

Nebraska Supreme Court Committee on Self-Represented Litigation

# STRATEGIC PLAN 2015-2020



Honorable Frankie J. Moore, Chief Judge for the Court of Appeals  
Committee Chairperson

Honorable Teresa K. Luther, District Court Judge, 9th Judicial District  
Committee Vice Chairperson



## Nebraska Supreme Court Committee on Self-Represented Litigation

# Table of Contents

<b>A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation</b>	<b>Page 1</b>
<b>Vision Statement</b>	<b>Page 2</b>
<b>Self-Represented Litigation Strategic Planning Conference Attendees</b>	<b>Page 2</b>
<b>Conference Report and Strategic Plan</b>	<b>Page 3</b>
<b>Overview of the Strategic Planning Process</b>	<b>Page 4</b>
<b>Meeting the Needs of Nebraska’s Self-Represented Litigants</b>	<b>Page 5</b>
<b>Strategic Plan Ten Goals and Action Steps</b>	<b>Page 7</b>
<b>Nebraska Supreme Court Committee on Self-Represented Litigation</b>	<b>Page 13</b>

# ***A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation***

In September 2001 the Supreme Court formed the Nebraska Supreme Court Committee on Pro Se Litigation to study the nature and extent of pro se litigation in Nebraska's courts. Its purpose was to develop recommendations to ensure equal access to the courts while maintaining impartiality, dignity, and efficiency in the judicial process. The committee issued its report in November 2002 including a recommendation that the Pro Se Litigation Committee become permanent. In February 2003, the Nebraska Supreme Court Implementation Committee on Pro Se Litigation was constituted under the leadership of Nebraska Court of Appeals Judge Richard D. Sievers, chair, and District Court Judge Teresa Luther, vice chair. Renamed the Nebraska Supreme Court Committee on Self-Represented Litigation in 2015, the committee is now chaired by Frankie Moore, Chief Judge of the Nebraska Court of Appeals with District Judge Teresa Luther serving as vice chair.

Although its name has changed over the years, the committee's mission has not. It has consistently worked to promote access to justice for all Nebraska citizens. Among its many accomplishments are creation of a training manual on working with pro se litigants for judges and court employees; expansion of the Nebraska Online Legal Self-Help Center on the judicial branch website; work to promote limited scope representation by Nebraska lawyers; involvement with establishing and supporting six self-help centers for self-represented litigants across the state; and forging productive educational partnerships with the state's librarians.

Access to justice for all Nebraska citizens is a primary goal of the judiciary as recognized repeatedly by Chief Justice Michael Heavican. With that goal at our forefront, the committee is excited for this opportunity to develop a strategic plan to take us beyond our origin and into the future with a clear action plan.

*"Origin, Evolution, and Beyond: A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation,"* by Judge Frankie Moore, detailing the history of the committee and its accomplishments can be found in the Self-Represented Litigation Strategic Plan Supplemental Materials.

*I maintain that ensuring that all citizens have meaningful access to the judicial process is an integral part of what we stand for as lawyers and judges – justice, fairness, and equality.*

Honorable Richard Sievers *The Nebraska Lawyer*, June 2007





## Self-Represented Litigation Strategic Planning Conference Attendees

March 19-20, 2015 - Embassy Suites, Lincoln, NE

**John Greacen**, Facilitator, Greacen Associates, New Mexico

**Chief Justice Mike Heavican**, Chief Justice Nebraska Supreme Court

\***Janet Bancroft**, Public Information Officer – AOC

\***Ann Borer**, Research Director, 4th District Court – Omaha

**Michelle Chafee**, Director Office of Public Guardian – AOC

**Katelyn Cherney**, Rural Access to Justice Project - Legal Aid of Nebraska

\***Sheryl Connolly**, Trial Court Services Director - AOC

\***Debora Denny**, Director, Nebraska Office of Dispute Resolution – AOC

**Jeff Eastman**, Managing Attorney, Legal Aid – North Platte

**April Faith-Slaker**, Manager of Research and Evaluation - Legal Aid of Nebraska

\***Marsha Fangmeyer**, Private Practice Attorney – Kearney

\***Annette Farnan**, Deputy Director - Legal Aid of Nebraska

**Jen Gaughan**, Director of Litigation and Advocacy - Legal Aid of Nebraska

\***Judge Russell Harford**, County Court Judge – 12th Judicial District

\***Tracy Hightower-Henne**, Private Practice Attorney - Omaha

**Adriana Hinojosa**, Interpreter Coordinator, Omaha - AOC

Judge **Timothy Hoeft**, County Court Judge – 10th Judicial District

\***Doris Huffman**, Executive Director Nebraska State Bar Foundation and Nebraska Lawyers Trust Account Foundation - Lincoln

Judge **John Irwin**, Nebraska Court of Appeals and Minority Justice Task Force - Papillion

**Jennifer Kirkpatrick**, Domestic Violence Programs Service Specialist - AOC

\*Judge **Teresa Luther**, District Court Judge – 9th Judicial District

\***James Mowbray**, Nebraska Commission on Public Advocacy - Lincoln

\***Carole McMahon-Boies**, Director of Attorney Services – AOC

\***Jean McNeil**, Director of Legal Services - Nebraska State Bar Association

\*Judge **Frankie Moore**, Chief Judge Court of Appeals – North Platte

\***Liz Neeley**, Executive Director - Nebraska State Bar Association

**Stefanie Pearlman**, Professor of Law, Library and Reference Librarian – UNL College of Law

**Marian Petersen**, Bailiff Lancaster County District Court – 3rd Judicial District

\***Cathy Reiman**, County Court Clerk Magistrate – 8th Judicial District

**Mary Jo Ryan**, Communications Coordinator, Nebraska Library Commission

\***Robert Sanford**, Legal Director, Nebraska Coalition to End Sexual and Domestic Violence - Lincoln

**Shela Shanks**, Director of Admissions, Nebraska State Bar Commission Counsel, Commission on Unauthorized Practice of Law - Lincoln

\***Corey Steel**, Nebraska State Court Administrator - AOC

\***Marlene Vetick**, Clerk of District Court- 5th Judicial District

\***Marie Wiechman**, State Law Librarian - Lincoln

*\*Members of Supreme Court Committee on Self-Represented Litigation*



# Conference Report and Strategic Plan

In August 2014, the Nebraska Supreme Court Committee on Pro Se Litigation (now known as the Nebraska Supreme Court Committee on Self-Represented Litigation) was awarded a grant from the Center on Court Access to Justice for All to hold a strategic planning conference bringing together key stakeholders from the public, private and non-profit sectors for the purpose of developing a strategic plan of action to meet the needs of Nebraskans attempting to navigate the court system without an attorney. This report is the culmination of the conference activities. It details the work of the conference and, beginning on page 7, identifies ten strategic goals and supporting action steps to address the challenge of providing equal access to justice for Nebraska's self-represented litigants in a coordinated and collaborative way.



## Conference Preparations

Many hours of work went into pre-conference planning. The committee worked closely with organizational consultant John Greacen to identify the needs of Nebraska's self-represented litigants and develop a taxonomy of needs which would serve as a framework to guide the work of conference attendees.

Several large-scale projects were undertaken leading up to the conference. The strategic planning subcommittee used surveys and needs assessments to develop an inventory of resources available to self-represented litigants in the state. A "gap analysis" was conducted comparing the services needed to effectively pursue a case with the services currently available to meet those needs, thereby identifying gaps in service availability for those trying to self-represent.

A survey of judges and clerks was conducted to quantify the amount of self-representation in Nebraska's courts, to identify the characteristics of self-representation cases, to better understand how self-representation impacts the courts, and to assess the effectiveness of available resources. The information will be used to develop better strategies to support self-represented litigants as well as improve court processes.

Documents can be found in the Self-Represented Litigation Strategic Plan Supplemental Materials.

# Vision Statement

**VISION OF NEBRASKA SELF-REPRESENTED LITIGATION COMMITTEE:**  
THROUGH COORDINATION AMONG ITS COURTS, BAR, LEGAL SERVICES ORGANIZATIONS, LIBRARIES, AND COMMUNITIES, NEBRASKA WILL PROVIDE SOME FORM OF MEANINGFUL AND EFFECTIVE ASSISTANCE TO 100% OF PERSONS OTHERWISE UNABLE TO ACCESS OR AFFORD AN ATTORNEY FOR DEALING WITH LEGAL NEEDS.

## Overview of Strategic Planning Process

The conference convened on March 19 and 20, 2015 with 36 invited participants. In attendance were representatives of the courts, the bar, legal aid providers, and other key stakeholders. See page 2.

The first task set for conference participants was to develop a vision statement. Guided by organizational consultant John Greacen, the group carefully crafted a comprehensive statement proposing a future where Nebraska will provide assistance to all those unable to access or afford an attorney. See above.

With the vision statement as a guide, attention shifted to creating a plan for making the vision a reality. This step relied heavily on the work of several small groups. The makeup of the small groups and a summary of their work can be found in the Supplemental Materials. Each small group was assigned one of the needs identified in the Greacen Taxonomy of Needs framework (discussed in the next section) and charged with developing strategies to address the need including outlining what to do, how to do it, who should be involved, a realistic timeframe for action, and identification of potential obstacles to success. Once the small groups completed their initial work, each group presented their ideas to the full conference for discussion and further refinement.

On day two the small groups reconvened and incorporated the feedback from the previous day into their original plans, creating a final set of need-specific recommendations. Based on these recommendations a comprehensive framework of ten strategic goals was developed to address access to justice issues in Nebraska.



# Meeting the Needs of Nebraska's Self-Represented Litigants

Persons representing themselves in legal proceedings need ready access to legal resources and support services in order to be successful in their efforts to secure justice. Equally important, they need the court system to be willing and able to accommodate and assist them. Organizational consultant John Greacen has identified nine types of needs experienced by self-represented litigants. Greacen categorized the needs and created a comprehensive "Taxonomy of Needs of Self-Represented Litigants" which provides a framework for organizing and assessing how well each of the essential needs is being met by the legal system.

Nebraska's self-represented litigation strategic plan was developed and organized using the Greacen taxonomy.

Greacen Associates	
Taxonomy of Needs for Self-Represented Litigants	
Legal information concerning rights and remedies and procedural requirements	
Forms produced through document assembly software	
Assistance in the use of information and forms in pursuing a remedy	
Legal advice to understand the legal intricacies of the case and the best strategy to pursue	
Personal assistance for persons with disabilities or language access needs	
Legal assistance for discrete tasks	
Proactive court case management to ensure that cases move through the court process	
An accommodating courtroom in which to present the case	
Legal representation for persons unable to self-represent because of the complexity of the case or their lack of personal capability	







*"All courts shall be open, and every person, for any injury done him or her in his or her lands, goods, person or reputation, shall have a remedy by due course of law and justice administered without denial or delay ..."*

*"Open Courts" clause of the Nebraska Constitution Art. I § 13*



# Strategic Plan Goals and Action Steps

## Goal 1: Create an Access to Justice Commission

*Having a single entity tasked with developing, implementing, and coordinating efforts to improve access and quality of justice for self-represented litigants could lead to a more efficient and effective use of limited resources.*

### POSSIBLE ACTION STEPS:

- Reconstitute the current Supreme Court Committee on Self-Represented Litigation as the Access to Justice Commission with staffing support provided by the Administrative Office of the Courts

### The Commission would:

- Coordinate all self-represented litigant access activities and projects of the Nebraska courts, bar, legal services, libraries and communities
- Coordinate all grant and funding opportunities

## Goal 2: Develop a Statewide Case Triage System

*A case triage system could help streamline the legal process by ensuring that self-represented litigants have adequate information early in the legal process thereby allowing them to make informed decisions on their best course of action in pursuing a case. Using technology to inform litigants of the rules, costs, timelines and procedures could reduce demand on the time of court staff.*

### POSSIBLE ACTION STEPS:

- Coordinate with Legal Aid of Nebraska, the Nebraska State Bar Association, and others to develop and operate the triage system
- Model case triage system on national systems such as described in the National Center for State Courts "Case Triage for the 21st Century" document.

# Strategic Plan Goals and Action Steps

## Goal 3: Provide Legal and Procedural Information

### A. Legal and procedural information provided through technology

*Much of the assistance presently made available to self-represented litigants by the courts is in the form of web-based information and related technologies such as on-line forms. Efforts will continue to ensure that information is easy to navigate and use; legal jargon is minimized; information is concise and duplication is eliminated; links are active; and the reading level is appropriate.*

#### POSSIBLE ACTION STEPS:

- Develop and maintain user-friendly tools and instructions for self-represented litigants to use to assess their case or prepare for hearing or trial
- Develop and maintain user-friendly procedural checklists for self-represented litigants to use to record the progress of their case
- Develop instructional videos for self-represented litigants
- Create a feedback loop for use by self-represented litigants (e.g. consumer satisfaction surveys)

### B. Legal and procedural information provided by court staff

*Court staff need clear guidelines to help them fairly and consistently determine what information they may and may not provide in response to questions from self-represented litigants. Restrictions on the scope of information that staff can offer because of the limitation on providing “legal advice” may be detrimental to the efforts of self-represented litigants.*

#### POSSIBLE ACTION STEPS:

- Develop a UPL exception for court staff, librarians, and other community assistance resources formally associated with the Access to Justice Commission, based on Washington State UPL Committee model which can be found in the Self-Represented Litigation Strategic Plan Supplemental Materials.
- Provide regular and ongoing best practices education for court staff

# Strategic Plan Goals and Action Steps

## Goal 4: Develop Accessible Court Forms

*On-line forms can be complex and difficult to complete. Developing and providing easily accessible, user-friendly, and simplified court forms could be especially beneficial for self-represented litigants. Systemic improvements will help ensure that the needed forms are easy to locate; simplify the language used on forms both in terms of reading level and the amount of legal terminology used; and reduce the multiplicity of forms.*

### POSSIBLE ACTION STEPS:

- Continue to develop, update and maintain forms with Access to Justice partners
- Identify a central host for document assembly systems accessible to legal services, courts, bar, libraries and community resources

## Goal 5: Provide Assistance in the Use of Information and Forms

*Having easy and timely access to assistance when needed will increase the ability of self-represented litigants to effectively pursue their cases. A virtual self-help desk could augment the assistance currently provided by physical self-help desks and increase the overall capacity for aiding the growing number of persons representing themselves.*

### POSSIBLE ACTION STEPS:

- Develop a statewide virtual self-help desk to provide assistance to self-represented litigants, possibly coordinated by the Supreme Court Law Library
- Use call center and co-browsing software, email and live chat from the self-help website
- Use Supreme Court Law Library resources to provide assistance on district court matters
- Incorporate the current county court information specialist system, capturing available time of county court staff throughout the state

# Goals and Action Steps

## Goal 6: Access to Legal Advice Through Limited Scope Representation

*The primary reason for self-representation is financial. The historical reluctance of attorneys to consider “unbundling” of services has perpetuated the problem. Expansion of limited scope representation pursuant to Neb. Ct. R. of Prof. Cond. § 3-501.2 offers a mutually beneficial solution.*

### POSSIBLE ACTION STEPS:

- Create a section or committee for limited scope practitioners open to all lawyers in the state
- Develop ongoing Continuing Legal Education Credits for limited scope practitioners
- Develop a limited scope toolkit
- Encourage lawyers to develop virtual law practice capability for both full and limited scope representation
- Create local lists of lawyers who provide limited scope service

## Goal 7: Assist Persons with Disabilities or Language Access Needs

*People with special needs or disabilities may face unique barriers when accessing the justice system; self-represented litigants with special needs or disabilities may experience even greater challenges. Self-represented litigants with limited English language skills are also confronted with circumstances which increase the difficulty in reaching a just outcome.*

### POSSIBLE ACTION STEPS:

- Educate court staff on assisting self-represented litigants with special needs or disabilities
- Educate court staff on assisting self-represented litigants with cultural differences or language access needs
- Increase usage of video remote interpreting by courts
- Provide ongoing training to courts on effective use of Language Line and similar technologies
- Equip court offices to fully support interpreter services
- Develop multilingual forms and orders
- Continue the support of the Bar Association interpreter resources project/Legal Aid language support



# Strategic Plan Goals and Action Steps

## Goal 8: Proactive Case Management

*Proactive court case management ensures that cases move quickly through the court system. Better utilization of technological resources could improve the efficiency and effectiveness of court processes.*

### POSSIBLE ACTION STEPS:

- Standardize the definition of self-represented litigant in JUSTICE in order to identify a self-represented individual and differentiate the progression of a case
- Add email addresses and cellphone numbers as data elements to JUSTICE if needed for eNotice and eFiling by self-represented litigants
- Develop and pilot automated messaging capability and standard messages for divorce/custody cases with the expectation of expanding to additional case-types based on results

## Goal 9: Create an Accommodating Courtroom

*The courtroom experience may be daunting for self-represented litigants who come seeking help with serious problems. Ensuring that judges and court staff are fully prepared to work with self-represented litigants and that standardized procedures and protocols are in place could help make the courtroom environment more accommodating.*

### POSSIBLE ACTION STEPS:

- Develop protocols for conducting typical hearings involving self-represented litigants such as protection orders, contempt proceedings, hearings for temporary orders, and trials
- Provide enhanced judicial training on the use of the protocols
- Establish screening protocols for calendaring hearings and trials
- Develop standardized forms for the preparation of orders and judgments
- Provide feedback to court staff from self-represented litigants regarding services
- Promote annual training for court staff on assisting self-represented litigants and interfacing with assistance services for self-represented litigants
- Ensure courtroom access to printers
- Support the services provided by NSBA and Legal Aid self-help desks

# Strategic Plan Goals and Action Steps

## Goal 10: Availability of Full Legal Representation

*Self-representation will not be feasible for everyone. For those unable to represent themselves due to the complexity of their case or their own lack of personal capability, some form of full legal representation will be needed.*

### POSSIBLE ACTION STEPS:

- Use a triage system (Goal 2) to identify cases needing full representation and conducting income means testing

Refer eligible cases to Legal Aid of Nebraska for representation or to pro bono attorneys. Some of these cases may involve mental health or disability cases.

Refer other cases to private bar pilot projects testing the use of multiple approaches to meeting the needs of these clients, including:

Coordinate with mental health services

Coordinate with disability advocates

- Explore the development of “modest means” programs for reduced rate legal services
- Coordinate with judges to recruit attorneys to provide representation in difficult cases

# Nebraska Supreme Court Committee on Self-Represented Litigation

**Purpose Statement:** *To engage in continuing analysis and study of the challenges which self-represented litigation poses for court staff, the judiciary, and the practicing bar; to continue assessment of the challenges to the right of self representation which the judicial system currently presents; to propose solutions or improvements in response to such challenges to the Nebraska Supreme Court; and to implement the recommendations of the Self-Represented Litigation Committee which the Nebraska Supreme Court approves.*

## Chairperson:

**Judge Frankie Moore**, Chief Judge Court of Appeals – North Platte

## Vice Chairperson:

**Judge Teresa Luther**, District Court – 9th Judicial District

## Committee Members:

**Janet Bancroft**, Public Information Officer – AOC

**Ann Borer**, Research Director, 4th District Court – Omaha

**Debora Denny**, Director, Nebraska Office of Dispute Resolution – AOC

**Judge Leo Dobrovolny**, 12th District Court – Gering

**Marsha Fangmeyer**, Private Practice Attorney – Kearney

**Tracy Hightower-Henne**, Private Practice Attorney - Omaha

**Sheryl Connolly**, Trial Court Services Director - AOC

**Annette Farnan**, Deputy Director - Legal Aid of Nebraska

**Jen Gaughan**, Director of Litigation and Advocacy - Legal Aid of Nebraska

**Judge Russell Harford**, County Court Judge – 12th Judicial District

**Doris Huffman**, Executive Director Nebraska State Bar Foundation and Nebraska Lawyers Trust Account Foundation - Lincoln

**Judge Paul Merritt, Jr.**, District Judge — 3rd Judicial District

**Catherine Mahern**, Creighton Legal Clinic — Omaha

**Carole McMahon-Boies**, Director of Attorney Services – AOC

**Jean McNeil**, Director of Legal Services — Nebraska State Bar Association

**James Mowbray**, Nebraska Commission on Public Advocacy - Lincoln

**Liz Neeley**, Executive Director - Nebraska State Bar Association

**Judge Thomas Otepka**, District Court — 4th Judicial District

**Judge Michael Piccolo**, County Court — 11th Judicial District

**Cathy Reiman**, County Court Clerk Magistrate – 8th Judicial District

**Kevin Ruser**, UNL Legal Clinic — Lincoln

**Robert Sanford**, Legal Director, Nebraska Coalition to End Sexual and Domestic Violence - Lincoln

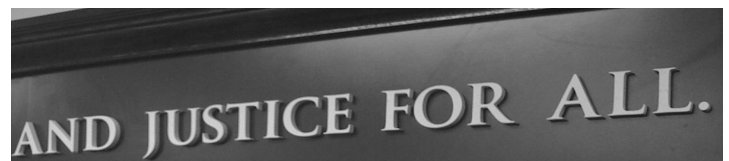
**Corey Steel**, Nebraska State Court Administrator - AOC

**Judge Lauren Van Norman**, Workers' Compensation Court — Lincoln

**Marlene Vetick**, Clerk of District Court- 5th Judicial District

**Judge Arthur Wetzels**, County Court— 9th Judicial District

**Marie Wiechman**, State Law Librarian - Lincoln





Nebraska Supreme Court Committee  
on Self-Represented Litigation



NEBRASKA SUPREME COURT / P.O. Box 98910 / Lincoln NE 68509 / [WWW.SUPREMECOURT.NE.GOV](http://WWW.SUPREMECOURT.NE.GOV)

**Issued October 2015**