

# Engaging Courts to Improve Outcomes for Self-Represented Litigants and Clients

Katherine Alteneder, Self-Represented Litigation Network

Sarah Galvan, Justice in Aging

Vivianne Mbaku, Justice in Aging

October 29, 2020

# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Self-Represented Litigation Network

The Self-Represented Litigation Network (SRLN), a leading voice in the national movement for 100% access to civil justice, supports justice system professionals focused on the question of how best to reform ALL aspects of the legal system (courts, legal aid, the bar, and non-legal partners) so that SRLs experience the courts (and indeed the legal system) as a consumer-oriented environment guided by the principles of equal protection and due process.

SRLN is a resource center for justice system professionals that provides toolkits, evaluation, implementation guidance, and thought leadership; we are a network that connects and supports reform-minded leaders throughout the country. Join our community at [srln.org](http://srln.org).

# About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

# Poll 1

- What is your primary concern about older adults and the courts right now?
  - A. Access to technology for remote hearings
  - B. Access to court, court self-help & court-based intake processes
  - C. Increase of defaults
  - D. Lack of information or clarity about court processes
  - E. Other

# Key Lessons

- Creating a framework for systemic advocacy by engaging the court and the media, in addition to more traditional legal strategies
- Identifying opportunities for novel systemic advocacy for the benefit of older adults, including self-represented litigants (SRL)
- How systemic advocacy on behalf of SRLs and older adult clients improves services and outcomes

# What is Systemic Advocacy?



# Engaging Courts (1 of 2)

- Set expectations: The court is a core function of government and is obligated to serve the public

# Engaging Courts (2 of 2)

- 24-7 Help Centers & Customer Service
- Access to Lawyers
- Community Engagement
- Court and Community Based Navigators
- Courtroom Help
- DEI
- Plain Language Forms
- Language Access
- Streamlined & Convenient Procedures
- Updated Laws
- Upstream Solutions
- Disability Access
- Easy-to-Use Secure & Supported Technology
- Monitoring & Evaluation

# Strategies for Engaging with Courts

- Engage the courts via committees, departments, and people
- Propose solutions and identify unintended consequences
- Frame the ecosystem:
  - Sharing problem solving strategies between actors
  - Creating an explicit understanding of the capacities and role constraints of each actor

# Poll 2

- Have you engaged with courts to address a systemic issue?
  - A. Yes
  - B. No
  - C. Unsure

# Engaging with Media

- Develop relationships on background to educate about the courts
- Engage as part of advocacy strategy
- Encourage investigative journalism ([example](#))

# Poll 3

- Have you engaged the media to address a client or SRL issue?
  - A. Yes
  - B. No
  - C. Unsure

# Legal Strategies that Don't Involve Class Actions

- Case Specific
  - Motion for Reconsideration
  - Motion to Set Aside Defaults
  - Interlocutory Appeals ([example](#))
  - Appeal of a Final Judgment
- Spot complex issues for partners ([example](#))
- Law reform
- Judicial ethics

# Poll 4

- Have you utilized legal strategies to address potentially systemic SRL or client issues?
  - A. Yes
  - B. No
  - C. Unsure



# Scenario #1

## Unintended Consequences of Court Case Management

- Pre-COVID, court sets a settlement conference between lenders and owners in foreclosure actions. If owners do not appear at the conference, the case moves to the judge for final action, including default. When conferences moved on-line, legal assistance providers start receiving calls from owners who have missed their conference. There is no court process for homeowners to request a new conference and no outreach by the court or second conference date offered.

# Scenario #2

## Disability Accommodations

- A new client needs assistance with a debt collection case. They have a hearing in 2 weeks. The client is unable to leave their home due to a disability, but the clerk told them they are not eligible for a phone hearing. The client states that this previously happened to them and they just didn't show up to the hearing, leading to a default judgment. What is the best way to approach this issue with the court?

# Scenario #3

## Uncovering the Pipeline for Appeals & Other Corrective Actions

- In your state, the appeal deadline for district court cases is 10 days after judgment is entered. Often clients show up with cases that would be good for appeal, but they have missed the deadline by several weeks. What strategies could legal services utilize with the court to inform these clients of their appeal rights before final judgement is entered?

# Scenario #4

## Pro Bono/Appellate Strategy

- At the start of the pandemic, hearings for consumer debt cases were conducted by telephone, and later the court switched to a digital platform, requiring litigants to appear via video. The appearance rate by SRLs dropped significantly. The local pro bono program received a number of calls from SRLs, particularly from older individuals, who have default judgments against them because they were unable to appear by video. The pro bono program wants to do something to help but is not sure about their capacity to take on so many cases.

# Reviewing Key Lessons

- Creating a framework for systemic advocacy by engaging the court and the media, in addition to more traditional legal strategies
- Identifying opportunities for novel systemic advocacy for the benefit of self-represented litigants (SRL) and older adult clients
- How systemic advocacy on behalf of SRLs and older adult clients improves services and outcomes

# Thank You and Questions

- All Justice System Professionals are welcome to join SRLN and participate in the listservs, teleconferences, and webinars.
- Please visit [srln.org](http://srln.org) to [sign-up](#) and contact [info@srln.org](mailto:info@srln.org) for more information.

# Visit Our Website: [ncler.acl.gov](http://ncler.acl.gov)

NATIONAL  
CENTER ON  
**LAW &  
ELDER  
RIGHTS**

Search for resources

**Read practice tips**

Sign up for the email list

**Request a case consultation**

Learn about upcoming trainings

[ncler.acl.gov](http://ncler.acl.gov)



# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).