



photo by Brant Bender

Richard Zorza of the Self-Represented Litigation Network discusses how librarians can help to make the legal system more welcoming for self-represented litigants.

It's the Institution

Librarians join the revolution to open the judicial system to self-represented litigants

By Julie Graves Krishnaswami

Program C-4: “Law Libraries and the Access to Justice Revolution”

Presenters: **Charles R. Dyer**, coordinator and moderator, consultant and retired public law library director; and **Richard Zorza**, Self-Represented Litigation Network.

Innovations in information literacy are taking place not only in academic law libraries, law firm libraries, and court libraries, but are simultaneously occurring in the legal system. Innovation also means rethinking—and remaking— institutions that no longer serve us well. As any lawyer or non-lawyer can confirm, the traditional legal system has ignored the needs of self-represented litigants now flooding courtrooms seeking solutions to real and significant problems.

Thankfully, revolution is afoot, and the judicial system is responding to accommodate this new class of users. Presenter Richard Zorza, introduced

by Charles Dyer as an “instigator of innovation,” spoke at the Annual Meeting Program “Law Libraries and Access to Justice Revolution” about the movement to make courtrooms, judicial procedures, and the legal system as a whole, more friendly, open, and available to self-represented litigants.

Institutional Resistance

Zorza began this well-attended presentation by outlining the challenges facing self-represented litigants. Those who have studied or carefully observed the legal process in the United States are familiar with the hurdles: lack of resources for legal aid, judges and court staff who are underappreciated and overworked, and an overwhelmed system poorly structured to address the needs of most litigants. Zorza also identified the surprising additional challenge for middle-income wage earners of finding legal services, further demonstrating the widening gap between the judicial system and those it is meant to serve and

protect. Adding to the complexity of the problem, courts are historically reactive institutions, legal services are bundled, and judges and court staff have been indoctrinated in the view that remaining ethical and impartial means they can in no way help, guide, or advise self-represented litigants. Finally, law librarians have mistakenly confused the prohibition on providing legal advice with providing legal information.

To be sure, the mission to revolutionize access to the judicial system is much broader than simply identifying and plugging the service gaps. It involves bringing together court staff and judges, legal aid and legal services groups, community organizations, and libraries.

Changes from the Inside

Zorza’s presentation provided specific suggestions about what court administrators and law libraries can do to make the institution more welcoming to self-represented litigants. Throughout the

presentation, he emphasized that the simple creation and availability of forms and pre-prepared orders go a long way toward making courtrooms more accessible to the self-represented. Websites designed specifically with self-represented litigants in mind also help.

In addition, case management services should also change from passive systems that assume all litigants have lawyers monitoring the flow of their clients' cases and calendars. In reality, the number of self-represented litigants is growing; if case management systems could reflect this reality by being mindful of the dockets and helping cases move through the system to a resolution, fewer cases would be dismissed and, ultimately, all litigants would be better served. For instance, clerks could alert parties of calendaring deadlines for filing required documents or motions. Clerks could also simply phone or e-mail litigants to alert them of deadlines or required appearances to prevent cases from being dismissed. Zorza suggested following the hotel model by establishing a concierge desk in the courthouse to provide basic information.

Law Librarians Leading the Revolution

Law librarians can train public librarians or other professionals staffing court and public libraries in how to access legal information. Additionally, law librarians can create and make available legal research guides written in plain language on topics that self-represented litigants most need to research. Telephone hotlines and web chat services are other potential tools for assisting self-represented litigants. Law librarians should also take the lead in teaching classes on legal research, court procedure, and specific areas of the law most needed by self-represented litigants, including divorce, landlord-tenant, and bankruptcy. Resource sharing, referrals to pro bono programs, self-help programs, and other legal services programs could

also be coordinated by law librarians. More specifically, court librarians can spearhead access to current legal authority as well as assist and train individuals in how to use and understand these materials.

Librarians can also recognize the often-forgotten distinction between providing legal information and providing legal advice. Zorza defined legal information as facts about the law and legal services; on the other hand, legal advice constitutes advice about a particular course of action to further a party's best interest. He also provided a simple rule of thumb: if a question

has more than two possible answers, then providing one would constitute providing legal advice, but if a question has only one possible answer, answering the question constitutes providing legal information. Zorza offered several

examples that drove home this point. For instance, legal information is who, what, when, where, and why, whereas legal advice is the best way to proceed given the circumstances.

Lawyers and Judges Joining the Movement

Indeed, lawyers themselves have a role to play in revolutionizing the system to respond to the increased numbers and demands of self-represented litigants. Zorza emphasized changing the legal profession to recognize the simple fact that lawyers are available to fewer and fewer groups of people. Doing so would open the legal system to these groups and thereby entail contractual representation, the creation of incubators for new lawyers, and the unbundling of legal services.

Judges also have a role to play in the innovation and eventual transformation of the legal profession and system. Zorza offered compelling examples of how engaged and disengaged judges either stifle or empower self-represented litigants. Engaged but neutral judges can serve as true fact finders by asking litigants

questions to bring out the relevant facts instead of merely leaving it to the parties to build evidentiary foundations.

The System Revolutionized

The result of these changes, Zorza believes, will be that the new dynamics of the legal profession and court system allow more individuals to represent themselves and get what they really need (such as a divorce, child support, repairs made to a rental unit, or a consumer dispute resolved, to name a few). He proved this by highlighting innovations occurring in courthouses throughout the country as we speak. Powerful examples also arose from audience members who discussed self-help programs and initiatives they had created to provide services to self-represented litigants in their areas.

As an academic law librarian working in a library that is open to the public, I regularly deal with self-represented litigants who are overwhelmed by a system designed to disempower and befuddle them. Zorza's presentation gave me insight into ways that I can serve these patrons without "providing legal advice." It also left me with some hope that courtrooms, judges, court staff, and lawyers are beginning to recognize this underserved population. Finally, I was proud to be a member of a profession that is spearheading this innovation by strategically partnering, training, creating and promoting materials, and developing programs to promote self-help and support self-represented litigants.

Zorza supported his lecture with slides available on his website www.selfhelpsupport.org. Handouts listing resources and partnering ideas specifically for law librarians were also available at the session. There was a large amount of substantive information and specific strategies presented during the session, and I left with an understanding of the changes underfoot as well as specific strategies for dealing with self-represented patrons. ■

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For More Information:

Download **free copies of the program handouts** and purchase an **audio recording** of this session online at AALL2go.com: www.softconference.com/aall/default.asp.