Self-Representation in New Hampshire State Courts

Current Strategies, Future Solutions, and an Experimental Investigation of Online Resources

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EXECUTIVE SUMMARY

This report describes a research project undertaken by Dartmouth students seeking to evaluate how effectively the New Hampshire Judicial Branch's web site supports litigants who chose to represent themselves ("pro se") in civil and family court. Servicing these people's needs effectively via the web saves both the litigants and the system time and resources. We examine how easily survey participants could use the web site's resources to understand what they needed to do to effectively represent themselves in realistic hypothetical cases. We found that the recently redesigned New Hampshire web site was comparable in many ways to the highly regarded Maricopa County, Arizona web site. Nonetheless, we identified places that participants regularly struggled and which offer additional opportunities for low cost improvements. These include struggles to identify which forms, fees and information applied to their cases specifically which was connected to a failure to access the correct documents. We delineate the areas in which they struggled, and summarize some of the ways they suggested that information could be made more accessible.

INTRODUCTION

People who choose to represent themselves in civil and family court cases pose a number of potential issues for state court systems. If individuals representing themselves cannot find adequate information about the legal process they may become a burden to the court staff, cause delays, cost the state money, and put judges and other attorneys in difficult positions. They may also fare poorly in court, and end up dissatisfied with the process and outcomes. A large part of our study examines the usability and effectiveness of the web resources that the New Hampshire court system provides for these litigants via its newly redesigned website. While other resources exist in New Hampshire for self-represented parties, web resources are often the most easily accessible and may offer the best opportunities for cost-effective improvements. This study assesses two general areas of concern regarding the state of New Hampshire's self-help online resources. First, it seeks to determine whether New Hampshire's new web resources provide enough easily accessible information for self-represented litigants to understand the legal and procedural issues that pertain to their cases. Second, the study aims to determine whether people can find the answers to specific questions when they know what information they should know.

Approximately 65 Dartmouth students participated in the study. Some were randomly assigned to act as a litigant facing a realistic legal situation in New Hampshire and the others were assigned to a Maricopa County, Arizona treatment. The latter is widely regarded as a leader in these areas. This sample is not representative of the population as a whole. Students are likely to be more comfortable using the Internet than other segments of the population. However, any problems they found will likely be shared by others. It is probable, therefore, that any problem areas we have identified are understated. Comparing New Hampshire to Maricopa County serves several functions. First, the Maricopa County web site acts as a control to help determine how much information people can reasonably be expected to find in a short time period. The

comparison also provides valuable feedback about the relative strengths and weaknesses of New Hampshire's web site. Additionally, this comparison helps identify easy additions and improvements for the New Hampshire site.

1.1 Methodology

The study lasted about 30 minutes for each participant. There were six treatments in a three (situations) by two (AZ and NH) design. Participants were given one of three hypothetical cases to research using either current New Hampshire or Arizona web resources. We also conducted a pilot study where participants researched the three hypothetical cases using the old New Hampshire web site. In the pilot study, however, participants were allowed to use any web site they found useful, whereas in the actual experiment participants were limited to either the New Hampshire or the Maricopa, County web site. Since students had to access the beta version of the new site through a complicated procedure, they could not easily use it alongside other web sites.

Court staff were kind enough to provide hypothetical cases created to be as realistic as possible. Participants had 15 minutes to find the information they thought they would need if they were actually going to represent themselves in court. This helped us determine both whether the web resources give people adequate guidance to know what information they would need and whether individuals can find that information. Participants were encouraged to take notes and bookmark helpful pages, just as they would if they were actually researching a real case in which they were representing themselves. Fifteen minutes was not enough time for participants to find all of the necessary information, but the short time frame provides some information about the relative ease or difficulty of locating important information and becoming relatively competent.

Next, participants were given a short list of procedural and substantive questions specific to their hypothetical case to assess how much information they were able to find. The Court helped us to create this list of questions to be representative of the most important kinds of information that litigants would need to know and that would best help them and the system. This questionnaire allowed us to assess the effectiveness of the participants' initial and unstructured research. Participants were then given another five minutes to return to the web site to attempt to find the answers to these specific questions. After these five minutes, participants tried to answer the initial questions again, correcting any information that was wrong the first time or that they could not find. This helped us assess how easily they could find answers to questions in instances when they did know what they should know. They were then asked to provide specific feedback about how easy the web resources were to locate and use, and to give suggestions for improvement.

In addition to participants' answers to the questionnaire, we also collected data about what pages students accessed both in their initial and their second search. This helps us to understand how people interacted with the resources and identify whether any failure to answer the questions correctly stemmed from an inability to find the right pages or an inability to find the right information on a page after accessing it.

The hypothetical cases, the central component of the research design, are common cases for which New Hampshire litigants often choose to forgo a lawyer. Such cases included civil small claims, divorce, and a child custody case. The hypothetical cases included hypothetical facts and procedural information to approximate the situation that a real self-represented party would be in. The cases used in the experiment are as follows:

Small Claims

A few months ago, you hired this guy who left a card in your mail box to repair the roof on your house. He insisted that you give him $500 to buy roofing materials and you did it because his estimate for the work seemed reasonable. He came and pulled off all the shingles which are now sitting all over your yard and you have not heard from him in over two weeks and he won't answer the phone and you are trying to figure out what to do. You want to sue. What do you need to do?

Divorce

You want to file for divorce. You cannot afford an attorney. You don't really have anything. No children. You own a house. Your spouse moved out last night and is staying with his/her parents in Massachusetts.

Child Custody

You and your ex-girlfriend/boyfriend and had a child together. You were living together but things just didn't work out so you moved out. Now she/he is telling you that you can't see your child anymore. She/he won't answer your calls. You haven't seen your daughter in 2 weeks. You want to be able to see your daughter.

1.2 Caveats

No research design is free from flaws; this project is no exception. Our choice of subjects, Dartmouth College students, may be problematic. However, because of their level of Internet use and comfort, this admittedly unrepresentative sample of New Hampshire court web site users will not decrease the usefulness of the study. If Dartmouth students who use the Internet daily have trouble with a certain aspect of the web site, then other, less-frequent users will undoubtedly encounter similar problems. Furthermore, 15 minutes is a very short time period for people to find the information that they would theoretically need to represent themselves. This timeframe, however, allows us to determine the relative ease with which people are able to locate important information. While we would expect one to spend more than 15 minutes on a real-life case, this condensed situation should serve as a reasonable proxy for reality. The amount one can learn in 15 minutes should be indicative of the usability of the resources.

In addition, the hypothetical nature of the cases limits the research somewhat. However, using these cases is likely the most effective way to mimic real web site users' browsing

priorities when visiting the site. These hypothetical cases will also be as realistic as possible, since we received them from the New Hampshire courts system staff. In addition, the New Hampshire courts system staff told us what information is most useful and important for litigants to know, in addition to the most helpful web resources. While our study will not directly pertain to the usefulness of the web resources for types of cases not included in the study, the information gathered will be helpful for a substantial percentage of self-represented litigants.

2. THE NEW NEW HAMPSHIRE WEB SITE'S COMPARITIVE USABILITY

This section of the report examines the comparative usability of the three web sites for each of the three scenarios by looking at the percentage of questions that participants answered correctly and their average responses to the four qualitative feedback questions at the end of the study. It is important to note that the percentage of questions that respondents answered correctly using the old New Hampshire web site is not directly comparable to the percentages that they answered correctly using the new New Hampshire web site or the Maricopa, County Arizona web site because the old New Hampshire web site was used in a pilot study that allowed participants to access any web resources they found useful, including those from outside sources. Participants in the later study were prohibited from using these outside resources. Nonetheless, the data from the old New Hampshire web site still provides valuable information.

2.1 Procedural and Substantive Questions

Table 1. Percentage of Correct Answers on the First Attempt

	Small Claims	**Divorce**	**Child Custody**
Arizona	53% (8)	57% (5)	35% (11)
New New Hampshire	59% (11)	50% (11)	39% (8)
*Old New Hampshire***	*54% (4)*	*29% (4)*	*54% (4)*

(n)=number of participants

Table 2. Percentage of Correct Answers on the Second Attempt

	Small Claims	**Divorce**	**Child Custody**
Arizona	87% (8)	80% (5)	44% (11)
New New Hampshire	66% (11)	64% (11)	41% (8)
*Old New Hampshire***	*68% (4)*	*58%(4)*	*46%(4)*

(n)=number of participants

*** The data about the old New Hampshire web site is taken from a pilot study that allowed participants to access any web site they found useful. For the main experiment, participants were limited to either the new New Hampshire web site or the Maricopa County, Arizona web site. As such, the date from Arizona and the new New Hampshire web site is not directly comparable to that from the old New Hampshire web site.*

A number of trends emerge from comparing the percentages of questions that respondents answered correctly on the first and second attempts.

- Overall, the new New Hampshire web site compares well to the Maricopa County, Arizona web site.
- There is significant variation by issue.

Participants using the new New Hampshire web site answered a similar percentage of questions correctly as those using the Maricopa County web site. Participants answered a slightly higher percentage of questions correctly on the first attempt using the New Hampshire web site for the small claims and child custody scenarios. They answered a slightly lower percentage correctly in the divorce scenario. While participants using the Arizona web site answered a larger percentage of questions correctly than those using the new New Hampshire web site on the second attempt, this variation is likely due to the lack of a working search function in the pilot version of the new New Hampshire site with which we were working.

The child custody scenario proved to be the most difficult for participants using both the new New Hampshire and the Maricopa, County Arizona web sites. Part of this discrepancy may be due to the use of Dartmouth students as participants, as most Dartmouth students do not have children. However, most Dartmouth students also have not been divorced or filed a small claim. The relatively large percentage of participants who answered the questions about the child custody scenario correctly on the first attempt using the old New Hampshire web site and outside web resources demonstrates that improvement is possible. While the ability to use outside web resources seems to have helped participants answer the questions about the child custody scenario, it does not seem to have helped them as much with answering questions about the divorce scenario.

2.2 Qualitative Questions

Table 3. Ease of Finding Information on a Scale of 1 (hardest) to 6 (easiest)

	Small Claims	Divorce	Child Custody
Arizona	4.8	4.6	2.8
New New Hampshire	3.6	4.6	3.5
Old New Hampshire	3.8	2.8	3.0

Table 4. Confidence Representing Self in Court on a Scale of 1 (low) to 6 (high)

	Small Claims	Divorce	Child Custody
Arizona	4.2	4.0	2.6
New New Hampshire	2.4	3.6	3.2
Old New Hampshire	3.5	4.3	2.8

Table 5. Effectiveness of the Web Site's Layout on a Scale of 1 (least) to 6 (most)

	Small Claims	Divorce	Child Custody
Arizona	4.6	3.8	3.0
New New Hampshire	3.5	4.9	3.7
Old New Hampshire	3.3	2.8	2.5

Table 6. Ease of Finding the Pertinent Links on a Scale of 1 (hardest) to 6 (easiest)

	Small Claims	Divorce	Child Custody
Arizona	4.7	4.6	2.8
New New Hampshire	3.5	4.9	3.3
Old New Hampshire	3.5	3.3	1.8

The most important trends emerging from the qualitative feedback are:
- Participants generally found the new New Hampshire web site to be comparable or slightly trailing the Maricopa County, Arizona web site
- The old New Hampshire web site received the worst ratings
- Users' qualitative feedback varies by issue

For the qualitative questions, participants generally found the new New Hampshire web site to be comparable or slightly trailing the Arizona web site. The old New Hampshire web site generally received the worst ratings. Participants thought information was as easy to find on the new New Hampshire web site as on the Arizona web site, with respondents having slightly more difficulty on small claims and slightly less on child custody. Respondents generally reported that they would be less comfortable representing themselves after using the new New Hampshire web site than the Arizona web site, except on the issue of child custody, where they reported more confidence. Survey participants generally found the layout of the new New Hampshire web site to be effective. They found the layout of the old New Hampshire web site to be the least effective. Participants reported on average that it was equally easy to find pertinent links on the new New Hampshire web site and the Arizona web site. Once again, the old New Hampshire web site trails behind.

Users' qualitative feedback also varied by issue. Participants using the new New Hampshire web site on average felt most confident representing themselves on the issue of divorce and reported that the site was most effective when they were given the divorce scenario. This feedback does not align with the percentage of questions that participants answered correctly. Participants using the new New Hampshire web site reported similar levels of ease using the new New Hampshire web site when they were given the small claims or child custody scenario.

The pattern seen with the new New Hampshire web site is not the same for the other two web sites. For the Arizona web site, the qualitative feedback points to small claims as the easiest issue, where child custody was the hardest. For the old New Hampshire web site, respondents' feedback exhibited a similar pattern.

3. ARIZONA/NEW HAMPSHIRE INDIVIDUAL RESPONSE COMPARISON

This section of the report looks at participants' performance on individual questions in the new New Hampshire and Arizona treatment conditions. Analyzing the percentage of participants that successfully answered each question can provide valuable information

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about which aspects of the web site were easy for participants to navigate and which types of information they struggled to find.

The data from the first and second attempts say different things about the efficacy of the web site. On the first attempt, participants had received their scenario but were unaware of what questions they would be asked. They were then given 15 minutes to take notes from the web site on the information that they thought they might need before being asked to close the web site and answer the questions. Therefore, the data gained from participants' first attempt gauges whether participants, most of whom were highly familiar with the internet but lacked experience in the court system, were able to accurately determine what information they might need and what steps they would need to take to handle their situation. Data from participants' second attempt reveals participants' ability to find information after they were told what to look for.

The "percent correct" data may be flawed slightly because the search function of the New Hampshire web site was not working during the study. For example, in the Small Claims New Hampshire section, some participants who did not successfully find information about filing fees failed to locate the quick links section that provided information about them.

3.1 Child Custody

Table 7. Child Custody Scenario: Percent Correct by Question

State (n=number of survey takers)	What can I do to see my child? (% correct)	How do I start the process?	What form do I use? Where are they?	What is the filing fee?	How can I see my child right away?	Is there someone who can help us work this out?
NH First (11)	45%	73%	73%	27%	0%	18%
AZ First (8)	71%	100%	50%	25%	25%	50%
NH Second	36%	73%	73%	18%	18%	36%
AZ Second	100%	100%	62%	13%	13%	13%

In child custody cases, a number of trends emerge that point to potential improvements that could be made to New Hampshire's new web site:
- Participants struggled to identify what information was important for them to know
- When prompted in attempt two, many were unable to decide which options were appropriate. More of the respondents who did not answer correctly actually wrote a wrong answer, instead of omitting, or they wrote a question mark and said that they could not decide between a number of options.

The large percentage of participants who answered the question "What can I do to see my child?" incorrectly, or failed to answer at all, struggled because they did not know whether they needed to file a "Petition for Custody" or a "Petition for Guardianship."

These participants often noted during the test or in their comments section that they could not find information about which form was relevant for an unmarried parent.

Participants were also confused about which filing fees were applicable to them. ***Their incorrect answers and web history demonstrate that they could find their way to the filing fee page, but that they became confused by the multitude of options and could not determine which fees were applicable to them as an unmarried biological parent.*** The difference between Arizona and New Hampshire are not particularly useful in the child custody section because participants who took the Arizona survey struggled significantly on similar levels to those who took the New Hampshire survey.

When offering comments on the New Hampshire web site, many participants suggested the same elements be added to the web site. These include:
- "Layman's definitions" of legal terms
- "Relevant scenarios" or "sample scenarios be provided on the web sites to help users understand which category they would likely fall under.
- A" map" or "flow-chart" that would aid people seeking to see their child in determining which category they would fall under.

In the comments section following the study, more than two thirds of participants using the New Hampshire site mentioned that a flow chart would be helpful. All but one said that the FAQs were one of the most useful parts. More than 75 percent said that determining what type of case they had was difficult, and more than two thirds said that deciding which forms and fees applied to their situation was very difficult. Most of them said that it was difficult to understand how their situation translated into legal terminology and suggested that the site "define some of the terms and put some of the legal jargon in simplified terms." Others suggested sample cases or scenarios.

Participants had only positive things to say about the web sites' visual design, with one remarking "It's professional, yet not dull, colors are good, the pictures are nice and to a minimum, and the links are clearly visible."

3.2 Small Claims

A question-by-question examination of the Small Claims scenario in New Hampshire demonstrates that participants attempting to navigate the web site found the most basic information (what a small claim was, and how and where to file it) relatively easily, but struggled slightly more than Arizona user in several situations:
- It was more difficult for New Hampshire users to establish which of the filing fees was relevant for them during attempt 2 (once they knew were all reminded of filing fees)
- It was more difficult to find information about the statute of limitations (which is clearly displayed in a link on the AZ site)
- It was more difficult to find information leading them to consider mediation

Table 8. Small Claims Scenario: Percent Correct by Question

State (n)=number of survey takers	What can I do if I've been ripped off? (% correct)	How do I start the process?	Where do I get the form?	Where do I file the claim?	How much is the filing fee?	What is mediation?	Are there time limits?
NH First (11)	88%	75%	67%	88%	88%	13%	0%
AZ First (11)	83%	50%	92%	17%	43%	27%	55%
NH Second	88%	88%	100%	75 %	50%	50%	13%
AZ Second	82%	100%	100%	91 %	91%	64%	73%

Most participants said that the most helpful as aspects of the web site were:
- "FAQ"
- "Question links"
- "How do I"
- Organized side bar
- Quick links section

The "percent correct" data may be flawed slightly due to the fact that during the study, the search function was not working. In the New Hampshire section, some participants who did not successfully find filing feels failed to locate the quick links section. A working search function that displayed the correct links when "small claims filing fee," "small claims" or "small claims costs" were searched would likely have eliminated this problem. However, for users who might not think to use the search engine or understand which forms to search for, according to one participant, having the "filing fees seemingly in another section without an obvious link" was confusing. Many participants suggested a "map or that explains which fees and steps apply to you" or "a way to create your own timeline."

3.3 Divorce

Similar to the small claims section, participants were able to get a general understanding of what needed to happen for them to divorce, but struggled to identify which path was relevant in their particular scenario.

Table 9. Divorce Scenario: Percent Correct by Question

State (n=number of survey takers)	How do I start this process?	What form do I use?	How much is the filing fee?	What court do I go to?	Can I get a divorce without my spouse's signature?	How can we work through some of the things we don't agree on?
NH First (11)	82%	45%	27%	63%	55%	27%
AZ First (5)	80%	80%	20%	40%	80%	40%
NH Second	82%	45%	27%	63%	55%	27%
AZ Second	100%	80%	100 %	60%	80%	80%

Despite finding the FAQ section helpful, participants thought it should have been significantly expanded to include more questions explaining different kinds of divorces (some others also suggested a "map" that would have led them to the correct forms). Other participants expressed the sense that they "had a feeling" they should be using one of the forms, but were unsure since it was undefined. Some of the fault may have also been in the scenarios, which were specific but did not include as many details as a person actually seeking a divorce would know. Those assigned to New Hampshire conditions also did not change their performance from attempt one to attempt two. This suggests that the website was moderately helpful in pointing some of them towards what might be important, but that those who did not understand what they needed on the first try where unable to find useful information even after being told what to look for.

General Recommendations

After Examining participants' experiences on the different sections of the New Hampshire web site, some common themes point to potentially beneficial improvements:

- Development of flow charts that help participants identify which forms, fees, and steps apply to their particular child custody, divorce or small claims case. Make the link to these charts clearly visible at the beginning of each section.
- Provide a definitions page where "legalese" is explained in very basic terms.
- Expand the FAQ section to, in the words of one participant, "reflect more potential individual questions."

These recommendations might be time intensive initially, particularly requiring staff members to develop and produce the charts, for example. They would, however, likely reduce the number of people calling courthouses and clerks and asking specific personal questions or filing incorrect forms or fees