masslegalservices.org/FindLegalAid. Florida, through its Commission on Access to Civil Justice, plans to pilot a “Triage Gateway,” which it hopes will be the nation’s first statewide online connector to existing information and resources. Pudlow, “Panel Begins Making Recommendations,” *The Florida Bar News* (Oct. 15, 2015), www.floridabar.org/DIVCOM/JN/JNNews01.nsf/RSSFeed/E70BF2B3F77936B285257ED50043615E. ■